



Legislation Details (With Text)

File #: 19-0318 **Version:** 1 **Name:** Pre-Litigation Settlement (Millenium Tree Services)
Type: Resolution **Status:** Adopted
File created: 2/19/2019 **In control:** Law
On agenda: 3/20/2019 **Final action:** 3/20/2019

Title: 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:\$100,675.00
Funding Source: 2018 Budget/Department of Public Works, Division of Sanitation
Account Code Line: Insurance Fund
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 October 1, 2018 through October 31, 2018.
Invitation: Corporation Counsel

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
3/20/2019	1	Municipal Council	Adopt	Pass

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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; and

WHEREAS, Resolution 7R6-f(AS) adopted by the Newark Municipal Council at its March 27, 2018, Regular Meeting, approved a pre-suit settlement in the amount of Six Hundred Forty-One Thousand Five Hundred Dollars and Zero Cents (\$641,500.00), for services rendered from September 1, 2017 through November 30, 2017; and

WHEREAS, Millenium Tree Services and Landscape Design, Inc., has provided Tree Removal Services in October 2018, 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 November 30, 2018, Millenium Tree Services and Landscape Design, Inc., submitted invoices for tree removal services in the month of October 2018 and demanded payment in the amount of One Hundred Thousand Six-Hundred and Seventy-Five Dollars and Zero Cents (\$100,675.00); 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 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 Hundred Thousand Six-Hundred and Seventy-Five Dollars and Zero Cents (\$100,675.00) ("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 October 1, 2018 through October 31, 2018 an amount not to exceed One Hundred Thousand Six-Hundred Seventy-Five Dollars and Zero Cents (\$100,675.00) within ten (30) 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 and/or his designee, the 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 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 One Hundred Thousand Six-Hundred Seventy-Five Dollars and Zero Cents (\$100,675.00) ("Settlement Sum"), as payment for the Tree Removal Services rendered from October 1, 2018 through October 31, 2018. The check shall be mailed to c/o Millenium Tree Services and Landscape Design, Inc., 758 Degraw Avenue, Newark, New Jersey 07104, 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 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 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 Corporation Counsel and to eliminate all risks and future litigation costs.

5. Attached hereto is a Certification of Funds in the amount of One Hundred Thousand Six -Hundred Seventy-Five Dollars and Zero Cents (\$100,675.00), 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. 065; Div./Proj.: 0653; Account#: 71690; Budget: B2018.

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.

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 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 October 1, 2018 through October 31, 2018, for a total settlement sum of \$100,675.00. In return, Millenium Tree Services and Landscape Design, Inc. agrees to waive all claims against the City