



Legislation Text

File #: 19-1572, Version: 1

Dept/ Agency: Law

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

Purpose: Pre-Litigation Settlement of Civil Claim

Docket No.: N/A

Claimant: F. Basso, Jr. Rubbish Removal, Inc., 55-93 South 20th Street Irvington, New Jersey 07111

Claimant's Attorney: N/A

Attorney's Address: N/A

Settlement Amount: \$947,600.00

Funding Source: 2019 Budget/Department of Public Works, Division of Sanitation

Additional Comments:

This resolution and settlement agreement resolves all outstanding invoices for the costs associated with F. Basso, Jr. Rubbish Removal, Inc. providing Truck Rental and Rubbish Removal Services with driver to the Department of Public Works, Division of Sanitation rendered during the period of May 1, 2019 through September 30, 2019.

WHEREAS, the City of Newark, Department of Public Works, Division of Sanitation (the "City"), was in need of engaging a vendor to provide Truck Rental Services with a driver for curbside Rubbish Removal ("Truck Rental and Rubbish Removal Services"); and

WHEREAS, on or about May 1, 2019 the City engaged the services of F. Basso, Jr. Rubbish Removal, Inc., 55-93 South 20th Street Irvington, New Jersey 07111, for the purpose of providing the City of Newark, Department of Public Works, Division of Sanitation with Truck Rental and Rubbish Removal Services with driver, for the period of May 1, 2019 through September 30, 2019, to ensure the City meet its curbside solid waste collection obligations throughout the City for the health, safety and welfare of its citizens; and

WHEREAS, on or about October 8, 2019, F. Basso, Jr. Rubbish Removal, Inc., submitted a demand for payment for the costs associated with providing Truck Rental and Rubbish Removal Services with driver to the Department of Public Works, Division of Sanitation; and

WHEREAS, F. Basso, Jr. Rubbish Removal, Inc., submitted with its demand notice, invoices totaling Nine Hundred Forty-Seven Thousand Six Hundred Dollars and Zero Cents (\$947,600.00) (the "Claim") for the costs associated with providing Truck Rental and Rubbish Removal Services with driver to the Department of Public Works, Division of Sanitation, during the period of May 1, 2019 through September 30, 2019 (See Demand for Payment letter and Invoices, attached); and

WHEREAS, the Business Administrator and the Director of the Department of Public Works have confirmed that the City received the benefit of the Truck Rental and Rubbish Removal Services with driver from F. Basso, Jr. Rubbish Removal, Inc. during the period of May 1, 2019 through September 30, 2019; and

WHEREAS, to avoid the costly expense of litigation, F. Basso, Jr. Rubbish Removal, Inc. and the Corporation Counsel for the City of Newark (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 Nine Hundred Forty-Seven Thousand Six Hundred Dollars and Zero Cents (\$947,600.00) (“Settlement Sum”), in exchange for F. Basso, Jr. Rubbish Removal, 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, the Business Administrator, Director of the Department of Public Works (DPW) and Corporation Counsel have determined and recommend 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 Municipal Council concurs with the recommendation of the Business Administrator, the Director of DPW, and Corporation Counsel that it is in the City’s best interest to settle this dispute without 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 and/or his designee, the Corporation Counsel, are authorized, on behalf of the City of Newark to 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 of the City of Newark authorizes the payment of a check made payable to F. Basso, Jr. Rubbish Removal, Inc., 55-93 South 20th Street, Irvington, New Jersey 07111, in an amount not to exceed Nine Hundred Forty-Seven Thousand Six Hundred Dollars and Zero Cents (\$947,600.00) for the costs associated with F. Basso, Jr. Rubbish Removal, Inc. providing Truck Rental and Rubbish Removal Services with driver to the Department of Public Works, Division of Sanitation during the period of May 1, 2019 through September 30, 2019. The check shall be mailed to F. Basso, Jr. Rubbish Removal, Inc., 55-93 South 20th 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 Finance Director to process payment.

3. In exchange for the execution by F. Basso, Jr. Rubbish Removal, 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 Finance of any and all other documents deemed necessary, the Director of Finance is authorized to issue the check made payable to F. Basso, Jr., Rubbish Removal, 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 are Certifications of Funds in the totaling an amount of Nine Hundred Forty-Seven Thousand Six Hundred Dollars and Zero Cents (\$947,600.00) from the Director of Finance and the line appropriation of the official budget which shall be charged is Business Unit: NW011; Dept. 060; Div./Proj.: 0605; Account#: 71940; Budget: B2019 (\$195,288.00), Business Unit: NW011; Dept. 060; Div./Proj.: 0605; Account#: 71560; Budget: B2019 (\$204,352.00) and Business Unit NW011; Dept. 060; Div./Proj. 0605; Account #71940 Budget Ref: B2019 (\$547,960.00).

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

7. This Resolution shall be effective upon adoption in accordance with applicable State law.

8.

STATEMENT

This Resolution authorizes the Corporation Counsel to enter into a Settlement Agreement and Release to resolve all claims of outstanding invoices for F. Basso, Jr. Rubbish Removal, Inc., 55-93 South 20th Street Irvington, New Jersey 07111, without the need and expense of civil litigation for providing Truck Rental and Rubbish Removal Services with driver to the Department of Public Works, Division of Sanitation from May 1, 2019 through September 30, 2019, for an amount not to exceed Nine Hundred Forty-Seven Thousand Six Hundred Dollars and Zero Cents (\$947,600.00).