

RESOLUTION

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WHEREAS, the Princeton Zoning Board of Adjustment ("Board"), pursuant to *N.J.S.A.* 40:55D-71(b) requires the services of legal counsel during the calendar year 2014; and

WHEREAS, said Board has appointed Karen L. Cayci, Esq. of the firm of Herbert Van Ness Cayci & Goodell, PC as its legal advisor during the calendar year 2014; and

WHEREAS, said Board has recommended to Princeton that pursuant to the provisions of the New Jersey Local Public Contracts Law, *N.J.S.A.* 40A:11-1 *et seq.* that a Resolution be adopted awarding a Contract for "Professional Services" following receipt of responses to a Request For Proposal to Karen L. Cayci, Esq. and that the award of said Contract to be publically advertised as required by law.

NOW, THEREFORE, BE IT RESOLVED by the Princeton Council, as follows:

1. The Mayor and Clerk of Princeton are hereby authorized and directed on behalf of the Princeton Zoning Board of Adjustment to enter into a Professional Services Agreement with Karen L. Cayci, Esq. of the firm of Herbert Van Ness Cayci & Goodell, PC, 3131 Princeton Pike, Building 4, Suite 114, Lawrenceville, New Jersey 08648 so as to have said firm serve during the calendar year 2014 as the attorney for said Board. The sums authorized by this Resolution shall not exceed twenty thousand (\$20,000.00) dollars for routine and litigation legal services. The Agreement authorized by this Resolution is on file in the Office of the Princeton Clerk and with the Secretary of the Princeton Zoning Board of Adjustment and may be inspected during regular office hours.

2. This Contract is being awarded without competitive bidding as a “Professional Services” Contract in accordance with the provisions of *N.J.S.A. 40A:11-5(1)(a)* of the New Jersey Local Public Contracts Law because a service will be rendered or performed by a person or persons authorized by law to practice a recognized profession and whose practice is regulated by law.
3. A notice of this action shall be published in The Princeton Packet as required by law within ten (10) days of its passage.

CERTIFICATION

I, Linda S. McDermott, Clerk of Princeton, do hereby certify that the foregoing Resolution was adopted by the Princeton Council at its meeting held on the 27th day of January, 2014.

Linda S. McDermott, Clerk
Princeton

2014

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made on the 27th day of January, 2014, by and between the **PRINCETON**, a municipal corporation of the State of New Jersey, 400 Witherspoon Street, Princeton, New Jersey 08540 (hereinafter referred to as "**PRINCETON**") and **HERBERT VAN NESS CAYCI & GOODELL, PC**, 3131 Princeton Pike, Building 4, Suite 114, Lawrenceville, New Jersey 08648 (hereinafter referred to as the "**ATTORNEYS**").

WITNESSETH:

WHEREAS, the **PRINCETON ZONING BOARD OF ADJUSTMENT** (hereinafter referred to as "**BOARD**") requires legal services for the calendar year 2014; and

WHEREAS, said **BOARD**, pursuant to *N.J.S.A. 40:55D-71(b)*, may employ on an annual basis, legal counsel; and

WHEREAS, the **BOARD**, by Resolution has appointed **ATTORNEYS** as its legal counsel for 2014 pursuant to the provisions of the New Jersey Local Public Contracts Law, *N.J.S.A. 40A:11-1 et seq.*, and recommends having **PRINCETON** award a Professional Services Contract to the **ATTORNEYS** without competitive bidding.

NOW, THEREFORE, IT IS AGREED, between **PRINCETON** and the **ATTORNEYS** as follows:

1. The **BOARD** has heretofore appointed the **ATTORNEYS** to serve as legal counsel to the **BOARD** for the calendar year 2014.
2. The **ATTORNEYS** agree to designate Karen L. Cayci, Esq. as the lead attorney for the **BOARD**. The scope of services and qualifications of attorneys to serve as the **ATTORNEYS**

for the **BOARD** are as set forth in the **ATTORNEY**'s response to the Request For Proposals issued by the **BOARD** dated November 18, 2013, attached.

3. **PRINCETON** agrees to compensate the **ATTORNEYS** at a billing rate of \$165.00 per hour for routine escrow and litigation legal services. The **ATTORNEYS** shall also be reimbursed for out-of-pocket expenses such as filing fees, etc.

4. **PRINCETON** and **ATTORNEYS** agree that the **ATTORNEYS** shall not bill **PRINCETON** for a sum in excess of twenty thousand (\$20,000.00): eleven thousand (\$11,000.00) dollars for routine Board representation and nine thousand (\$9,000.00) dollars for litigation services during the calendar year 2014 without further authorization from the **BOARD** and **PRINCETON**.

