

RESOLUTION NO. 2020 - 06

**RESOLUTION OF THE TOWNSHIP OF LITTLE EGG
HARBOR, COUNTY OF OCEAN, STATE OF NEW JERSEY,
APPOINTING THE FIRM OF GLUCK WALRATH LLP AS
BOND COUNSEL FOR THE TOWNSHIP OF LITTLE EGG
HARBOR**

WHEREAS, there exists a need for the Township to obtain counsel to provide guidance and other legal services in connection with the issuance of bonds or notes by the Township; and

WHEREAS, although the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, authorizes the award of contracts for "Professional Services" without competitive bids, the Township issued a request for proposals for professional service contracts in accordance with the competitive negotiation procedure as delineated within Section 40-8 of the Township Code of the Township of Little Egg Harbor, entitled "Fair and open process utilized to award contracts with anticipated value in excess of \$17,500"; and

WHEREAS, a determination of value has been made by the Township that said contract shall be a value in excess of \$17,500; and

WHEREAS, said competitive negotiation procedure satisfies the requirements of a fair and open process under N.J.S.A. 19:44A:20.2 *et seq.*; and

WHEREAS, all proposals were to be submitted to the Office of the Township Clerk by November 13, 2019; and

WHEREAS, the firm of Gluck Walrath LLP, is a partnership of practicing attorneys at law which is listed in the Bond Buyer Directory of Municipal Bond Dealers of the United States (known as the "Red Book") and has been extensively involved in the practice of municipal finance for many years and is duly qualified to render these specialized legal services to the Township as Bond Counsel; and

WHEREAS, it is the desire of the Mayor and Township Committee to appoint the firm of Gluck Walrath LLP as Bond Counsel for the Township of Little Egg Harbor; and

WHEREAS, the amount of the contract to be awarded under this resolution is determined to be \$40,000.00, which sum is reasonably estimated based upon such Legal Services as may be required over the contract term to be awarded under this resolution, including, but not limited to, the amount spent for such Legal Services from the previous calendar year, the costs of compensation under the contract to be awarded, and any projected increase or decrease in services anticipated versus the prior year, and which sum the Township of Little Egg Harbor is under no obligation to spend and which may be exceeded; and

WHEREAS, the Chief Financial Officer has certified that there are funds available for this contract, which certification is annexed hereto; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, authorizes the award of contracts for "Professional Services" and requires that the resolution and contract be made available for public inspection.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Township of Little Egg Harbor, County of Ocean, State of New Jersey as follows:

1. That the firm of Gluck Walrath LLP, is hereby appointed as Bond Counsel for the Township of Little Egg Harbor for a term of one year, commencing January 1, 2020 and ending December 31, 2020, and shall be compensated in accordance with Schedule A attached hereto and made a part hereof.

2. That the Mayor is hereby authorized to execute and the Township Clerk to attest to the attached agreement with the firm of Gluck Walrath LLP.

3. That the agreement shall be an open-ended contract with funds being encumbered contingent upon the availability of funds in the budget year. A certificate of availability of funds executed by the Chief Financial Officer is annexed hereto. The following is the line item appropriation[s], which constitute the availability of funds for this contract: 0-01-20-705-020 / various capital ordinances.

4. That this agreement is awarded as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a)(i) of the Local Public Contracts Law because it is for services to be performed by a person(s) authorized by law to practice a recognized profession.


5. That a notice of this action shall be printed once in the official newspaper of the Township of Little Egg Harbor.

6. That this resolution shall take effect on January 1, 2020.

7. That a certified copy of this resolution, together with a copy of the contract between the parties, shall be provided by the Township Clerk to the Chief Financial Officer and to the firm of Gluck Walrath LLP.

CERTIFICATION

I, **DIANA K. MCCRACKEN, RMC**, Municipal Clerk of the Township of Little Egg Harbor do hereby certify that the foregoing resolution was duly adopted by the Township of Little Egg Harbor Township Committee at a meeting held on the 1st day of **January, 2020**.


DIANA K. MCCRACKEN, Township Clerk
Little Egg Harbor Township

CERTIFICATE OF AVAILABILITY OF FUNDS

I, **RODNEY R. HAINES**, Chief Financial Officer for the Township of Little Egg Harbor, do hereby certify that adequate funds are available for an open-ended contract with Gluck Walrath LLP as Bond Counsel.

