

RESOLUTION NO. 2022-012

RESOLUTION OF THE TOWNSHIP OF LITTLE EGG HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE APPOINTMENT OF STEVEN ZABARSKY OF CITTA, HOLZAPFEL & ZABRARSKY AS CHIEF MUNICIPAL PROSECUTOR

WHEREAS, there exists a need for legal services as Prosecutor for the Township of Little Egg Harbor; and

WHEREAS, although the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of contracts for "Professional Services" without competitive bids, the Township issued a request for proposals for professional service contracts in accordance with the competitive negotiation procedure as delineated within Section 40-8 of the Township Code of the Township of Little Egg Harbor, entitled "Fair and open process utilized to award contracts with anticipated value in excess of \$17,500"; and

WHEREAS, a determination of value has been made by the Township that said contract shall be a value in excess of \$17,500; and

WHEREAS, said competitive negotiation procedure satisfies the requirements of a fair and open process under N.J.S.A. 19:44A:20.2 et seq.; and

WHEREAS, all proposals were to be submitted to the Office of the Township Clerk by December 1, 2021; and

WHEREAS, Section 14 of P.L. 1996, c. 95 provides that a municipality may employ an attorney-at-law as a prosecutor, under the supervision of the Attorney General or County Prosecutor, who may represent the State, County, or municipality in any matter within the jurisdiction of a central municipal court or any other municipal court; and

WHEREAS, the Township Administrator has reviewed the proposals submitted and recommends Steven A. Zabarsky, Esquire, as Chief Municipal Prosecutor; and

WHEREAS, Steven A. Zabarsky, Esquire, is duly qualified to serve as Chief Municipal Prosecutor; and

WHEREAS, it is the desire of the Mayor and Township Council to appoint Steven A. Zabarsky, Esquire, of the firm Citta, Holzapfel & Zabarsky as Chief Municipal Prosecutor, pursuant to N.J.S.A. 2B:25-4(f) to have authority over other Prosecutors serving that Court with respect to the performance of their duties; and

WHEREAS, the amount of the contract to be awarded under this resolution is determined not to exceed \$50,000.00 which sum is reasonably estimated based upon such legal services s may be required over the contract term to be awarded under this resolution, including, but not limited to, the amount spent for such legal services from the previous calendar year, the costs of compensation under the contract to be awarded, and any projected increase or decrease in services anticipated versus the prior year, and which sum the Township of Little Egg Harbor is under no obligation to spend and which may be exceeded; and

WHEREAS, the Chief Financial Officer has certified that there are funds available for this contract, which certification is annexed hereto; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of contracts for "Professional Services" and requires that the resolution and contract be made available for public inspection.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. That Steven A. Zabarsky, Esquire of Citta, Holzapfel & Zabarsky is hereby appointed as Chief Municipal Prosecutor, in accordance with Section 14 of P.L. 1996, c. 95, for a term of one year, commencing January 1, 2022, and ending December 31, 2022 and shall be paid for Municipal Prosecutor services at a rate of \$3,000 per month or \$36,000 per year plus postage as well as \$750 for each additional court sessions.

2. That the Mayor is hereby authorized to execute and the Township Clerk to attest to the attached agreement with Steven A. Zabarsky, Esquire, of Citta, Holzapfel & Zabarsky.

3. That these contracts are awarded as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a)(i) of the Local Public Contracts Law because they are for services to be performed by a person(s) authorized by law to practice a recognized profession.

4. That a notice of this action shall be printed once in the official newspaper of the Township of Little Egg Harbor.

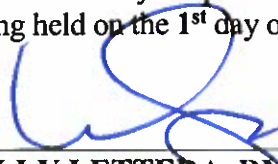
5. That this resolution shall take effect on January 1, 2022.

6. That the agreements shall be open ended contracts with funds being encumbered contingent upon the availability of funds in the budget year. A certificate of availability of funds executed by the Chief Financial Officer is annexed hereto. The following is the line item appropriation (s), which constitutes the availability of funds for this contract: 2-01-20-757

7. That a certified copy of this resolution, together with a copy of the contract between the parties, shall be provided by the Township Clerk to the Chief Financial Officer and Steven A. Zabarsky, Esquire of Citta, Holzapfel & Zabarsky.

CERTIFICATION

I, **KELLY LETTERA, RMC**, Municipal Clerk of the Township of Little Egg Harbor do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on the 1st day of **January, 2022**.



KELLY LETTERA, RMC
Township Clerk
Township of Little Egg Harbor

CERTIFICATE OF AVAILABILITY OF FUNDS

I, **RODNEY HAINES**, Chief Financial Officer for the Township of Little Egg Harbor, do hereby certify that adequate funds are available for an open-ended contract with the Steven A. Zabarsky of Citta, Holzapfel & Zabarsky as Chief Municipal Prosecutor.

The amount of the contract to be awarded under this resolution is determined not to exceed \$ 50,000.00 which sum is based upon a reasonable estimate of the legal services required over the contract term. The Township of Little Egg Harbor is not obligated to spend this amount and is permitted to exceed this amount during the course of performance of this contract.

