



Legislation Text

File #: 21-1062, Version: 1

Dept/ Agency: Law

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

Purpose: Pre-Litigation Settlement of Civil Claim

Docket No.: N/A

Claimant: Skyline Scaffolding Group, Inc., 181 Coit Street, Irvington, New Jersey 07111

Claimant's Attorney: N/A

Attorney's Address: N/A

Settlement Amount: \$65,430.00

Funding Source: 2021 Budget/Department of Economic and Housing Development

Additional Comments:

This resolution and settlement agreement resolves all outstanding invoices for the costs associated with Skyline Scaffolding Group, Inc., for providing scaffolding services for the Department of Economic and Housing Development, Division of Property Management during the period of February 7, 2018 through May 15, 2021.

WHEREAS, on or about September of 2011, the City of Newark, Department of Economic and Housing Development, Division of Property Management (the "City"), was in need of engaging a vendor to provide scaffolding installation and maintenance for City-owned property located at 17-21 Halsey Street in the City of Newark; and

WHEREAS, on or about September of 2011, the City engaged the services of Skyline Scaffolding Group, Inc., 181 Coit Street, Irvington, New Jersey 07111 for the purpose of providing the City of Newark, Department of Economic and Housing Development, Division of Property Management with scaffolding construction and maintenance services; and

WHEREAS, the maintenance of the 17-21 Halsey Street scaffolding services has been provided by Skyline Scaffolding Group, Inc., since 2011; and

WHEREAS, on or June 17, 2021, Skyline Scaffolding Group, Inc., provided the City with a payment demand for services in arrears since February of 2018; and

WHEREAS, Skyline Scaffolding Group, Inc., provided scaffolding services for the City for the period of February 7, 2018 through May 15, 2021, in an effort to ensure and help the City meet its obligation to protect citizens of Newark by providing scaffolding service for the subject vacant property; and

WHEREAS, on or about June 17, 2021, Skyline Scaffolding Group, Inc., submitted a demand for the costs associated with providing scaffolding services to the Department of Economic and Housing Development, Division of Property Management, covering the period of February 7, 2018 through May 15, 2021; and

WHEREAS, Skyline Scaffolding Group, Inc., submitted with its demand notice, invoices totaling Seventy-Two Thousand, Seven Hundred Dollars and Zero Cents (\$72,700.00) (the “Claim”) for the costs associated with providing scaffolding services to the Department of Economic and Housing Development, Division of Property Management, during the period of February 7, 2018 through May 15, 2021 (See Demand for Payment letter and Invoices, attached); and

WHEREAS, prior to its current demand for payment, on or about August 27, 2019, Skyline Scaffolding, Inc., provided the City of Newark with a revised agreement to repair and upgrade its then eight (8) years old scaffolding construction and the City was presented with a cost of Agreement of Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00), inclusive of an increase in the monthly scaffolding payments from \$1,420.00 to \$3,250.00; and

WHEREAS, on or about February 4, 2020, by way of purchase order NW011-0000139365, the City paid Skyline Scaffolding Group, Inc., Twenty-Six Thousand Seven Hundred Fifty Dollars and Zero Cents (\$26,750.00), to satisfy the then needed repair and upgrade; and

WHEREAS, with the exception of the periods November 17, 2018 through December 31, 2019, the City failed to pay Skyline Scaffolding Group, Inc., for services related to the provision of scaffolding services to the Department of Economic and Housing Development, Division of Property Management; and

WHEREAS, Skyline Scaffolding Group, Inc., in reliance on the City’s representation that it will expedite the payment of outstanding monies, agreed to compromise the amount due and owing of Seventy-Two Thousand, Seven Hundred Dollars and Zero Cents (\$72,700.00 to Sixty-Five Thousand, Four Hundred Thirty Dollars and Zero Cents (\$65,430.00); and

WHEREAS, the Business Administrator and the Deputy Mayor/Director of the Department of Economic and Housing Development have confirmed that the City received the benefit of scaffolding services from Skyline Scaffolding Group, Inc., during the period of February 7, 2018 through May 15, 2021; and

