

**AGREEMENT FOR SERVICES
BY AND BETWEEN
THE EAST BRUNSWICK REDEVELOPMENT AGENCY
AND
RAINONE COUGHLIN MINCHELLO
FOR REDEVELOPMENT COUNSEL**

THIS AGREEMENT, dated as of January 14, 2020 by and between the East Brunswick Redevelopment Agency, with its principal offices located at 1 Jean Walling Civic Center Drive, East Brunswick, New Jersey 08816 (the "Agency") and Rainone Coughlin Minchello, 555 U.S. Highway One South, Suite 440, Iselin, NJ 08830.

W I T N E S S E T H:

WHEREAS, on November 19, 2019, the East Brunswick Redevelopment Agency advertised for Request for Qualifications (the RFQ") for various legal and professional services pursuant to a "Fair and Open Process," N.J.S.A.19:44A-20.4 et. seq.; and

WHEREAS, on December 11, 2019, the Agency received sealed proposals in response to the RF:, and

WHEREAS, upon review of the proposals, the Agency determined that Rainone Coughlin Minchello was qualified to provide the services of Redevelopment Counsel, having an excellent reputation in its field, and significant knowledge of the Agency and its operations; and

WHEREAS, on January 13, 2020 by Resolution No.2020008, the Agency appointed Rainone Coughlin Minchello (the "Professional") for a period lasting through December 31, 2020; and

WHEREAS, the Agency and the Professional wish to enter into this Agreement to set forth the services to be rendered by the Professional (the "Services") and the compensation to be paid for the Services;

NOW THEREFORE, the Parties hereto, each intending to be legally bound herein, do mutually agree as follows:

1. Scope of Services. The Professional hereby agrees to perform legal services in connection with the position of Attorney of the East Brunswick Redevelopment Agency. The Services shall include but not be limited to, those set forth in the RFQ and the Professional's response to the RFQ.

2. No Assignment. The Professional represents that only the Professional will perform the Services required under this Agreement. In no event shall the Professional assign or transfer its obligations under this Agreement to another entity or individual.

3. Term. This Agreement shall be for the period commencing immediately upon being signed by all parties and terminating on December 31, 2020.

4. Compensation.

a) The Agency shall compensate the Professional for the Services at a rate of \$160 per hour.

b) The Agency shall reimburse the Professional for out-of-pocket expenses incurred in connection with performance of the Services, such as duplication, telefaxes, Federal Express or other overnight mail services, and messenger service.

c) The Professional shall submit a monthly statement in the form of a duly verified voucher, describing the Services performed and providing a list of the Professional's out of pocket expenses. Payment shall be made by the Agency within 30 days of receipt of the duly verified voucher.

5. Affirmative Action. During the performance of this Agreement, the Professional shall comply with the anti-discrimination provisions of N.J.S.A.10:2-1 *et seq.*, the "Law Against Discrimination" N.J.S.A.10:5-1, *et seq.*, and N.J.A.C. 17:27-1.1, *et seq.*, as set forth in Schedule A to this Agreement. The Professional also agrees to afford equal opportunity in performance of this Agreement in accordance with an affirmative action program approved by the State Treasurer.

6. Professional's Representations. The Professional makes the following representations and covenants:

(a) the Professional has the legal capacity to enter into this Agreement and perform each of its undertakings herein set forth;

(b) the Professional is a duly organized and validly existing legal entity under the laws of the State of New Jersey and has duly adopted the necessary resolutions approving and authorizing the execution and delivery of this Agreement and authorizing and directing the persons executing this Agreement to do so for and on its behalf;

(c) to the best of the Professional's knowledge, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by them pursuant to this Agreement; or (ii) is likely to result in a material adverse change in such entity's authority, property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement;

(d) the Professional's execution and delivery of this Agreement and its performance hereunder will not constitute a violation of any partnership and/or stockholder agreement or of any agreement, mortgage, indenture, instrument or judgment, to which it is a party.

7. Agency's Representations. The Agency makes the following representations and warrants:

(a) that this Agreement has been duly authorized by its Governing Body according to law, and upon execution by its Executive Director, it shall be valid and binding upon the Agency;

(b) To the best of the Agency's knowledge, there is no action, proceeding or investigation now pending, nor any basis therefore, known or believed to exist which (i) questions the validity of this Agreement or any action or act taken or to be taken by them pursuant to this Agreement; or (ii) is likely to result in a material adverse change in such entity's authority, property, assets, liabilities or condition which will materially and substantially impair its ability to perform pursuant to the terms of this Agreement.

