Legislation Details (With Text)

File #:	13-1817	**Version:**	2	**Name:**	Water and Sewer - Gluck Walrath, LLP Legal Services
Type:	Resolution			**Status:**	Filed
File created:	9/20/2013			**In control:**	Water Sewer Utility
On agenda:	12/18/2013			**Final action:**	12/18/2013

Title: Dept/ Agency: Water & Sewer Utilities
Action: () Ratifying (X) Authorizing ( ) Amending
Type of Service: Professional Services Contract
Purpose: Legal Services
Entity Name: Gluck Walrath, LLP
Entity Address: 428 Riverview Plaza, Trenton, New Jersey 08611
Contract Amount: Not to Exceed $30,000.00
Funding Source: City of Newark/Water and Sewer Utilities
Contract Period: August 1, 2013 through July 31, 2014
Contract Basis: ( ) Bid ( ) State Vendor (X) 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
12/18/2013	1	Municipal Council	Motion to amend	Pass
12/18/2013	2	Municipal Council	Adopted as Amended	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 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

Municipal Council authorized the City to enter into a contract with the Law Firm of Gluck Walrath LLP, 428 Riverview Plaza, Trenton, New Jersey 08611, for the period of January 1, 2010 through December 31, 2010, for an amount not to exceed $75,000.00, to represent the City 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, the agreement with Gluck Walrath LLP authorized by the Municipal Council pursuant to Resolution 7R12-a(S) 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 an unspent balance on the contract in the amount of $66,100.59; and

WHEREAS, due to the constraints on the duration of professional service contracts set forth in N.J.S.A. 40A:11-15 the Municipal Council, pursuant to Resolution 7R12-d, adopted on September 8, 2011, authorized the City to enter into a new contract with the Law Firm of Gluck Walrath LLP, 428 Riverview Plaza, Trenton, New Jersey 08611, for the period of January 1, 2011 through December 31, 2011, for an amount not to exceed $66,100.59, to represent the City 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, the agreement with Gluck Walrath LLP authorized by the Municipal Council pursuant to Resolution 7R12-d 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 an unspent balance on the contract in the amount of $35,556.59; and

WHEREAS, due to the constraints on the duration of professional service contracts set forth in N.J.S.A. 40A:11-15 the Municipal Council, pursuant to Resolution 7R12-b, adopted on June 7, 2012, authorized the City to enter into a new contract with the Law Firm of Gluck Walrath LLP, 428 Riverview Plaza, Trenton, New Jersey 08611, for the period of January 1, 2012 through December 31, 2012, for an amount not to exceed $35,556.59,to represent the City 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, the agreement with Gluck Walrath LLP authorized by the Municipal Council pursuant to Resolution 7R12-b was only approved in the sixth month of the year for which the contract was awarded resulting in inadequate time to complete the acquisition of the needed parcels and an unspent balance on the contract in the amount of $25,563.15; and

WHEREAS, due to the constraints on the duration of professional service contracts set forth in N.J.S.A. 40A:11-15 the Municipal Council, pursuant to Resolution 7R12-a, adopted on May 1, 2013, authorized the City to enter into a new contract with the Law Firm of Gluck Walrath LLP, 428 Riverview Plaza, Trenton, New Jersey 08611, for the period of January 1, 2012 through December 31, 2012, for an amount not to exceed $25,563.15 to represent the City 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, all funds on the Contract authorized by the Municipal Council pursuant to Resolution 7R12-a have been expended; and

WHEREAS, the above-reference legal matters are ongoing and due to the constraints on the duration of professional service contracts set forth in N.J.S.A. 40A:11-15 the City of Newark now desires 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 August 1, 2013 through July 31, 2014 for an amount not to exceed $30,000.00; and;

WHEREAS, the City has applied for a waiver from the DCA MOU requirement that all profession service contracts 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 mater, 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, under the circumstances, 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 $17,500.00 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 NEWAK, NEW JERSEY, THAT:

1. The Mayor and/or his designee, the Corporation Counsel, are hereby authorized and directed on behalf of the City of Newark to execute a contract with Gluck Walrath LLP, 428 Riverside 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 or other legal methods as necessary for an amount not to exceed $30,000.00.

2. The term of the contract is August 1, 2013 through July 31, 2014.

3. This contract is awarded without competitive bidding as a “Professional Service” in accordance with N.J.S.A. 40A1 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. 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.

6. This is an open-ended contract to be used as needed during the term of the contract. Thus, for any and all expenditures against this contract, a certification of the availability of sufficient funds, as required by N.J.A.C. 5:30-5.5(b) (2), shall be executed before a contractual liability is incurred each time an order is placed, covering the amount of the order.

7. This Resolution, a duly executed copy of the amended contract, the Business Disclosure Entity Certification and the Determination of Value Letter shall be filed in the Office of the City Clerk by the Corporation Counsel.

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 the adoption of this resolution.

STATEMENT

This Resolution authorizes the Mayor and/or his designee, the Corporation Counsel to enter into and execute a contract with Gluck Walrath LLP, 428 Riverview Plaza, Trenton, New Jersey 08611, to provide legal services in connection the negotiation 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 for an amount not to exceed $30,000.00, for the period of August 1, 2013 through July 31, 2014