



Legislation Details (With Text)

File #: 23-1578 **Version:** 1 **Name:** Resolution: Settlement - Settlement of Civil Litigation - MZM Construction Co., Inc.
Type: Resolution **Status:** Adopted
File created: 10/3/2023 **In control:** Law
On agenda: 10/4/2023 **Final action:** 10/4/2023
Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: Not Applicable
Claimant: MZM Construction Co., Inc., 105 Lock Street, Suite 205, Newark, New Jersey 07103
Claimant's Attorney: Not Applicable
Settlement Amount: \$90,000.00
Funding Source: 2023 Budget/Department of Economic and Housing Development
Additional Comments:
This Resolution and Settlement Agreement resolves all outstanding invoices for the costs associated with MZM Construction Co., Inc., providing construction services for Invest Newark during the period of February 7, 2018 through February 28, 2022.

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
10/4/2023	1	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark is the owner of the Property located at 505-507 Clinton Avenue, Newark, New Jersey, identified on the tax map of the City of Newark as Block 3000, Lot 21 (the "Property"); and

WHEREAS, Invest Newark (f/k/a Newark Community Economic Development Corporation, hereinafter "Invest Newark") is the redeveloper of a mixed use project known as the Gant-Gilbert Arts Collective at the Property, which consists of the construction of a 4-story structure with twenty-five (25) rental residential units with additional café, art gallery, performance space and community space (the "Project"); and

WHEREAS, Invest Newark entered into an AIA A132 construction contract with Unimak, LLC (“Unimak”) to act as the general contractor for the Project and Unimak entered into a subcontract agreement with MZM Construction Co., Inc. (“Subcontractor”), to perform certain carpentry and to perform and provide other work, labor, material and services (the “Work”) at the Project (the “Subcontract”); and

WHEREAS, the City of Newark has agreed to settle certain claims raised by Subcontractor that Subcontractor is owed money related to the Work it performed at the Property for the Project; and

WHEREAS, to avoid the expense and inconvenience of litigation, to encourage, support and promote local Newark-based residents, companies, developers and contractors to participate in local and/or community-based projects, and without any admission of fault or liability by any Party, the Parties have agreed to resolve their differences amicably pursuant to the terms set forth in a Settlement Agreement; and

WHEREAS, the Parties have agreed to settle the matter for payment by the City of Ninety Thousand Dollars and Zero Cents (\$90,000.00) (“Settlement Payment”), in exchange for MZM Construction Co., 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 MZM Construction Co., Inc., for the costs associated with construction services for Invest Newark, in an amount not to exceed Ninety thousand, and Zero Cents (\$90,000.00) (“Settlement Payment”), 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, Invest Newark, 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 Acting 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 Corporation Counsel, is authorized, on behalf of the City of Newark to execute a Settlement Agreement and Release, and any other documents, sufficient in form and content to the 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 authorizes the payment of a check made payable to MZM Construction Co., Inc., 105 Lock Street, Suite 205, Newark, New Jersey 07103, in an amount not to

exceed of Ninety Thousand Dollars and Zero Cents (\$90,000.00), for the costs associated MZM Construction Co., Inc. Services associated with the Project, during the period of February 7, 2018 through February 28, 2022. The check shall be mailed to MZM Construction Co., Inc., 105 Lock Street, Suite 205, Newark, New Jersey 07103, 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 Acting Finance Director to process payment.

3. In exchange for the execution by MZM Construction Co., Inc., of the Settlement Agreement and Release, acceptable in the form to the Corporation Counsel and after passage of this resolution and upon receipt by the Corporation Counsel and the Acting Director of Finance of any and all other documents deemed necessary, the Acting Director of Finance is hereby authorized to issue the check made payable to MZM Construction Co., 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 Corporation Counsel and to eliminate all risks and future litigation costs.

5. Attached hereto is a Certification of Funds in the amount of Ninety Thousand Dollars and Zero Cents (\$90,000.00) from the Acting Director of Finance and the line appropriation of the official budget which shall be charged is Business Unit: 026; Dept. 000; Div./Proj.: 0000; Account#: 32100; Budget: B2023.

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

STATEMENT

This Resolution authorizes the Corporation Counsel to resolve claims, of outstanding invoices for MZM Construction Co., Inc., 105 Lock Street, Suite 205, Newark, New Jersey 07103, without the need and expense of civil litigation. This resolution and Settlement Agreement resolves all outstanding invoices for the costs associated with MZM Construction Co., Inc., providing construction services to the Project in an amount not to exceed Ninety Thousand Dollars and Zero Cents (\$90,000.00). In return, MZM Construction Co., Inc., agrees to waive all claims against the City or Invest Newark, including attorneys' fees.