

AGREEMENT FOR LEGAL SERVICES – BOND COUNSEL

THIS AGREEMENT made and entered into on this ____ day of March, 2017 by and between the **TOWNSHIP OF WEST ORANGE**, a municipal corporation of the State of New Jersey, located at Town Hall, 66 Main Street, West Orange, County of Essex and State of New Jersey, hereinafter called the “TOWNSHIP”, party of the first part, and **McMANIMON, SCOTLAND & BAUMAN, LLC**, Attorneys at Law of the State of New Jersey, located at 75 Livingston Avenue, Roseland, County of Essex and State of New Jersey, hereinafter referred to as “COUNSEL”, party of the second part.

WITNESSETH THAT:

WHEREAS, the Governing Body of the TOWNSHIP has determined that it is in the best interests of the TOWNSHIP to retain the services of COUNSEL to serve in the capacity as Bond Counsel;

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

1. The TOWNSHIP hereby retains the services of COUNSEL to serve as Bond Counsel for the period March 1, 2017 through December 31, 2017 at the rates set forth and explained in **Exhibit “A,”** annexed hereto.
2. COUNSEL may seek reimbursement for extraordinary expenses such as the cost of deposing adverse witnesses, transcripts or hiring experts. Counsel will not incur any such expenses without the express written approval of the applicable TOWNSHIP Department Head before the extraordinary expense is incurred.
3. COUNSEL’S responsibilities shall include all bond and other assigned matters.
4. COUNSEL recognizes that any and all approval for engagement of services must come from the Governing Body of the TOWNSHIP, and that no services, work or any efforts

relative to the contract shall be commenced until the Governing Body adopts a duly authorized Resolution accompanied by a Certificate of Funds.

5. COUNSEL recognizes that all services rendered are subject to the approval and direction of the Law Department, and that payment for such services is conditioned upon the issuance of a Purchase Order by the Township encompassing the services for which compensation is sought.

6. COUNSEL is hereby placed on notice that the Billing Guidelines of the TOWNSHIP shall apply to this agreement for professional services. COUNSEL is further noticed that no Department Head, individual member of the Governing Body, or any agent, servant or employee of the TOWNSHIP 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, statement or vouchers for any amount exceeding that originally approved will be honored or paid by the TOWNSHIP, irrespective of whether such services were actually performed.

7. COUNSEL shall submit detailed invoices to the TOWNSHIP for services rendered each month, with a copy to the Township Attorney, no later than fifteen (15) days subsequent to the close of the month. All invoices submitted by COUNSEL shall set forth with specificity the tasks performed, the attorney performing the tasks, and the amount of time spent on each task.

8. During the term of this agreement, COUNSEL shall maintain professional liability malpractice insurance coverage with an insurance company licensed and authorized to do business in the State of New Jersey with coverage not less than \$1,000,000. COUNSEL shall provide the Township Attorney and Municipal Clerk with proof of a valid certificate of insurance.

To the extent that this insurance coverage is scheduled to lapse at any time before the end of the contract, COUNSEL shall provide proof of (cont. on page 3) renewal or new insurance coverage no later than thirty (30) days before the termination of the current coverage.

9. The provisions of this agreement are subject to the limitations of provisions of the New Jersey Tort Claim 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.

10. 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.

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

TOWNSHIP OF WEST ORANGE

ATTEST:

KAREN J. CARNEVALE, R.M.C

By: _____
ROBERT D. PARISI, MAYOR

**McMANIMON, SCOTLAND
& BAUMANN, LLC**

WITNESS:

By: _____
ANDREA L. KAHN, ESQ.

EXHIBIT A

The Client will make payment to Counsel for services rendered in accordance with the following schedule:

A. For services rendered in connection with each bond sale, a fee of \$3,500, plus \$1.00 per thousand dollars of bonds issued for the first \$15,000,000 of bonds issued and \$.75 per thousand dollars of bonds issued in excess of \$15,000,000. If there is more than 1 series of bonds issued, there will be an additional charge of \$1,000 for each such additional series.

B. For services rendered in connection with (i) the preparation or review of each bond ordinance and (ii) the compiling and review of a certified record of proceedings in connection therewith, an aggregate fee of \$600.

C. For services rendered in connection with each note sale, a fee equal to the greater of (i) \$.50 per thousand dollars of notes issued up to \$15,000,000 of notes issued and \$.40 per \$1,000 of notes in excess of \$15,000,000 or (ii) \$1,000. If more than one series of notes are issued, there will be an additional charge of \$500 for each such additional series.

D. For services rendered in connection with arbitrage compliance and related tax analysis, a fee of \$500.

E. In the event that a letter of credit, bond insurance, or similar credit enhancement facility is used in connection with either a bond or note issue, an additional fee of \$1,000 will be charged.

F. In the event of a refunding bond issue consistent with the provisions of the Internal Revenue Code to provide for the payment of a prior issue of bonds, there will be an additional fee of \$5,000 for each refunded issue.

G. Services rendered on an hourly basis, including preparation of an application to and an appearance before the Local Finance Board, attendance at meetings, litigation, continuing disclosure undertakings and preliminary and final official statement or other offering or disclosure document work, will be billed at the blended hourly rate of \$205 per hour for attorneys and \$80 per hour for legal assistants. Counsel shall not charge the Client for administrative work and services performed by secretarial staff.

H. Counsel's fee is usually paid at the closing of the bonds or notes, and Counsel customarily does not submit any statement until the closing unless there is a substantial delay in completing the financing. In the event that legal services described herein are provided in connection with a bond or note sale and the bond or note sale is not consummated or is completed without the delivery of Counsel's bond opinion as bond counsel, or this Agreement is terminated prior to the sale of bonds or notes, the fee for services to be charged shall be based on the hourly rates as set forth in paragraph I(2)(G).

I. Reasonable and customary out of pocket expenses and other charges, including but not limited to, photocopying, express delivery charges, travel expenses, telecommunications, telecopy, filing fees, computer-assisted research, book binding, messenger service or other costs advanced on behalf of the Client, shall be added to the fees referred to in this Agreement and shall be itemized in each invoice presented to the Client.