

CITY COUNCIL

The City of Orange Township, New Jersey

DATE April 7, 2020

NUMBER 148-2020

TITLE: A RESOLUTION APPOINTING EVERETT JOHNSON OF WILENTZ, GOLDMAN AND SPITZER, P.A. AS BOND COUNSEL FOR THE CITY OF ORANGE TOWNSHIP FOR AN AMOUNT NOT TO EXCEED \$20,000.00

WHEREAS, the City of Orange Township has a need to acquire the services of a Bond Counsel as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4 or 20.5 as appropriate; and,

WHEREAS, the Qualified Purchasing Agent has determined that this contract will be from April 1, 2020 to December 31, 2020, and for an amount not to exceed \$20,000.00; and

WHEREAS, Wilentz, Goldman and Spitzer, P.A. has completed and submitted a business Entity Disclosure Certification which certifies that Wilentz, Goldman and Spitzer, P.A. has not made any reportable contributions to a local political or candidate committee in the previous year, and that the contract will prohibit Wilentz, Goldman and Spitzer, P.A. from making any reportable contributions through the term of the contract; and

WHEREAS, Chief Financial Officer has so certified that funds are available in the 2020 Budget, account No. 8-01-20-130-000-519.

NOW, THEREFORE, BE IT RESOLVED, NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF ORANGE TOWNSHIP, AS FOLLOWS:

1. that the City of Orange Township City Council be and hereby authorizes and directs the Mayor to engage the services of: Everett Johnson of Wilentz, Goldman and Spitzer, P.A. as bond counsel for the city of orange township for an amount not to exceed \$20,000.00
2. This appointment is being made without competitive bidding because this appointment involves members of recognized professions, licensed and regulated by law, and are therefore specifically exempt under N.J.S.A. 40A:11-5.
3. This appointment is for the term commencing April 1, 2020 and terminating December 31, 2020.

Adopted:

Joyce L. Lanier
City Clerk

Tency A Eason
Council President

Vaughn Parchment on behalf of the City Attorney

CITY ATTORNEY



CITY OF ORANGE TOWNSHIP
FINANCE DEPARTMENT

CERTIFICATION OF FUNDS
NEXT BUDGET

I, Chief Financial Officer for the City of Orange Township, do hereby confirm that based on the Quote or RFP, RFQ, bid results or "extraordinary unspecifiable services" without competitive bids for 2020 service contract, and the resolution presented to the Council for approval, and contingent upon Council approval and inclusion of said item in the Temporary Budget and adopted 2020 Budget, there will be sufficient funds to contract with:

Vendor Name: Wilentz, Goldman & Spitzer PA
Address: 90 Woodbridge Center Drive

City: Woodbridge
State: New Jersey
Zip Code: 07095

Purpose: Bond Counsel Services
Vendor ID: WILEN010

Temporary Budget: \$ 10,000.00
Fund: Current Fund
Line Description FIN -FINANCE - Professional Services
Account Numbers(s): CY'20 0-01-20-130-000-519

The remainder of: \$ 10,000.00
will be provided in
Fund: Current Fund
Line Description FIN -FINANCE - Professional Services
Account Numbers(s): CY'20 0-01-20-130-000-519

Purchase Order Number : 20-00561

Amount not to exceed: \$ 20,000.00

Division Head

Date

Nile Clements

3-20-2020

Chief Financial Officer

Date

BOND COUNSEL SERVICES
AGREEMENT

THIS AGREEMENT made as of this ____ day of _____, 2020, between the **CITY OF ORANGE TOWNSHIP**, a body corporate and politic of the State of New Jersey, herein designated as the "City", party of the first part, and **WILENTZ, GOLDMAN & SPITZER, P.A.**, Woodbridge, New Jersey 07095, Attorneys at Law, hereinafter designated as "Bond Counsel", party of the second part:

WITNESSETH

1. The City desires to authorize and to issue its bonds, notes and certificates of participation or similar evidences of indebtedness for various capital projects and to provide for the terms and the security of such bonds, notes and certificates of participation or similar evidences of indebtedness in accordance with the laws of the State of New Jersey. The City 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, at a minimum, 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. Bond Counsel will work with appropriate City officials to timely monitor the due and complete undertaking of the bond ordinance adoption process by the City.

