



## Legislation Details (With Text)

**File #:** 17-1592      **Version:** 1      **Name:** Resolution: Tompkins McGuire Wachenfeld & Barry, LLP (2017-2018)  
**Type:** Resolution      **Status:** Adopted  
**File created:** 8/30/2017      **In control:** Law  
**On agenda:** 9/12/2017      **Final action:** 9/12/2017

**Title:** Dept/ Agency: Law Department  
Action: (X) Ratifying (X) Authorizing ( ) Amending  
Type of Service: Professional Services Contract  
Purpose: Special Counsel  
Entity Name: Tompkins McGuire Wachenfeld & Barry, LLP.  
Entity Address: 3 Becker Farm Road - 4th Floor, Roseland, New Jersey 07068-1726  
Contract Amount: Amount not to exceed \$75,000.00  
Funding Source: 2017 and 2018 City Budgets  
Contract Period: August 1, 2017 through July 31, 2018  
Contract Basis: ( ) Bid ( ) State Vendor (X) Prof. Ser. ( ) EUS  
( ) Fair & Open (X) No Reportable Contributions ( ) RFP ( ) RFQ  
( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a  
Additional Information:

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
9/12/2017	1	Municipal Council	Adopt	Pass

**Dept/ Agency:** Law Department  
**Action:** (X) Ratifying (X) Authorizing ( ) Amending  
**Type of Service:** Professional Services Contract  
**Purpose:** Special Counsel  
**Entity Name:** Tompkins McGuire Wachenfeld & Barry, LLP.  
**Entity Address:** 3 Becker Farm Road - 4<sup>th</sup> Floor, Roseland, New Jersey 07068-1726  
**Contract Amount:** Amount not to exceed \$75,000.00  
**Funding Source:** 2017 and 2018 City Budgets  
**Contract Period:** August 1, 2017 through July 31, 2018  
**Contract Basis:** ( ) Bid ( ) State Vendor (X) Prof. Ser. ( ) EUS  
( ) Fair & Open (X) No Reportable Contributions ( ) RFP ( ) RFQ  
( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a  
**Additional Information:**

**WHEREAS**, the City of Newark is involved in ongoing legal matters and therefore has a need to acquire legal services; and

**WHEREAS**, legal services are professional services, exempt from the requirement for public bidding, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a)(i); and

**WHEREAS**, Tompkins McGuire Wachenfeld & Barry, LLP, with offices located at 3 Becker Farm Road - 4<sup>th</sup> Floor, Roseland, New Jersey 07068-1726 has agreed to serve as Special Counsel to the Business Administrator, Jack Kelly and the Personnel Director, Kecia Daniels, in the matter of Willie Parker v. City of Newark, et als., Docket No.:17-04615 filed in the United States District Court for the District of New Jersey; and

**WHEREAS**, given the allegations in the complaint and complexity of this matter, it is more efficient and cost-effective for Tompkins McGuire Wachenfeld & Barry, LLP to handle this litigation on behalf of the Business Administrator, Jack Kelly and the Personnel Director, Kecia Daniels; and

**WHEREAS**, Tompkins McGuire Wachenfeld & Barry, LLP submitted a proposal to continue to provide legal services concerning this matter, and it was found to be in the best interest of the City of Newark to accept the proposal for the purpose of representing the Business Administrator, Jack Kelly and the Personnel Director, Kecia Daniels' interests and provide legal services for this limited litigation matter; and

**WHEREAS**, due to potential conflicts of interests, the Assistant Business Administrator shall be authorized to execute the contract with the Acting Corporation Counsel, in lieu of the Mayor; and

**WHEREAS**, the Assistant Business Administrator and the Acting Corporation Counsel wish to enter into a contract with Tompkins McGuire Wachenfeld & Barry, LLP to provide legal services, as it pertains to this matter, in an amount not to exceed Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00) for the period of August 1, 2017 through July 31, 2018; and

**WHEREAS**, this contract is awarded without competitive bidding as an exception to public bidding, pursuant to N.J.S.A. 40A:11-5(1)(a)(i), professional services; and

