



Legislation Details (With Text)

File #: 18-1558 **Version:** 1 **Name:** Settlement Agreement between City of Newark and Positive Health Care, Inc.
Type: Resolution **Status:** Adopted
File created: 9/27/2018 **In control:** Law
On agenda: 11/8/2018 **Final action:** 11/8/2018

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: Appellate Division A-2689-15 T3 and A-0535-16 T4
Defendant: Positive Healthcare, Inc.
Defendant's Attorney: Robert Taylor, Esq.
Attorney's Address: 60 Evergreen Place, Suite 305, East Orange, New Jersey 07018
Settlement Amount: \$160,000.00
Funding Source: Defendant/Taxpayer
Additional Comments:
Settlement Agreement resolving issues only as to municipally held liens on properties foreclosed by the City of Newark as more detailed in the Settlement Agreement attached hereto
Invitation: Corporation Counsel

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/8/2018	1	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark has been in litigation with Positive Healthcare, Inc. relating to certain unpaid taxes; and

WHEREAS, on May 22, 2018, the Appellate Division entered a decision in the matter of Positive Healthcare, Inc. v. City of Newark (Docket No. A-2689-15 T3) and the companion matter of City of Newark v. Positive Healthcare, Inc. (Docket No. A-0535-16 T4); and

WHEREAS, the City of Newark and Positive Healthcare, Inc., desire to enter into a Settlement Agreement resolving issues only as to municipally held liens on properties foreclosed by the City of Newark, as more detailed in the Settlement Agreement attached hereto; and

WHEREAS, the Settlement Agreement has no effect upon properties that have been foreclosed or are being foreclosed by third party lienholders other than that Positive Healthcare, Inc., agrees that it shall make no further claims against the City of Newark relating to any of these properties including the tax sale certificates sold to third parties or foreclosed by third parties; and

WHEREAS, the parties desire to settle their disputes as set forth in the Settlement Agreement; and

WHEREAS, the parties have agreed to settle the matter for payment to Newark for the sum of One Hundred Sixty Thousand Dollars and Zero Cents (\$160,000.00), in exchange for the execution of a Settlement Agreement resolving issues only as to municipally held liens on properties foreclosed by the City of Newark as more detailed in the Settlement Agreement; 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 to resolve this matter and prevent the incurring of additional costs and fees; and

WHEREAS, the City of Newark has determined that it is in the best interest of the taxpayers to settle and avoid the cost, expense, delay and uncertainty of litigation.

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

1. The Corporation Counsel and Tax Collector are authorized, on behalf of the City of Newark, to execute a Settlement Agreement and Release in the form attached hereto and any other documents sufficient in form and content approved by the Corporation Counsel with Positive Healthcare, Inc. 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 Newark Municipal Council authorizes the acceptance of payment by Certified Funds payable to the City of Newark the total sum of One Hundred Sixty Thousand Dollars and Zero Cents (\$160,000.00), as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement annexed hereto.
3. The within settlement and resolution do 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 enter into based upon recommendations of Counsel and to eliminate all risks and future litigation costs.
4. A fully executed copy of the Settlement Agreement shall be filed in the Office of the City Clerk by the Corporation Counsel.
5. This Resolution shall be effective upon adoption in accordance with applicable State law.

STATEMENT

This Resolution authorizes payment to the City of Newark for the sum of One Hundred Sixty Thousand Dollars and Zero Cents (\$160,00.00), in exchange for the execution of a Settlement Agreement resolving issues only as to litigation of municipally held liens on properties foreclosed by the City of Newark as more detailed in the Settlement Agreement.