8. Default and Termination.

(a) Events of Default by the Professional. The following shall constitute Events of Default by the Professional unless such event results from the occurrence of an Uncontrollable Circumstance or the fault of the Agency or any third party:

(i) the persistent and repeated failure(s) of the Professional to timely perform any material obligation under the terms of this Agreement, subsequent to its receipt of a written notice from the Agency of such persistent and repeated failure(s) to perform, and the Professional has not, within 20 days, cured or attempted or commenced a cure of such failure;

(ii) (1) the Professional being or becoming insolvent or bankrupt or ceasing to pay its debts as they mature or making an arrangement with or for the benefit of its creditors or consenting to or acquiescing in the appointment of a receiver, trustee or liquidator for a substantial part of its property, or (2) a bankruptcy, winding up, reorganization, insolvency, arrangement or similar proceeding is instituted by the Professional under the laws of any jurisdiction or against the Professional if it does not take appropriate action to dismiss said proceedings within 30 days of the institution of such proceedings, or (3) any action or answer by the Professional approving of, consenting to, or acquiescing in, any such proceeding, or (4) the levy of any distress, execution or attachment upon the property of Professional that shall substantially interfere with its performance hereunder;

(iii) breach of any material representations by the Professional set forth in this Agreement, and failure to remedy such breach for a period of 30 days after written notice thereof has been provided by the Agency specifying such failure and requesting that such condition be remedied;

(b) Events of Default by the Agency. The following shall constitute Events of Default by the Agency unless such event results from the occurrence of an Uncontrollable Circumstance or the fault of the Professional or any third party:

(i) the persistent and repeated failure(s) of the Agency to perform any material obligation under the terms of this Agreement in a timely manner, subsequent to receipt by the Agency of a written notice from the Professional of such persistent and repeated failure(s) to perform, and the Agency has not, within 20 days, cured or attempted or commenced a cure of such failure;

(ii) breach of any material representations by the Agency set forth in this Agreement and failure to remedy such breach for a period of 20 days after written notice thereof has been provided by the Professional specifying such failure and requesting that such condition be remedied.

(c) Initial Remedy in the Event of Default. Except as otherwise provided in this Agreement, in the event of a default under this Agreement or any of its terms or conditions by either party, the defaulting party shall, within 20 days of receiving written notice from the other, proceed to commence to cure or remedy the default. In case such action is not taken or not diligently pursued, or the default shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy the default, including, but not limited to, proceedings to compel specific performance by the defaulting party.

9. Remedies in the Event of Termination of Agreement. Upon termination, the Agency shall pay the Professional in full for Services rendered up to the date of termination, including out of pocket expenses, in accordance with the provisions of paragraph 4 herein, and the Professional shall release to the Agency each and every document in its possession relating to or regarding the Project.

10. Termination by the Agency. The Agency may, in its sole discretion, terminate this Agreement upon 10 days prior written notice to the Professional of such termination, which shall specify the effective date on which the Agreement will be terminated. Upon termination the Agency shall pay the Professional in full for Services rendered up to the date of termination in accordance with the provisions of paragraph 4 herein.

11. Insurance. Throughout the Term, the Professional shall maintain the insurance coverage set forth below. Such insurance shall be obtained from insurance companies authorized to do business in the State and with a Best's rating of at least "B+" or the equivalent.

(a) Workers Compensation: Statutory requirements.

(b) Comprehensive AL/GL, Bodily Injury, and Property Damage with a certificate of insurance specifying as a minimum, Broad Form Property Damage; Contractual Liability (Broad Form) including Third-Party Coverage and Personal Injury insurance combined single limits of \$1,000,000 per occurrence/\$2,000,000 aggregate, and in no case less than \$1,000,000 per person.

(c) Professional Liability Insurance: Minimum \$1,000,000 per claim and a \$2,000,000 annual aggregate limit of liability.

(d) Form and Content. Except with respect to the professional liability insurance policy, all policies, binders or interim insurance contracts with respect to the insurance coverage to be maintained by the Professional shall:

(i) designate the Agency, its offices, employees and agents (except in the case of Workers' Compensation insurance) as additional insureds;

(ii) provide that there shall be no recourse against the Agency for payment of premiums or commissions or any additional premiums or assessments;

(iii) provide that such insurance shall be primary insurance without any right of contribution from any other insurance carried by the Agency or the Professional to the extent that such other insurance provides the Agency or the Professional with contingent and/or excess liability insurance with respect to its interest in the Project; and such insurance shall expressly provide that all provisions thereof (except the limits of liability, which shall be applicable to all insureds as a group and liability for premiums) shall operate in the same manner as if each were a separate policy covering each insured;

(iv) provide that the Agency shall be furnished with at least 30 days prior written notice by registered mail, return receipt requested, of any cancellation, expiration or non-renewal of coverage and that no cancellation, expiration or non-renewal shall be effective absent such notice;

(v) waive any right of subrogation of the insurers against the Agency or the Professional and any right of the insurers to any set off or counterclaim or any other deduction, whether by attachment or otherwise, in respect of any liability of such person/party insured under such policy.

