



Legislation Details (With Text)

File #: 18-0734 **Version:** 1 **Name:** Resolution: Settlement of Civil Litigation - Northeast Sweepers and Rentals, Inc.
Type: Resolution **Status:** Adopted
File created: 5/8/2018 **In control:** Law
On agenda: 5/10/2018 **Final action:** 5/10/2018

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement of Civil Claim
Docket No.: N/A
Claimant: Northeast Sweepers and Rentals, Inc., 16 Passaic Avenue, Unit 9, Fairfield, New Jersey 07004
Claimant's Attorney: N/A
Attorney's Address: N/A
Settlement Amount: \$92,124.00
Funding Source: 2018 Budget/Department of Public Works, Division of Sanitation
Additional Comments:
This resolution and settlement agreement resolves all outstanding invoices for the costs associated with Northeast Sweepers and Rentals, Inc. providing Street Sweeping Maintenance and Street Sweeping Rental Equipment to the Department of Public Works, Division of Sanitation rendered during the period of September 28, 2017 through February 19, 2018.
Invitation: Acting Corporation Counsel

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
5/10/2018	1	Municipal Council	Adopt	Pass

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Invitation: Acting Corporation Counsel

WHEREAS, the City of Newark, Department of Public Works, Division of Sanitation (the

“City”), was in need of engaging a vendor to provide street sweeper maintenance services, as well as the periodic rental of street sweepers (“Street Sweeping Maintenance and Rental”); and

WHEREAS, on or about September 28, 2017 the City engaged the services of Northeast Sweepers and Rentals, Inc., 16 Passaic Avenue, Unit 9, Fairfield, New Jersey 07004, without any procurement process, for the purpose of providing the City of Newark, Department of Public Works, Division of Sanitation with Street Sweeping Maintenance and Rental; and

WHEREAS, Northeast Sweepers and Rentals, Inc. provided Street Sweeping Maintenance and Rental to the City for the period of September 28, 2017 through February 19, 2018, in an effort to ensure and help the City meet its street sweeping obligations throughout the City for the health, safety and welfare of its citizens; and

WHEREAS, on or about May 2018, Northeast Sweepers and Rentals, Inc., submitted a demand for the costs associated with providing Street Sweeping Maintenance and Rental to the Department of Public Works, Division of Sanitation, during the period of September 28, 2017 through February 19, 2018; and

WHEREAS, Northeast Sweepers and Rentals, Inc., submitted with its demand notice, invoices totaling Ninety-Two Thousand One Hundred and Twenty-Four Dollars and Zero Cents (\$92,124.00) (the “Claim”) for the costs associated with providing Street Sweeping Maintenance and Rental to the Department of Public Works, Division of Sanitation, during the period of September 28, 2017 through February 19, 2018 (See Demand for Payment letter and Invoices, attached); and

WHEREAS, the Business Administrator and the Department of Public Works have confirmed that the City received the benefit of the Street Sweeping Maintenance and Rental from Northeast Sweepers and Rentals, Inc. during the period of September 28, 2017 through February 19, 2018; and

WHEREAS, the Business Administrator and the Department of Public Works have confirmed that there are adequate monies available in the budget of the Department of Public Works to pay the outstanding invoices for the costs associated with Northeast Sweepers and Rentals, Inc. providing Street Sweeping Maintenance and Rental to the Department of Public Works, Division of Sanitation, during the period of September 28, 2017 through February 19, 2018; and

WHEREAS, to avoid the costly expense of litigation, Northeast Sweepers and Rentals, Inc. and the Acting Corporation Counsel for the City of Newark (the “Parties”) desire to amicably resolve this matter prior to any commencement of litigation; and

WHEREAS, the Parties have agreed to settle the matter for payment by the City of Ninety-Two Thousand One Hundred and Twenty-Four Dollars and Zero Cents (\$92,124.00) (“Settlement Sum”), in exchange for Northeast Sweepers and Rentals, Inc. execution of this Settlement Agreement and General Release as a full and complete release of the Claim, including any claims for attorney’s fees; and