The amount of the contract to be awarded under this resolution is determined to be \$40,000.00, which sum is based on a reasonable estimate of the Legal Services required over the contract term, the Township of Little Egg Harbor is not obligated to spend this amount and is permitted to exceed this amount during the course of performance of this contract.

The funds which are available for this open-ended contract are found in the following line item appropriation[s]: 0-01-20-705-020 / various capital ordinances.



RODNEY R. HAINES, Chief Financial Officer
Township of Little Egg Harbor

FEE AGREEMENT

THIS AGREEMENT made as of this ____ day of January, 2020, between the **TOWNSHIP OF LITTLE EGG HARBOR**, IN THE COUNTY OF OCEAN, NEW JERSEY, a body politic of the State of New Jersey, herein designated as the "Township", party of the first part, and **GluckWalrath LLP**, 428 River View Plaza, Trenton, New Jersey 08611, Attorneys at Law, hereinafter designated as "Bond Counsel", party of the second part:

WITNESSETH:

1. The Township desires to authorize and to issue its bonds for various capital projects and to provide for the terms and the security of such bonds in accordance with the laws of the State of New Jersey. The Township desires to finance such capital projects through temporary and permanent obligations at the most advantageous terms available to it.

2. Bond Counsel, in consideration of the making and the signing of the within Agreement, agrees to render the following services:

A. Bond Counsel will prepare or review all bond ordinances adopted or to be adopted by the governing body.

B. Bond Counsel will assemble a certified record of proceedings to evidence the proper adoption of each bond ordinance in accordance with the provisions of the Local Bond Law and other applicable New Jersey Statutes.

C. When the Township determines to issue bonds, Bond Counsel will prepare the necessary resolutions or other operative documents to set up the bond sale and will submit them to the Township Attorney for review. Bond Counsel will seek the advice of the Auditor in connection with the appropriate maturity schedule for the bonds to be sold and will review the sections of the Official Statement pertaining to tax and security law matters and the description of the security for the bonds. If requested by the Township, Bond Counsel will arrange for the printing and the distribution of the Official Statement to those financial institutions that customarily submit bids for new issues of New Jersey municipal bonds of that type. Bond Counsel will arrange for the printing of the notice of sale in The Bond Buyer and will answer any inquiries made by the investment community concerning the bond sale. Bond Counsel will attend the bond sale and will render legal advice as necessary concerning the submission of bids for the bonds in accordance with the notice of sale and the requirements of law. After the bond sale, Bond Counsel will prepare the bonds for execution, will prepare and see to the execution of the necessary closing certificates and will establish the time and the place for the delivery of the bonds to the successful bidder. Bond Counsel will attend the closing with the appropriate officials, at which time the bonds will be delivered, payment will be made for the bonds, and Bond Counsel will issue a final approving legal opinion with respect to the validity of the bonds.

D. When the Township determines to issue bonds anticipation notes or tax anticipation notes, Bond Counsel will prepare any necessary resolutions to authorize the sale of such notes and will submit them to the Township Clerk. When the purchaser and the details of the notes have been determined, Bond Counsel will prepare the notes for execution and will prepare the appropriate closing certificates and an approving legal opinion with respect to the notes. Normally, it is not necessary for Bond Counsel to attend the closing for the notes. Unless requested otherwise, Bond Counsel will forward the notes, closing papers and approving legal opinion to the appropriate Borough officer for execution and delivery.

E. Bond Counsel will provide basic advice in regard to the effect of the federal arbitrage regulations on the issuance of bonds or bond anticipation notes and the investment of the proceeds thereof.

F. Bond Counsel will provide basic advice in regard to compliance with Rule 15c2-12 of the Securities and Exchange Commission.

3. The Township will make payment to Bond Counsel for services rendered in accordance with the following schedule:

A. For services rendered or in connection with each bond sale, a fee of \$3,500.00 plus \$1.00 per thousand dollars of bonds issued.

B. For services rendered in connection with the preparation or review of each ordinance and the compiling of a certified record of proceedings in connection therewith, a fee of \$400.00 for each single purpose ordinance and \$600.00 for each multipurpose ordinance. If the preparation of the ordinance involves consultations, meetings or discussions that are out of the ordinary, there will be additional fees to be charged at the hourly rates of the attorneys and paralegals providing such services, as listed on Schedule A attached hereto. The fees for services in connection with the ordinances will be charged periodically during the course of the year.