5. The **ATTORNEYS** agree that they shall coordinate their representation of the **BOARD** through Zoning Officer, Derek Bridger.

6. To the degree that legal services provided by the **ATTORNEY** for the **BOARD** relate to a specific land use development application considered by the **BOARD** and said services are appropriately chargeable to an escrow deposit account established by an applicant before the **BOARD**, then said **ATTORNEYS** shall bill their time to said escrow account in accordance with the provisions of *N.J.S.A. 40:55D-53.2 et seq.*

7. The parties hereby incorporate into this Agreement, the attached Affirmative Action/Non Discrimination Addendum per attached Exhibit A.

8. The **ATTORNEYS** agrees to file with **PRINCETON** Chief Financial Officer their New Jersey Business Registration Certificate as required by P.L. 2004, c. 57 of the Laws of the State of New Jersey per attached Exhibit B.

9. The **ATTORNEYS** shall comply with the requirements of the New Jersey Local Unit Pay-to-Play Act, *N.J.S.A.* 19:44A-20.7, per attached Exhibit C.

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

ATTEST:

Linda S. McDermott

ATTEST:

**PRINCETON ZONING BOARD OF
ADJUSTMENT**

By: _____
Liz Lempert, Mayor

**HERBERT VAN NESS CAYCI &
GOODELL, PC**

By: _____
Karen L. Cayci, Esq.

EXHIBIT A

**AFFIRMATIVE ACTION/ EQUAL EMPLOYMENT GOAL COMPLIANCE
ATTACHMENT**

for

**PROCUREMENT AND SERVICE CONTRACTS, INCLUDING
PROFESSIONAL SERVICES AGREEMENTS**

Pursuant to N.J.A.C. 17:27-3.5(a)1 and 4.3(a)1, each vendor (also referred to herein as "contractor") shall submit to Princeton (also referred to as "public agency" or "agency"), after notification of award but prior to execution of a goods and services contract with Princeton, one of the following three documents:

- (1) Appropriate evidence that the contractor is operating under an existing Federally approved or sanctioned affirmative action program; or
- (2) A certificate of employee information report approval, issued in accordance with N.J.A.C. 17:27-4; or
- (3) An employee information report (Form AA302) provided by the Division and distributed to Princeton to be completed by the contractor, in accordance with N.J.A.C. 17:27-4. A contractor shall not be eligible to submit nor shall Princeton accept an employee information report unless the contractor certifies and agrees to the following: The contractor, where appropriate, certifies that he or she has never before applied for a certificate of employee information report in accordance with rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time; and agrees to submit immediately to the Division a copy of the employee information report.

A contractor shall not enter into a binding subcontract with a subcontractor unless the subcontractor has submitted to said contractor one of the three documents listed above.

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

A. 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 or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that all 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 equal employment opportunity 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.

B. 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.

C. The contractor or subcontractor, where applicable, will send to each labor union or representative or 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.

D. 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.

E. The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with:

- (1) Good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2; or
- (2) Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

F. 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.

G. 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;

H. In conforming with the targeted 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.

I. The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance and 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 and EEO for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code (N.J.A.C. 17:27)**.

As required by N.J.S.A. 10:2-1 (“Discrimination in employment on public works; contract provisions; set-aside programs”), the contractor agrees as follows:

A. In the hiring of persons for the performance of work under this contract or any subcontract hereunder, or for the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under this contract, no contractor, nor any person acting on behalf of such contractor or subcontractor, shall, by reason of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex, discriminate against any person who is qualified and available to perform the work to which the employment relates;

B. No contractor, subcontractor, nor any person on his behalf shall, in any manner, discriminate against or intimidate any employee engaged in the performance of work under this contract or any subcontract hereunder, or engaged in the procurement, manufacture, assembling or furnishing of any such materials, equipment, supplies or services to be acquired under such contract, on account of race, creed, color, national origin, ancestry, marital status, gender identity or expression, affectional or sexual orientation or sex;

C. There may be deducted from the amount payable to the contractor by Princeton, under this contract, a penalty of \$50.00 for each person for each calendar day during which such person is discriminated against or intimidated in violation of the provisions of the contract; and

D. This contract may be canceled or terminated by Princeton, and all money due or to become due hereunder may be forfeited, for any violation of this section of the contract occurring after notice to the contractor from Princeton of any prior violation of this section of the contract.

EXHIBIT B

BUSINESS REGISTRATION & SALES & USE TAX ADDENDUM

P.L. 2004, c.57 (N.J.S.A. 52:32-44) imposes the following requirements on contractors and subcontractors that **knowingly** provide goods or perform services for a contractor fulfilling this contract:

A. Proof of Contractor's Business Registration

The contractor must provide a copy of its business registration certificate issued by the Department of the Treasury or such other form or verification that the contractor is registered with the Department of the Treasury. Proof of business registration must be submitted no later than at the time of execution of this contract.

