

AGREEMENT

THIS AGREEMENT made and entered into on this 22nd day of January, 2024 by and between the **BOROUGH OF ROSELLE**, a municipal corporation of the State of New Jersey, located at 210 Chestnut Street, Roselle, County of Union and State of New Jersey, hereinafter called the "BOROUGH," party of the first part, and **Rainone Coughlin Minchello** located at **555 US Highway 1 South, Ste. 440, Iselin, NJ 08830** hereinafter referred to as "CONSULTANT," party of the second part.

WITNESSETH THAT:

WHEREAS, the Governing Body of the BOROUGH OF ROSELLE has determined that it is in the best interests of the Borough to retain the services of Rainone Coughlin Minchello as **Special Counsel- Litigation** to represent the Borough of Roselle in matters relating to the Borough of Roselle;

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. The BOROUGH hereby retains the services of Rainone Coughlin Minchello to represent the BOROUGH in the defense of matters relating to the Borough of Roselle from **January 1, 2024 through December 31, 2024** or until funds have been exhausted, whichever occurs earlier, and the said Consultant agrees to represent the BOROUGH in return for which the BOROUGH agrees to pay said Consultant a fee \$ **150.00** per hour for the services of an attorney not to exceed twenty thousand (\$20,000.00) Dollars for such services as agreed upon by the parties hereto.

2. CONSULTANT shall be entitled to payment for such services rendered upon submission of duly executed vouchers on a monthly basis detailing the hours of service actually

rendered which shall be submitted to the Mayor and Council for approval. CONSULTANT should bear in mind that vouchers and bills may be disclosed pursuant to New Jersey's Open Public Records Act and the courts may not sustain assertions of privilege by the Borough. Although the Borough will endeavor to redact privileged information before releasing bills for public consumption, CONSULTANT should, to the extent practicable and consistent with the need to fully inform the Borough of its activities and to allow the Borough to evaluate the reasonableness of billing narratives, avoid the inclusion of privileged matters in invoices.

3. CONSULTANT shall submit bills to the Borough Administrator with a copy to the Borough Attorney via email on a monthly basis. It shall be CONSULTANT'S responsibility to monitor its hourly or periodic billing as against the amount approved by the governing body as reflected in the Resolution and Certificate of Funds. When the value of services rendered **has reached 80% of the approved amount**, CONSULTANT shall notify the Borough's Purchasing Agent and Chief Financial Officer of same in writing with a copy to the Borough Administrator and Borough Attorney.

The failure to strictly comply with the provisions of this paragraph shall be deemed a material breach of the agreement by the Vendor and shall subject CONSULTANT to termination and dishonor of any and all bills or vouchers exceeding 80% of the approved amount. If such notice is properly and timely made, CONSULTANT shall be entitled to full (100%) compensation up to the approved amount.

4. CONSULTANT recognizes that any and all approval for engagement of services must come from the Governing Body of the BOROUGH OF ROSELLE, and that no services, work or any efforts relative to the contract shall be commenced until the Governing Body passes a duly authorized Resolution accompanied by a Certificate of Funds. A copy of the Resolution

approving the current services of Consultant described herein is attached hereto and made a part hereof.

This section shall also apply when the services rendered have exhausted the monies approved by Council for such purpose. Once the notification of the 80% threshold referred to above has been given, CONSULTANT shall continue to monitor rendition of services and shall, upon reaching the full amount approved, immediately cease rendering any further services pending further action by the Governing Body.

5. CONSULTANT is hereby placed on notice that no Department Head, individual member of the Governing Body, or any agent, servant or employee of the BOROUGH OF ROSELLE possesses any lawful authority to: (a) engage the rendition of services or the performance of work; (b) authorize the continuation of services or work beyond the amount specifically approved in the Resolution and Certificate of Funds; or to (c) represent that future funds will be available as compensation for current services. Any such acts shall be deemed ultra vires and beyond the scope of any authority that individual may possess. No bills, statements or vouchers for any amount exceeding that originally approved will be honored or paid by the BOROUGH, irrespective of whether such services were actually performed.

6. BOROUGH will not reimburse CONSULTANT for basic support services which the BOROUGH deems to be part of CONSULTANT'S overhead and built into its rates. Therefore, the BOROUGH will not reimburse CONSULTANT for: routine copying and printing charges, routine postage, office supplies, telephone charges, billing inquiries, opening and closing files, internal filing, secretarial services (including overtime charges), word processing or proof reading, maintenance of a calendar, investigating potential conflicts, conference room charges,

electricity or other utilities, software costs or subscription fees. Internal conferences and charges for drafting and reading internal email correspondence are also not reimbursable.

7. CONSULTANT shall keep the Borough Attorney apprised of the status of all matters being handled by CONSULTANT by providing regular written reports at least every ninety (90) days . For litigation matters, CONSULTANT shall provide an initial report within thirty (30) days of receiving the assignment which shall include the following: (1) identification of the individuals with the appropriate expertise and experience that will be assigned to the matter, including the identification of an experienced trial attorney; (ii) likely costs of the litigation to the Borough, (iii) possible outcomes and the projected likelihood of each outcome, (iv) liability and damages assessment, (v) potential settlement value and recommendations; and (vi) proposed strategy and tactics for termination or resolution. Beyond these reporting mechanisms, CONSULTANT shall always keep the Borough Attorney current and informed of significant case developments and shall promptly respond to the Borough Attorney's request for a case status at any time.

8.. The provisions of this Agreement are subject to the limitations of the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:2-1 et seq., and the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

9.. This Agreement shall be governed by the laws of the State of New Jersey without regard to principles of conflict of laws. All contract claims under this Agreement shall be subject to and governed by the provisions of the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

10. PROFESSIONAL LIABILITY INSURANCE: Consultant shall maintain professional liability coverage (malpractice coverage) in the minimum amount of \$1,000,000/\$2,000,000 and submit proof of coverage to the Borough of Roselle.

11. CONTRACT MODIFICATIONS: The BOROUGH reserves the right to modify this contract based on the availability of funds. Any increase or decrease to this contract will be done by resolution of the governing body. Notification of any modification will be provided to the CONSULTANT thirty (30) days prior to the approval of resolution by the governing body. In the event that a modification is made all the terms stated in this original contract will remain in effect. Moreover, there will not be a new contract, all provisions in this contract remain in full force and effect.

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IN WITNESS WHEREOF, the parties have set their hands and seals the day and year
below written.

BOROUGH OF ROSELLE

By: 
Donald Shaw, Mayor Date

ATTEST:


Lisette Sanchez,
Municipal Clerk Date
01/31/2024

CONSULTANT

By: 
Name: David L. Minchello Date 1/22/24
Title: Partner

WITNESS:

