

AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into this ___ day of April, 2016 between Livingston Development Corp. at 162-20 77th Road, Flushing, New York 11366, a New York Corporation, 135 Glen Cove Ave Corp. at 162-20 77th Road Flushing, New York 11366, a New York Corporation, herein collectively referenced as "Livingston", and the City of Glen Cove, a municipal corporation at 9 Glen Street, Glen Cove, New York 11542, herein referenced as "City".

WITNESSETH

WHEREAS, the parties to this agreement are Respondents in an Article 78 proceeding and action entitled Epstein v. Glen Cove & Livingston et al, Index No:00488/2016 in the Supreme Court of Nassau County; and

WHEREAS, on April 12, 2016, the City Council approved and adopted a resolution appointing Sahn Ward Coschignano PLLC as special counsel for the litigation against the City of Glen Cove and its agencies herein collectively referenced as the "Firm", and

WHEREAS, as of the date of this Agreement, the City has retained Sahn Ward Coschignano PLLC herein; (see Exhibit "A") and

WHEREAS, Livingston has agreed to reimburse to the City any legal fees and costs incurred which are invoiced to the City from the "Firm" as a result of the litigation herein; and

WHEREAS, the Parties desire to enter into this Agreement to clarify the terms and conditions governing Livingston's reimbursement of the City's reasonable legal costs and expenses associated with litigation herein.

NOW, THEREFORE, in consideration of the recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Livingston agrees to reimburse to the City all legal fees, costs and expenses incurred which are associated with the invoices submitted to the City by the "Firm" herein.

2. The parties agree that this reimbursement agreement shall in no way create an attorney- client relationship between the parties. The parties further agree that they have been advised of the hazards of litigation and no representation is made by the City or any parties to this agreement, express or implied concerning the possible outcome

therein. The parties agree that nothing contained herein shall require the City of Glen Cove to take any action in the matter other than to represent the City of Glen Cove and its agencies, which are the subject to this litigation.

3. The City of Glen Cove shall present Livingston with invoices for reimbursement upon receipt from the "Firm" herein. Livingston agrees that all invoices for reimbursement shall be paid to the City of Glen Cove within 30 days of presentment.

4. This agreement may be executed in multiple counterpart signature pages (original, facsimile, or scanned electronic version) which taken together shall constitute a single document.

5. Any and all notices required hereunder shall be in writing, and addressed as follows, or to such other address as may hereafter be designated in writing by either party hereto, and shall be sent by either facsimile with confirmation or overnight carrier with receipt:

a) To the City:

Reginald Spinello, Mayor.
City of Glen Cove
9 Glen Street
Glen Cove, New York 11542
516-676-2000
516-676-0108 (fax)
rspinello@cityofglencoveny.org

With a copy to:

Attention City Attorney

Charles McQuair, Esq.
325 Glen cove Ave
Sea Cliff, New York 11579
516-759-5101
516-759-5102(fax)
cmcquair@cityofglencoveny.org

b) Livingston Development Corp
162-20 77th Road
Flushing, New York 11366

With a copy to:

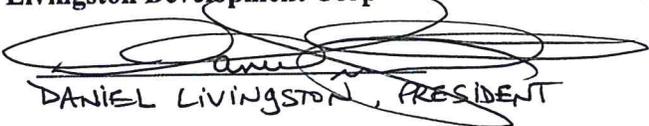
Patrick Hoebich, Esq.
1 School Street, Suite 205
Glen Cove, New York 11542

IN WITNESS WHEREOF, the undersigned have caused this instrument to be duly executed and its seal to be affixed thereto as of the day and year first above written.

CITY OF GLEN COVE

By: Reginald Spinello,
Mayor.

By: **Livingston Development Corp**

By: 
DANIEL LIVINGSTON, PRESIDENT

135 Glen Cove Ave Corp.

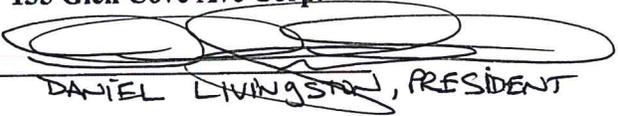
By:: 
DANIEL LIVINGSTON, PRESIDENT

EXHIBIT A

SAHN WARD COSCHIGNANO, PLLC

ATTORNEYS AT LAW

THE OMNI

333 EARLE OVERTON BOULEVARD

SUITE 601

UNIONDALE, NEW YORK 11553

TELEPHONE: (516) 228-1300

TELECOPIER: (516) 228-0038

E-MAIL: INFO@SWC-LAW.COM

WWW.SWC-LAW.COM

MICHAEL H. SAHN
Partner
msahn@swc-law.com

March 21, 2016

VIA E-MAIL & FIRST CLASS MAIL

Charles G. McQuair, Esq.
City of Glen Cove, City Attorney
9 Glen Street, Lower Level
Glen Cove, New York 11542

