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Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement
Docket No.: N/A
Claimant: Axion Worldwide LLC
Claimant's Attorney: Daniel Gammerman, Esq.
Attorney's Address: 6800 Jericho Turnpike, Suite 110W, Syosset, New York 11791
Settlement Amount: \$69,374.00
Funding Source: Emergency Shelter Grants ("ESG") \$20,855.00, and the Housing Opportunities for Persons with AIDS ("HOPWA") program \$48,519.00
Additional Comments:
Invitation: Corporation Counsel, March 17, 2015

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
3/18/2015	1	Municipal Council	Adopt	Pass

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WHEREAS, on September 17, 2013, the City of Newark (the "City") through its Purchasing Director advertised to solicit bids for Temporary Staffing for Accounting Personnel to provide to the City for the Department of Administration, Division of Partnerships & Grants Management ("PGM") and Department of Finance, Accounts and Control, usage as described in the attached bid proposal; and

WHEREAS, the Division of Central Purchasing solicited 12 prospective vendors from its established bid list; and

WHEREAS, on October 13, 2013, two bids were received in response to the advertisement; and

WHEREAS, the Purchasing Director concluded from review and evaluation that an award be made to Axion Worldwide LLC, 510 Thornall Street, Suite 110, Edison, New Jersey 08837, for the provision of Temporary Staffing for Accounting Personnel for the City, the lowest, responsive and responsible bidder; and

WHEREAS, Resolution 7R1-a, as adopted by the City Municipal Council at its Regular Meeting held June 5, 2014, authorized the execution of an open-ended contract by the Division of Central Purchasing with Axion Worldwide, LLC, at a reduced amount not to exceed **\$242,500.00** and for a shorter term to commence on September 1, 2014 and terminate on August 31, 2015; and

WHEREAS, Resolution 7R1-o, as adopted by the City Municipal Council at its Regular Meeting held December 3, 2014, authorized the rescission of Resolution 7R1-a June 5, 2014, in its entirety; and

WHEREAS, Axion Worldwide LLC continued to perform services through and beyond the rescission of Resolution 7R1-a June 5, 2014 in an effort to ensure staffing coverage; and

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

WHEREAS, a decision was made not to award a contract for Temporary Staffing for Accounting Personnel for the City; and

WHEREAS, Axion Worldwide LLC has submitted invoices totaling \$69,374.00, for Temporary Staffing for Accounting Personnel from invoices dated September 14, 2014 through December 14, 2014 (See Demand for Payment and Invoices Attached); and

WHEREAS, the primary function of PGM is to provide grant management functions to the City's Housing and Urban Development ("HUD") entitlement funding for the programs under the Community Development Block Grant ("CDBG"), Emergency Shelter Grants ("ESG"), and the Housing Opportunities for Persons with AIDS ("HOPWA") program; and

WHEREAS, the Director of the Office of Management and Budget, the Assistant Business Administrator and PGM have confirmed that there are adequate monies available in the 2014 HOPWA and ESG budgets to pay the outstanding invoices; and

WHEREAS, Axion Worldwide LLC has agreed to settle its demand in the amount of \$69,374.00 in exchange for the execution of a Settlement Agreement and General Release as a full and complete settlement of all of Axion Worldwide LLC'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 Acting Corporation Counsel is hereby authorized on behalf of the City 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 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, hereby authorizes the payment by check made payable to Axion Worldwide LLC, in the amount of \$69,374.00 (hereinafter, the "Settlement Sum"), which check shall be mailed to Axion Worldwide LLC, 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 Axion Worldwide LLC's execution of the Settlement Agreement and Release, acceptable in form to the Acting Corporation Counsel and after passage of this resolution and upon receipt by the Acting 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 Axion Worldwide LLC 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 \$69,374.00, 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 Acting 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 Acting 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, Axion Worldwide LLC, 510 Thornall Street, Suite 110, Edison, New Jersey 08837, for Temporary Staffing for Accounting Personnel, for the payment of the lump sum of \$69,374.00, in exchange for the execution of a Settlement Agreement and Release.