



Legislation Details (With Text)

File #: 14-2114 **Version:** 1 **Name:** Settlement Sharpened Image Inc

Type: Resolution **Status:** Filed

File created: 12/9/2014 **In control:** Law

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Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Demand for Payment in lieu of Litigation
Docket No.: None
Claimant: Sharpened Image, INC.
Claimant's Attorney: None
Attorney's Address: 2004 Morris Avenue, Union, New Jersey 07083
Settlement Amount: \$43,499.32
Funding Source: Administration Budget
Additional Comments:
Invitation: Corporation Counsel, December 16, 2014

Sponsors: Council of the Whole

Indexes:

Code sections:

| Date | Ver. | Action By | Action | Result |
|------------|------|-------------------|--------|--------|
| 12/17/2014 | 1 | Municipal Council | Adopt | Pass |

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WHEREAS, the Department of Administration was in need of personnel to operate the 411 Call Center maintained by the City of Newark; and

WHEREAS, by Resolution 7R1-a March 25, 2014, the Municipal Council awarded and ratified an emergency contract to Sharpened Image, INC., (hereinafter "Sharpened Image"), 2004 Morris Avenue, Union, New Jersey 07083, for the period of October 1, 2013 through June 30, 2014 in an amount of \$90,000.00; and

WHEREAS, on February 18, 2014, the Purchasing Director advertised to solicit bids for Call Center Services Staffing for the 311 Call Center; and

WHEREAS, Sharpened Image was the lowest and responsible bidder of three bids received; and

WHEREAS, Sharpened Image continued to perform services through and beyond the termination of the emergency contract and in anticipation of being awarded a contract as a result of the bid solicitation; and

WHEREAS, the Assistant Business Administrator has confirmed that the City received the benefit of the services; and

WHEREAS, the Assistant Business Administrator has determined the Administration has decided not to award a contract for Call Center Services Staffing; and

WHEREAS, Sharpened Image has submitted invoices totaling \$43,499.32, for Call Center Services Staffing from invoices dated July 6, 2014 through November 2, 2014 (Demand for Payment and Invoices Attached); and

WHEREAS, the Acting Director of the Department of Finance has certified that there are adequate, appropriated monies available to pay the outstanding invoices and that the balance will be paid from the City of Newark Budget; and

WHEREAS, Sharpened Image has agreed to settle its demand in the amount of \$49,395.27 (which includes fees they state they have incurred) for the lump sum payment of \$43,499.32 in exchange for the execution of a Settlement Agreement and General Release as a full and complete settlement of all of Sharpened Image'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 based upon recommendations of counsel and to eliminate all risks and future litigation costs; and

WHEREAS, the City has determined that it is in the best interest of the taxpayers to avoid the cost, expense, delay and uncertainty of litigation, if this matter proceeded to 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 the Assistant Business Administrator to 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 Sharpened Image Inc., in the amount of \$43,499.32 (hereinafter, the "Settlement Sum"), which check shall be mailed to 2004 Morris Avenue, Union, New Jersey 07083, or wire transferred 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.

3. In exchange for Sharpened Image's execution 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 Acting Director of Finance of any and all other documents deemed necessary, the Acting Director of Finance of the City of Newark is hereby authorized to issue a check made payable to Sharpened Image Inc., 2004 Morris Avenue, Union, New Jersey 07083 or wire transfer the monies in accordance with accurate information provided by the vendor.
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 Acting Director of Finance, City of Newark, which states that there are available sufficient, legally appropriated funds in the amount of \$43,499.32, for the purposes set forth hereinabove. A copy of the Certifications 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, Sharpened Image Inc., 2004 Morris Avenue, Union, New Jersey 07083, for Call Center Services Staffing, for the payment of the lump sum of \$43,499.32, in exchange for the execution of a Settlement Agreement and Release.