

RESOLUTION

No. 19-426

Date of Adoption AUG 1 2019

Approved as to Form and Legality

Factual content certified by

John Morelli, Esq., CITY ATTORNEY

TITLE:

Councilman/woman

presents the following Resolution:

RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT WITH THE LAW OFFICE OF GIBBONS, P.C., 50 WEST STATE STREET, SUITE 1104, TRENTON, NEW JERSEY 08608 TO PROVIDE PROFESSIONAL LEGAL SERVICES IN REGARDS TO SPECIAL COUNSEL THROUGH A FAIR AND OPEN PROCESS IN ACCORDANCE WITH N.J.S.A. 19:44A-20.5 ET SEQ. IN AN AMOUNT NOT TO EXCEED \$47,000.00 – RFP2019-20

WHEREAS, the City of Trenton has a need for professional legal services in regards to Special Counsel 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 and Fifteen (15) proposals were received and opened in the City Purchasing Office at 11:00 AM on April 10, 2019; and

WHEREAS, the evaluation committee has reviewed the proposals submitted and has recommended that a contract be awarded to Gibbons, P.C. in an amount not to exceed \$47,000.00 and structured at a flat rate of \$6,000.00 a month; and

WHEREAS, funds in an amount not to exceed \$47,000.00 have been certified to be available contingent upon temporary or final adoption of the FY2020 Budget in Account No. 0-01- -35-3500-290 from July 1, 2019 through June 30, 2020.

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 \$47,000.00 with Gibbons, P.C. to provide professional legal services in regards to Special Counsel for the City of Trenton.
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
BLAKELEY	✓				MUSCHAL				✓	MCBRIDE	✓			
CALDWELL WILSON				✓	RODRIGUEZ	✓								
HARRISON	✓				VAUGHN	✓								

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

AUG 1 2019

Kathy McBride
President of Council

[Signature]
City Clerk

LEGAL SERVICES AGREEMENT

This **LEGAL SERVICES AGREEMENT** (the "Agreement") is made and entered into this 3rd day of October 2019, 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 **THE LAW OFFICES OF GIBBONS, P.C.** with principal offices located at One Gateway Center, Newark, New Jersey 07102 (hereinafter "Law Firm").

RECITALS

WHEREAS, the City issued Request for Proposals RFP2019-20 (the "RFP"), which is incorporated herein by reference, seeking law firms to provide *Professional Legal Services as Special Counsel* to the City (hereinafter, the "Legal Services"); and

WHEREAS, the Law Firm submitted a proposal to provide the Legal Services in accordance with the terms and conditions prescribed in the RFP (the "Proposal") and the Law Department deemed the Law Firm to be qualified; and

WHEREAS, the City Council of the City of Trenton authorized the award of this Agreement pursuant to Resolution No. 19-426 (the "Resolution"), incorporated herein by reference, for a total contract amount not to exceed \$47,000.00; and

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

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 prescribed in the RFP, and all related matters 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 in its Proposal regarding the ability and skill level to carry out the Legal Services are true and accurate. The Law Firm further warrants that the 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. Further, the Law Firm acknowledges and agrees to perform all services in the manner of and in accordance with the Outside Counsel Guidelines, appended hereto and made a part of this Agreement as Attachment "A" (hereinafter, the "Guidelines") and to submit monthly billings to the City in accordance with those guidelines.

3. **Billing:** The Law Firm agrees to submit billings to the City on a monthly basis, no later than 10 days following the close of a monthly billing cycle, recognizing that the submission

of timely bills is critical to the proper functioning of the municipal entity. The Law Firm agrees to the following reduction in payments due under this agreement should it fail to abide by the billing time submission requirements:

- Bills submitted over 45 days but up to 90 days- a 10% reduction in the amount billed will be deducted from the gross amount due;
- Bills submitted over 90 days but up to 120 days- a 20% reduction in the amount billed will be deducted from the gross amount due;
- Bills submitted over 120 days but up to 180 days- a 50% reduction in the amount billed will be deducted from the gross amount due;
- Any bills submitted greater than 180 days from the date due shall not be considered for payment by the City.

