

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF ESSEX

14

RESOLUTION NO. _____ AUTHORITY FOR RESOLUTION: N.J.S.A. 40:41A-38(n)
PROPOSED BY: COUNTY EXECUTIVE AUTHORITY FOR ACTION: N.J.S.A. 40:41A-36(i)

SUBJECT: OFFICE OF COUNTY COUNSEL – PROFESSIONAL SERVICES AGREEMENT TO PROVIDE LEGAL SERVICES REGARDING THE MATTER OF SHAI CARR v. COUNTY OF ESSEX, et al. - Civil Action No. 2:20-cv-20587-CCC-MF - OUTSIDE COUNSEL SECOND AMENDMENT TO CONTRACT WITH CHIESA SHAHINIAN & GIANTOMASI INCREASING THE CONTRACT TO AN AMOUNT NOT TO EXCEED \$200,000.00 – JANUARY 1, 2022– DECEMBER 31, 2022.

WHEREAS, the County of Essex has a need for special outside counsel to provide legal services and/or legal representation regarding in the matter of the Shai Carr v. County of Essex, et al., – Civil Action No. 2:20-cv-20587-CCC-MF representing Defendants (the “Legal Matter”); and

WHEREAS the scope of the services being rendered by said law firm has been substantially increased; and

WHEREAS, there is a need for a second amendment to the contract with Chiesa Shahinian & Giantomasi so as to increase the maximum fee payable for said legal services during the period January 1, 2022 to December 31, 2022 from \$150,000.00 to \$200,000.00; and

WHEREAS, the Administration has presented to the Board of County Commissioners a proposed form of amendment to the contract between the County and Chiesa Shahinian & Giantomasi; and

WHEREAS, the Chief Financial Officer has certified the availability of funds to pay such contract, as amended, which certification is attached hereto; and

WHEREAS, said amendment to the contract may be awarded without public bidding, as professional services in accordance with N.J.S.A. 40A:11-5(1) of the Local Public Contracts Law, on condition that a resolution authorizing the contract for professional services without competitive bidding, and the contract itself, be made available for public inspection; and

WHEREAS, the Board of County Commissioners is empowered by N.J.S.A. 40:41A-38(n) to approve, by resolution, contracts presented by the County Executive;

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Essex as follows:

1. That the amendment to the contract with Chiesa Shahinian & Giantomasi, a copy of which is attached hereto, is approved;
2. That the amendment to the contract is awarded without competitive bid as "Professional Services" in accordance with N.J.S.A.40A:11-5(1)(a) of Local Public Contracts Law because the services to be rendered are performed by persons authorized by law to practice a recognized profession which is regulated by law and the performance of which requires knowledge of an advanced type in a field of learning acquired by prolonged formal, specialized instruction;
3. That notice of this amendment to the contract award be published by the Clerk of the Board of County Commissioners in accordance with the provisions of N.J.S.A. 40A:11-5(1);
4. That the Clerk of the Board forward two copies of said fully executed copies of said amendment to the contract and this resolution to Jerome M. St. John, Essex County Counsel; one copy to Julius N. Coltre, Director, Office of Purchasing; and one copy to Chiesa Shahinian & Giantomasi, 105 Eisenhower Parkway, Roseland, NJ 07068.

Approved as to form and legality _____ Date 2/21/23

[Signature]

ESSEX COUNTY COUNSEL

RECORD OF VOTE (X=Vote N.V.=Abstention ABS=Absent)

Moved by Commissioner _____
 Second by Commissioner _____

Commissioner	Yes	No	N.V.	ABS	Commissioner	Yes	No	N.V.	ABS
Cooper					Mercado				
Gill					Pomares, V.P.				
Graham					Richardson, Pres.				
Johnson					Sebold				
Luciano									

It is hereby certified that the foregoing Resolution was () adopted () defeated () tabled by roll call vote at a _____ meeting of the Board of County Commissioners of the County of Essex, New Jersey held on _____.

