



## Legislation Details (With Text)

**File #:** 13-0166 **Version:** 1 **Name:**

**Type:** Resolution **Status:** Adopted

**File created:** 1/22/2013 **In control:** Water Sewer Utility

**On agenda:** 5/1/2013 **Final action:** 5/1/2013

**Title:** Dept/ Agency: Water & Sewer Utilities  
Action: ☒ Ratifying ☒ Authorizing ☐ Amending  
Type of Service: Professional Services Contract  
Purpose: Legal Services for the City's acquisition of properties by negotiated purchase or eminent domain for the Combined Sewer Overflow (CSO) facilities.  
Entity Name: Gluck Walrath, LLP  
Entity Address: 428 River View Plaza, Trenton, New Jersey 08611  
Contract Amount: \$25,563.15  
Funding Source: City of Newark Budget/Water and Sewer Utilities  
Contract Period: January 1, 2013 to December 31, 2013  
Contract Basis: ☐ Bid ☐ State Vendor ☒ Prof. Ser. ☐ EUS  
☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ  
☐ Private Sale ☐ Grant ☐ Sub-recipient ☐ N/A  
Additional Information:

### Sponsors:

### Indexes:

### Code sections:

Date	Ver.	Action By	Action	Result
5/1/2013	1	Municipal Council	Adopt	Pass

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**Additional Information:**

**WHEREAS,** the City of Newark (City) has entered into an Administrative Consent Order (ACO) with the New Jersey Department of Environmental Protection (NJDEP) and said ACO requires that the City construct Combined Sewer Overflow Solids/Floatables Control Facilities on specific parcels of property on which the outfall pipes exist; and

**WHEREAS**, pursuant to Resolution 7R12-a(S) adopted on September 21, 2010, the City of Newark entered into a contract with the Law Firm of Gluck Walrath LLP, with offices at 428 River View Plaza, Trenton, New Jersey 08611, to represent the City of Newark in the negotiation with the owners of the needed parcels or their attorneys, to acquire said parcels and if negotiations fail, to perform the legal services required to acquire the parcels through eminent domain; and

**WHEREAS**, pursuant to Resolution 7R12-d adopted on September 8, 2011, the City of Newark again entered into a contract with the Law Firm of Gluck Walrath LLP, with offices at 428 River View Plaza, Trenton, New Jersey 08611, to represent the City of Newark in the negotiation with the owners of the needed parcels or their attorneys, to acquire said parcels and if negotiations fail, to perform the legal services required to acquire the parcels through eminent domain and is satisfied with the legal services rendered; and

**WHEREAS**, pursuant to Resolution 7R12-b adopted on June 7, 2012, the City of Newark again entered into a contract with the Law Firm of Gluck Walrath LLP, with offices at 428 River View Plaza, Trenton, New Jersey 08611, to represent the City of Newark in the negotiation with the owners of the needed parcels or their attorneys, to acquire said parcels and if negotiations fail, to perform the legal services required to acquire the parcels through eminent domain and is satisfied with the legal services rendered; and

WHEREAS, since the agreement with Gluck Walrath, LLP was only approved in the ninth month of the year for which the contract was awarded resulting in inadequate time to complete the acquisition of the needed parcels; and,

**WHEREAS**, The City is satisfied with the legal services rendered; and

**WHEREAS**, the City of Newark wishes to enter into a new contract with Gluck Walrath, LLP, to continue to provide legal services in connection with acquisition of the needed parcels for the period of January 1, 2013 until December 31, 2013, for an amount not to exceed \$25,563.15, and;

**WHEREAS**, the City has applied for a waiver from the DCA MOU requirement that all profession service contract be procured through a "Fair and Open Process" as the amount of this contract is limited to the amount unspent in the prior year, the contract is a continuation of a single legal matter, the time and cost for another legal firm to review and become familiar with the records, history and cost would be an inefficient use of existing funding and the potential NJDEP fines associated with noncompliance with the NJDEP ACO; and

**WHEREAS**, the DCA has granted the requested waiver; and

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

**WHEREAS**, this contract is for an amount over \$17,500 and is being awarded pursuant to the "non-fair and open process" pursuant to N.J.S.A. 19:44A-20.5; and

**WHEREAS**, Gluck, Walrath LLP has completed and submitted a Business Entity Disclosure Certification which certifies that Gluck, Walrath LLP has not made any reportable contributions to a political candidate committee in the City of Newark, in the previous one year, and that the contract will prohibit Gluck, Walrath LLP from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Mayor of the City of Newark signed into law Executive Order Number MEO-07-001 (hereinafter "Pay-to-Play Executive Order") which requires reporting of political contributions to Newark Municipal Candidates and prohibits certain political contributions during the duration of the contract.

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

1. The Corporation Counsel and the Mayor of the City of Newark are hereby authorized and directed on behalf of the City of Newark to enter into a contract with Gluck Walrath, LLP, located at 428 River View Plaza, Trenton, New Jersey 08611, to represent the City of Newark in the negotiation with the owners of the needed parcels or their attorneys, to acquire said parcels and if negotiations fail, to perform the legal services required to acquire the parcels through eminent domain at the total contract price of \$25,563.15.
2. The term of the contract is January 1, 2013 until December 31, 2013.
3. This contract is awarded without competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:1 1-5(1)(a)(i) of the Local Public Contract Law because the performance of the service required must be performed by someone who is licensed to practice law in the State of New Jersey.
4. This contract is being awarded pursuant to the non-fair and open procedures of the State Pay-to-Play Law (N.J.S.A. 19:44A-20.5) and pursuant to the provisions of the Local Public Contracts Law (N.J.S.A. 40A:1 1-5(1)(a)(i) and is in compliance with Executive Order MEO-07-0001, effective March 31, 2007.
5. The Business Disclosure Entity Certification and the Determination of Value Letter shall be placed on file with this Resolution.
6. Gluck, Walrath LLP has completed and submitted a Business entity Disclosure Certificate which shall be placed on file with the Resolution in the City Clerk's office certifying that Gluck, Walrath LLP has not made any reportable contributions to a political or candidate committee in the City of Newark in the previous one year, and the contract will prohibit Gluck Walrath, LLP from making reportable contributions through the term of the contract.
7. A duly executed copy of the amended contract shall be filed in the Office of the City Clerk by the Corporation Counsel.
8. A notice of this action shall be placed in the newspaper as required by law within ten (10) days of the adoption of this resolution.

## STATEMENT

This Resolution authorizes the Corporation Counsel and the Mayor of the City of Newark to enter into a contract with Gluck Walrath, LLP, located at 428 River View Plaza, Trenton, New Jersey 08611, to provide legal services in connection with negotiations with the owners, or their attorneys, of the property parcels needed to be acquired for construction of the CSO Facilities and if negotiations fail, to perform the legal services required to acquire the parcels through eminent domain at no increase in cost and the total contract price of \$25,563.15 and the contract term is January 1, 2013 until December 31, 2013.