# Legislation Details (With Text)

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| **File #:** | 19-0845 | **Version:** 1 | **Name:** | AHS Settlement Agreement and Mutual Release | |
| **Type:** | Resolution | | **Status:** | Adopted | |
| **File created:** | 5/13/2019 | | **In control:** | Law | |
| **On agenda:** | 5/15/2019 | | **Final action:** | 5/15/2019 | |
| **Title:** | Dept./ Agency: Law<br>Action: ( ) Ratifying (X) Authorizing ( ) Amending<br>Purpose: Settlement of Civil Litigation<br>Docket No.: ESX-L-002608-18<br>Claimant: Associated Humane Societies, Inc.<br>Claimant's Attorney: Robert A. Russotti, Esquire<br>Attorney's Address: 124 Evergreen Avenue, Newark, New Jersey 07114<br>Settlement Amount: $250,000.00<br>Funding Source: Insurance Trust Fund<br>Amount: $250,000.00<br>Additional Comments:<br>Settlement resolves pending litigation and outstanding issues concerning non-payment for services rendered from July 1, 2018 through November 8, 2018.<br>Invitation: Corporation Counsel (date to be entered by Clerk's Office) | | | | |
| **Sponsors:** | Council of the Whole | | | | |
| **Indexes:** | | | | | |
| **Code sections:** | | | | | |

| Date | Ver. | Action By | Action | Result |
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| 5/15/2019 | 1 | Municipal Council | Adopt | Pass |

**Dept./ Agency:** Law
**Action:** ( ) Ratifying (X) Authorizing ( ) Amending
**Purpose:** Settlement of Civil Litigation
**Docket No.:** ESX-L-002608-18
**Claimant:** Associated Humane Societies, Inc.
**Claimant's Attorney:** Robert A. Russotti, Esquire
**Attorney's Address:** 124 Evergreen Avenue, Newark, New Jersey 07114
**Settlement Amount:** $250,000.00
**Funding Source:** Insurance Trust Fund
**Amount:** $250,000.00
**Additional Comments:**
Settlement resolves pending litigation and outstanding issues concerning non-payment for services rendered from July 1, 2018 through November 8, 2018.
**Invitation:** Corporation Counsel (date to be entered by Clerk's Office)

**WHEREAS**, the Department of Health and Community Wellness entered into a contract with Associated Humane Societies, Inc. ("AHS"), pursuant to Resolution 7R2-an adopted May 20, 2015, to provide animal control services in the City of Newark, for the period February 1, 2015 through January 31, 2016 with an option to renew for four (4) additional one (1) year contracts for an amount not to exceed Six Hundred Seventy-Five Thousand Dollars and Zero Cents ($675,000.00) per year;

and

**WHEREAS**, the Department of Health and Community Wellness exercised the one-year option to renew for the periods February 1, 2016 through January 31, 2017, and February 1, 2017 through January 31, 2018, for an amount not to exceed Six Hundred Seventy-Five Thousand Dollars and Zero Cents ($675,000.00) per year; and

**WHEREAS**, the Department of Health and Community Wellness and AHS entered into monthly extensions for February 1, 2018 and March 1, 2018 while the parties were engaging in negotiations to decrease the cost for animal control services; and

**WHEREAS**, Emergency Contract E2018-18 was declared on September 18, 2018 for the period of April 1, 2018 through June 30, 2019, while the parties continued to engage in negotiations to decrease the cost of animal control services; and

**WHEREAS**, AHS continued to provide animal control services for the period of July 1, 2018 through November 8, 2018, services for which AHS has not been paid; and

**WHEREAS**, on or about April 16, 2018 after negotiations broke down, the City of Newark filed an Order to Show Cause and Verified Complaint in Superior Court, The City of Newark, New Jersey v. Associated Humane Societies, Inc. Docket No. ESX-L-002608-18, alleging, among other things, public nuisance and fraudulent and negligent misrepresentation; and

**WHEREAS**, in a good faith effort to resolve both the litigation and outstanding issues concerning non-payment, a settlement proposal was presented to resolve this litigation in its entirety by execution of a Settlement Agreement and Release and payment to AHS of the total amount of Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00) (“Settlement Sum”); and

**WHEREAS**, the Corporation Counsel based upon all facts and circumstances presented, deems it in the best interest of the City of Newark to resolve this matter by executing the Settlement Agreement and Release and payment of the proposed Settlement Sum.

**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 resolve litigation entitled The City of Newark, New Jersey v. Associated Humane Societies, Inc. Docket No. ESX-L-002608-18, by negotiating and executing a Settlement Agreement and Mutual Release, attached hereto.

2. Upon receipt by the Corporation Counsel of all documents deemed necessary, the Director of Finance is hereby authorized and directed to issue payment of the sum of Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00), which payment will be made payable to Associated Humane Societies, Inc., and which payment will be mailed to 124 Evergreen Avenue, Newark, New Jersey 07114, as consideration of and pursuant to the terms and conditions contained in the Settlement Agreement and Mutual Release annexed hereto.

3. In exchange for Associated Humane Societies, Inc.’s execution of the Settlement

Agreement and Mutual Release, acceptable in form to Corporation Counsel and after passage of this resolution and upon receipt by Corporation Counsel and the Director of Finance of any and all other documents deemed necessary, the Director of Finance is hereby authorized to issue a check made payable to “Associated Humane Societies, Inc.”

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 pf 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 City of Newark, Director of Finance, which states that there are available sufficient legally appropriated funds in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00), for the purposes set forth hereinabove.

6. The Corporation Counsel shall file this resolution, the fully executed Settlement Agreement and Mutual Release and a copy of the Certification of Funds in the Office of the City Clerk

7. This Resolution shall take effect immediately.

## STATEMENT

This resolution authorizes the Corporation Counsel, on behalf of the City of Newark, to resolve litigation entitled The City of Newark, New Jersey v. Associated Humane Societies, Inc. Docket No. ESX-L-002608-18 by entering into a Settlement Agreement and Mutual Release with Associated Humane Societies, Inc., 124 Evergreen Avenue, Newark, New Jersey 07114, which resolves the litigation and outstanding issues concerning non-payment for animal control services rendered for the period July 1, 2018 through November 8, 2018, in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents ($250,000.00), in exchange for the execution of a Settlement Agreement and Mutual Release which releases all claims against the Mayor, his agents and the City.



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