In addition, the Law Firm agrees to submit any and all bills to the City using the City's software billing program known "SimpleLegal", the use of which shall be provided to the Law Firm by the City at no charge to the Law Firm. Upon timely submission of the monthly bill, the City shall analyze and apply its Outside Counsel Guidelines to the monthly bill and provide any modifications or adjustments to the bill utilizing the Simply Legal software. The City shall provide any modifications or adjustments to the Law Firm within 30 days of the receipt of any monthly bill and the failure of the City to provide any adjustments or modifications within this time period shall constitute a waiver of the City's right to perform such modifications or adjustments. The Law Firm may file a written appeal of any modifications or reductions in the monthly bill to the City within 10 days of the receipt of any such modifications by letter, email or fax to the attention of the Law Director. A representative designated by the City's Department of Law shall consider any appeal and reply to that appeal within 20 days of the appeal. If the appeal is denied by the representative of the Law Department, the parties agree to submit the dispute to binding arbitration in the District VII Fee Arbitration Committee.

4. **Work Assignments:** The City Attorney either directly, or through the Designated Attorney (defined herein), or through the Office of the Mayor, shall be responsible for delegating work assignments to the Law Firm on an as needed basis.

5. **Designated Attorney:** Pursuant to Section IV subpart A of the Guidelines, the Designated Attorney shall be the City Attorney or an Assistant City Attorney. The Designated Attorney shall be the primary point of contact for the Law Firm on all matters assigned and shall perform such duties and activities as prescribed under that section of the Guidelines. The Law Firm shall work directly with the Designated Attorney and adhere to all of the requirements specified in that section of the Guidelines.

6. **Term:** This Agreement shall remain in full force and effect for the period of July 1, 201 through June 30, 2020 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 City Council.

7. **Compensation:** All work performed by the Law Firm pursuant to the terms of this Agreement shall be billed at a flat rate not to exceed \$6,000.00 per month. The Law Firm shall strictly adhere to all of the requirements with respect to billing and compensation as specified in the Guidelines.

- (a) 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 City Council to increase the contract amount. The Law Firm shall notify the City Attorney, in writing, whenever the funds remaining in the Law Firm's contract fall below \$10,000.
- (b) The City Attorney shall assign the Law Firm, from time to time, no more than two (2) *pro bono* matters which shall not require a combined billing amount of more than 10% of the total contract amount. Should the matter(s) assigned require billing more than 10% of the total contract amount, the Law Firm shall bill any amounts in excess of the 10% at the rates proposed in Section 7 above.

8. **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.

9. **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 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.

10. **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, including but not limited to the Law Firm's failure to abide by the Outside Counsel Guidelines, the failure of the Law Firm to provide monthly status reports or reports when requested by the City or the City Attorney's Office or the Law Firm's failure to submit prompt bills on a monthly basis.

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

12. **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.

13. **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, where applicable, 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, where applicable, 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, where applicable, 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).

14. **Conflict of Interest:** Prior to the Law Firm's engagement, it must carefully review and determine whether any conflicts of any type exist. If any such conflicts exist, the Law Firm is expected to promptly bring those conflicts to the attention of the City Attorney or the Designated Attorney (as defined herein). Although issue conflicts may not necessarily result in disqualification of the Law Firm, the Department does expect to be consulted before the Law Firm accepts an engagement that will require it to assert a position in a matter before the same tribunal in which the City is appearing in an unrelated matter and which the Law Firm knows is materially adverse to the position of the City in the unrelated matter.

The Law Firm's acceptance of an engagement on a matter without written disclosure of any conflicts constitutes the Law Firm's affirmative representation that it has conducted an appropriate conflict check and no conflict exists.

This section of the Agreement shall supersede Section II subpart A (Conflicts of Interest, Initial Conflicts Check) of the Guidelines.

15. **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 nonbinding, void, and of no effect and neither party has relied on any such prior representations in entering into this Agreement.

16. **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.

17. **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.

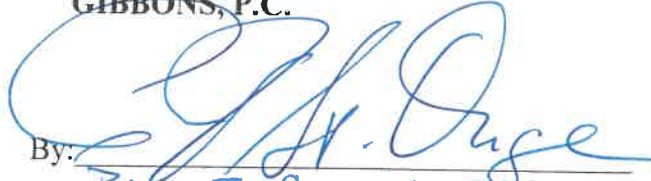
Attest:

CITY OF TRENTON


Municipal Clerk

By: 
W. REED GUSCIORA, MAYOR

Witness:

GIBBONS, P.C.
By: 
PAUL J. ST. ONGE, ESQ.

By: 
Michael DeLorto, Esq.