



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

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File #: 16-1496, Version: 2

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**Dept/ Agency:** Law

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

**Purpose:** Pre-Suit Settlement of Civil Litigation

**Docket No.:** N/A

**Claimant:** Delta-T Group North Jersey, Inc., One Woodbridge Center, Suite 512, Woodbridge, New Jersey 07095

**Claimant's Attorney:** Marci Pogust, Esq., Corporate Counsel

**Attorney's Address:** c/o Delta-T Group, 950 Haverford Road, Suite 200, Bryn Mawr, Pennsylvania 19010

**Settlement Amount:** \$1,660,362.87

**Funding Source:** 2016 Budget/Grant Funding; Department of Health and Community Wellness

**Additional Comments:**

This resolution and settlement agreement resolves all outstanding invoices for Delta T Group: professional services rendered from March 3, 2016 through September 18, 2016 and non-professional services rendered from June 4, 2016 through September 18, 2016. It also authorizes a final payment, for services rendered from September 19, 2016 through September 30, 2016.

**WHEREAS**, the City of Newark, a municipality with its principle place of business at 920 Broad Street, Newark, New Jersey 07102, needed Temporary Professional Personnel Services, including but not limited to healthcare and social services, to allow for the continued operation of its medical centers; and

**WHEREAS**, on March 4, 2015 through June 3, 2015, the City of Newark entered into an Emergency Contract (#E2015-05-2015-05A) with two (2) vendors, one of which is Delta-T Group North Jersey, Inc., One Woodbridge Center, Suite 512, Woodbridge, New Jersey 07095; and

**WHEREAS**, Resolution 7R1n, adopted by the Newark Municipal Council at its Regular Meeting on September 2, 2015, authorized the Department of Health and Community Wellness, to extend the Emergency Contract (#E2015-05-2015-05A) through September 3, 2015 for these critical health services, or until such time as a contract is awarded; and

**WHEREAS**, on December 3, 2015, the Department of Health and Community Wellness advertised a Request for Proposal for Temporary Staffing for Professional Personnel Services, with a return date of January 5, 2016; and

**WHEREAS**, on January 5, 2016, the Department of Health and Community Wellness received three (3) proposals which were opened on January 5, 2016 but no contract has been awarded to date; and

**WHEREAS**, Delta-T Group North Jersey, Inc., ("Delta-T Group") has continued to provide Temporary Professional Personnel Services from the expiration of the Emergency Contract extension

through to the present in an effort to ensure and help the City meet its need for proper medical staffing and coverage; and

**WHEREAS**, the Business Administrator and the Department of Health and Community Wellness have confirmed that the City has received the benefit of these services from Delta-T Group; and

**WHEREAS**, the City of Newark was also in need of Temporary Personnel Services (non-professional staffing services) to provide for the continued operation of its medical centers; and

**WHEREAS**, Resolution 7R1c, adopted by the Newark Municipal Council at its February 20, 2013 Regular Meeting, authorized the Department of Health and Community Wellness, to enter into a contract with Delta-T Group, and two other vendors, for a two year term commencing March 4, 2013 and terminating March 3, 2015, for an amount not to exceed \$5,000,000.00 for all three vendors; and

**WHEREAS**, Resolution 7R1c 2013 adopted by the Newark Municipal Council at its February 20, 2013 Regular Meeting, was, through a series of extensions, extended to June 3, 2016, while the procurement process for a new contract was ongoing; and

**WHEREAS**, on March 8, 2016, the City of Newark, through its Supervising Procurement Specialist, advertised to solicit bids for Temporary Staffing Services (Health Field and Related Services) to be provided to the Department of Health and Community Wellness; and

**WHEREAS**, the Division of Central Purchasing distributed fourteen (14) bid proposal packages in response to this advertisement; and

**WHEREAS**, on March 24, 2016 the Division of Central Purchasing received six (6) bids in response to this advertisement; and

**WHEREAS**, Delta-T Group, has continued to provide Temporary Personnel Services (non-professional staffing services) from June 3, 2016 through September 30, 2016 in an effort to ensure and help the City meet its need for appropriate and necessary staffing and coverage; and

**WHEREAS**, Delta-T Group has submitted invoices for both the Temporary Professional Personnel Services and the Temporary Personnel Non-Professional Services it provided to the Department of Health and Community Wellness; and

**WHEREAS**, the City's needs have changed and it has decided not to award contracts for either Temporary Professional Personnel Services or Temporary Personnel Non-Professional Services because the City has determined it is in the best interests of the City to bring the services in-house; and

**WHEREAS**, the City's decision not to award contracts for either Temporary Professional Personnel Services or Temporary Personnel Non-Professional Services was made after Delta T Group had been providing services; and

**WHEREAS**, Delta-T Group has submitted invoices totaling \$696,284.48 for services rendered from March 4, 2016 through September 18, 2016 for Temporary Professional Personnel Services

