

Resolution of the City of Jersey City, N.J.

City Clerk File No. Res. 14.478

Agenda No. 10.K

Approved: JUL 16 2014



TITLE: **RESOLUTION AUTHORIZING THE SETTLEMENT OF THE
SUIT OF GE CAPITAL INFORMATION TECHNOLOGY V. CITY OF
JERSEY CITY, ET AL.**

COUNCIL offered and moved adoption of the following Resolution:

NOW, THEREFORE BE IT RESOLVED, by the Municipal Council of the City of Jersey City that:

WHEREAS, GE Capital Information Technology Solutions having filed suit against the City of Jersey City, et al. in United States District Court, Civil Case No13-cv-03041-SRC-CLW; and

WHEREAS, Synnex Corporation, having filed a counterclaim against the City of Jersey City in the United States District Court, Civil Case No13-cv-03041-SRC-CLW; and

WHEREAS, the Complaint and counterclaims allege that the City of Jersey City breached the two contracts entered for reprographic equipment (copiers); and

WHEREAS, the Corporation Counsel has recommended a settlement in the amount of \$335,000 because of the litigation risk involved; and

WHEREAS, \$190,000 would be payable to plaintiff GE Capital Information Technology and \$145,000 would be payable to third-party defendant Synnex Corporation; and

WHEREAS, the parties have agreed to this settlement and will sign all required releases and stipulations of dismissal; and

WHEREAS, the necessary funds for this settlement are available in Account No.: 01-203-31-433-304

NOW THEREFORE, BE IT RESOLVED by the Municipal Council of the City of Jersey City that:

1. The Corporation Counsel be authorized to settle this lawsuit for \$335,000.00.
 - a. The Business Administrator is hereby authorized to issue a check in the amount of \$190,000.00 to plaintiff, GE Capital Information Technology.
 - b. The Business Administrator is hereby authorized to issue a check in the amount of \$145,000.00 to third-party defendant, Synnex Corporation.

I hereby certify that funds for this expenditure are available in Account 01-203-31-433-304.

Donna Mauer, Chief Financial Officer

ZE/meg
July 9, 2014

APPROVED:

APPROVED AS TO LEGAL FORM

APPROVED:

Corporation Counsel

Certification Required ☐

Not Required ☐

APPROVED 9-0

RECORD OF COUNCIL VOTE ON FINAL PASSAGE 7.16.14											
COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.	COUNCILPERSON	AYE	NAY	N.V.
GAJEWSKI	✓			YUN	✓			RIVERA	✓		
RAMCHAL	✓			OSBORNE	✓			WATTERMANN	✓		
BOGGIANO	✓			COLEMAN	✓			LAVARRO, PRES	✓		

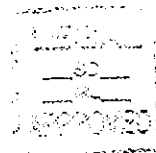
✓ Indicates Vote

N.V.-Not Voting (Abstain)

Adopted at a meeting of the Municipal Council of the City of Jersey City N.J.

Rolando R. Lavarro, Jr., President of Council

Robert Byrne, City Clerk



SETTLEMENT AGREEMENT

This MUTUAL RELEASE dated September 5, 2014 between the City of Jersey City ("Jersey City"), and Synnex Corporation ("Synnex"), (Jersey City and Synnex will be referred to collectively as the "Parties"), is to witness the following:

RECITALS

WHEREAS, the Parties entered into a series of agreements pertaining to copying equipment; and

WHEREAS, a dispute arose between the Parties as to the obligations of each party; and

WHEREAS, on May 10, 2013, GE Capital Information Technology Inc. filed a lawsuit against Jersey City in the United States District Court for the District of New Jersey bearing Civil Action No. 13-cv-3041 (the "Lawsuit") asserting claims against Jersey City to recover all sums due under a lease for copier equipment.

WHEREAS, on December 4, 2013 Jersey City filed a third-party complaint in the Lawsuit against Bernard Ozarowski, Penguin Imaging, Inc., Loyola Management, Inc., Loyola Management d/b/a Penguin Imaging, and Synnex Corporation; on March 26, 2014, Synnex Corporation filed an Answer to the Third-Party Complaint, Counterclaim against Jersey City, and Crossclaim against the other Third-Party Defendants; and Jersey City filed its Answer to the Counterclaim on April 16, 2014 (the foregoing claims shall be referred to collectively as the "Third-Party Claims").

WHEREAS, Jersey City claims it relinquished possession of some of the Copiers to a third party and is unable to locate those Copiers.

WHEREAS, on June 17, 2014, the parties participated in a settlement conference and agreed to the material terms of a settlement, subject to Jersey City obtaining approval for the

settlement from the City Council for the City of Jersey City (the "City Council").

WHEREAS, Jersey City obtained the City Council's approval for the material terms of the settlement on or about July 16, 2014.

WHEREAS, the parties desire to enter into this Agreement to resolve the asserted Claims and all other matters addressed herein.

This Mutual Release shall be binding upon and inure to the benefit of each of the Parties and their respective successors, assigns, heirs, executors, administrators and legal representatives.

MUTUAL RELEASE

1. **Release.** The Parties release and give up any and all claims and rights which they may have against one another. This releases all claims, including those of which the Parties are not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. The Parties specifically release all claims against Jersey City, Synnex, as well as all employees, agents, directors, officers and/or the like arising out of the lawsuit entitled, **GE Capital Information Technology Inc. v. City of Jersey City, et al.**, which suit was filed in the United States District Court for the District of New Jersey, under Docket No. 13-cv-3041. Jersey City expressly reserves any and all claims it may have against Bernard Ozarowski, Penguin Imaging, Inc., Loyola Management, Inc., and Loyola Management d/b/a Penguin Imaging.

2. **Payment.** In consideration for the making of this Release Synnex will receive payment from Jersey City in the amount of \$145,000. The above referenced payment will constitute the full consideration for making this release. Said payment is offered with the express understanding that Jersey City will see to the payment and discharge of any and all liens and/or subrogation claims including, but not limited to, those of physicians, other medical personnel, hospital, workers' compensation, Medicare, Medicaid, welfare or any other liens and/or claims of any kind or type whatsoever arising out of the damages claimed to have sustained in the matter which forms the basis of this lawsuit.

3. **Who is Bound.** The Parties are bound by this Release. Anyone who succeeds the Parties rights and responsibilities, such as heirs or the executors of any estates, are also bound. This Release is made for the Parties collective benefit, the benefit of the Parties' employees, agents, directors, officers and the like who succeed said Parties' rights and responsibilities.

4. No Admission of Liability. The payment by Jersey City as described above is in compromise of disputed claims and shall not be considered an admission of liability by any party.

5. Signatures. The Parties understand and agree to the terms of this Release. If this Release is made by a corporation its proper corporate officer has signed and its corporate seal is affixed.

SYNNEX CORPORATION

By: Daniel T. Brennan

Name: Daniel T. Brennan
Title: Vice President and Senior Counsel

09-10-14

THE CITY OF JERSEY CITY

By: [Signature]

Name:
T. ROBERT J. KAKOLESKI
BUSINESS ADMINISTRATOR
CITY OF JERSEY CITY