

RESOLUTION NO. 3353

SYRACUSE URBAN RENEWAL AGENCY

RESOLUTION AUTHORIZING THE PROCUREMENT OF LEGAL SERVICES FROM BARCLAY DAMON LLP WITH REGARDS TO THE ACQUISITION BY EMINENT DOMAIN OF 122 CHESTER STREET

WHEREAS the Syracuse Urban Renewal Agency (hereinafter "SURA") has been in negotiations with the Estate of Estella Moore (hereinafter the "Estate") with regards to the acquisition of 122 Chester Street, Syracuse, NY (hereinafter the "Property") for site assembly for the SURA supermarket project (hereinafter the "Project"); and

WHEREAS, certain title issues have arisen with regards to the Property and the Estate has thus far been unwilling or unable to clear them; and

WHEREAS, SURA desire to acquire the property free of all liens and has by Resolution No. 3352 authorized the acquisition of the Property by means of eminent domain; and

WHEREAS, the law firm of Barclay Damon LLP has special experience in the area of acquisition of property by eminent domain; and

WHEREAS, Barclay Damon LLP has expressed that it is willing to represent SURA in an eminent Domain proceeding to acquire 122 Chester Street upon the terms and conditions as outlined in the "Standard Terms of Engagement for Legal Services" attached hereto as Exhibit "A" (hereinafter the "Standard Terms"); and

WHEREAS, SURA's Contracting Officer has made an initial determination that the services requested will cost between Ten and Fifteen Thousand Dollars (\$10,000.00-\$15,000.00); and

WHEREAS, Board action is required for all Procurement Contracts anticipated to be in excess of five thousand dollars (\$5,000.00); and

WHEAREAS, The Board has had the opportunity to review the Standard Terms; and

WHEAREAS, the failure of SURA to acquire clear title to the Property has become a critical situation as that term is used in section V(B)(1)(g) of SURA's Procurement Policy as failure to acquire the property may endanger the development of the Project and as such the contract may be awarded without a competitive process.

NOW THEREFORE, BE IT RESOLVED, that SURA waives the competitive process for procurement of services related to the acquisition of 122 Chester Street by Eminent Domain.

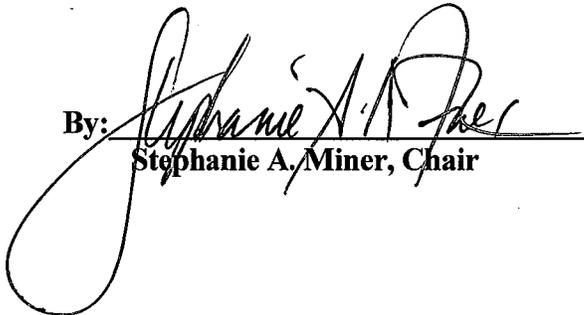
BE IT FURTHER RESOLVED, SURA authorizes an agreement with Barclay Damon LLP upon the terms and conditions as outlined in the Standard Terms with Barclay to provide legal services to SURA with regards to the acquisition of 122 Chester Street, Syracuse, NY by Eminent Domain (hereinafter the "Agreement").

BE IT FURTHER RESOLVED, that SURA authorizes its Chair to execute the Agreement and bind SURA thereto.

BE IT FURTHER RESOLVED, that the officers, agents and employees of SURA are also hereby directed to proceed to do such further things, or perform such further acts and execute such other documents, as are necessary to implement this Resolution, upon those terms and conditions that are satisfactory to counsel for SURA.

DATED: October 27, 2015

SYRACUSE URBAN RENEWAL AGENCY

By: 

Stephanie A. Miner, Chair

EXHIBIT "A"

BARCLAY DAMON, LLP

Standard Terms of Engagement for Legal Services ("Standard Terms")

Introduction

This Standard Terms of Engagement for Legal Services contains the standard terms of our engagement as your lawyers. Unless modified in writing by mutual agreement, these terms will be an integral part of the letter (the "Letter") to which this Standard Terms of Engagement is attached (collectively, the "Engagement Letter"). Therefore, we ask that you review this document carefully and contact us promptly if you have any questions.