C. When the City 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 City Council, the City's Director of Finance and other appropriate representatives of the City for review. Bond Counsel will seek the advice of the City's Director of Finance and Financial Advisor (if applicable) in connection with the appropriate maturity schedule for the bonds to be sold. Bond Counsel will see to the printing and the distribution of any Preliminary Official Statement and/or 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 the local newspaper 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 purchase of 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, if necessary, 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 City determines to issue bond anticipation, emergency, special emergency or tax anticipation notes or similar short-term evidences of indebtedness, Bond Counsel will prepare any necessary resolutions to authorize the sale of such notes or evidences of indebtedness and will submit them to the City Council, the City's Director of Finance and other appropriate representatives of the City for review. 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. Unless requested otherwise, Bond Counsel will arrange for execution and delivery of the notes, closing papers and approving legal opinion to the purchaser.

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

F. Bond Counsel will provide advice on an "as needed" basis concerning various financing options and miscellaneous finance-related issues.

G. Bond Counsel will assist the City in determining its rebate liability with respect to City tax exempt obligations. Bond Counsel, if necessary, will obtain services from a certified public accounting firm, financial consultant or other expert in calculating rebate for this purpose and the report provided by such entity will reflect the City's rebate obligation.

H. Bond Counsel will provide legal services, as requested by the City from time to time, relating to litigation involving the City.

I. Bond Counsel will provide legal research, attend meetings and review and/or prepare Preliminary Official Statements and/or Official Statements, as requested by the City from time to time.

J. Bond Counsel is knowledgeable and has legal experience with respect to and will provide expert legal advice regarding the following statutes: N.J.S.A. 40:41A-1 et seq., N.J.S.A. 40:37A-44 et seq., N.J.S.A. 18A:54-1 et seq., N.J.S.A. 18A:64A-1 et seq. (including provisions relating to 1971 N.J. Laws c. 12), N.J.S.A. 40A:2-1 et seq., N.J.S.A. 40A:3-1 et seq., N.J.S.A. 40A:4-1 et seq., N.J.S.A. 40A:5-1 et seq., N.J.S.A. 40A:5A-1 et seq., N.J.S.A. 40A:12-1 et seq. and N.J.S.A. 40A:12A-1 et seq.

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

A. For services rendered or in connection with the issuance of serial bonds, sinking fund bonds, certificates of participation or similar long-term obligations:

(1) Base fee of \$5,000.00, plus

(2) On issues up to \$5 million in stated principal amount, \$2.00 per \$1,000 principal amount of bonds approved, plus

(3) On issues over \$5 million and under \$10 million, \$1.50 per \$1,000 principal amount of bonds approved for the second \$5 million, plus

(4) On issues over \$10 million, \$1.00 per \$1,000 principal amount of bonds approved over \$10 million.

B. For services rendered in connection with the preparation or review of bond ordinances, bond resolutions, or other capital financing authorization documents or proceedings, and the compiling of a certified record of proceedings in connection therewith, a fee of \$500 for each ordinance, resolution or similar document and \$650 for each multipurpose ordinance. If the preparation of the ordinance involves consultations, meetings, discussions or diligence that are out of the ordinary, that is, services that are not described in Section 2 hereof such as attendance at meetings, attention to litigation or other matters described in Section 3F, there will be additional fees to be charged at the hourly rates of the attorneys in effect at the time of providing the services. The fees for services in connection with the preparation of bond ordinances, bond resolutions or similar capital financing authorization documents 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 and/or review of any Preliminary Official Statement or Official Statement, complicated arbitrage analysis, investment yield restrictions or attendance at the closing shall be \$3,500 for Bond Counsel's approving legal opinion in connection with such a financing and \$.85 per thousand dollars of bond or tax anticipation notes or emergency notes issued. If additional services are required, such as with issues involving advance refundings or the combination of numerous ordinances, the additional time required will be billed at the hourly rates in effect when the services are performed.