**Re: City of Glen Cove, et. al., Respondents adv.
Roni Epstein and Marsha Silverman, Petitioners, Index #2016/000488
Article 78 Proceeding, Nassau County Supreme Court**

Dear Mr. McQuair,

Thank you for considering our firm to represent the City of Glen Cove, City of Glen Cove City Council, Planning Board of the City of Glen Cove, City of Glen Cove Industrial Development Agency, and the City of Glen Cove Community Development Agency (collectively referred to as the "City" or "City Agencies") in the above referenced litigation matter involving the proposed "Villa" development (the "Litigation"). This Retainer Agreement will reflect our understanding that, subject to the approval of the City Council, this firm will represent all of the City Agencies as special counsel in the Litigation.

1. **Services.** Our Services will include the following:
 - a. Investigation and analysis of the claims asserted in the Complaint and the Petition;
 - b. Preparation and filing of all appropriate pleadings, motions, memoranda of law, discovery demands and responses, stipulations, trial materials, and any and all other documents necessary to represent the City Agencies' interests in the Litigation;
 - c. Representation at conferences, arguments, depositions, discovery proceedings, hearings and trial, as necessary;

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- d. Consultations, meetings, conferences and negotiations with opposing counsel, or counsel for other parties;
- e. Legal research, as necessary; and
- f. All other appropriate actions necessary to represent the City's interests in the Litigation.

2. **Services Not Included in Agreement.** This agreement does not cover our fees for services before appellate courts. In the event such services are necessary, it will be the subject of a separate retainer agreement.

3. **No Representations Regarding Outcome of the Litigation.** We have advised the City that litigation is inherently risky. The City acknowledges that we make no representations to the City, express or implied, concerning the outcome of the Litigation. The City further acknowledges that we have not guaranteed and cannot guarantee the success of any action taken by us on the City's behalf.

4. **Fees and Costs.**

a. **Hourly Fees.** Our fees are calculated based on the time spent on this matter, on an hourly fee basis. We charge for all time each attorney or legal assistant devotes to the Litigation. We agree to charge a single rate for all our attorneys' time on this matter as follows:

All Attorneys	-	\$190.00 per hour
Paralegal/Legal Assistants	-	\$85.00 per hour

From time to time, we review the firm's billing rates (usually annually). We reserve the right to make appropriate revisions to the above rates based on our periodic review, with the City's prior consent.

b. **Statements.**

i. **Monthly Statements.** We shall prepare and render to the City on a monthly basis a statement of charges for services rendered and costs advanced or incurred during the calendar month. Outstanding balances are due upon receipt of the invoice.

ii. **Interim Statements.** We reserve the right to prepare and render interim statements when appropriate, reflecting all current costs and charges due, and such balances are likewise due upon receipt of an invoice.

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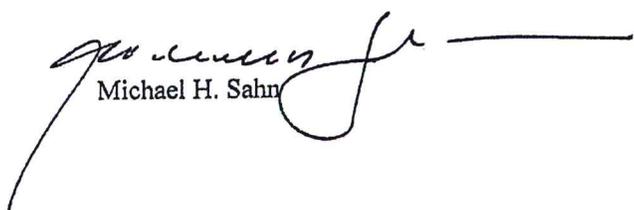
5. **Right to Arbitration.** Under Part 137 of the New York Rules of Court, the City has the right to seek arbitration of any fee dispute. In the event of a fee dispute, we will provide the City with the information necessary to commence the arbitration proceeding.

6. **Communications.** We will keep the City informed as to the status of the Litigation, and agree to explain the laws applicable to the Litigation, the available courses of action, and the attendant risks. We will notify the City promptly of any developments in the case, including court appearances, meetings and hearings and will be available for meetings and telephone conferences with you at mutually convenient times. The undersigned shall be the primary contact person for the Firm regarding this matter.

7. **Waiver of Conflict.** By accepting this engagement letter, the City fully understands and consents that our firm currently, and in the past, represents clients before various City Agencies and that our representation in of these cases shall not be deemed a conflict by undertaking this representation.

Once again, thank you for the confidence you have placed in our Firm. We look forward to representing the City in this matter.

Very truly yours,


Michael H. Sahn

MHS:emr