



Legislation Details (With Text)

**File #:** 13-0216      **Version:** 1      **Name:** Settlement: The Salvation Army  
**Type:** Resolution      **Status:** Filed  
**File created:** 1/31/2013      **In control:** Law  
**On agenda:** 10/2/2013      **Final action:** 10/17/2013

**Title:** Dept/ Agency: Law  
Action: ( ) Ratifying (X) Authorizing ( ) Amending  
Purpose: Settlement of Demand for Payment  
Docket No.: Pre-Litigation  
Claimant: The Salvation Army  
Claimant's Attorney: None  
Attorney's Address: 45 Central Avenue, Newark, New Jersey 07102  
Settlement Amount: \$35,372.00  
Funding Source: City of Newark Budget/Department of Engineering  
Additional Comments:  
Lease of First Floor of 138 Clifford Street, Newark, New Jersey 07105, also known as Block 972, Lot 25  
Invitation: Corporation Counsel, October 1, 2013  
No Action Taken 7R7-a 100213  
No Action Taken 7R7-a 101013

**Sponsors:**

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
10/17/2013	1	Municipal Council	Adopt	Pass
10/10/2013	1	Municipal Council	no action taken	
10/2/2013	1	Municipal Council	no action taken	

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**WHEREAS**, the Department of Child and Family Well Being was in need of a location for use as multi-purpose senior citizen and elderly nutrition congregate site and identified the First Floor of 138 Clifford Street, Newark, New Jersey, 07105, also known as Block 972, Lot 25, as an appropriate location; and

**WHEREAS**, the landlord, The Salvation Army, a non-profit entity, with offices located at 45 Central Avenue, Newark, New Jersey, 07102, offered the location to the Department of Child and Family Well-Being at a rental price of \$35,372.00 for a period of eight (8) months from January 1, 2011 through August 31, 2011; and

**WHEREAS**, the Department of Child and Family Well-Being was unable to secure approval of an Ordinance authorizing the lease agreement for the use and occupancy of the property in question; and

**WHEREAS**, the Department of Child and Family Well-Being had previously taken possession of the premises and occupied them, incurring rental charges for the use and occupancy of the leasehold; and

**WHEREAS**, the Director of the Department of Child and Family Well-Being has confirmed that the City received the benefit of the use and occupancy of the leasehold; and

**WHEREAS**, The Salvation Army has forwarded a formal Demand for Payment to the City of Newark; and

**WHEREAS**, the Director of the Department of Finance has certified that there are adequate, appropriated monies available to pay the outstanding rental charges; and

**WHEREAS**, the parties have agreed to settle the matter for the payment of \$35,372.00 in one lump sum, in exchange for the execution of a Settlement Agreement and General Release as a full and complete settlement of all of The Salvation Army's claims, including any claims for attorney's fees; and

**WHEREAS**, the within Settlement and Release 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 of Newark, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of counsel and to eliminate all risks and future litigation costs; and

**WHEREAS**, the City has determined that it is in the best interest of the taxpayers to avoid the cost, expense, delay and uncertainty of litigation, if this matter proceeded to litigation.

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

1. The Corporation Counsel is hereby authorized on behalf of the City of Newark to negotiate and the Director of the Department of Child and Family Well-Being to execute a Settlement Agreement and Release and any other documents, sufficient in form and content to 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 hereby authorizes the payment by check made payable and mailed to The Salvation Army, of 45 Central Avenue, Newark, New Jersey 07102, in the amount of \$35,372.00 (Thirty-Five Thousand Three Hundred Seventy-Two Dollars), as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Release annexed hereto.

3. In exchange for The Salvation Army's execution of the Settlement Agreement and Release, acceptable in form to Corporation Counsel and after passage of this resolution and upon receipt by Corporation Counsel and the Director of Finance of any and all other documents deemed necessary, the Director of Finance of the City of Newark is hereby authorized to issue a check made payable to: The Salvation Army, of 45 Central Avenue, Newark, New Jersey, 07102.

4. The within 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 of Newark, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of counsel and to eliminate all risks and future litigation costs.

5. Attached hereto is a Certification of Funds issued by the Director of Finance, City of Newark, which states that there are available sufficient, legally appropriated funds of \$35,372.00 (Thirty-Five Thousand Three Hundred Seventy-Two Dollars) for the purposes set forth hereinabove. A copy of the Certification of Funds issued shall be filed in the Office of the City Clerk together with this resolution by the Corporation Counsel.

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

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

### **STATEMENT**

This resolution hereby authorizes the Corporation Council and the Director of Child and Family Well-Being on behalf of the City of Newark to enter into and execute a Settlement Agreement and Release for the settlement of a Demand for Payment by The Salvation Army, of 45 Central Avenue, Newark, New Jersey, 07102 for the rental of the First floor of 138 Clifford Street, Newark, New Jersey 07105 (East Ward), also known as Block 972, Lot 25 for the operation of a multi-purpose senior citizen and elderly nutrition congregate site, through the payment of a lump sum of \$35,372.00 (Thirty-Five Thousand Three Hundred Seventy-Two Dollars).