



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

File #: 14-0434, Version: 1

**Dept/ Agency:** Offices of Municipal Council/City Clerk

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

**Type of Service:** Accepting a Gift

**Gift:** Voter Alert Application

**Purpose:** A cost-free option for voters of the City of Newark to receive Voter Alert notices, by way of a smartphone application.

**Entity Name:** The Ellis Winstead Firm, LLC

**Entity Address:** 1739 Payne Court, Turnersville, New Jersey 08012

**Gift Value:** \$ N/A

**City Contribution:** \$0.00

**Other Funding Source/Amount:** N/A

**Contract Period:** From the date of adoption until the third (3) day after the regular Municipal Election or after any Run-Off Election, if necessary

**Additional Information:**

*N.J.S.A. 40A:5-29*

**WHEREAS**, the City Clerk of the City of Newark (the "City"), in his capacity as its duly authorized Election Official, pursuant to *N.J.S.A. 40A:9-133(e)(3)*, desires to provide on a trial basis for purposes of providing public service announcements, which is not political activity, for the regular Municipal Election to be held on May 13, 2014 and any Run-Off Election as thereafter may be necessary to be held on June 10, 2014, at a cost-free option to voters of the City of Newark to receive Voter Alert text notices, by way of a smartphone application for a mobile telephone, iPhone, Android, iPad and similar type of electronic devices on such matters as voter registration deadline, absentee ballot mailing deadlines and all election dates; and

**WHEREAS**, The Ellis Winstead Firm, LLC (the "EWF"), 1739 Payne Court, Turnersville, New Jersey 08012 has created a free, smartphone application for iPhone, Android, and iPad that allows subscribers downloading the application to voluntarily receive voter notifications of election related information through the application (the "Voter Alert App"); and

**WHEREAS**, the EWF has approached the City of Newark, Office of the City Clerk, with an offer to provide its Voter Alert App and services to the City and its voters as a pilot program at no cost to the City or persons downloading the application (the "Subscribers") for the upcoming regularly scheduled Municipal Election to be held on May 13, 2014, as well as any Run-Off Election (if necessary), to be held on June 10, 2014 (the "Voter Alert Pilot Program"), which it will provide to the City as a gift pursuant to *N.J.S.A. 40A:5-29*; and

**WHEREAS**, the Voter Alert Pilot Program would require no expenditure of municipal funds; and

**WHEREAS**, the EWF, has represented to the City that it will earn no revenue or receive

anything of value from any person(s) or entities for any reason, as a result of the Voter Alert Pilot Program, being run solely to test the viability of EWF's system and its utility to Newark citizens; and

**WHEREAS**, the EWF, fully understands and agrees that it is not entitled to receive any direct benefit from the City nor the Office of the City Clerk in exchange for its gift (donation/gift letter attached); and

**WHEREAS**, pursuant to Local Public Contracts Law (*N.J.S.A.40A:5-29*), a local unit is authorized and empowered to accept bequests, legacies, and gifts made to it and is empowered to utilize such bequests, legacies, and gifts in the manner set forth in the conditions of the bequest, legacy, and gift provided, however, that such bequest, legacy, or gift shall not be put to any use, which is inconsistent with the laws of the State of New Jersey and the United States of America; and

**WHEREAS**, the City, the Office of the City Clerk and the Municipal Council determine that it is the best interest of Newark's residents and voters to accept the gift for the sole purpose of providing public service announcements; and

**WHEREAS**, based on the representations of the EWF, the City has determined it may accept the gift, with the understanding that if any revenues are to be generated from the Voter Alert Pilot Program or if the EWF will receive anything of value from any person(s) or entities, the City would be required to solicit proposals, quotes, or bids from other vendors interested in providing the same or similar services; and

**WHEREAS**, the EWF, has agreed that any subscribers' information, such as telephone numbers or e-mail addresses collected by the EWF, during the Voter Alert Pilot Program will not be shared with any other person(s) or entities, whether for a fee or otherwise; and

**WHEREAS**, the City would not, by participating in the Voter Alert Pilot Program, endorse the EWF's product in any way, or bind itself or any subscriber to any future purchase or subscription; and

**WHEREAS**, the Office of the City Clerk on behalf of the City desires to enter into and execute a Memorandum of Understanding (the "MOU") with the EWF in the Agreement attached to this resolution as EXHIBIT A, to provide all services related to the implementation of the Voter Alert Pilot Program at no cost to the City or any subscriber, as a gift, for the time period including, but not limited to the regularly scheduled Municipal Election to be held on May 13, 2014, as well as any necessary Run-Off Election to be held on June 10, 2014.

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

1. The Municipal Council hereby authorizes the City Clerk, as the Election Official on behalf of the City of Newark to enter into and execute the Memorandum of Understanding (MOU) annexed hereto as EXHIBIT A, with The Ellis Winstead Firm, LLC, 1739 Payne Court, Turnersville, New Jersey 08012 for the purpose of accepting the gift of a smartphone Voter Alert Application, at no cost to the City of Newark nor its' subscribers for the time period including, but not limited to the regularly scheduled Municipal Election to be held on May 13, 2014, as well as any necessary Run-Off Election to be held on June 10, 2014.

2. No municipal funds shall be expended for the acceptance of this gift. A fully executed copy of the MOU and all associated documentation shall be forthwith filed in the Office of the City Clerk by the City Clerk.

**STATEMENT:**

This resolution hereby authorizes the City Clerk, as the Election Official on behalf of the City of Newark, to enter into and execute a Memorandum of Understanding (MOU) with The Ellis Winstead Firm, LLC, 1739 Payne Court, Turnersville, New Jersey 08012 to accept a gift in accordance with *N.J.S.A. 40A:5-29* for a smartphone Voter Alert Application, created by the Ellis Winstead Firm, LLC, from the date of adoption until the third (3) day after the regular Municipal Election to be held on May 13, 2014 or after any Run-Off Election to be held on June 10, 2014, if necessary at no cost to the City of Newark nor its' subscribers.