C. The fee for any temporary financing involving a private placement and not involving numerous notes, preparation of an Official Statement, complicated arbitrage analysis, investment yield restrictions or attendance at closing, shall be billed at the hourly rates as listed on Schedule A attached hereto, with a minimum fee of \$750.00.

D. Written post issuance tax compliance procedures will be provided by the Firm at the request of the CFO at a fixed cost of not more than \$5,000 for a template; with any modifications thereto billed at the Firm's normal hourly rates which are attached hereto as Schedule A.

E. Services rendered beyond the scope of those described herein will be billed at the hourly rates for attorneys and paralegals as listed on Schedule A attached hereto. Such hourly rates range from \$80.00 to \$275.00 per hour depending on the attorney or paralegal involved. Such services may include attendance at meetings, all work required in connection with any financing through a borrowing through the New Jersey Environmental Infrastructure Trust Program, extraordinary work involved in the preparation of the Official Statement,

attention to any litigation that may occur, complicated arbitrage analysis, implementation of procedures required by IRS Circular 230 or applications to the Federal Reserve Bank for investments of bond or note proceeds in State and Local Government Series federal obligations. If the Bond sale involves the sale of minibonds, the sale of obligations to the United States Department of Agriculture, Farmers Home Administration, or an application to the Local Finance Board, such services will be billed at the hourly rates as listed on Schedule A attached hereto, with a minimum fee of \$750.00. In the event that bond insurance, a letter of credit or similar credit enhancement facility is used in connection with a bond issue, an additional fee based on the responsibility assumed and time involved will be charged.

F. In the event of a refunding bond issue providing for an escrow agreement and an investment of the proceeds consistent with the restrictions of the Internal Revenue Code to provide for the payment of a prior issue of bonds, there will a fee of \$10,000.00 in addition to the fees described herein.

G. In the event that a bond sale is held but all bids are rejected or the sale is canceled, the fee to be charged shall be a reasonable one, based on the services performed.

H. Customary disbursements for postage, telephone, photocopying, travel and out-of-pocket expenses shall be added to the fees referred to in this Agreement.

I. This Agreement shall be for a term of one (1) year, commencing on the date hereof, unless terminated earlier by written notice from either party to the other party.

4. During the performance of this Agreement, Bond Counsel agrees as follows:

A. Bond Counsel will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status or sex. Bond Counsel will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Bond Counsel agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause;

B. Bond Counsel will in all solicitations or advertisements for employees placed by or on behalf of Bond Counsel, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status or sex;

C. Bond Counsel, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Public Agency Compliance Officer advising the labor union or workers' representative of Bond Counsel's commitments under this act and shall

post copies of the notice in conspicuous places available to employees and applicants for employment;

D. Bond Counsel agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time;

E. Bond Counsel agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time;

F. Bond Counsel agrees to inform in writing all recruitment agencies, including employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices;

G. Bond Counsel agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable federal law and applicable federal court decisions;

H. Bond Counsel agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status or sex, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable federal law and applicable federal court decisions; and

I. Bond Counsel will furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and the Borough will furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (N.J.A.C. 17:27).

IN WITNESS WHEREOF, the Township of Little Egg Harbor has caused this Agreement to be duly executed by its proper officers and has caused its corporate seal to be hereto affixed, and Bond Counsel has caused this Agreement to be duly executed by the proper party as of the day and year first above written.


TOWNSHIP OF LITTLE EGG HARBOR, IN THE
COUNTY OF OCEAN, NEW JERSEY

ATTEST:

Clerk

BY: _____
Mayor

GLUCKWALRATH LLP

BY:  _____
Michael H. Gluck, Managing Partner

GLUCKWALRATH LLP
Current Hourly Rates 2019
Township of Little Egg Harbor – Bond Counsel Services

<u>Name</u>	<u>Hourly Rate</u>
Stephen Reiff, Legal Assistant	\$150.00
Meghan Ann Bennett, Esquire	\$225.00
Patti Dixon, Legal Assistant	\$ 80.00
James G. Fearon, Esquire	\$225.00
Christopher M. Walrath, Esquire	\$225.00

Tax Advice Only

Lillian A. Plata, Esquire	\$275.00
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