

RESOLUTION 2022-06

NEW JERSEY HIGHLANDS WATER PROTECTION AND PLANNING COUNCIL APPROVAL OF QUALIFICATION OF FIRMS FOR HIGHLANDS ACT LITIGATION TO SERVE FOR A THREE-YEAR PERIOD

WHEREAS, the Highlands Water Protection and Planning Act (Highlands Act) has created a public body corporate and politic with corporate succession known as the Highlands Water Protection and Planning Council (Highlands Council); and

WHEREAS, the Highlands Council is tasked with implementing the New Jersey Highlands Water Protection and Planning Act, N.J.S.A. 13:20-1 et seq.; and

WHEREAS, section 6.g of the Highlands Act authorizes the Highlands Council to enter into any and all agreements or contracts to effectuate the purposes of the Highlands Act; and

WHEREAS, N.J.S.A. 13:20-20 provides that the council shall provide legal representation to any requesting local government unit located in the Highlands Region in any cause of action filed against the local government unit and contesting an act or decision of the local government unit taken or made under authority granted pursuant to the “Municipal Land Use Law,” P.L. 1975, c. 291 (C. 40:55D-1 et seq.), R.S. 40:27-1 et seq., the “State Uniform Construction Code Act,” P.L. 1975, c. 217 (C. 52:27D-119 et seq.), or this act, provided that:

- a. the municipal master plan and development regulations, or, in the case of a county governmental entity, the county master plan and associated regulations, have been approved by the council to be in conformance with the regional master plan in accordance with section 14 or 15 of this act [C. 13:20-14 or 13:20-15];
- b. the council determines that the act or decision of the local government unit which is the subject of the cause of action is consistent with the regional master plan; and
- c. the act or decision of the local government unit that is the subject of the cause of action involves an application for development that provides for the ultimate disturbance of two acres or more of land or a cumulative increase in impervious surface by one acre or more; and

WHEREAS, to support the Highlands Council with implementation of this provision, the Highlands Council staff prepared a Request for Proposal (RFP) which was released to the public on July 22, 2021, seeking firms to provide counsel to Highlands municipalities in situations covered by the Act under the supervision of the Highlands Council; and

WHEREAS, three (3) firms submitted responses and proposals on or before the deadline of October 20, 2021; and

WHEREAS, the Highlands Council staff evaluated the responses based on work experience and professional qualifications, and geographic location; and

WHEREAS, Highlands Council staff recommends that the Council qualify each of the three (3) firms insofar as they are all qualified vendors for the scope of work specified in the RFP; and

WHEREAS, the Highlands Council staff recommends that the three (3) firms are suited to meet the needs articulated by the Highlands Council’s RFP and further recommends that the Highlands Council authorize the Executive Director to enter into contracts with Carella, Byrne, Cecchi, Olstein, Brody &

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Agnello, P.C., Methfessel & Werbel P.C., and McManimon, Scotland & Baumann, LLC, to provide legal services to municipalities who qualify under the Highlands Act Litigation section of the Highlands Act.

NOW, THEREFORE, BE IT RESOLVED by the Highlands Council that:
The Executive Director, or their designee, is hereby authorized to designate as special counsel Carella, Byrne, Cecchi, Olstein, Brody & Agnello, P.C., Methfessel & Werbel P.C., and McManimon, Scotland & Baumann, LLC consistent with the WHEREAS clauses, above, and that contracts with those firms can be executed for an amount not to exceed \$100,000 per matter assigned; and further that if the amount of defense costs is expected to exceed \$100,000, additional funds can be requested from the full Council.

CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Highlands Council at its regular meeting held on the 21st day of April 2022.



Carl J. Richko, Chairman

Vote on the Approval of This Resolution	Motion	Second	Yes	No	Abstain	Absent
Councilmember Alstede			√			
Councilmember Dougherty			√			
Councilmember Dressler			√			
Councilmember Francis			√			
Councilmember Holtaway	√		√			
Councilmember James			√			
Councilmember Sebetich			√			
Councilmember Van Abs			√			
Councilmember Visioli		√	√			
Councilmember Vohden			√			
Chairman Richko			√			