1. **Parties.** This Standard Terms states the terms under which Barclay Damon, LLP (we or "BD") shall provide and the client identified in the Letter ("Client") shall pay for legal services. For purposes of this Agreement, "Client" means **Syracuse Urban Renewal Agency**. If Client is a corporation, partnership, or limited liability company, BD represents only that entity and does not represent its shareholders, directors, partners, members, managers, or employees. If Client is an individual, BD represents only that individual and not that individual's spouse or other family members, any entities in which the individual owns an interest nor any other owners of such entities.
2. **Scope of Services ("Matter").** BD shall provide legal services to Client in connection with the Matter described in the Letter. Legal services not required for the Matter as described therein will not be provided unless Client requests such services and BD agrees, in writing, to provide them.

Acquisition of 122 Chester Street, Syracuse, NY by Eminent Domain

("Property")

3. **Primary Attorney.** The attorney at BD who has primary responsibility for work on the Matter is Mark R. McNamara ("Primary Attorney"). The Primary Attorney may be reached at the following contact information: telephone (716) 566-1536, facsimile (716) 846-1210, e-mail mmcnamara@barclaydamon.com. The legal secretary for the Primary Attorney is Kathy Roesch who may be reached at the following contact information: telephone (716) 566-1523, facsimile (716) 566-4037 e-mail [kroesch@barclaydamon.com](mailto: kroesch@barclaydamon.com). The Primary Attorney may use other BD attorneys and non-attorney staff (such as paralegals) to do work on the Matter. BD reserves the right to change the Primary Attorney. Client has the right to require a change in the Primary Attorney and other attorneys and staff working on the Matter.

4. **Client Confidentiality.** BD will protect client confidences and secrets as required by law. Please use special care when communicating with BD via electronic mail or by cellular telephone because such methods of communication are not always secure and could lead to the inadvertent waiver of attorney-client privilege.

5. **Conflicts of Interest.**

(a) **Client's "Affiliates".** In this engagement, BD represents only the person or entity that is identified as the "Client" in the Letter. "Client" does not include any "affiliates" of Client (*i.e.*, if Client is a corporation, limited liability company, or partnership, "affiliate" means any parent, subsidiary, employee, officer, director, shareholder, member or partner of the corporation, limited liability company, or partnership; or, if Client is a trade association, "affiliate" includes any member of the trade association). Accordingly, for conflict of interest purposes, Client agrees that BD may represent another client with interests adverse to any such affiliate, without obtaining Client's consent. Client further agrees that Client will not seek to disqualify BD from representing another client in a matter where such client is adverse to Client's affiliate. Upon BD's request, Client will use best efforts to arrange it so that none of Client's affiliates will seek to disqualify BD from representing another client in any such matter.

(b) **Other Clients Adverse to "Client".** BD is a large law firm which represents many clients in a variety of matters. It is possible that in the future, BD may be asked by one of those clients to represent it in a matter where Client is an adverse party or has an adverse interest. If such a future matter is substantially unrelated to the Matter in this engagement and if Client has not given BD any confidential information that is materially relevant to such a future matter, then Client agrees prospectively (1) to waive any conflict of interest in connection with BD representing another client in such a future matter even though it may be against Client or an interest of Client; and (2) not to seek to disqualify BD from representing another client in any such future matter.

6. **Fees.** The fees BD will charge for its services will be based on the amount of time spent by its attorneys and paralegals on the Matter. Time is charged in units of tenths of an hour. The fee will be the time spent by attorneys and paralegals multiplied by their hourly billing rate in effect when the work is done. The hourly billing rates are subject to change at the beginning of each calendar year. The current hourly billing rate of the Primary Attorney is \$360.

Upon request, BD will provide Client with the hourly billing rate for each person working or expected to work on the Matter.

7. **Expenses.** In addition to the fees described above, BD will charge Client for expenses it incurs that are related to the Matter. Examples of such expenses are filing fees, expert witness fees, travel expenses, mileage, transcripts, judgments and lien searches, [computerized legal research] and the like. Expenses may either be incurred/paid by BD and billed to Client, the bill for the expense may be submitted to Client for payment directly to the billing party, or BD may assist Client in setting up a billing relationship between the third party vendor and Client so Client can pay the charges directly.
8. **Billing and Payment.** BD's normal practice for hourly matters is to send Client a monthly bill for fees and expenses for the prior month, although that practice may vary. Payment is due on receipt of the bill. In the event of a fee dispute, Client may have the right to seek arbitration; we will provide Client with the necessary information regarding arbitration in the event of a fee dispute, or upon Client's request.
9. **Termination.**
- (a) **By Client.** Client may terminate this engagement at any time for any reason by notifying BD in writing. Client shall be responsible for outstanding invoices, for unbilled fees and expenses incurred before termination, and for fees and expenses in connection with an orderly transition of the Matter.
 - (b) **By BD.** BD may terminate this engagement at any time for any reason, including Client's failure to pay BD's fees and expenses, provided, however, that BD's right to terminate is subject to the applicable rules of professional conduct and the rules of any court having jurisdiction of the Matter.
 - (c) **On Completion of the Matter.** BD's representation of Client on this Matter shall terminate automatically when the Matter is complete. The relationship of attorney-client between BD and Client thereafter shall continue only if Client has engaged BD on other matters or once again engages BD on this Matter.
10. **Entire Agreement.** This Engagement Letter constitutes the entire agreement between BD and Client as to the Matter and may be changed only by a written document, signed by both parties.
11. **Governing Law.** Any dispute arising under this Engagement Letter shall be governed by the laws of the State of New York. Client consents to the personal and subject matter jurisdiction of the Supreme Court of the State of New York in and for the County of Erie to resolve any such disputes.

