



Legislation Details (With Text)

File #: 17-0066 **Version:** 1 **Name:**
Type: Resolution **Status:** Adopted
File created: 1/18/2017 **In control:** Law
On agenda: **Final action:** 1/19/2017

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement
Docket No.: N/A
Payor: Best Transportation Services, LLC, 263 Distribution Street, Newark, New Jersey 07114
Payor's Attorney: Bruno Genova, Esquire,
Attorney's Address: Genova Burns LLC, 494 Broad Street, Newark, New Jersey
Settlement Amount: \$500,000.00
Funding Source: N/A; City of Newark is receiving the settlement funds
Additional Comments:

This proposed settlement resolves outstanding Payroll Taxes owed by Best Transportation Services to the City of Newark.
Invitation: Corporation Counsel (date to be entered by Clerk's Office)

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
1/19/2017	1	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark's Department of Finance, Office of Tax Abatement and Special Taxes ("City"), conducted an audit of certain businesses in the City of Newark relative to compliance with the Newark Payroll Tax requirements as set forth in the City's Ordinance Section 10:21-1, et seq.; and

WHEREAS, the City conducted an audit of Best Transportation Services, LLC, 263 Distribution Street,

Newark, New Jersey 07114 (“Best”); and

WHEREAS, certain issues and disputes arose between Best and the City regarding the payment of Best’s Newark Payroll Tax, especially as to how the Payroll Tax was to be apportioned for employees who did not perform their work full-time within City boundaries, and as a result, the City issued Best several Delinquent Notices, Audit Notices and Collection Notices; and

WHEREAS, as of September 2016, the City claimed that Best owed \$1,132,141.63 in principal, \$116,528.45 in interest and \$58,264.21 in penalties; and

WHEREAS, the Parties desired to amicably resolve this matter, and the Office of Corporation Counsel and Counsel for Best engaged in extensive negotiations relative to the terms of a possible settlement; and

WHEREAS, the Parties agreed to enter into a pre-litigation Settlement Agreement and Mutual Limited Release, subject to approval by the Newark Municipal Council, wherein Best would pay the City a total of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) (“Settlement Sum”) in back Payroll Taxes, interest and penalties for all years through and including tax year 2016; and

WHEREAS, for and in consideration of the agreed upon Settlement Sum to be paid by Best, the Parties forever irrevocably release and discharge each other from any and all Claims which were asserted or could have been asserted concerning outstanding Newark Payroll Tax obligations for all prior tax years through and including 2016; and

WHEREAS, while the settlement arrangement described above constitutes a compromise of the City’s potential claims against Best for back Payroll Taxes, penalties and interest, the proposed arrangement is deemed by the Corporation Counsel to be a practical and effective way to deal with the uncertainties and costs that would be associated with litigation; and

WHEREAS, given all of the facts and circumstances of this matter, the Corporation Counsel recommends that the Municipal Council approve the proposed settlement by the City’s accepting the Settlement Sum and authorizing the execution of the pre-litigation Settlement Agreement and Mutual Limited Release in the form attached hereto; and

WHEREAS, the Business Administrator, the Finance Director and the Manager of Tax Abatement and Special Taxes, support the Corporation Counsel’s recommendation that the Municipal Council approve the proposed settlement by the City’s accepting the Settlement Sum and authorizing the execution of the pre-litigation Settlement Agreement and Mutual Limited Release.

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

1. The Corporation Counsel is authorized to accept, on behalf of the City of Newark, payment from Best Transportation Services, LLC, 263 Distribution Street, Newark, New Jersey 07114, in the total amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), as payment in full for all back Payroll Taxes, including all interest and penalties, for all prior years through and including tax year 2016.
2. The Corporation Counsel is authorized, on behalf of the City of Newark, to execute and enter into a Settlement Agreement and Mutual Limited Release with Best in the form attached hereto.
3. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Mutual Limited Release in the Office of the City Clerk.

STATEMENT

This resolution authorizes the Corporation Counsel to execute and enter into a pre-litigation Settlement Agreement and Mutual Limited Release with Best Transportation Services, LLC, and accept, on behalf of the City of Newark, payment in the total amount of \$500,000.00 as payment in full for all prior years' Payroll Taxes, including all interest and penalties, through and including tax year 2016.