



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 18-0371, **Version:** 1

Dept/ Agency: Law

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

Purpose: Settlement of Civil Litigation - Pre-suit Settlement

Docket No.: N/A

Claimant: Millenium Tree Services and Landscape Design, Inc., 758 Degraw Avenue, Newark, New Jersey 07104

Claimant's Attorney: N/A

Attorney's Address: N/A

Settlement Amount: \$641,500.00

Funding Source: 2017 Budget/Department of Public Works, Division of Sanitation.

Account Code Line: NW011-066-0663-71690

Additional Comments:

This resolution and settlement agreement resolves all outstanding invoices for Millenium Tree Services and Landscape Design, Inc., for the tree removal services it rendered from September 1, 2017 through November 30, 2017

Invitation: Acting Corporation Counsel

WHEREAS, the City of Newark, Department of Public Works, Division of Sanitation, was in need of Tree Removal Services; and

WHEREAS, Resolution 7R1-v, adopted by the Newark Municipal Council at its May 2, 2012, Regular Meeting, authorized the Purchasing Director to enter into a contract with Millenium Tree Services and Landscape Design, Inc., 758 Degraw Avenue, Newark, New Jersey 07104, to provide Tree Removal Services for the City for a two-year term commencing June 2, 2012 and terminating on May 31, 2014, for an amount not to exceed \$500,000.00; and

WHEREAS, Resolution 7R1-v adopted by the Newark Municipal Council at its May 2, 2012, Regular Meeting, was extended by the Central Purchasing Director on multiple occasions, the most recent extension being until September 30, 2017; and

WHEREAS, Millenium Tree Services and Landscape Design, Inc., has continued to provide Tree Removal Services through November 30, 2017, in an effort to ensure and help the City meet its obligation to maintain its trees throughout the City for the health, safety and welfare of its citizens; and

WHEREAS, On January 3, 2018, Millenium Tree Services and Landscape Design, Inc., submitted a demand for payment for the Tree Removal Services it had provided to the Department of Public Works, Division of Sanitation, during the period of September 1, 2017 through November 30, 2017; and

WHEREAS, Millenium Tree Services and Landscape Design, Inc., submitted with its demand

notice invoices totaling Six Hundred Forty-One Thousand Five Hundred Dollars and Zero Cents (\$641,500.00) (the "Claim") for services rendered from September 1, 2017 through November 30, 2017 for the Tree Removal Services it provided (See Demand for Payment letter and Invoices, attached); and

WHEREAS, the Business Administrator and the Department of Public Works have confirmed that the City received the benefit of the Tree Removal Services from Millenium Tree Services and Landscape Design, Inc. for services rendered from September 1, 2017 through November 30, 2017; and

WHEREAS, the Business Administrator and the Department of Public Works have confirmed that there are adequate monies available in the budget of the Department of Public Works to pay the outstanding invoices for the Tree Removal Services provided by Millenium Tree Services and Landscape Design, Inc.; and

WHEREAS, Millenium Tree Services and Landscape Design, Inc. and the Acting Corporation Counsel for the City of Newark ("Parties") desire to amicably resolve this matter; and

WHEREAS, the Parties have agreed to settle the matter for the payment by the City of Newark of Six Hundred and Forty-One Thousand Five Hundred Dollars and Zero Cents (\$641,500.00) ("Settlement Sum"), in exchange for Millenium Tree Services and Landscape Design, 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 Millenium Tree Services and Landscape Design, Inc., for the additional services performed from September 1, 2017 through November 30, 2017 an amount not to exceed Six Hundred and Forty-One Thousand Five Hundred Dollars and Zero Cents (\$641,500.00) within ten (10) days of the Municipal Council's approval of this resolution; 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 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 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 Mayor or his designee, the Acting Corporation Counsel, is 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 Acting 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 Millenium Tree Services and Landscape Design, Inc., 758 Degraw Avenue, Newark New Jersey 07104, in the amount of Six Hundred Forty-One Thousand Five Hundred Dollars and Zero Cents (\$641,500.00) (hereinafter, the "Settlement Sum") as payment for the Tree Removal Services rendered from September 1, 2017 through November 30, 2017. The check shall be mailed to c/o Millenium Tree Services and Landscape Design, Inc., 624-626 Springfield Avenue, Newark, New Jersey 07103, 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 Millenium Tree Services and Landscape Design, Inc. of the Settlement Agreement and Release, acceptable in the form to the Acting Corporation Counsel and after passage of this resolution and upon receipt by the Acting 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 Millenium Tree Services and Landscape Design, 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 of Newark, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of the Acting Corporation Counsel and to eliminate all risks and future litigation costs.

5. Attached hereto is a Certification of Funds in the amount of Six Hundred Forty-One Thousand Five Hundred Dollars and Zero Cents (\$641,500.00) from the Director of Finance for the City of Newark and the line appropriation of the official budget which shall be charged is Business Unit: NW011; Dept. 066; Div./Proj.: 0663; Account#: 71690; Budget: B2017.

6. The Acting Corporation Counsel shall file a copy of the Certification of Funds for the full amount of the settlement before a check is issued by the Director of Finance in the Office of the City Clerk.

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

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

STATEMENT

This resolution authorizes the Acting Corporation Counsel to resolve claims for outstanding invoices for Millenium Tree Services and Landscape Design, Inc., 758 Degraw Avenue, Newark, New Jersey 07104, without the need and expense of civil litigation. This Resolution and Settlement Agreement resolves all outstanding invoices for Tree Removal Services rendered from September 1, 2017 through November 30, 2017, for a total settlement sum of \$641,500.00. In return, Millenium Tree

Services and Landscape Design, Inc. agrees to waive all claims against the City including attorneys' fees.