



Legislation Details (With Text)

File #: 19-1241 **Version:** 1 **Name:** Settlement: Allstate Power VAC
Type: Resolution **Status:** Adopted
File created: 7/26/2019 **In control:** Law
On agenda: 8/20/2019 **Final action:** 9/5/2019

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement
Docket No.: N/A
Claimant: Allstate Power VAC, d/b/a ACV Enviro APV
Claimant's Attorney: N/A
Claimant's Address: 928 Hazelwood Avenue, Rahway, New Jersey 07065
Settlement Amount: \$58,338.94
Funding Source: 2018 Budget/Department of Water and Sewer Utilities
Additional Comments:
Invitation: Corporation Counsel
Deferred 7R6-e (s) 082019

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
9/5/2019	1	Municipal Council	Adopt	Pass
8/20/2019	1	Municipal Council	Defer	Pass

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WHEREAS, Allstate Power VAC, d/b/a ACV Enviro APV, 928 Hazelwood Avenue, Rahway, New Jersey 07065 ("Allstate Power VAC"), is the provider of services related to environmental cleanup and remediation; and

WHEREAS, on June 8, 2018 an emergency occurred at the City of Newark, Pequannock Water Treatment Plant, 2224 Route 23 North, West Milford, New Jersey 07480 ("Water Treatment Plant"), where a chemical lime spilled causing an environmental hazard which required immediate remediation; and

WHEREAS, on June 8, 2018 around 9:15 am, during a hydrated chemical lime delivery at the Pequannock Water Treatment Plant, 2224 Route 23 North, West Milford, New Jersey 07480 (“Water Treatment Plant”), the Department of Water and Sewer Utilities (“Department”) received a high level alarm from the control room at the Water Treatment Plant, from the chemical lime storage bin #2; and

WHEREAS, the Chief Operator conducted inspections and Initial verifications at the delivery point and determined that everything was normal, however, shortly after the completion of the chemical lime delivery, a dense cloud of hydrated lime was observed coming from the chemical building (Hydrated lime is a fine powdery chemical used to increase pH); and

WHEREAS, in accordance with the MSDS Emergency Response Plan manual, the Department immediately contacted Allstate Power Vac, and the Passaic County Health Department for both cleanup and medical assistance. The Passaic Health Department and Allstate Power Vac came to the site twice on June 8, 2018. The cleanup process was completed on June 10, 2018; and

WHEREAS, due to the unforeseen nature of the event, the need for immediate service, and under the belief that the required services could be performed under the bid threshold, the Department of Water and Sewer Utilities did not declare an emergency to procure Allstate Power VAC’s services; and

WHEREAS, Allstate Power VAC performed the services satisfactorily and has submitted invoices for the cost of the services provided; and

WHEREAS, Allstate Power VAC is now entitled to payment for rendering such services; and

WHEREAS, the Parties have determined that it is in their mutual best interests to enter into a Settlement Agreement and General Release to amicably resolve this matter without the need for and costs associated with litigation, any admission of liability or wrongdoing; and

WHEREAS, in order to avoid the need and expense of litigation, the Parties wish to amicably resolve and settle their differences in accordance with the terms and conditions of a Settlement Agreement and Mutual Release, in return and exchange for the mutual consideration set forth herein.

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

1. The Corporation Counsel is authorized to execute the Settlement Agreement and Mutual Release between the City of Newark and Allstate Power VAC, d/b/a ACV Enviro APV, 928 Hazelwood Avenue, Rahway, New Jersey 07065, for the environmental cleanup and remediation services the company provided following the June 8, 2018 chemical lime spill that occurred at the City of Newark, Pequannock Water Treatment Plant, 2224 Route 23 North, West Milford, New Jersey.
2. The Mayor and the Corporation Counsel are authorized to obtain and execute any other documents, sufficient in form and content to the Corporation Counsel, and take whatever actions necessary to effectuate the terms of the within resolution and settlement of this matter pursuant to the terms contained in this Resolution and Settlement Agreement.
3. The Director of the City of Newark Department of Finance is hereby authorized to issue a

check made payable to Allstate Power VAC, d/b/a ACV Enviro APV, 928 Hazelwood Avenue, Rahway, New Jersey 07065, in the amount of Fifty-Eight Thousand Three Hundred Thirty-Eight Dollars and Ninety-Four Cents (\$58,338.94) ("Settlement Sum"). This Settlement Sum represents full settlement of any and all claims by Allstate Power VAC, d/b/a ACV Enviro APV, for the environmental cleanup and remediation services the company provided following the June 8, 2018 chemical lime spill that occurred at the City of Newark, Pequannock Water Treatment Plant.

4. Attached hereto is a Certification of Funds, issued by the Director of the Department Finance of the City of Newark, which states that there are available sufficient, legally appropriated funds in the amount of Fifty-Eight Thousand Three Hundred Thirty-Eight Dollars and Ninety-Four Cents (\$58,338.94), for the purpose set forth herein above and which states that the line appropriation of the office budget which shall be charged is the Department of Business Unit NW 037, Dept. 755, Div./Proj. 7552, Acct. 71560, B2018.

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

6. A fully executed copy of the Settlement Agreement shall be filed in the Office of the City Clerk by the Corporation Counsel.

7. This resolution shall be effective upon adoption in accordance with applicable State Law.

STATEMENT

This Resolution authorizes the Corporation Counsel, on behalf of the City of Newark, to execute and enter into a Settlement Agreement and Mutual Release between the City of Newark and Allstate Power VAC, d/b/a ACV Enviro APV, 928 Hazelwood Avenue, Rahway, New Jersey 07065, for the environmental cleanup and remediation services the company provided following the June 8, 2018 chemical lime spill that occurred at the City of Newark, Pequannock Water Treatment Plant, 2224 Route 23 North, West Milford, New Jersey.