**WHEREAS**, Local Public Contract Law (N.J.S.A. 40A:11-1, et seq.) requires a resolution of the Governing Body authorizing the award of contracts for professional services and further requires that the contract itself must be available for public inspection; and

**WHEREAS**, the actions contemplated by this resolution shall result in the award of a Non-Fair and Open contract in accordance with N.J.S.A. 19:44A-20.5, which has been determined and certified in writing to have a value in excess of \$17,500.00; and

**WHEREAS**, Tompkins McGuire Wachenfeld & Barry, LLP has completed and submitted a Business Entity Disclosure Certification, which certifies that it has not made any reportable contributions to a political or candidate committee in the City of Newark in the prior year, and the contract will prohibit them from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that notice of the award of contracts for "Professional Services" without public bidding must be published in a local newspaper; and

**WHEREAS**, the Municipal Council adopted the Contractor Pay-to-Play Reform Ordinance,

6PSF-a on August 1, 2012, which forbids the award of a contract to a Business Entity, as defined therein, which has made or solicited political contributions to Newark Municipal Candidates, office holders having ultimate responsibility for the award of a contract; candidate committees of the aforementioned candidates; and political or political party committees of the City of Newark or County of Essex; and continuing political committees or political action committees regularly engaged in the support of the City of Newark municipal or County of Essex elections; and certain other political party or candidate committees, in excess of certain thresholds.

**NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:**

1. The Assistant Business Administrator and the Acting Corporation Counsel on behalf of the City of Newark are authorized to enter into and execute a contract with Tompkins McGuire Wachenfeld & Barry, LLP, with offices located at 3 Becker Farm Road - 4<sup>th</sup> Floor, Roseland, New Jersey 07068-1726 to provide legal services concerning Willie Parker v. City of Newark, et als., Docket No.:17-04615 filed in the United States District Court for the District of New Jersey in an amount not to exceed Seventy-Five Thousand Dollars Zero Cents (\$75,000.00), for the period of August 1, 2017 through July 31, 2018.
2. The Municipal Council ratifies this contract for the period August 1, 2017 to the date of adoption of this resolution.
3. This contract is being awarded under the City's 2017 Budgets. Attached hereto is the Chief Financial Officer's Certification, which states that partial funds in the amount of \$35,000.00 are available in the 2017 Budget, Business Unit NW011, Dept. 040, Div/Proj. 0401, Activity A, Account #71260, Budget Ref. B2017 the balance to be provided in the 2017 and 2018 Budgets. The certification shall be filed along with the original resolution in the Office of the City Clerk.
4. This contract is being awarded pursuant to the Non-Fair and Open Procedures of the Pay-to-Play Law (N.J.S.A. 19:44A-20.5 et seq.) and the Contractor Pay-to-Play Ordinance, 2:4-22C and pursuant to the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5(1)(a)(i)) because these services are to be rendered by person(s) licensed as attorneys by the State of New Jersey, N.J.S.A. 40A:11-5.
5. The contract will contain language prohibiting any contributions in violation of any state or local law.
6. The Determination of Value and Business Entity Disclosure Certification are attached and shall be filed with the Office of the City Clerk.
7. A copy of the executed contract herein authorized shall be filed in the Office of the City Clerk by the Acting Corporation Counsel and shall be made available for public inspection.
8. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of its passage.
9. There shall be no amendments or changes to this contract without approval of the

Municipal Council and there shall be no advance payments on this contract in accordance with N.J.S.A. 40A:5-16.

### **STATEMENT**

This resolution hereby ratifies and authorizes the Assistant Business Administrator and the Acting Corporation Counsel on behalf of the City of Newark to enter into and execute a contract with Tompkins McGuire Wachenfeld & Barry, LLP., with offices located at 3 Becker Farm Road - 4<sup>th</sup> Floor, Roseland, New Jersey 07068-1726 to provide legal services concerning the Willie Parker v. City of Newark, et als., Docket No.:17-04615 filed in the United States District Court for the District of New Jersey in an amount not to exceed Seventy-Five Thousand Dollars and Zero Cents (\$75,000.00) for the period of August 1, 2017 through July 31, 2018.