



Legislation Details (With Text)

File #: 12-0204 **Version:** 2 **Name:** Resolution Tricon Settlement
Type: Resolution **Status:** Filed
File created: 1/23/2012 **In control:** Law
On agenda: 3/21/2012 **Final action:** 3/21/2012

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: Pre-Suit
Claimant: Tricon Enterprises, Inc.
Claimant's Attorney: None
Attorney's Address: 322 Beers Street, Keyport, NJ 07735
Settlement Amount: \$35,000.00
Funding Source: City of Newark/Office of the City Clerk/2011 Budget
Additional Comments:

Invitation: Corporation Counsel, March 20, 2012 (date to be entered by Clerk's Office)

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
3/21/2012	2	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark, Department of Neighborhood & Recreational Services, Division of Demolition, was in need of demolition and related cleanup services and subsequently sought quotations in January 2011 from various vendors, including Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735, for the demolition of the interior of the City of Newark Archives Building, located at 295 Halsey Street, Newark, NJ; and

WHEREAS, the Division of Demolition subsequently authorized Tricon Enterprises, Inc., which submitted the lowest quotation, to proceed with that work without a contract having been

awarded by the Municipal Council as required by the procurement requirements of the Local Public Contracts Law pursuant to N.J.S.A. 40A:11-1 et seq.; and

WHEREAS, Tricon Enterprises, Inc. performed the work, and submitted application for payment in the amount of \$35,000.00; and

WHEREAS, the Director of the Department of Neighborhood and Recreational Services, recommends to Corporation Counsel that the Municipal Council should approve payment to Tricon Enterprises, Inc., in the amount of \$35,000.00, for work performed by the vendor at the request of the City of Newark; and

WHEREAS, Tricon Enterprises, Inc. has agreed to settle the demand for the payment of \$35,000.00 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 Tricon Enterprises, Inc.'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

WHEREAS, that given all of the facts and circumstances of the matter, Corporation Counsel recommends that it is in the best interest of the City to resolve the matter pursuant to the terms contained herein and to authorize Corporation Counsel to effectuate the settlement of this matter and authorize the disbursement of the money in accordance with the settlement.

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 a Settlement Agreement and Release and any other documents, sufficient in form and content 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; and the Director of the Department of Neighborhood & Recreational Services is authorized to execute the Settlement Agreement and Release on behalf of the City of Newark.
2. The Municipal Council of the City of Newark hereby authorizes the payment to Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735, in a lump sum, the total sum of \$35,000.00 (Thirty-Five Thousand Dollars) as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Release annexed hereto.
3. In exchange for Tricon Enterprises, Inc.'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 Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735.
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 for \$35,000.00 (Thirty-Five Thousand 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. The funds for this settlement in the amount of \$35,000.00 are provided from the Budget of the City Clerk.
 7. A fully executed copy of the Settlement Agreement and Release shall be filed in the office of the City Clerk by Corporation Counsel.
 8. This Resolution shall be effective upon adoption in accordance with applicable State law.

STATEMENT

This resolution authorizes the settlement of a demand for payment from Tricon Enterprises, Inc., 322 Beers Street, Keyport, NJ 07735, for Demolition and Cleanup Services rendered, through the payment of the lump sum of \$35,000.00 in exchange for the execution of a Settlement Agreement and Release.