



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 19-2006, **Version:** 1

Dept./ Agency: Law

Action: () Ratifying (X) Authorizing () Amending

Purpose: Settlement of Civil Litigation - Pre-suit Settlement

Docket No.: N/A

Claimant: Best Technology Systems, Inc., 12024 S. Aero Drive, Plainfield, Illinois 60585

Claimant's Attorney: N/A

Attorney's Address: N/A

Settlement Amount: \$44,150.00

Funding Source: City of Newark Budget/Department of Public Safety, Division of Police

Account Code Line: Business Unit NW011- Dept.190 - Div.Proj.1902 - Account #72220 - Budget Ref: 2020

Additional Comments:

This resolution and settlement agreement resolves all outstanding invoices for Best Technology Systems, Inc., for maintenance services it provided, and equipment it purchased on October 22, 2018 through October 25, 2018.

WHEREAS, on April 8, 2014, the City of Newark through its Purchasing Director advertised to solicit bids for Maintenance and Repair of Police Equipment Traps and Target Systems and Bullet Trap Lamellas, which the contractor was to provide to the City of Newark, for the Department of Public Safety, Division of Police's, usage; and

WHEREAS, after soliciting seven (7) prospective vendors and receiving only one (1) responsive bid on April 24, 2014, the Purchasing Director recommended awarding a contract to Best Technology Systems, Inc., 12024 S. Aero Drive, Plainfield, Illinois 60585 (hereinafter "Vendor"); and

WHEREAS, by Resolution 7R1-g adopted November 17, 2014, the Newark Municipal Council authorized the award of a contract with Vendor in an amount not to exceed \$214,000.00, for a two-year term commencing March 23, 2015 and terminating on March 22, 2017, to provide Maintenance and Repair of Police Equipment Traps and Target Systems and Bullet Trap Lamellas; and

WHEREAS, on February 23, 2018, the City of Newark's Director of Public Safety declared an emergency for the goods and services provided by Vendor, citing the need to "...maintain the firearms Range at an operational standard, and for the safety of the Officers while maximizing the Officer's level of training"; and

WHEREAS, the City of Newark's Director of Purchasing, citing the Public Safety Director's notice, invoked an emergency declaration to award a \$135,600.00 contract to Vendor for the term beginning on February 27, 2018 through March 27, 2018; and

WHEREAS, to maintain the services provided by Vendor, the Purchasing Director caused to be advertised, a solicitation for Maintenance and Repair of Police Equipment Traps and Target

Systems and Bullet Trap Lamellas, to be returned to the City for evaluation and selection on August 16, 2018; and

WHEREAS, after reviewing the solicitations received, Vendor was the sole responsive and responsible respondent; and

WHEREAS, the City, for unforeseen circumstances, was unable to award the contract following the August 16, 2018 bid opening; and

WHEREAS, in reliance on the understanding that it was the responsive and responsible respondent following the August 16, 2018 bid opening, the Vendor continued to provide services on October 22, 2018 through October 25, 2018, and purchased equipment on October 22, 2018, for a total amount of Forty-Four Thousand One Hundred Fifty Dollars and Zero Cents (\$44,150.00), in an effort to ensure and help the City meet its obligation to maintain the Firearms Range at an operational standard; and

WHEREAS, on December 6, 2018, the Vendor submitted invoices BTL-18010-4 and BTL-18010-5; for the services it provided on October 22, 2018 through October 25, 2018 and the equipment it purchased on October 22, 2018; and

WHEREAS, the Department of Public Safety has confirmed that the City received the benefit of the invoiced services rendered on October 22, 2018 through October 25, 2018; and

WHEREAS, the Department of Public Safety has confirmed that there are adequate monies available in its Department's budget to pay the outstanding invoices to Vendor; and

WHEREAS, the Vendor 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 Forty-Four Thousand One Hundred Fifty Dollars and Zero Cents (\$44,150.00), in exchange for Vendor 's execution of this Settlement Agreement and General Release as a full and complete release of this Claim, including any claims for attorney's fees; and

WHEREAS, as part of this Settlement Agreement and General Release, the City agrees to pay Best Technology Systems, Inc., for Forty-Four Thousand One Hundred Fifty Dollars and Zero Cents (\$44,150.00); 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 Best Technology Systems, Inc., in the amount of Forty-Four Thousand One Hundred Fifty Dollars and Zero Cents (\$44,150.00), (hereinafter, the "Settlement Sum") as payment for providing Maintenance and Repair of Police Equipment Traps and Target Systems and Bullet Trap Lamellas. 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 Best Technology Systems, 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 Best Technology Systems, 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 from the City of Newark's Director of Finance in the amount of \$44,150.00 from the Department of Public Safety, Police Division Budget, under Business Unit NW011, Dept.t 190, Div./Proj. 1902, Account #72220, Budget Ref: 2020.

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 Forty-Four Thousand One Hundred Fifty Dollars and Zero Cents (\$44,150.00), without the need and expense of civil litigation. This Resolution and Settlement Agreement resolves all outstanding invoices for Best Technology Systems, Inc. In return Best Technology Systems, Inc. agrees to waive

all claims against the City including attorneys' fees.