



## Legislation Details (With Text)

**File #:** 22-1390      **Version:** 1      **Name:** Resolution: Pre-Litigation Settlement of Civil Claim - Tomco Construction, Inc.,  
**Type:** Resolution      **Status:** Adopted  
**File created:** 9/27/2022      **In control:** Law  
**On agenda:** 11/2/2022      **Final action:** 11/2/2022

**Title:** Dept/ Agency: Law  
Action: ( ) Ratifying (X) Authorizing ( ) Amending  
Purpose: Pre-Litigation Settlement of Civil Claim  
Docket No.: Not Applicable  
Claimant: Tomco Construction, Inc.  
Claimant's Attorney: Connell Foley, LLP, 56 Livingston Avenue, Roseland, New Jersey 07068  
Settlement Amount: \$400,000.00  
Funding Source: Department of Economic and Housing Development  
Additional Comments:

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
11/2/2022	1	Municipal Council	Adopt	Pass

**Dept/ Agency:** Law

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Purpose:** Pre-Litigation Settlement of Civil Claim

**Docket No.:** Not Applicable

**Claimant:** Tomco Construction, Inc.

**Claimant's Attorney:** Connell Foley, LLP, 56 Livingston Avenue, Roseland, New Jersey 07068

**Settlement Amount:** \$400,000.00

**Funding Source:** Department of Economic and Housing Development

**Additional Comments:**

**WHEREAS**, on June 15, 2005, the City of Newark (the "City") utilized the powers of Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq., to designate the entire City of Newark as an area in need of rehabilitation; and

**WHEREAS**, on August 7, 2013, the Municipal Council adopted Ordinance 6PSF-1, approving the Newark's River: Public Access and Redevelopment Plan along the Passaic River, which has been amended from time to time; and

**WHEREAS**, on February 28, 2018, the City's Department of Economic and Housing Development, advertised for bids for the Riverfront Park Expansion - Phase C Project, along the Passaic River; and

**WHEREAS**, on April 6, 2018, the Department of Economic and Housing Development received four (4) bids for the Riverfront Park Expansion - Phase C Project; and

**WHEREAS**, pursuant to the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., the City

accepted the bid proposal submitted by Tomco Construction, Inc., (“Tomco”); and

**WHEREAS**, the City and Tomco executed a contract for the Riverfront Park Expansion - Phase C Project on May 21, 2018; and

**WHEREAS**, a dispute has arisen regarding the work on the Riverfront Park Expansion - Phase C Project; and

**WHEREAS**, the City and Tomco have reached an agreement that resolves any and all current and future disputes between them pertaining to the Riverfront Park Expansion - Phase C Project pursuant to the terms of the Settlement Agreement attached hereto as Exhibit A; and

**WHEREAS**, the Corporation Counsel has reviewed the Settlement Agreement and accepts and agrees to the terms of same; and

**WHEREAS**, to avoid the costly expense of litigation, the Parties and the City’s Corporation Counsel desire to amicably resolve this matter with payment by the City of the Settlement Sum, in exchange for Plaintiff’s execution of the Settlement Agreement and Release (attached) as a full and complete release of the matter; and

**WHEREAS**, the Corporation Counsel, based upon all facts and circumstances presented, deems it is in the best interest of the City to resolve said matter by payment of the proposed Settlement Sum and execution of the Settlement Agreement and Release.

**NOW, THEREFORE, BE IT RESOLVED BY 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 enter into, execute and accept the terms of the Settlement Agreement and Release, attached hereto.
2. Upon receipt by the Corporation Counsel of all documents deemed necessary, the Director of the Department of Finance is hereby authorized and directed to issue payment in the sum of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00), which payment will be made by the City to: “Connell Foley LLP Trust Account” and mailed to: Connell Foley, LLP, 56 Livingston Avenue, Roseland, New Jersey 07068.
3. Annexed hereto is the Certification of Funds issued by the City’s Director of the Department of Finance, which states that there are available sufficient legally-appropriate funds from the Riverfront Open Space funds: 045 16G 16C00 94710 , in the amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) for the purpose set forth herein.
4. The Corporation Counsel shall file a copy of the Certification of Funds in the Office of the City Clerk along with this Resolution.
5. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.
6. This Resolution shall be effective upon adoption in accordance with applicable State

Law.

7. The Settlement Agreement and Release 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 the Corporation Counsel and to eliminate all risks and future litigation costs.

#### **STATEMENT**

This Resolution authorizes the Corporation Counsel, on behalf of the City of Newark to enter into and execute a Settlement Agreement and Release to settle, any and all current and future disputes between them pertaining to the Riverfront Park Expansion - Phase C Project in the amount of \$400,000.00, in exchange for Plaintiff's dismissal of any and all present or future claims against the City of Newark and its employees, and a complete release.