The funds which are available for this open-ended contract are found in the following line item appropriation(s): 2-01-20-757



RODNEY HAINES, Chief Financial Officer
Township of Little Egg Harbor

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT made this ____ day of **January, 2022**,

BETWEEN: **TOWNSHIP OF LITTLE EGG HARBOR**, a municipal corporation of the State of New Jersey, having its principal offices located at 665 Radio Road, Little Egg Harbor, New Jersey 08087 (hereinafter referred to as “Township”);

AND: **STEVEN A. ZABARSKY, ESQUIRE, OF CITTA, HOLZAPFEL & ZABARSKY**, having its principal offices located at 248 Washington Street, P.O. Box 4, Toms River, New Jersey 08754 (hereinafter referred to as “Chief Municipal Prosecutor”).

WITNESSETH:

WHEREAS, there exists a need for legal services as Prosecutor for the Township of Little Egg Harbor; and

WHEREAS, although the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., authorizes the award of contracts for “Professional Services” without competitive bids, the Township issued a request for proposals for professional service contracts in accordance with the competitive negotiation procedure as delineated within Section 40-8 of the Township Code of the Township of Little Egg Harbor, entitled “Fair and open process utilized to award contracts with anticipated value in excess of \$17,500”; and

WHEREAS, a determination of value has been made by the Township that said contract shall be a value in excess of \$17,500; and

WHEREAS, said competitive negotiation procedure satisfies the requirements of a fair and open process under N.J.S.A. 19:44A:20.2 et seq.; and

WHEREAS, all proposals were to be submitted to the Office of the Township Clerk by December 1, 2021; and

WHEREAS, Section 14 of P.L. 1996, c. 95 provides that a municipality may employ an attorney-at-law as a prosecutor, under the supervision of the Attorney General or County Prosecutor, who may represent the State, County, or municipality in any matter within the jurisdiction of a central municipal court or any other municipal court; and

WHEREAS, the Township Administrator has reviewed the proposals submitted and recommends Steven A. Zabarsky, Esquire; and

WHEREAS, Steven A. Zabarsky, Esquire, is duly qualified to serve as Chief Municipal Prosecutor; and

WHEREAS, it is the desire of the Mayor and Township Council to appoint Steven A. Zabarsky, Esquire, as Chief Municipal Prosecutor for the Township of Little Egg Harbor, in accordance with Section 14 of P.L. 1996, c. 95; and

WHEREAS, the amount of the contract to be awarded under this resolution is determined not to exceed \$ 40,000.00 which sum is reasonably estimated based upon such legal services s may be required over the contract term to be awarded under this resolution, including, but not limited to, the amount spent for such legal services from the previous calendar year, the costs of compensation under the contract to be awarded, and any projected increase or decrease in services anticipated versus the prior year, and which sum the Township of Little Egg Harbor is under no obligation to spend and which may be exceeded; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, authorizes the award of contracts for “Professional Services” and requires that the resolution and contract be made available for public inspection; and

WHEREAS, pursuant to law, the parties hereto wish to enter into an agreement for Professional Legal Services.

NOW, THEREFORE, the parties hereunder do agree as follows:

1. That Steven A. Zabarsky, Esquire, is hereby appointed as Chief Municipal Prosecutor for the Township of Little Egg Harbor, in accordance with Section 14 of P.L. 1996, c. 95, for a term of one year, commencing January 1, 2022, and ending December 31, 2022.

2. The Chief Municipal Prosecutor shall provide all legal services required and necessary as Chief Municipal Prosecutor at the rate of Thirty Six Thousand (\$36,000.00) Dollars for services rendered to the Township for the calendar year 2022. The Chief Municipal Prosecutor shall be paid in twelve (12) equal monthly installments of \$3,000.00 per month. The Chief Municipal Prosecutor shall also be paid the sum of Seven Hundred Fifty (\$750.00) Dollars for each extra Court appearance. The amount of the contract to be awarded is set forth in the approving Resolution which sum is reasonably estimated based upon such legal services s may be required over the contract term to be awarded under this resolution, including, but not limited to, the amount spent for such legal services from the previous calendar year, the costs of compensation under the contract to be awarded, and any projected increase or decrease in services anticipated versus the prior year, and which sum the Township of Little Egg Harbor is under no obligation to spend and which may be exceeded

3. The parties to this contract agree to incorporate into this contract the mandatory language of subsection 3.4(a) of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Chief Municipal Prosecutor or subcontractor agrees to comply fully with the terms, provisions, and obligations of said subsection 3.4(a).

4. The parties to this contract agree to incorporate into this contract the mandatory language of section 3.6 of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.

127, as amended and supplemented from time to time and the Chief Municipal Prosecutor or subcontractor agrees to comply fully with the terms, provisions, and obligations of said section 3.6.

5. The Chief Municipal Prosecutor shall execute the Affirmative Action Agreement, Exhibit A attached hereto, which shall be incorporated herein by reference.

6. The Chief Municipal Prosecutor shall submit a copy of the Certificate of Employee Information Report, or a copy of letter of Federal approval, or Form AA-302 (Initial Employee Information Report) prior to execution of this Agreement.