Is Publication Required () Yes () No

Date Published _____

 Wayne L. Richardson, President



COUNTY OF ESSEX

DECISION MEMORANDUM

COUNTY EXECUTIVE

BOARD AGENDA ITEM

COUNTY ADMINISTRATOR

County Counsel

TO: Robert J. Jackson
County Administrator

DEPARTMENT: _____

FROM: Jerome M. St. John
County Counsel

DIVISION: _____

DATE: February 21, 2023

RE: Second Amendment to Professional Services Contract with Chiesa Shahinian & Giantomasi regarding Carr v. County of Essex, et al.
Civil Action No. 2:20-cv-20587-CCC-MF

A. INTRODUCTION.

The County is in need for the services of outside counsel to provide legal services and/or legal representation regarding the assertion of claims related to the Law Against Discrimination lawsuit brought by Plaintiff in connection with the above captioned matter.

B. RECOMMENDATION.

It is recommended that the Board of County Commissioners approve the amendment to the contract between the County of Essex and the law firm of Chiesa Shahinian & Giantomasi to increase the maximum fee payable for said legal services during the period January 1, 2022 through December 31, 2022 from \$150,000.00 to \$200,000.00.

C. REASON FOR RECOMMENDATION.

Since this is an ongoing matter, the firm has submitted a request for its additional and anticipated legal costs. Therefore, an amendment of their contract is necessary and appropriate.

JMSJ:ks

C:\ChiesaAmendmentDM:ks



OFFICE OF ACCOUNTS AND CONTROL
HALL OF RECORDS, ROOM 542
NEWARK, NEW JERSEY 07102

CERTIFICATION OF FUNDS

Vendor Name Chiesa Shaninian & Giantomasi
Account Name Professional Services
Account # 01-203-20-155-100-028
Contract Period (If Applicable) 01/01/2022 12/31/2022
Purpose of Contract To provide Legal Services regarding the matter of Shai Carr v. County of
Essex, et al., - Civil Action No. 2:20-cv-20587-CCC-MF

50,000.00 Contract Amount

Funding

50,000.00 Temporary Budget Amount
50,000.00 Current Fund Budget Amount
Contingent Current Year Amount
Grant Funding
Capital Funding
Trust Funding
Contingent Subsequent Years

I, do hereby certify that the funding is legally appropriated per the above information for the purpose specified in the attached contract. Furthermore, it has been represented to me that the contracts have been processed in accordance with the applicable provisions of the Optional County Charter Law, the Essex County Administrative Code and the Essex County Standard Operating Policies and Procedures.

CM Date: 3/7/2023
Cert: 742

Ehab Salama
Chief Financial Officer

SECOND AMENDMENT TO CONTRACT FOR PROFESSIONAL LEGAL SERVICES

This Agreement made the 1th day of January, 2023 between the **County of Essex**, a body politic and corporate of the State of New Jersey (hereinafter referred to as "County") and **Chiesa Shahinian & Giantomasi**, 105 Eisenhower Parkway, Roseland, NJ 07068 (hereinafter referred to as "Counsel").

WHEREAS, the County is in need of the services of outside counsel to provide legal services and/or legal representation in the matter venued in the United States District Court, For the District of known as **Shai Carr v. County of Essex, Armando B. Fontoura, Individually and in his official capacity as Sheriff of Essex County, John Goncalves, Individually and in his official capacity as Undersheriff of Essex County, Jacqueline Jones, Individually and in her official capacity as Deputy Director of Human Resources of Essex County, and JOHN/JANE DOES 1-10, Civil Action Case No. 2:20-cv-20587-CCC-MF** (hereinafter referred to as the "Legal Matter"); and

NOW, THEREFORE, it is agreed as follows:

- 1. Services.** Counsel shall provide the County of Essex with legal representation in the above-referenced Legal Matter and perform in accordance with the terms and conditions set forth herein. The services to be provided are "professional services" within the meaning of N.J.S.A. 40A:11-5(1)(a)(i).
- 2. Term.** The term of this agreement shall be January 1, 2022 through December 31, 2022.
- 3. Compensation.** The total contract price for this agreement, including reimbursement for expenses, shall be increased from **\$150,000.00 to a maximum amount not to exceed \$200,000.00** without prior approval of the County of Essex Board of County Commissioners. Counsel will cease all activities on the within Legal Matter that have reached their contract limit and will not undertake any further representation without prior written approval of the Board of County Commissioners. County Counsel and the above named Counsel are aware that any work undertaken beyond the contracted amount, without prior approval, will be at Counsel's expense, and the County will not be liable therefor. Unless otherwise provided in this agreement, billing and payment shall be in accord with standard County procedure. Counsel shall be compensated for legal services billed in six minute increments at its customary hourly rates not to exceed one hundred fifty dollars (\$150.00) per hour. The rates for paralegals and law clerks shall not exceed seventy-five dollars (\$75.00) per hour billed in six minute increments. The County will not be charged for the time spent by Counsel preparing, reviewing, or discussing its bill(s) for or with the County. The County shall also not be charged for the time of Counsel's clerical staff. The County will not be charged for the firm's appearance at the required Essex County Board of County Commissioners' meeting approving their contract.
- 4. Disbursements.** In addition to fee income, Counsel will be entitled to payment or reimbursement for reasonable costs and expenses incurred hereunder on the County's behalf. Where the County has retained more than one outside counsel on a particular matter, the outside counsel shall endeavor to reduce or split common costs for services rendered and goods provided by third parties, such as but not limited to, certified shorthand reporters, transcripts, title companies, surveyors, or consulting experts, which may be enlisted on behalf of the County, its affiliated agencies or employees in this matter.
- 5. Estimates.** Although Counsel will, upon the County's request, furnish estimates of fees and costs that are anticipated, the parties understand that these estimates are by their nature inexact.

6. **In-House Costs.** The County shall not be charged for in-house costs for photocopies, telephone calls, e-mails, facsimiles, postage or overnight deliveries.

7. **Billing.** Fees and expenses will be billed monthly. The County shall not be obligated to pay fees and expenses not billed within sixty days of when incurred. The County is aware that pursuant to Court Rule 1:20A-6 it may dispute any of Counsel's invoices and initiate fee arbitration by immediately contacting the local Fee Committee secretary to request the appropriate forms.

8. **Severability of Provisions.** Whenever possible, each provision of this agreement shall be interpreted in such a manner as to be effective and valid under applicable law. However, if any provision of this agreement or the application of any provision to any party or circumstance shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of the provisions of this agreement or the application of the provision to other parties or to other circumstances.

9. **Titles.** The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

10. **Waiver of Breach.** The waiver by the County of any breach of any term or condition of this agreement shall not be deemed to constitute the waiver of any other breach of the same or any other term or condition of this agreement.

11. **Choice of Law.** This agreement shall be construed, governed, and enforced in accordance with the laws of the State of New Jersey. Any action based upon the terms of this agreement shall be venued within the County of Essex.

12. **Discrimination.** The provisions of N.J.S.A. 10:2-1 through 10:2-4, inclusive, relating to discrimination in employment on public contracts, and the rules and regulations promulgated thereunder, are incorporated into the terms and conditions of Counsel's retention and made a part hereof.

13. **Conflicts.** The Supreme Court in In Re Supreme Court Advisory Committee Opinion on Professional Ethics Opinion No. 697, set forth the applicable standard on "conflicts" to which we agree to abide. See 188 N.J. 549 (2006)

14. **Incorporation.** The following documents are attached hereto and made a part hereof:

Updated Statement of Certain Political Contributions

15. **Agreement.** Counsel's signature on this agreement, or if work has already begun the Counsel's failure to object to these terms promptly in writing, constitutes acceptance of the foregoing terms and conditions. This agreement constitutes the entire understanding concerning the County's engagement of Counsel, and that understanding cannot subsequently be modified except in a writing signed by an authorized representative of each party.

16. **Authorization Required.** Counsel is required to get prior approval from the Office of County Counsel for all settlements of suit; motions to be filed; and depositions to be taken.

IN WITNESS WHEREOF, the parties have signed and sealed this agreement on the dates set forth below.

WITNESS:

CHIESA SHAHINIAN & GIANTOMASI



Justin Zaremba

(print)

DATE: 2/15/2023



By: Robert C. McGowan, Treasurer

DATE: 2/15/2023

ATTEST:

COUNTY OF ESSEX

DEBORAH DAVIS FORD, CLERK
ESSEX COUNTY BOARD OF
COUNTY COMMISSIONERS

DATE:



By: JOSEPH N. DiVINCENZO, JR.
ESSEX COUNTY EXECUTIVE

DATE: 2/27/23

APPROVED AS TO FORM



JEROME M. ST. JOHN
ASSISTANT COUNTY COUNSEL

DATE