B. Proof of Subcontractors' Business Registration

The contractor shall not enter into any contract with a subcontractor under this contract unless the subcontractor first provides proof of valid business registration to the contractor. Also, if the contractor subcontracts any of the work:

1. The contractor shall provide written notice to its subcontractors of the responsibility to submit proof of business registration to the contractor. Subcontractors through all tiers of the project must provide written notice to their subcontractors to submit proof of business registration, and subcontractors shall collect such proofs of business registration.
2. The contractor shall forward copies of proof of the subcontractors' business registrations to the contracting agency.
3. The contractor shall maintain and submit to the contracting agency a list of subcontractors and their addresses that may be updated from time to time during the course of the contract performance.
4. Before final payment is made by the contracting agency under this contract, the contractor shall submit to the contracting agency a complete and an accurate list of all subcontractors, along with their proof of business registration (if not previously provided), used in fulfillment of the contract. If no subcontractors were used, the contractor shall attest to same prior to final payment.

A contractor or subcontractor who fails to provide proof of business registration or provides false information of business registration shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each proof of business registration not properly provided under a contract with a contracting agency.

C. Sales and Use Tax

For the term of this contract, the contractor and each of its affiliates shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the "Sales and

Use Tax Act,” P.L. 1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

In the event the contractor subcontracts any of its work, the contractor shall include within its subcontracts the requirement that, for the term of this contract, the subcontractor and each of its affiliates shall collect and remit to the Director of the Division of Taxation in the Department of the Treasury the use tax due pursuant to the “Sales and Use Tax Act,” P.L. 1966, c.30 (C.54:32B-1 et seq.) on all their sales of tangible personal property delivered into this State.

Information on the law and its requirements is available by calling (609) 292-9292.

EXHIBIT C

NEW JERSEY "LOCAL UNIT PAY-TO-PLAY LAW" COMPLIANCE

Political Contribution Disclosure

This Agreement has been awarded to CONTRACTOR/CONSULTANT based on the merits and abilities of CONTRACTOR/CONSULTANT to provide the goods or services as described herein. This Agreement was not awarded through a "fair and open process" as that phrase is defined in *N.J.S.A. 19:44A-20.7*. As such, CONTRACTOR/CONSULTANT hereby certifies that CONTRACTOR/CONSULTANT (including persons and other business entities having an interest in CONTRACT/CONSULTANT as defined by *N.J.S.A. 19:44A-20.7*) has neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to *N.J.S.A. 19:44A-1 et seq.* (*i.e.*, in excess of \$300.00), in the one (1) year period preceding the award of this Agreement that would, pursuant to P.L. 2004, c.19 affect its eligibility to perform this Agreement, nor will it make a reportable contribution during the term of this Agreement to any municipal committee of a political party if a member of that political party is serving in an elective public office for Princeton when the Agreement is awarded, or to any candidate committee of any person serving in an elective public office for Princeton when the Agreement is awarded.

HERBERT, VAN NESS, CAYCI & GOODELL

A Professional Corporation

3131 Princeton Pike, Building 4, Suite 114
Lawrenceville, New Jersey 08648
Phone (609) 924-2495 • Fax (609) 912-0006

Michael J. Herbert (1938 - 2011)
Stanley C. Van Ness (1934 - 2007)
Karen L. Cayci*
Steven P. Goodell
Michael W. Herbert
Rachel U. Doobrajh**

* Member NJ & PA Bar
** Member NJ & NY Bar

November 18, 2013

Via Hand Delivery
Lee O. Solow, PP, AICP
Director of Planning
Princeton
400 Witherspoon Street
Princeton, NJ 08540

Re: Request for Proposal-Attorney Services
For Zoning Board of Adjustment

Dear Mr. Solow:

Please accept this letter in response to the Request for Proposal for Attorney Services for the Princeton Zoning Board of Adjustment and as an expression of my interest to continue my current role as Zoning Board Attorney. In accordance with the RFP, I enclose eight copies for your ready reference.

Submission Requirements:

Designation of Lead Counsel: Karen L. Cayci, Esq.

Professional Experience of Lead Counsel including list of experience with Princeton and other municipalities: Please see attached Professional Qualifications of Karen L. Cayci, Esq.

Ability of Lead Counsel and firm to perform tasks in timely fashion: I will be able to perform the necessary tasks for representation of the Zoning Board in a timely fashion. As indicated in my attached summary of professional qualifications and the Firm Description, I and my colleagues have extensive experience in land use law and our office is supported by a full-time staff.