WHEREAS, as part of this Settlement Agreement and General Release, the City agrees to pay Northeast Sweepers and Rentals, Inc., for the costs associated with Northeast Sweepers and Rentals, Inc. providing Street Sweeping Maintenance and Rental to the Department of Public Works, Division of Sanitation in an amount not to exceed Ninety-Two Thousand One Hundred and Twenty-Four Dollars and Zero Cents (\$92,124.00) within ten (10) days of the Municipal Council’s approval of

this resolution; and

WHEREAS, this Settlement Agreement and General Release neither admits nor should it be construed as an admission of liability or violation of any law, statute or regulation or a breach of any duty by the City, its agents, officers and/or employees whatsoever and is entered into to resolve this matter and prevent the incurring of additional costs and fees; and

WHEREAS, the City has determined that it is in the best interest of the taxpayers to settle and avoid the cost, expense, delay and uncertainty of litigation; and

WHEREAS, the Director of the Department of Finance has certified that there are adequate, appropriated monies available to pay the settlement.

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

1. The Mayor and/or his designee, the Acting Corporation Counsel, is authorized, on behalf of the City of Newark to negotiate and execute a Settlement Agreement and Release, and any other documents, sufficient in form and content to the Acting Corporation Counsel and to take whatever actions are necessary to effectuate the terms of the within resolution and settlement of this matter pursuant to the terms contained in the within Resolution.

2. The Municipal Council of the City of Newark authorizes the payment of a check made payable to Northeast Sweepers and Rentals, Inc., 16 Passaic Avenue, Unit 9, Fairfield, New Jersey 07004, in an amount not to exceed Ninety-Two Thousand One Hundred and Twenty-Four Dollars and Zero Cents (\$92,124.00) for the costs associated with Northeast Sweepers and Rentals, Inc. providing street sweeper maintenance services, as well as the periodic rental of street sweepers to the Department of Public Works, Division of Sanitation rendered during the period of September 28, 2017 through February 19, 2018. The check shall be mailed to Northeast Sweepers and Rentals, Inc., 16 Passaic Avenue, Unit 9, Fairfield, New Jersey 07004, or wire transferred to an account in accordance with accurate information provided by the vendor, as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Release annexed hereto. This Settlement Sum shall be paid immediately upon receipt of all necessary documents required by the Finance Director to process payment.

3. In exchange for the execution by Northeast Sweepers and Rentals, Inc. of the Settlement Agreement and Release, acceptable in the form to the Acting Corporation Counsel and after passage of this resolution and upon receipt by the Acting Corporation Counsel and the Director of Finance of any and all other documents deemed necessary, the Director of Finance is hereby authorized to issue the check made payable to Northeast Sweepers and Rentals, Inc.

4. The settlement and resolution does not admit nor should it be construed as an admission of liability or violation of any law, statute or regulation or a breach of any duty by the City, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of the Acting Corporation Counsel and to eliminate all risks and future litigation costs.

5. Attached hereto is a Certification of Funds in the amount of Ninety-Two Thousand One Hundred and Twenty-Four Dollars and Zero Cents (\$92,124.00) from the Director of Finance and the line appropriation of the official budget which shall be charged is Business Unit: 011; Dept. 060;

Div./Proj.: 0665; Account#: 71950; Budget: B2017.

6. The Acting Corporation Counsel shall file a copy of the Certification of Funds for the full amount of the settlement before a check is issued by the Director of Finance in the Office of the City Clerk.

7. The Acting Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.

8. This Resolution shall be effective upon adoption in accordance with applicable State law.

STATEMENT

This resolution hereby authorizes the Acting Corporation Counsel to resolve claims, without the need for litigation, of outstanding invoices for Northeast Sweepers and Rentals, Inc., 16 Passaic Avenue, Unit 9, Fairfield, New Jersey 07004, without the need and expense of civil litigation. This Resolution and Settlement Agreement resolves all outstanding invoices for the costs associated with Northeast Sweepers and Rentals, Inc. providing street sweeper maintenance services, as well as the periodic rental of street sweepers to the Department of Public Works, Division of Sanitation rendered during the period of September 28, 2017 through February 19, 2018, for an amount not to exceed Ninety-Two Thousand One Hundred and Twenty-Four Dollars and Zero Cents (\$92,124.00). In return, Northeast Sweepers and Rentals, Inc. agrees to waive all claims against the City including attorneys' fees.