D. In the event that a Letter of Credit or credit enhancement facility is used in connection with either a bond or note issue, an additional fee based on the responsibility assumed and time involved will be charged.

E. Bond Counsel will assist the City in determining its rebate liability with respect to City tax exempt obligations. Bond Counsel may obtain services from a certified public accounting firm, financial consultant or either expert in calculating rebate for this purpose and the report provided by such entity will reflect the City's rebate obligation. Although Bond Counsel will review these calculations, it will not render any opinion concerning their accuracy or completeness.

F. Services rendered beyond the scope of those described above will be billed at the hourly rates for attorneys and paralegals in effect when the services are rendered. The present hourly rates are set forth below depending on the attorney involved. Such services include legal research, attendance at meetings, work involved in the review and/or the preparation of any Preliminary Official Statement and/or Official Statement for a bond sale or the review or the preparation of an Official Statement for a bond anticipation note sale, attention to any litigation that may occur, complicated tax and arbitrage analysis or applications to the Federal Reserve Bank for investments of bond or note proceeds in State and Local Government Series federal obligations.

Rate Per Hour

\$180/hour

\$150/hour

\$ 90/hour

Attorney

All Partners

Associates

Paralegals and Law Clerks

G. Any services relating to litigation involving the City in which Bond Counsel is requested to participate in an active way in addition to services which are customary to the role of Bond Counsel ("Extraordinary Services") shall be undertaken by Bond Counsel only upon the written direction of City Counsel, as authorized pursuant to the City Administrative Code. Such Extraordinary Services, and customary disbursements relating thereto, may be billed from time to time.

H. In the event that a bond sale or note sale is held but all bids are rejected or the sale is canceled or this Agreement is terminated prior to the sale of bonds or notes, the fee to be charged shall be a reasonable one, based on the hourly time charges set forth above for the services performed as of the date of such rejection, cancellation or termination.

I. Disbursements shall be added to the fees referred to in this Agreement. These may include photocopying, postage, express delivery charges, travel expenses, telecommunications, filing fees, book binding, messenger service or other costs advanced on behalf of the City including services obtained from a certified public accounting firm, financial consultant or other expert in calculating the City rebate liability.

J. This Agreement shall be in full force and effect for a period of one (1) year, from the date set forth hereinbefore, or such earlier time as either party gives written notice to the other of termination, unless terminated earlier by written notice from either party to the other party.

4. Bond Counsel and the City hereby incorporate into this contract the mandatory language of Subsection 3.4(a) and the mandatory language of Section 5.3 of the Regulations promulgated by the Treasurer of the State of New Jersey pursuant to Chapter 127 of the Laws of New Jersey of 1975, as amended and supplemented from time to time, and Bond Counsel agrees to comply fully with the terms, the provisions and the conditions of Subsection 3.4(a) and of Section 5.3, provided that Subsection 3.4(a) shall be applied subject to the terms of Subsection 3.4(d) of the Regulations.

5. Bond Counsel acknowledges the Mandatory Affirmative Action Language, Chapter 127 of the Laws of New Jersey of 1975 (N.J.S.A. 17:27), which is contained in **Exhibit A** attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, the CITY OF ORANGE TOWNSHIP 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.

ATTEST:

CITY OF ORANGE TOWNSHIP

Joyce Lanier,
City Clerk

BY: _____
Dwayne D. Warren, Esq.,
Mayor

WILENTZ, GOLDMAN & SPITZER, P.A.

BY: _____
Everett M. Johnson, Esq.,
Shareholder

EXHIBIT A

(REVISED 4/10)

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L.1975, c.127)

N.J.A.C. 17:27 et seq.

GOODS, GENERAL SERVICES, AND PROFESSIONAL SERVICES CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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. The contractor 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 nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor 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.

In conforming with the targeted employment goals, the contractor or subcontractor 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, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA-302 (electronically provided by the Division and distributed to the public agency through the Division's website at: <http://www.state.nj.us/treasury/contract> compliance.

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.

