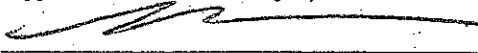


# RESOLUTION

No. 14-481

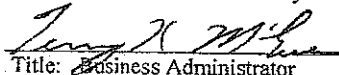
Date of Adoption AUG 07 2014

Approved as to Form and Legality



City Attorney

Factual content certified by



Title: Business Administrator

Councilman /woman \_\_\_\_\_

presents the following Resolution:

**RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT WITH THE LAW OFFICES OF ZARWIN BAUM DeVITO KAPLAN SCHAER TODDY, P.C., FIVE GREENTREE CENTRE, SUITE 303, MARLTON, NJ 08053 TO PROVIDE PROFESSIONAL LEGAL SERVICES REGARDING GENERAL MUNICIPAL AND DEFENSE LITIGATION MATTERS THROUGH A FAIR AND OPEN PROCESS IN ACCORDANCE WITH N.J.S.A. 19:44A-20.5 ET SEQ.**

**WHEREAS**, the City of Trenton has a need for professional legal services for General Municipal and Defense Litigation matters for the City of Trenton, Department of Law; and

**WHEREAS**, the Purchasing Agent has determined and certified in writing that the value of the contract will exceed \$17,500.00; and

**WHEREAS**, request for proposals were advertised on the City website on June 11, 2014 and the proposals were opened in the City Purchasing Office at 9:00 AM on July 1, 2014; and

**WHEREAS**, the evaluation committee has reviewed the proposals submitted and has recommended that a contract be awarded to Zarwin Baum DeVito Kaplan Schaer Toddy, P.C. in an amount not to exceed \$25,000.00; and

**WHEREAS**, funds in an amount not to exceed \$25,000.00 have been certified to be available contingent upon final adoption of the FY2015 Budget in Account No. 5-01- -35-3500-290 for the period of July 1, 2014 through June 30, 2015;

**NOW, THEREFORE, IT IS RESOLVED**, by the City Council of the City of Trenton, as follows:

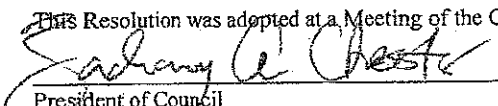
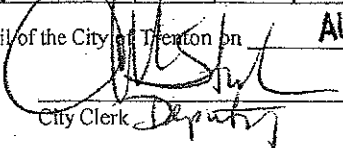
1. The Mayor is hereby authorized to execute a contract in an amount not to exceed \$25,000.00 with Zarwin Baum DeVito Kaplan Schaer Toddy, P.C. to provide professional legal services in regards to General Municipal and Defense Litigation matters for the City of Trenton.

# RESOLUTION

2. This contract is awarded through a fair and open process as a "Professional Service" in accordance with N.J.S.A. 19:44A-20.5 et seq. and in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the contract is for a service performed by a person(s) authorized by law to practice a recognized profession that is regulated by law.
  
3. A notice of this action shall be printed once in the official newspaper for the City of Trenton and the Resolution and contract shall remain on file in the City Clerk's office.

	Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent		Aye	Nay	Abstain	Absent
BETHEA	✓				HOLLY WARD		✓			CHESTER	✓			
CALDWELL WILSON	✓				MUSCHAL		✓							
HARRISON	✓				REYNOLDS JACKSON	✓								

This Resolution was adopted at a Meeting of the City Council of the City of Trenton on AUG 07 2014

\_\_\_\_\_  
 President of Council

\_\_\_\_\_  
 City Clerk Deputy

## PROFESSIONAL LEGAL SERVICES AGREEMENT

**THIS AGREEMENT** is made this 7th day of August 2014, by and between the CITY OF TRENTON, a municipal corporation of the State of New Jersey with principal offices located 319 East State Street, Trenton, New Jersey 08609 (hereinafter the "City"), and **ZARWIN, BAUM, DEVITO, KAPLAN, SCHAEER & TODDY, P.C.** with principal offices located at 1818 Market Street, Philadelphia, PA 19103 (hereinafter "Law Firm").

**WHEREAS**, the City maintains a present and anticipated need for legal services in connection with the defense of the City in General Litigation and other Specialized Litigation matters; and

**WHEREAS**, the Law Firm agrees to perform such services, under the terms and conditions as set forth hereinafter with the City being agreeable thereto; and

**WHEREAS**, the City Council of the City of Trenton authorized the award of this Agreement pursuant to Resolution No. 14-481 incorporated herein by reference (the "Resolution").

**NOW THEREFORE**, the parties mutually agree as follows:

- 1. Scope of Services:** The City agrees to retain the Law Firm and the Law Firm hereby agrees to perform all legal services deemed necessary by the City Attorney and only at the request of, under the general supervision of, and in accordance with the manner prescribed by the City Attorney.
- 2. Manner of Performance:** The Law Firm warrants that the representations made by it regarding the ability and skill level to carry out these services are true. The Law Firm further warrants that all legal services assigned by the City Attorney shall be performed in a good, professional, and workmanlike manner, in conformity with the responsibilities, demands, and ethics of the legal profession and otherwise to the satisfaction of the City Attorney.
- 3. Work Assignments:** The City Attorney shall be responsible for delegating work assignments to the Law Firm and shall contact the Law Firm with work assignments on an as needed basis.
- 4. Term:** This agreement shall remain in full force and effect for the period of July 1, 2014 through June 30, 2015 as set forth in the Resolution, unless sooner terminated pursuant to the provisions hereof. In no event shall the term of this Agreement be extended without action by the governing body of the City.
- 5. Compensation:** (a) All work performed by the Law Firm pursuant to the terms of this agreement shall be billed at a rate of \$150.00 per hour. The Law Firm shall submit itemized monthly billing statements and shall execute all such documents as the City Attorney may require for payment.

