



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 12-1711, Version: 1

Dept/ Agency: Law

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

Purpose: Settlement of Pre-Suit Litigation

Docket No.: N/A

Claimant: **Weiner Lesniak, LLP**

Claimant's Attorney: None

Claimant's Address: 629 Parsippany Road, P.O. Box 438, Parsippany, New Jersey 07054-0438

Settlement Amount: \$110,000.00

Funding Source: Budget/City Clerk

Additional Comments

Invitation: Corporation Counsel, September 5, 2012

WHEREAS, the **City of Newark** was in need of Outside Legal Services ("Contract") and engaged the firm of **Weiner Lesniak, LLP**, 629 Parsippany Road, P.O. Box 438, Parsippany, New Jersey 07054 by Resolution 7R9d102010, for a term of one year, commencing September 22, 2010 and terminating on September 21, 2011, for an amount not to exceed \$350,000.00 (Three Hundred Fifty Thousand Dollars); and

WHEREAS, **Weiner Lesniak, LLP** provided legal services beyond the maximum amount of the contract approved by Municipal Council; and

WHEREAS, **Weiner Lesniak, LLP** presented statements to the **City of Newark** totaling \$482,116.57 (Four Hundred Eighty-Two Thousand One Hundred Sixteen Dollars and Fifty Seven cents) for the Contract and certain additional services; and

WHEREAS, the **City of Newark** has paid the sum of \$273,677.37 (Two Hundred Seventy Three Thousand Six Hundred Seventy-Seven Dollars and Thirty Seven cents) during the term of the contract, and **Weiner Lesniak** claiming that \$208,439.20 (Two Hundred and Eight Thousand Four Hundred Thirty Nine dollars and Twenty cents) remains outstanding; and

WHEREAS, the parties have agreed to settle all outstanding invoices and any claims by **Weiner Lesniak, LLP** against the **City of Newark** (including its employees, officials, directors, agents, servants, etc.) for the sum of **\$110,000.00** (One Hundred Ten Thousand Dollars), 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 **Weiner Lesniak's, LLP** claims against the **City of Newark**, including but not limited to, claims for payment of fees for services rendered, attorney's fees and costs on this Contract and on any other contract (whether written or oral); 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** or by **Weiner Lesniak, LLP**, their 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; 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** 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 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 **Weiner Lesniak, LLP**, in the amount of **\$110,000.00** (One Hundred Ten Thousand Dollars), which check shall be mailed to 629 Parsippany Road, P.O. Box 438, Parsippany, New Jersey 07054, as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Release annexed hereto.
 3. In exchange for the execution by **Weiner Lesniak, LLP** of the Settlement Agreement and Release, acceptable in form to Corporation Counsel and after passage of this resolution and upon receipt by 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 the check made payable to **Weiner Lesniak, LLP**.
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 **\$110,000.00** (One Hundred Ten Thousand Dollars) 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 **Weiner Lesniak, LLP**, 629 Parsippany Road, P.O. Box 438, Parsippany, New Jersey 07054, for legal services, through the payment of the lump sum of **\$110,000.00** (One Hundred Ten Thousand Dollars), in exchange for the execution of a Settlement Agreement and Release.