

AGREEMENT FOR RETENTION OF PROSECUTOR

THIS AGREEMENT made and entered into on this 21st day of March, 2023 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 **JOSEPH M. WENZEL, ESQ.**, of Friend & Wenzel, LLC, located at 1000 Clifton Avenue, Suite 101, Clifton, County of Passaic and State of New Jersey, hereinafter referred to as “COUNSEL,” party of the second part.

WITNESSETH THAT:

WHEREAS, Counsel’s currently serves the TOWNSHIP as the Municipal Prosecutor for the TOWNSHIP; and;

WHEREAS, the Governing Body of the TOWNSHIP has determined that it is in the best interests of the TOWNSHIP to re-appoint COUNSEL to the position of Prosecutor for the TOWNSHIP on the terms set forth herein;

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 Joseph M. Wenzel as Prosecutor to assist the Township in West Orange Municipal Court for the period January 1, 2023 through December 31, 2023 at the rate of \$1,000 per week. COUNSEL shall be an independent contractor for all purposes. COUNSEL shall be responsible to comply with all tax and other obligations of the United States and New Jersey and the Supreme Court of New Jersey. COUNSEL shall not be entitled to any medical or other benefits, including but not limited to retirement benefits. COUNSEL shall comply with all provisions of the Rules of Professional

Conduct (RPCs) and other ethical requirements of the State of New Jersey and shall not appear or defend any client in the Superior Court of New Jersey, Essex County, Criminal Division or the West Orange Municipal Court.

2. COUNSEL will not seek nor be entitled to reimbursement for any costs and expenses such as postage, copying, mileage, meals, secretarial, parking, travel, telephone, faxes, computer usage, received or delivery of documents.

3. COUNSEL may seek reimbursement for extraordinary expenses such as the cost of transcripts or hiring experts. Counsel will not incur any such expenses without the prior written approval of the Township Attorney.

4. COUNSEL's responsibilities shall include all pre-trial preparation, discovery and trial, to the extent necessary, for all criminal and related prosecutions in The Municipal Court of the Township and any appeals therefrom.

5. COUNSEL shall coordinate all efforts with the Township Attorney and keep him advised as to any matters.

6. 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 this Agreement shall be commenced until the Governing Body adopts a duly authorized Resolution accompanied by a Certificate of Available Funds.

7. 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 Available 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.

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 listing the TOWNSHIP as a certificate holder and additional insured. 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 renewal or new insurance coverage no later than thirty (30) days before the termination of the current coverage. Failure to provide proof of insurance shall be grounds for termination.

9. COUNSEL shall be responsible for coverage of all sessions of the West Orange Municipal Court. To the extent that COUNSEL is ill or has an emergent matter before another Court, he shall be solely responsible to obtain timely coverage for all West Orange sessions at his sole cost and expense. Any attorney who handles any absences must be an Attorney at Law of the State of New Jersey in good standing with the same insurance coverage as COUNSEL. If COUNSEL misses three (3) or more consecutive sessions or a total of five (5) sessions during the term of this Agreement, the Township may terminate this Agreement.

10. The TOWNSHIP or COUNSEL may terminate this Agreement at any time in their sole discretion on thirty (30) days' written notice to the Municipal Clerk with a copy to the

Township Attorney. If terminated by COUNSEL, COUNSEL shall continue to provide services and cover all sessions during the 30-day termination period.

11. 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.*

12. 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:_____
SUSAN McCARTNEY, MAYOR

FRIEND & WENZEL, LLC

WITNESS:

By:_____
JOSEPH M. WENZEL, ESQ.