



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 13-2116, Version: 1

Dept/Agency: Law

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

Purpose: Settlement of a Demand for Payment

Docket No.: None

Claimant: Brilliant Environmental Services, LLC

Claimant's Attorney: None

Attorney Address: None

Settlement Amount: \$78,522.24 (Seventy Eight Thousand Five Hundred Twenty Two Dollars and Twenty Four Cents)

Funding Source: City of Newark, Department of Economic and Housing Development

Additional Information: 1A Executive Drive, Toms River, New Jersey 08755

WHEREAS, the Department of Economic and Housing Development was in need of Environmental Consulting Services (South Ward), for assessment and remediation services for the property located at 861-869 Clinton Avenue, Block 3016, Lot 25 and other City-owned properties, and engaged **Brilliant Environmental Services, LLC**, by Resolution 7R3-a(s) (A.S.), September 13, 2011, for a term of one year, commencing from the issuance of a Notice To Proceed, for an amount not to exceed \$650,000.00; and

WHEREAS, **Brilliant Environmental Services, LLC** continued to provide Environmental Consulting Services, in particular with regard to the 861-869 Clinton Avenue site, at the direction of City of Newark representatives, following termination of the contract, for an additional sum of \$78,522.24.00; without a new contract or contract amendment; and

WHEREAS, **Brilliant Environmental Services, LLC** claims that it provided the services; and

WHEREAS, **Brilliant Environmental Services, LLC** has claimed that the total cost of the additional services provided is \$78,522.24; and

WHEREAS, the parties have agreed to settle the matter for the payment by the City of Newark of the sum of \$78,522.24 (Seventy Eight Thousand Five Hundred Twenty Two Dollars and Twenty Four Cents), 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 **Brilliant Environmental Services, LLC'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 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.

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 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 of the City of Newark hereby authorizes the payment by check made payable to **Brilliant Environmental Services, LLC**, in the amount of \$78,522.24 (Seventy Eight Thousand Five Hundred Twenty Two Dollars and Twenty Four Cents), which check shall be mailed to 1A Executive Drive, Toms River, New Jersey 08755, as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Release annexed hereto.
 3. In exchange for execution of the Settlement Agreement and Release by **Brilliant Environmental Services, LLC**, acceptable in form to 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 of the City of Newark is hereby authorized to issue a check made payable to **Brilliant Environmental Services, LLC**, in the amount of \$78,522.24 (Seventy Eight Thousand Five Hundred Twenty Two Dollars and Twenty Four Cents).
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 of \$78,522.24 (Seventy Eight Thousand Five Hundred Twenty Two Dollars and Twenty Four Cents), 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. A fully executed copy of the Settlement Agreement and Release shall be filed in the Office of the City Clerk by the Corporation Counsel.
 7. 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 **Brilliant Environmental Services, LLC**, in the amount of \$78,522.24 (Seventy Eight Thousand Five Hundred Twenty Two Dollars and Twenty Four Cents), in exchange for the execution of a Settlement Agreement and Release.