

O'TOOLE SCRIVO

ATTORNEYS AT LAW

MICHAEL J. DEE
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CONFIDENTIAL ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

December 1, 2021

Via Electronic Mail

Hon. Sean M. Spiller
Mayor of the Township of Montclair
Municipal Building
205 Claremont Avenue
Montclair, New Jersey 07042

Re: Engagement of O'Toole Scrivo

Dear Mayor Spiller:

This letter shall serve as the agreement ("Agreement") between O'Toole Scrivo, LLC (the "Firm") and the Township of Montclair ("Client") with regard to the Firm's representation of Client, as more particularly described herein.

Scope of Services. The Firm has been retained by Client to conduct a confidential and privileged investigation into concerns that have been recently raised related to the Montclair Fire Department's promotional practices and, in particular, the administering of a recent promotional examination. To the extent that we are asked to provide additional services beyond the initial scope of work, we will provide Client with an acknowledgment letter.

Fee Structure. The Firm's billing practices include the maintenance of a detailed record of the time spent on matters by each professional. I will be the primary attorney in charge of your matter and your primary contact. Other attorneys will be assisting me as necessary. Each attorney and paralegal have a specified hourly billing rate. The Firm has discounted its hourly billing rates for services provided to Client pursuant to this Agreement as follows:

<u>Position</u>	<u>Hourly Rate</u>
Partners	\$350.00
Of Counsel	\$290.00
Associates	\$250.00
Paralegals	\$150.00

The Firm's rates are subject to annual increases on January 1 of each year.

Expenses. It is often most efficient for the Firm to advance out-of-pocket costs for various expenses (e.g., travel, copying costs, electronic research, telephone charges and similar expenses). These expenses will be charged as disbursements by the Firm in the regular billing process. Where

such expenses are substantial, however, the Firm may send invoices to Client for direct payment, such as invoices from experts, investigators, and consultants. In such instances, Client will be consulted prior to the Firm incurring such an expense.

Payment. The Firm will issue monthly statements for its hourly fees and costs for services provided. Payment will be due no later than 30 days after the date of the Firm's statement. If the Firm does not receive comment about the statement within 30 days of the statement date, the Firm will assume that Client has seen the bill and that it is acceptable.

Estimates Not Binding. It is often impractical to determine in advance the amount of effort that will be needed to complete all the necessary work on a matter, or the total amount of fees and expenses that may be incurred. If any estimates or budgets are provided by the Firm to Client, such estimates or budgets may need to be adjusted upward or downward in response to changing circumstances. Unless otherwise expressly agreed in writing, the Firm's estimates and budgets are not intended to be binding, are subject to unforeseen circumstances, and by their nature are inexact.

Fees Not Contingent. Unless otherwise specifically agreed in writing, the Firm's fees are not contingent upon the outcome or completion of the matter.

Delinquent Accounts. If any of the Firm's statements remain unpaid for more than 90 days, the Firm may, consistent with its ethical obligations, cease performing services until arrangements satisfactory to the Firm have been made for payment of arrearages and prospective future fees. We may also seek to withdraw from representing Client or from any litigated matter in the event of the Client's nonpayment of any invoice.

Cooperation. Client must fully cooperate with the Firm. Without limitation, this means that Client must inform the Firm of any material information (or change in such material information) that may arise during the Firm's representation of Client.

Retainer Escrow Account. The Firm has agreed to waive its standard requirement for an upfront retainer in this matter.

Nonpublic Client Information. In the course of providing legal services and advice, the Firm may receive nonpublic information from Client. All nonpublic information that the Firm receives from Client will be held in confidence, except as agreed to by Client, as necessary to carry out the representation, or as required under applicable law. In order to protect the Client's nonpublic information, the Firm maintains safeguards that comply with the Firm's professional standards and obligations.

Client should be aware, however, that electronic communications, such as e-mail, have an inherent risk of third-party access. As e-mails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party (or may not be delivered to each of the parties to whom they are directed), the Firm cannot guarantee or warrant that e-mails will be properly delivered and read only by the addressee. Therefore, the Firm specifically disclaims (and Client

explicitly waives) any liability or responsibility whatsoever for interception or unintentional disclosure of e-mail transmissions, or for the unauthorized use or failed delivery of e-mails transmitted by or to the Firm in connection with the services provided under this Agreement. If Client requires the use of a specific communication format (e.g., encrypted e-mail), Client must so advise the Firm. If Client does not so advise the Firm, the Firm will generally use unencrypted e-mails in its communications with Client.