Professional Licenses of Lead Counsel: I am licensed as an attorney in the States of New Jersey and Pennsylvania and also admitted before the United States District Court for the District of

HERBERT, VAN NESS, CAYCI & GOODELL
A PROFESSIONAL CORPORATION

Lee Solow, PP, AICP
November 18, 2013
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New Jersey and the United States Court of Appeals for the Third Circuit. I am also an approved mediator on the New Jersey Court Roster of Approved Mediators and a member of the Mercer County and New Jersey State Bar Associations.

Educational Background and experience of Lead counsel: Please see attached Professional Qualifications of Karen L. Cayci, Esq.

Fee Proposal: I propose \$165.00 per hour for all legal services including but not limited to telephone calls, legal research, preparation of ordinances, preparation of resolutions, negotiations, attendance at meetings, hearings, litigation and any other services rendered on behalf of the Princeton Zoning Board of Adjustment, based upon detailed monthly bills. In accordance with the Municipal Law Use Law, all services rendered in connection with review of land use applications, attendance at meetings for such applications and preparation of resolution and related services are billed against escrows posted by land use applicants. This fee proposal is of course subject to the review and approval of the Board.

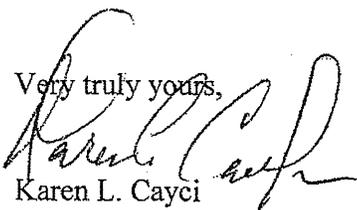
Professional References:

Robert Bruschi, Administrator, Princeton
Mildred Trotman, Member, Princeton Planning Board
Wanda Gunning, Chair, Princeton Planning Board

Paul Pogorzelski, Hopewell Township Administrator/Engineer c/o Township of Hopewell, 201
Washington Crossing Pennington Road, Titusville, NJ 08560
Telephone Number: (609) 737-0605

Please do not hesitate to contact me should you require any additional information.
Thank you for your courtesies and consideration.

Very truly yours,


Karen L. Cayci

Enclosures



Princeton

*Princeton Municipal Complex
400 Witherspoon Street
Princeton, NJ 08540-3496*

*Department of Zoning
Office of Historic Preservation
Telephone: (609) 921-1359
Fax: (609) 688-2026*

*Debra L. Rogers, L.U.A.
Administrative Coordin.
Zoning Brd. Secretary
drogers@princetonnj.gov*

RESOLUTION OF PRINCETON ZONING BOARD OF ADJUSTMENT APPOINTING BOARD ATTORNEY

WHEREAS, the Zoning Board of Adjustment of Princeton,
County of Mercer, State of New Jersey has the need for the services of an Attorney;

NOW THEREFORE, BE IT RESOLVED by the Zoning Board of Adjustment of
Princeton, County of Mercer, State of New Jersey that ****Herbert, Van Ness, Cacyi and
Goodall, P.C.**, is hereby appointed law firm of said Board for the period of January 1, 2014
through December 31, 2014.

I hereby certify the above to be a true copy of a resolution adopted by the Zoning
Board of Adjustment of Princeton, County of Mercer, State of New
Jersey at a meeting held January 22, 2014.

**Debra L. Rogers, Secretary
Zoning Board of Adjustment**

HERBERT, VAN NESS, CAYCI & GOODELL

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Rachel U. Doobraj**

* Member NJ & PA Bar
** Member NJ & NY Bar

November 19, 2013

Via Electronic Mail
Lee O. Solow, PP, AICP
Director of Planning
Municipality of Princeton
400 Witherspoon Street
Princeton, NJ 08540

RE: Request for Proposal for Planning and Zoning
Legal Services-Amendment to November 18, 2013
Proposal

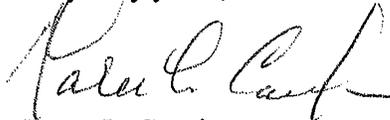
Dear Mr. Solow:

I recently submitted a proposal to you in accordance with the advertised RFP for the position of Zoning Board Attorney. I had not included in my proposal any reference to a role as Special Counsel to the Planning Board, as the RFP did not make reference to that position. However, in the event that you intended the RFP to cover services as special counsel, please accept this letter as an amendment to my proposal letter of November 18, 2013 to indicate my interest in continuing to serve as special counsel to the Planning Board. I would rely upon the information contained in my November 18, 2013 proposal including the proposed billing rate.

Should you require any additional materials or a separate proposal with respect to providing special counsel services, please advise me at your earliest convenience so that I may make a timely submission.

Thank you for your courtesies and consideration.

Very truly yours,



Karen L. Cayci