All monthly billing statements shall include the names of all members of the Law Firm that have billed time for the month and their respective status (i.e., Partner, Associate, Paralegal). Each entry billed shall identify the member of the Law Firm that performed the task and the amount of time spent on such task.

**All tasks performed shall be broken down and billed separately. The Law Firm shall not block bill for unrelated entries.**

(b) All general office/litigation expenses included as a part of the monthly billing statement shall be reasonable and necessary and shall be subject to the ultimate approval of the City Attorney. All extraordinary expenses (i.e. out of town travel) shall be subject to prior approval by the City Attorney. Moreover, there are certain expenses incurred during the course of litigation that shall be submitted under separate cover by the Law Firm and shall not be included as a part of the Law Firm's monthly expenses. This includes, among other things, the following: (i) fees for the request of medical and other records, (ii) expert witness fees, (iii) major photocopying fees, (iv) IME fees and (v) fees for the preparation of deposition transcripts and the like. The Law Firm should err on the side of caution and shall contact the City Attorney in the event clarification is needed on the payment of any expenses.

(c) In the event that expert and/or technical reports, studies and/or consultations are deemed necessary by the Law Firm for the proper performance of its duties, the Law Firm shall obtain same upon prior approval of the City Attorney.

(d) In no event during the term of this Agreement shall the Law Firm's billings exceed the amount set forth in the Resolution without action by the governing body to increase the contract amount. In the event the Law Firm anticipates exceeding the aforesaid Agreement amount, the Law Firm shall give prior notice to the City Law Firm of the approximate billing cycle in which the Agreement amount is expected to be exhausted.

(e) The Law Firm shall notify the City Attorney, in writing, each time the Law Firm's billings hit \$10,000 intervals (i.e., \$10,000, \$20,000, \$30,000, etc.), which will allow the City and the Law Firm to monitor and be aware of the status of each contract with the Law Firm.

(f) The City Attorney shall assign the Law Firm, from time to time, no more than two (2) *pro bono* cases which shall not require a combined billing amount of more than \$7,500. Should the case(s) assigned require more than \$7,500 in billing, the Law Firm shall bill any amounts in excess of the \$7,500 at the rates proposed in **Section 5. Compensation.**

**6. Status of Law Firm:** It is expressly understood by and between the parties hereto that the status of the Law Firm is that of an independent contractor. It is further understood by and between the parties that it is not intended nor shall it be construed, that the Law Firm is an agent, employee, or officer of the City of Trenton.

**7. Notices:** Any and all notices and other correspondence required or permitted to be given in connection with this Agreement, shall be in writing and delivered to personally to the

parties or sent by mail to the parties at their respective addresses first hereinabove set forth, or to such other addresses as the parties may, from time to time, designate by written notice to the others in the foregoing manner.

**8. Termination:** This Agreement may be terminated by either party upon fifteen (15) days prior written notice to the other party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party.

**9. Assignment:** This Agreement may not be assigned or transferred by either party without the prior written consent of the other party.

**10. Amendment:** This Agreement may not be amended or modified except by written agreement signed by both parties, and action by the governing body of the City, where required.

**11. Mandatory Affirmative Action Language:** The Law Firm, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The Law Firm 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, gender identity or expression, sex, affectional or sexual orientation. 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 Law Firm 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 Law Firm, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the Law Firm, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, gender identity or expression, sex, affectional or sexual orientation.

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

The Law Firm, where applicable, agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The Law Firm agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by NJAC 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from

time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

The Law Firm agrees to inform in writing appropriate recruitment agencies in the area, including 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, gender identity or expression, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The Law Firm 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.

The Law Firm 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, gender identity or expression, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The Law Firm shall furnish such reports or other documents to the Affirmative Action Office 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 Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).


**13. Integration:** This Agreement constitutes the entire agreement between the parties and any representations that may have been made prior to the execution of this Agreement are nonbonding, void, and of no effect and neither party has relied on any such prior representations in entering into this Agreement.

**14. Enforceability:** If any term or condition of this Agreement or its application to any party or circumstance shall be deemed invalid or unenforceable, the remainder of the Agreement and its application to other parties and circumstances shall not be affected.

**15. Governing Law:** This Agreement shall be governed by the laws of the State of New Jersey.

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

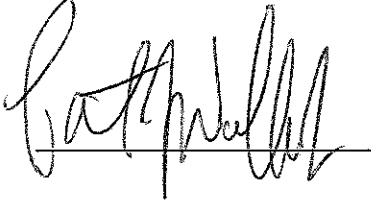
Attest:

  
Municipal Clerk

CITY OF TRENTON

By:   
ERIC E. JACKSON, MAYOR

Witness:



ZARWIN, BAUM, DEVITO, KAPLAN,  
SCHAER & TODDY, P.C.

By: 