



Legislation Details (With Text)

File #: 20-0464 **Version:** 1 **Name:** Pre-Litigation Settlement (Brent Materials)
Type: Resolution **Status:** Adopted
File created: 3/25/2020 **In control:** Law
On agenda: 6/24/2020 **Final action:** 6/24/2020
Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement
Docket No.: N/A
Claimant: Brent Material Company, 325 Columbia Turnpike, Suite 308, Florham Park, New Jersey 07932
Claimant's Attorney: N/A
Attorney's Address: N/A
Settlement Amount: \$65,325.15
Funding Source: 2019 Budget/Department of Water and Sewer Utilities/Business Unit: NW037, Dept. ID 756, Div./Proj. 7562, Account Code 83730, Budget Ref: B2019
Additional Comments:
Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
6/24/2020	1	Municipal Council	Adopt	Pass

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WHEREAS, Brent Material Company, 325 Columbia Turnpike, Suite 308, Florham Park, New Jersey 07932, provides services as a stocking distributor for Construction materials for Water Works, Sewer Storm Drainage and Erosion Control System; and

WHEREAS, the City of Newark, Department of Water and Sewer Utilities immediately required materials to repair a water main in its distribution systems; and

WHEREAS, the City of Newark, Department of Water and Sewer Utilities, under the belief that its contract with Brent Material Company was still in place, ordered parts for the repair; and

WHEREAS, the contract had, in fact, already expired; and

WHEREAS, as requested, Brent Material Company provided the parts to the City of Newark's satisfaction; and

WHEREAS, the Department of Water and Sewer Utilities was unaware that this amount would exceed the annual allotment for this type of open market services for 2019; and

WHEREAS, Brent Material Company submitted invoices for the services rendered; and

WHEREAS, Brent Material Company is entitled to payment for rendering services but cannot be paid through the City's purchase order process as the Department of Water and Sewer Utilities has exceeded the 2019 open market allotment and

WHEREAS, on January 9, 2020, Brent Material issued a demand letter for payment of the following outstanding invoices: April 2, 2019, May 23, 2019 and July 11, 2019 totaling \$65,325.15 (Sixty Five Thousand Three Hundred Twenty-Five Dollars and Fifteen Cents); and

WHEREAS, the within Settlement Agreement and General Release neither admits nor should it be construed as an admission of liability or a violation of any law, statute or regulation or a breach of any duty by the City, its agents, officers and/or employees whatsoever or by Brent Material Company, or any of its agents, officers and/or employees whatsoever and is entered into in good faith based upon recommendations of counsel and to eliminate all risks and potential costs; and

WHEREAS, the Corporation Counsel agrees and the Parties seek to resolve this matter without the need for litigation by the execution of the attached Settlement Agreement and General Release and payment to Brent Material Company of \$65,325.15 (Sixty Five Thousand Three Hundred Twenty-Five Dollars and Fifteen Cents)("Settlement Sum").

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 are hereby authorized on behalf of the City of Newark to execute and accept the terms of the Settlement Agreement and General Release ("Agreement") between the City and Brent Material Company, 325 Columbia Turnpike, Suite 308, Florham Park, New Jersey 07932.
2. Pursuant to the Agreement, City of Newark shall pay Brent Material Company, the Settlement Sum of \$65,325.15 (Sixty Five Thousand Three Hundred Twenty-Five Dollars and Fifteen Cents) to be paid, via check made payable to Brent Material Company, 325 Columbia Turnpike, Suite 308, Florham Park, New Jersey 07932.
3. Attached hereto is the Certification of the Comptroller of the City of Newark which states that there are available sufficient legally appropriated funds for the purpose set forth hereinabove and which state that the line appropriation of the official budget which shall be charged is Business Unit NW037, Dept. ID 756, Div./Proj. 7562, Account Code 83730, Budget Ref: B2019.

4. The Corporation Counsel shall file a copy of the fully executed Settlement Agreement and General Release, the Comptroller's certification and a copy of this Resolution in the Office of the City Clerk.

STATEMENT

This Resolution authorizes the Mayor, and/or his designee, the Corporation Counsel to avoid potential litigation and resolve this matter by executing this Settlement Agreement and General Release with Brent Material Company and paying the Settlement Sum of \$65,325.15, in return for a full release by Brent Material Company.