



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 21-1889, Version: 1

Dept./ Agency: Law

Action: (X) Ratifying (X) Authorizing (X) Amending

Type of Service: Professional Services Contract

Purpose: First Amendment to the Agreement to provide legal services as Special Counsel.

Entity Name: Pashman Stein Walder Hayden

Entity Address: 21 Main Street, Suite 200, Hackensack, New Jersey 07601

Contract Amount: Not to exceed \$352,553.54

Funding Source: 2020 and 2021 Budget/Law Department/Department of Water and Sewer Utilities

Contract Period: October 1, 2020 through September 30, 2021

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:

Resolution 7R6-b adopted on September 1, 2021 awarded a contract in an amount not to exceed \$200,000.00 for the period of October 1, 2020 through September 30, 2021.

This First Amendment will increase the contract amount by \$152,553.54 for a new total contract amount not to exceed \$352,553.54.

WHEREAS, the City of Newark ("City") needed to acquire Legal Services for its appeal of an assessment of the Third and Fourth Quarter 2018 User charges against Passaic Valley Sewerage Commission ("Passaic Valley Matter"), given the complexity of the matter; and

WHEREAS, Legal Services are Professional Services and are exempt from the requirements for public bidding pursuant to the Local Public Contracts Law, more specifically, *N.J.S.A. 40A:11-5(1)(a)(i)*; and

WHEREAS, on September 1, 2021, the Newark Municipal Council adopted Resolution 7R6-b, authorizing the City to enter into a Professional Services contract with Pashman Stein Walder Hayden, 21 Main Street, Suite 200, Hackensack, New Jersey 07601 ("Pashman" or "Firm"), to provide Legal Services and act as Special Counsel for the City as it relates to the Passaic Valley Matter, for an amount not to exceed Two Hundred Thousand Dollars and Zero Cents (\$200,000.00), for the period of October 1, 2020 through September 30, 2021 ("Original Contract"); and

WHEREAS, Pashman, has outstanding legal bills, which has exhausted the total contract amount of Two Hundred Thousand Dollars and Zero Cents (\$200,000.00); and

WHEREAS, Pashman continues to vigorously represent the City in the Passaic Valley Matter, and bills have been submitted for the remainder of the contract year; and

WHEREAS, Pashman represents that an additional One Hundred Fifty- Two Thousand Five Hundred Fifty-Three Dollars and Fifty-Four Cents (\$152,553.54) is needed to cover the outstanding

legal bills for 2021, which requires an increase in the total contract amount; and

WHEREAS, upon reviewing the Contract to present and prepare the First Amendment to the Agreement to Provide Legal Services, the Corporation Counsel discovered that the Original Contract inadvertently had not been executed by either the City of Newark or the firm as either no contract or the wrong contract was sent to the Firm; and

WHEREAS, since the Original Contract was not fully executed and there is a need to increase the contract amount, this Resolution shall rescind Resolution 7R6-b adopted September 1, 2021 and authorize a new contract for the full amount owed; and

WHEREAS, the Mayor and/or his designee, the Corporation Counsel, wish to now enter into and execute a Legal Services Contract with Pashman, as it pertains to the Passaic Valley Matter, in an amount not to exceed Three Hundred Fifty-Two Thousand Five Hundred Fifty-Three Dollars and Fifty-Four Cents (\$352,553.54), for the period of October 1, 2020 to September 30, 2021; 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 competitive bidding must be published in a local newspaper; and

WHEREAS, the Contract is for an amount over \$17,500.00 and is being awarded as a Non-Fair and Open Contract pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS, the Newark Municipal Council adopted the Contractor Pay-to-Play Reform Ordinance, Newark, New Jersey, Municipal Code § 2:4-22C, which forbids the award of a contract to a Business Entity, as defined therein, which has made or solicited political contributions to (i) a candidate, candidate committee or joint candidate committee of any candidate for elective municipal office in the City of Newark or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any City of Newark or County of Essex political committee or action committee that regularly engages in the support of City of Newark Municipal or County of Essex candidates, candidate committees, joint candidates committees, political committees, political party committee, (hereinafter "PAC"), in excess of the thresholds specified in subsection (g) within one (1) calendar year immediately preceding the date of the contract or agreement.

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

1. The Newark Municipal Council hereby rescinds Resolution 7R6-b adopted on September 1, 2021.
2. The Mayor and/or his designee, the Corporation Counsel, are hereby authorized on behalf of the City of Newark to enter into and execute an Agreement to Provide Legal Services with Pashman Stein Walder Hayden, 21 Main Street, Suite 200, Hackensack, New Jersey 07601, to provide Legal Services as it pertains to an appeal of its assessment of the Third and Fourth Quarter 2018 User Charges against Passaic Valley Sewerage Commission, in an amount of Three Hundred Fifty-Two Thousand Five Hundred Fifty-Three Dollars and Fifty-Four Cents (\$352,553.54), for the period of October 1, 2020 through September 30, 2021.

3. The Newark Municipal Council hereby ratifies the Agreement to Provide Legal Services from October 1, 2020, to the date of the adoption of this authorizing Resolution.
4. The Agreement to Provide Legal Services 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), is made in accordance with the professional services exception to public bidding within the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5(1)(a)(i)), and is in compliance with the City of Newark's Contractor Pay-to-Play Reform Ordinance, Newark, New Jersey, Municipal Code § 2:4-22C.
5. The Finance Director issued Certification of Funds for the Agreement to Provide Legal Services totaling an amount of Three Hundred Fifty-Two Thousand Five Hundred Fifty-Three Dollars and Fifty-Four Cents (\$352,553.54) and shall be paid from the City of Newark 2020 and 2021 Budget, referencing the following account lines and amounts:

<u>BUSINESS UNIT</u>	<u>DEPT.</u>	<u>DIV./ PROJ.</u>	<u>ACTIVITY</u>	<u>ACCOUNT #</u>	<u>BUDGET REF.:</u>	<u>AMOUNT</u>
NW011	040	0401	A	71260	B2021	\$30,000.00
NW037	750	7502	A	71260	B2021	\$189,014.77
NW011	045	0451	A	71260	B2020	\$123,807.50
NW011	046	0461	A	71260	B2020	\$9,731.27

6. The Corporation Counsel shall file the Certification of Funds along with this Resolution in the Office of the City Clerk.
7. The Corporation Counsel shall file a copy of the executed Agreement to Provide Legal Services herein authorized in the Office of the City Clerk and the same 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 the adoption of this Resolution.

STATEMENT

This Resolution rescinds Resolution 7R6-b adopted September 1, 2021, and authorizes the Mayor and/or his designee, and the Corporation Counsel, to enter into and execute an Agreement to Provide Legal Services regarding an appeal of its assessment of the Third and Fourth Quarter 2018 User Charges against Passaic Valley Sewerage Commission, for the amount of Three Hundred Fifty Two Thousand Five Hundred Fifty-Three Dollars and Fifty Four Cents (\$352,553.54), for the period of October 1, 2020 through September 30, 2021, and ratifies the within from October 1, 2020 to the date of adoption of this authorizing Resolution.

