



Legislation Details (With Text)

File #: 20-1316 **Version:** 1 **Name:** Resolution: Pre-Litigation Settlement for National Water Main Cleaning Company

Type: Resolution **Status:** Adopted

File created: 8/10/2018 **In control:** Law

On agenda: 11/18/2020 **Final action:** 11/18/2020

Title: Dept./ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement of Civil Litigation
Docket No.: N/A
Claimant: National Water Main Cleaning Co.
Claimant's Attorney: N/A
Claimant's Address: 875 Summer Avenue, Newark, New Jersey 07104
Settlement Amount: \$52,874.84
Funding Source: Department of Water and Sewer Utilities
Additional Comments:
Invitation: Corporation Counsel

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/18/2020	1	Municipal Council	Adopt	Pass

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WHEREAS, Resolution 7R12-a adopted on March 5, 2014, authorized the Director of the Department of Water and Sewer Utilities (the "Department") to enter into a contract for an open-ended (as-needed) basis with National Water Main Cleaning, Co. (the "National Water Main"), for Contract 07-WS2013 "Maintenance and Repair Sewer Netting Facilities" for an amount not to exceed Six Hundred Thousand Dollars and Zero Cents (\$600,000.00), for the period commencing on November 1, 2013 and terminating on October 31, 2015; and

WHEREAS, due to a misunderstanding, National Water Main did not commence work under the contract until January 2014, thereby delaying the start date of the contract by two (2) months; and

WHEREAS, as a result, the entirety of the work required under the contract was not completed by the contract expiration date of October 31, 2015; and

WHEREAS, National Water Main believed that because they did not commence work until January 2014, that the Department authorized an extension of the Contract due to the delay in the start date until January 2015; and

WHEREAS, National Water Main continued to provide services for the Department through March 17, 2016; and

WHEREAS, although the Department did not extend the contract date, National Water Main continued to perform and provide the Department with needed services; and

WHEREAS, the Department paid National Water Main for the services it rendered from January 2014 through October 31, 2015; and

WHEREAS, National Water Main issued a demand letter to be paid for the services it rendered to the Department from November 1, 2015 through March 17, 2016; and

WHEREAS, the Department agrees that National Water Main has performed services for the Department from November 1, 2015 through March 17, 2016; and

WHEREAS, Three Hundred Eighty-Two Thousand, Seven Hundred Two Dollars and Ninety-Two Cents (\$382,704.92) still remains to be paid under the expired contract to National Water Main for the services it rendered; and

WHEREAS, the Parties desire to resolve this matter, by entering into the attached Settlement Agreement and General Release and by paying National Water Main the amount of Fifty-Two Thousand, Eight Hundred Seventy-Four Dollars and Eighty-Four Cents (\$52,874.84) (the "Settlement Sum"); and

WHEREAS, National Water Main and the Department desire to amicably resolve this matter in order to avoid the further expense and uncertainties of litigation, and to settle all disputes and claims between them; and

WHEREAS, the Corporation Counsel believes that it is in the City's best interests to resolve this matter without the need and additional expense of litigation.

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 hereby authorized, on behalf of the City of Newark (the "City"), to enter into, execute, and accept the terms of the Settlement Agreement and Release ("Agreement") between the City and National Water Main Cleaning Co., 875 Summer Avenue, Newark, New Jersey 07104.
2. Pursuant to the Agreement, the Department shall pay National Water Main Cleaning Co. the Settlement Sum of Fifty-Two Thousand, Eight Hundred Seventy-Four Dollars and Eighty-Four Cents (\$52,874.84) via check made payable to: National Water Main Cleaning Co., no later than thirty (30) calendar days after approval of this Settlement Agreement by the

Municipal Council.

3. Pursuant to the Agreement, for and in consideration of the agreed upon Settlement Sum to be paid by the City of Newark, Department of Water and Sewer Utilities, the Parties irrevocably release and discharge each other from any liability for the payment of interest, late charges and penalties on the principle sum and all claims which were asserted or could have been asserted.
4. Attached hereto is a Certification of Funds issued by the Director of the Department of Finance, which states that funds in an amount of Fifty-Two Thousand, Eight Hundred Seventy-Four Dollars and Eighty-Four Cents (\$52,874.84) are available in the 2019 Budget, Business Unit NW038, Department ID: 806, Division/Project 8063, Account #: 71770 B2019. The Director of the Department of Water and Sewer Utilities shall file a copy of the Certification of Funds along with the original resolution in the Office of the City Clerk.
5. The Mayor, and/or his designee, the Corporation Counsel shall file a fully executed copy of the Settlement Agreement and General Release in the Office of the City Clerk.

STATEMENT

This resolution authorizes the Mayor and/or his designee, the Corporation Counsel, on behalf of the City of Newark to enter into and execute a Settlement Agreement and Release with National Water Main Cleaning, Co., 875 Summer Avenue, Newark, New Jersey 07104 to avoid litigation and resolve outstanding invoices incurred for the Maintenance and Repair of Sewer Netting Facilities in the amount of \$52,874.84. In return, the Parties release and discharge each other from any liability for the payment of interest, late charges and penalties and all claims, which were asserted or could have been asserted in this matter.