(e) Prior to the date on which the Professional shall begin the Services, it shall provide the Agency with certificates of insurance that evidence compliance with the requirements stated above. Thereafter, new or renewal certificates shall be delivered at least 30 days prior to expiration of the current policy. If the Professional shall fail or neglect to obtain or to maintain (or cause same to be obtained or maintained) any insurance that it is required to provide or to furnish the Agency with satisfactory evidence of coverage on any such policy, the Agency may purchase such insurance if the Professional fails to do so within five days after receipt of written notice from the Agency of the lack of required coverage. Any such payments made by the Agency shall be recoverable from the Professional immediately upon demand by the Agency.

12. Indemnification and Hold Harmless. The Professional and its consultants agree to indemnify, to the fullest extent possible under the Professional's insurance coverage, and hold harmless the Agency, and its officers, employees, and agents from and against any and all claims, demands, suits, proceedings, liabilities, judgments, awards, losses, damages, costs and expenses, including reasonable attorney's fees, because of bodily injury, sickness, disease or death, sustained by any person or persons or injury or damages to, or destruction of, any property, but only to the extent of arising out of the Professional's negligent acts or omissions in connection with the performance of the Services.

13. Notices. Any notice or communication which is required or permitted to be given hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, with a copy sent by nationally recognized overnight delivery service providing for receipt against delivery, courier, or telecopy (with a copy sent by one of the other means of delivery), as follows:

To Professional: Rainone Coughlin Minchello
555 U.S. Highway One South, Suite 440

Iselin, NJ 08830
c/o Louis N. Rainone

To Agency: Loren Morace, Agency Clerk
East Brunswick Redevelopment Agency
1 Jean Walling Civic Center Drive
East Brunswick, New Jersey 08816-1081

14. Waiver. The waiver by either party of a default or of a breach of any provision of this Agreement by the other party shall not operate or be construed to operate as a waiver of any subsequent default or breach of such provision or any other provision. The making or the acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

15. Modifications. The provisions of this Agreement may be modified only by written agreement duly executed by both parties.

16. Headings. Captions and headings in this Agreement are for ease of reference only and do not constitute a part of this Agreement nor shall they affect the interpretation thereof.

17. Governing Law. This Agreement shall be governed by the laws of the State of New Jersey. Any litigation that may result from a dispute between the parties concerning this Agreement and the rights and obligations of the parties hereto, shall be venued in the court for the State of New Jersey or the United States District Court for the District of New Jersey, as applicable.

18. Counterparts. This Agreement may be executed in more than one counterpart, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same instrument.

19. Severability. In the event that any provision of this Agreement shall, for any reason, be determined to be invalid, illegal, or unenforceable in any respect, the Parties hereto shall use their best efforts to negotiate in good faith and agree to such amendments, modifications, or supplements of or to this Agreement or to such other appropriate actions as shall, to the maximum extent practicable in light of such determination, implement and give effect to the intentions of the parties as reflected herein, and the other provisions of this Agreement shall, as so amended, modified, supplemented, or otherwise affected by such action, remain in full force and effect.

20. Third Party Relationships. Nothing contained in the Agreement shall create a contractual relationship with, an obligation to, or a cause of action in favor of any third-party against either the Agency or the Professional.

21. Entire Agreement. This Agreement constitutes the entire agreement and understanding of the parties with respect to their rights and obligations hereunder. The terms of the Professional's Proposal are incorporated herein and made a part of this Agreement as though the Proposal was set forth in full herein. In the event of a conflict between this Agreement and the terms of the Professional's Proposal, the terms of this Agreement shall prevail.

IN WITNESS WHEREOF, the East Brunswick Redevelopment Agency, by resolution duly adopted, has caused this Agreement to be approved and executed and the Executive Director and Chairman and the Professional have caused this Agreement to be executed on the day and year first above written.

ATTEST:

EAST BRUNSWICK REDEVELOPMENT AGENCY

By:

Michael Hughes
Michael Hughes
Executive Director

By:

James Wendell
James Wendell
Chairman

WITNESS:

RAINONE COUGHLIN MINCHELLO

By:

Melissa B. Valentovic

By:

Louis N. Rainone, Esp.



SCHEDULE A: AFFIRMATIVE ACTION/EEO REQUIREMENTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A.10:5-31 et seq., as amended and supplemented from time to time, and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C.17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C.17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court

decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the New Jersey Administrative Code at N.J.A.C. 17:27.**