7. The Chief Municipal Prosecutor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the Chief Municipal Prosecutor.

8. Before final payment on the contract is made by the Township, the Chief Municipal Prosecutor shall submit an accurate list and the proof of business registration of each subcontractor or supplier used in the fulfillment of the contract, or shall attest that no subcontractors were used.

9. For the term of the contract, the Chief Municipal Prosecutor and each of its affiliates and a subcontractor and each of its affiliates [N.J.S.A. 52:32-44(g)(3)] shall collect and remit to the Director, New Jersey Division of Taxation, the use tax due pursuant to the Sales and Use Tax Act on all sales of tangible personal property delivered into this State, regardless of whether the tangible personal property is intended for a contract with a contracting agency.

10. A business organization that fails to provide a copy of a business registration as required pursuant to section 1 of P.L.2001, c.134 (C.52:32-44 *et. al.*) or subsection e. or f. of section 92 of P.L.1977, c.110 (C.5:12-92), or that provides false business registration information under the requirements of either of those sections, shall be liable for a penalty of \$25 for each day of violation,

not to exceed \$50,000 for each business registration copy not properly provided under a contract with a contracting agency.

11. The Township of Little Egg Harbor and the Chief Municipal Prosecutor for themselves, their heirs, executors, administrators, successors or assigns, hereby agree to the full performance of the covenants herein contained.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

WITNESS AND ATTEST:

TOWNSHIP OF LITTLE EGG HARBOR

KELLY LETTERA, RMC
Township Clerk
(Seal)

By _____, Mayor

CITTA, HOLZAPFEL & ZABARSKY

As to Steven A. Zabarsky, Esquire

By _____
STEVEN A. ZABARSKY, ESQUIRE

SCHEDULE A

CITTA, HOLZAPFEL & ZABARSKY

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
248 WASHINGTON STREET
TOMS RIVER, NEW JERSEY 08753
Founded 1934
(732) 349-1600
Fax: (732) 349-0792

www.cittaholzapfelzabarsky.com

JOSEPH A. CITTA
(1934-2009)

JAMES W. HOLZAPFEL
Member NJ & FL Bars

STEVEN A. ZABARSKY

E. DAVID MILLARD
(of Counsel)

BRIAN K. WILKIE

BARRY A. STIEBER

RONALD F. DeLIGNY
(of Counsel)

MATTHEW A. LEAHEY
(1977-2005)

JOHN J. MERCUN
(1976-2015)

November 18, 2021

Township of Little Egg Harbor
665 Radio Road
Little Egg Harbor, New Jersey 08087
Attention: Kelly Lettera, RMC, Township Clerk

Re: Township of Little Egg Harbor - Municipal Prosecutor

Dear Ms. Lettera:

Please allow this correspondence to express the interest of the law firm of Citta, Holzapfel & Zabarsky to remain as Municipal Prosecutor to the Township of Little Egg Harbor for the calendar year of 2022.

Enclosed please find our firm's resume which reflects our vast experience in the area of prosecution. I would like to highlight that we serve as Municipal Prosecutor to many municipalities within Ocean and Monmouth Counties.

I would also note that our rate for services performed as Municipal Prosecutor is \$3,000.00 per month or \$36,000.00 per year plus postage as well as \$750.00 for each of the extra court sessions.

Please note that our firm includes one former Ocean County Prosecutor, James W. Holzapfel, and one former Assistant Ocean County Prosecutor, Steven A. Zabarsky. During the calendar year of 2021, our firm acted as Municipal Prosecutor in over eighteen (18) different municipalities and we have a support staff which is large enough to handle all discovery matters in an efficient and effective matter.

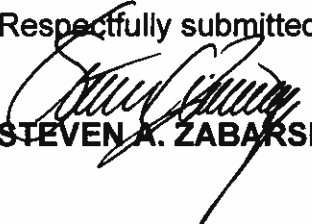
We consider the opportunity to continue to serve as your Municipal Prosecutor as an honor and a privilege.

November 18, 2021
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Pursuant to your request, I also enclose herewith a copy of our New Jersey Business Registration Certificate, Certificate of Employee Information Report, Certificate of Insurance and Affirmative Action Statement.

Thank you for your time. If you or any members seek additional information and have any questions, please do not hesitate to contact me.

Respectfully submitted,



STEVEN A. ZABARSKY

SAZ/cmb
Enclosures

Named Individuals of the firm:

Steven A. Zabarsky, Esquire – Municipal Prosecutor

Brian K. Wilkie, Esquire – Asst. Municipal Prosecutor

Barry A. Stieber, Esquire – Asst. Municipal Prosecutor

EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq., N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICES AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional orientation or sexual orientation and gender identity or expression, the contractor 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. 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 contractor 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 contractor or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

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

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor 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.

In conforming with the applicable employment goals, the contractor or subcontractor 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal law and applicable federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval
Certificate of Employee Information Report
Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance & EEO as may be requested by the Division 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 Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

Company _____

Signature _____

Title _____

Date _____