Document Retention and Destruction of Client Materials. In the course of the Firm's representation of Client, the Firm is likely to come into possession of documents or other materials belonging to Client or otherwise constituting Client records. This may include correspondence, pleadings, transcripts, exhibits, physical evidence, and other items reasonably necessary to the Firm's representation of Client (collectively, "Client Materials"). Once the particular matter to which those Client Materials relate has been concluded, the Firm will make arrangements either to return the Client Materials to Client, retain them in our storage facilities, or dispose of them. If Client does not request their return, and in the absence of any other specific arrangements or legal requirements to the contrary, Client agrees that the Firm may (but is not required to) dispose of those Client Materials and the Firm will be relieved of any responsibility to Client with respect to them. If the Firm concludes that it would be inappropriate or impermissible to destroy all or any portion of Client Materials, Client agrees that the Firm may return or deliver the Client Materials to Client at Client's last known address, and the Firm will be relieved of any responsibility with respect to them. The Firm may retain copies of such Client Materials if the Firm chooses.

Conflicts of Interest. At the present time, there do not appear to be any conflicts of interest relating to the Firm's engagement by Client in this matter. Should a conflict arise in the Firm's representation of Client in this matter, however, the Firm reserves its rights, including but not limited to the right to withdraw as counsel pursuant to the Rules of Professional Conduct.

Disclaimer of Guarantee. Although the Firm may offer an opinion about possible results regarding the subject matter of this Agreement, the Firm cannot guarantee any particular result. Client acknowledges that the Firm has made no promises about the outcome of this matter and that any opinion that may be offered by the Firm in the future is not a guarantee.

Termination of Representation. Client can terminate the Firm's services at any time. If Client decides to terminate the Firm's services, Client will give the Firm prompt written notice of the termination. Upon termination, Client will remain obligated to pay for all services rendered and costs or expenses paid or incurred by the Firm on Client's behalf before the termination or which are reasonably necessary thereafter. If the Firm is counsel of record in any proceeding, Client agrees to promptly execute and return to the Firm a Substitution of Attorney form.

The Firm can also withdraw from this representation at any time, except to the extent limited by applicable law or Rules of Professional Conduct. Some reasons for the Firm's withdrawal might include:

- Client's failure to honor the terms of this Agreement or to pay the Firm's statements in a timely manner;
- Client insists upon conduct contrary to the Firm's advice on this matter or makes it unreasonably difficult for the Firm to carry out the representation of Client; or
- Facts or circumstances arise that, in the Firm's view, render continuing representation of the Client unlawful or unethical.

Notwithstanding such withdrawal, Client will remain obligated to pay the Firm for all services provided and to reimburse the Firm for all costs and expenses paid or incurred on Client's behalf before the termination or which are reasonably necessary thereafter.

Selection of Venue. In the event of a dispute between Client and the Firm regarding a matter other than fees and/or costs (including any dispute arising from or relating to the Firm's services) and/or involving a fee dispute over which the District Fee Arbitration Committee declined jurisdiction, Client and the Firm agree that all matters shall be brought in the Superior Court of New Jersey, Essex County or, as appropriate, the United States District Court for the District of New Jersey, Newark Vicinage.

Governing Law. This Agreement shall be governed by, and construed according to, the laws of the State of New Jersey.

We will direct all communications to Client through you unless we are instructed otherwise. We will keep you advised of all significant developments as they occur. As always, if you have any questions about any aspect of our arrangement or the conduct of the matter, please feel free to raise those questions with us at any time.

This letter constitutes the entire fee arrangement between the Firm and Client. Please read this agreement in its entirety. If you agree to the terms and conditions of this agreement, kindly sign and date the original where indicated and return to us. You should retain a copy of this letter for your files.

We endeavor at all times to provide helpful and cost-effective services. To this end, we urge you to speak freely with us regarding Client's goals and concerns, as they may change from time to time, including an assessment of services being provided to Client. We appreciate the confidence that you have shown in O'Toole Scrivo, and we look forward to working with you on this matter.

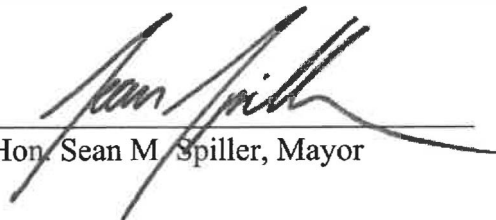
Very truly yours,

Michael J. Dee

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ACCEPTED AND AGREED:



Hon. Sean M. Spiller, Mayor

Dated: December 1, 2021