12. **Additional Services.** BD is a full-service law firm with a wide array of expertise as described in the enclosed list of our Practice Groups. Please feel free to contact the Practice Group Chair about additional services offered by BD.

BARCLAY DAMON ^{LLP}

PRACTICE AREAS

<u>Bankruptcy and Creditors' Rights</u>		<u>Labor & Employment</u>	
J. Eric Charlton	(315) 425-2716	Laurence B. Oppenheimer	(716) 566-1575
Beth Ann Bivona	(716) 858-3849		
<u>Branding, Trademarks & Copyrights</u>		<u>Land Use & Zoning</u>	
Michael A. Oropallo	(315) 425-2831	Jeffery D. Palumbo	(716) 858-3728
<u>Commercial Litigation</u>		<u>Lobbying & Election Law Compliance</u>	
Jon P. Devendorf	(315) 425-2724	Judith M. Sayles	(315) 425-2784
Brian E. Whiteley	(617) 274-2903		
<u>Construction & Surety</u>		<u>Mass. & Toxic Torts</u>	
James P. Domagalski	(716) 566-1510	Carol G. Snider	(716) 858-3782
<u>Corporate</u>		<u>Media & First Amendment</u>	
James J. Canfield	(315) 425-2769	Joseph M. Finnerty	(716) 566-1471
Christopher T. Greene	(716) 858-3730	<u>Patents & Prosecution</u>	
<u>Energy</u>		Peter J. Bilinski	(315) 425-2856
Richard R. Capozza	(315) 425-2710	<u>Professional Liability</u>	
<u>Environmental</u>		Dennis R. McCoy	(716) 566-1560
Frank W. Bifera	(518) 429-4224	<u>Project Development</u>	
Yvonne E. Hennessey	(518) 429-4293	Kevin R. McAuliffe	(315) 425-2875
<u>Family & Matrimonial Law</u>		<u>Public Finance</u>	
Christopher A. Cardillo	(716) 858-3881	M. Cornelia Cahill	(518) 429-4296
<u>Financial Institutions & Lending</u>		<u>Real Estate</u>	
Roger F. Cominsky	(716) 566-1413	Christopher J. Centore	(315) 425-2756
<u>Health Care Controversies</u>		<u>Real Property Tax & Condemnation</u>	
Linda J. Clark	(518) 429-4241	Mark R. McNamara	(716) 566-1536
<u>Health Care & Human Services</u>		<u>Regulatory</u>	
Melissa M. Zambri	(518) 429-4229	Maureen O. Hehner	(518) 429-4220
Susan A. Benz	(716) 858-3812	<u>Tax</u>	
<u>Immigration</u>		Gerald F. Stack	(315) 425-2829
Eileen M. Martin	(716) 566-1421	<u>Telecommunications</u>	
<u>Indian Law</u>		Jeffrey W. Davis	(315) 425-2823
Judith M. Sayles	(315) 425-2784	<u>Torts & Products Liability Defense</u>	
<u>Insurance Coverage & Regulation</u>		Matthew J. Larkin	(315) 425-2805
Anthony J. Piazza	(585) 295-4420	Thomas J. Drury	(716) 858-3845
<u>Intellectual Property Litigation</u>		<u>Trusts & Estates</u>	
Douglas J. Nash	(315) 425-2828	Catherine T. Wettlaufer	(716) 566-1430
<u>International Business</u>		<u>White Collar</u>	
Richard J. Day	(716) 566-1422	Gabriel M. Nugent	(315) 425-2836
Gust P. Pullman	(716) 858-3726	Daniel L. French	(315) 413-4030