WHEREAS, the Business Administrator and the Deputy Mayor/Director of the Department of Economic and Housing Development, along with the Department of Economic and Housing Development, Division of Property Management, have confirmed that there are adequate monies available in the budget of the Department of Public Works to pay the outstanding invoices for the costs associated with Skyline Scaffolding Group, Inc., providing scaffolding services to the Department of Economic and Housing Development, Division of Property Management, during the period of February 7, 2018 through May 15, 2021; and

WHEREAS, to avoid the costly expense of litigation, Skyline Scaffolding Group, Inc., and the City’s Corporation Counsel (the “Parties”) desire to amicably resolve this matter prior to any commencement of litigation; and

WHEREAS, the Parties have agreed to settle the matter for payment by the City of Sixty-Five Thousand, Four Hundred Thirty Dollars and Zero Cents (\$65,430.00) (“Settlement Sum”), in exchange for Skyline Scaffolding Group, Inc., execution of this Settlement Agreement and General Release as a full and complete release of the Claim, including any claims for attorney’s fees; and

WHEREAS, as part of this Settlement Agreement and General Release, the City agrees to pay Skyline Scaffolding Group, Inc., for the costs associated with Skyline Scaffolding Group, Inc.'s scaffolding services for the Department of Economic and Housing Development, Division of Property Management in an amount not to exceed Sixty-Five Thousand, Four Hundred Thirty Dollars and Zero Cents (\$65,430.00); and

WHEREAS, this Settlement Agreement and General Release neither admits 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, 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 has determined that it is in the best interest of the taxpayers to settle and avoid the cost, expense, delay and uncertainty of litigation; and

WHEREAS, the Director of the Department of Finance has certified that there are adequate, appropriated monies available to pay the settlement.

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

1. The Mayor of the City of Newark and/or his designee, the Corporation Counsel, is hereby authorized, on behalf of the City of Newark to enter into and execute a Settlement Agreement and Release, and any other documents, sufficient in form and content to the 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 authorizes the payment of a check made payable to: Skyline Scaffolding Group, Inc., 181 Coit Street, Irvington, New Jersey 07111, in an amount not to exceed Sixty-Five Thousand, Four Hundred Thirty Dollars and Zero Cents (\$65,430.00), for the costs associated with Skyline Scaffolding Group, Inc., providing scaffolding services for the Department of Economic and Housing Development, Division of Property Management, rendered during the period of February 7, 2018 through May 15, 2021. The check shall be mailed to: Skyline Scaffolding Group, Inc., 181 Coit Street, Irvington, New Jersey 07111, or wire transferred to an account in accordance with accurate information provided by the vendor, as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Release annexed hereto. This Settlement Sum shall be paid immediately upon receipt of all necessary documents required by the Director of the Department of Finance to process payment.

3. In exchange for the execution by Skyline Scaffolding Group, Inc., of the Settlement Agreement and Release, acceptable in the form to the Corporation Counsel and after passage of this Resolution and upon receipt by the Corporation Counsel and the Director of the Department of Finance of any and all other documents deemed necessary, the Director of the Department of Finance is hereby authorized to issue the check made payable to: Skyline Scaffolding Group, Inc.

4. The 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, 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.

5. Attached hereto is a Certification of Funds in the amount of Sixty-Five Thousand, Four Hundred Thirty Dollars and Zero Cents (\$65,430.00), from the Director of the Department of Finance and the line appropriation of the official budget which shall be charged is: Business Unit: NW011; Dept. 150; Div./Proj.: 1504; Account#: 71280; Budget: B2021.

6. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk.

STATEMENT

This Resolution authorizes the Corporation Counsel on behalf of the City of Newark to resolve claims, of outstanding invoices for Skyline Scaffolding Group, Inc., 181 Coit Street, Irvington, New Jersey 07111, without the need and expense of civil litigation. This Resolution and Settlement Agreement resolves all outstanding invoices for the costs associated with Skyline Scaffolding Group, Inc., providing scaffolding services to the Department of Economic and Housing Development, Division of Property Management in an amount not to exceed 65,430.00. In return, Skyline Scaffolding Group, Inc., agrees to waive all claims against the City, including attorneys' fees.