(See Demand for Payment letter and Invoices, attached); and

**WHEREAS**, Delta-T Group has submitted invoices totaling \$964,078.39 for services rendered from June 4, 2016 through September 18, 2016 for Temporary Personnel Non-Professional Services (See Demand for Payment letter and Invoices, attached); and

**WHEREAS**, the Business Administrator and the Department of Health and Community Wellness have confirmed that the City received the benefit of both the Temporary Professional Personnel Services and the Temporary Personnel Non-Professional Services from Delta-T Group; and

**WHEREAS**, the Business Administrator and the Department of Health and Community Wellness have confirmed that there are adequate monies available in the budget of the Department of Health and Community Wellness to pay the outstanding invoices for both the Temporary Professional Personnel Services and the Temporary Personnel Non-Professional Services; and

**WHEREAS**, Counsel for Delta-T Group and 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 One Million, Six Hundred Sixty Thousand, Three Hundred Sixty-Two Dollars and Eighty-Seven Cents (\$1,660,362.87) (“Settlement Sum”), in exchange for Delta-T Group’s execution of this Settlement Agreement and General Release as a full and complete settlement of all of its claims, including any claims for attorney’s fees; and

**WHEREAS**, as part of this Settlement Agreement and General Release, the City agrees to pay Delta-T Group through September 18, 2016 for Temporary Professional Personnel Services and Temporary Personnel Non-Professional Services that have been provided and invoiced, and the City will pay Delta-T Group for the additional services performed from September 19, 2016 through September 30, 2016 an amount not to exceed Two Hundred Twenty-Five Thousand, Three Hundred Eighty-Four Dollars and Sixty-Four (\$225,384.64) within 30 days of the City’s receipt of the invoices for these services; and

**WHEREAS**, Delta-T Group submitted invoices, totaling One Hundred Fifty-Six Thousand, Four Hundred Forty-Nine Dollars and Ninety-Cents (\$156,449.90) for services rendered under an earlier contract or contract extension with the City, prior to June 3, 2016 (for Temporary Personnel Non-Professional Services) and prior to March 4, 2016 (for Temporary Professional Personnel Services); and

**WHEREAS**, payment of the One Hundred Fifty-Six Thousand, Four Hundred Forty-Nine Dollars and Ninety-Cents (\$156,449.90) is being processed under Delta-T’s contract or contract extension with the City and is not included as part of the Settlement Sum and for which Delta-T will receive a separate payment (“Contract Payment”); 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 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 authorizes the payment of a check made payable to Delta-T Group North Jersey, Inc., in the amount of One Million, Six Hundred Sixty Thousand, Three Hundred Sixty-Two Dollars and Eighty-Seven Cents (\$1,660,362.87) (hereinafter, the "Settlement Sum") as payment for the Temporary Professional Personnel Services and Temporary Personnel Non-Professional Services rendered, and the benefit received by the City from March 3, 2016 through September 18, 2016. The check shall be mailed to c/o Delta-T Group North Jersey, Inc., 950 Haverford Road, Suite 200, Bryn Mawr, Pennsylvania 19010, 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. The City shall pay Delta-T Group North Jersey, Inc., an additional amount for the services performed from September 19, 2016 through September 30, 2016 an amount not to exceed Two Hundred Twenty-Five Thousand, Three Hundred Eighty-Four Dollars and Sixty-Four (\$225,384.64) within 30 days of the City's receipt of the invoices for these services ("Final Payment"). This Final Payment shall be paid immediately upon receipt of all necessary documents required by the Finance Director to process payment.
4. In exchange for the execution by Delta-T Group North Jersey, Inc. of the Settlement Agreement and Release, acceptable in 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 of the City of Newark is hereby authorized to issue the check made payable to Delta-T Group North Jersey, Inc.
5. 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 Counsel and to eliminate all risks and future litigation costs.
6. The 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 Corporation Counsel shall file a fully executed copy of the Settlement Agreement and Release in the Office of the City Clerk by Corporation Counsel.

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

### **STATEMENT**

This resolution authorizes the Corporation Counsel to resolve claims for outstanding invoices from Delta-T Group North Jersey, Inc., One Woodbridge Center, Suite 512, Woodbridge, New Jersey 07095 without the need and expense of civil litigation. This Resolution and Settlement Agreement resolves all outstanding invoices for professional services rendered from March 4, 2016 through September 30, 2016 and non-professional services rendered from June 2016 through July 2016, for a total Settlement Sum of \$1,660,362.87. The City shall pay Delta-T Group North Jersey, Inc., a Final Payment for an amount not to exceed (\$225,384.64) for the services performed from September 19, 2016 through September 30, 2016. In return, Delta-T Group agrees to waive all claims against the City including attorneys' fees.