



Legislation Details (With Text)

File #: 18-1022 **Version:** 1 **Name:** Settlement Agreement (TDAF I)
Type: Resolution **Status:** Adopted
File created: 6/22/2018 **In control:** Law
On agenda: 6/26/2018 **Final action:** 6/26/2018

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-Litigation Settlement of Civil Litigation
Docket No.: N/A
Claimant: TDAF I Springfield Avenue Holding Urban Renewal Company, LLC, 799 Central Avenue, Suite 300, Highland Park, Illinois 60035
Claimant's Attorney: Chiesa, Shahinian & Giantomasi, P.C.
Attorney's Address: One Boland Drive, West Orange, New Jersey 07052
Settlement Amount: \$65,000.00
Funding Source: N/A
Additional Comments:
Settlement Sum to be paid to the City: \$50,000.00 to Newark Workforce Development Board and \$15,000.00 to the City's General Fund for a combined total settlement of \$65,000.00.
Invitation: Acting Corporation Counsel (date to be entered by Clerk's Office)

Sponsors: Gayle Chaneyfield Jenkins, Eddie Osborne

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
6/26/2018	1	Municipal Council	Adopt	Pass

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Invitation: Acting Corporation Counsel

WHEREAS, on January 8, 2014, the City of Newark ("City") entered into a Financial Agreement (the "Financial Agreement") with TDAF I Springfield Avenue Holding Urban Renewal Company, LLC (the "Owner" or "TDAF I") with respect to Blocks 236, 237, 238 and the vacated portions of Beacon and Rankin Streets, now known as Block 236, Lots 1.01, 1.02, 1.03, 1.04, 1.05, 1.06, 1.07 and 1.08, on the current official tax map of the City of Newark, Essex County, New Jersey

(the "Property") with portions of the Property subject to long-term tax abatement being Lots 1.03, 1.04 and 1.05 (the "Abated Parcels"); and

WHEREAS the Financial Agreement concerned the Owner's construction of a mixed-use development project on the Abated Parcels (the "Project"); and

WHEREAS Section 17.02 of the Financial Agreement obligated the Owner to employ good faith efforts to meet certain requirements to hire minority and women business enterprises as well as local labor and apprentices for construction of the Project, and further obligated the Owner to document its good faith efforts in meeting the stated hiring requirements (the "Approved Affirmative Action Plan"); and

WHEREAS, the Owner maintains that it used good faith efforts, to meet the Approved Affirmative Action Plan, but, notwithstanding its efforts, the Owner fell short of the required goals of hiring local labor and apprentices; and

WHEREAS, the Owner provided the Mayor's Office of Affirmative Action with proof of the alleged good faith efforts made by its contractors and consultants to comply with the Approved Affirmative Action Plan, including but not limited to, documents evidencing their request to several unions for local workers and apprentices for the Project; and

WHEREAS, despite the above, the Parties disagree on the issue of whether the Owner employed good faith efforts to meet all of the requirements of the Approved Affirmative Action Plan; and

WHEREAS, pursuant to the terms of the Financial Agreement, as agreed to by the Parties, if the Owner failed to comply with Section 17.02, and could be required to pay the City a monetary penalty; and

WHEREAS, Section 1, Subsection 1.1, of the Second Amendment to the Agreement for Sale of Land and Redevelopment dated April 10, 2014 (together with the Original Agreement for Sale of Land and Redevelopment dated April 6, 2005 and the First Amendment to the Agreement for Sale of Land and Redevelopment dated November 20, 2008, the "Redevelopment Agreement") directed that the Owner try to utilize a portion of the area for "bank uses"; and

WHEREAS, the Owner represents that it utilized its best efforts to attract a banking operation to utilize the space apportioned for the same, to no avail; and

WHEREAS, in order to resolve this issue, the City agrees to accept, the Owner's representation of utilizing its best efforts, and further agrees to waive its right to enforce the development of the apportioned space for banking purposes; and

WHEREAS, the City 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, in order to avoid the need and expense of litigation, the Parties and the Acting Corporation Counsel wish to amicably resolve this matter in accordance with the terms and conditions of a Settlement Agreement and General Release ("Settlement Agreement" or "Agreement"), in return and exchange for the mutual consideration set forth herein and payment to the City of Newark Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00) ("Settlement Sum");

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, its agents, officers and/or employees whatsoever and is entered into to resolve this matter and prevent the incurring of additional costs and fees.

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 Acting 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 Acting 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. Within ten (10) days of the full execution of this Settlement Agreement and its approval by the Newark Municipal Council, shall pay the following amounts for a total sum of Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00) ("Settlement Sum"). TDAF I shall pay the Settlement Sum by two checks totaling Sixty-Five Thousand Dollars and Zero Cents (\$65,000.00) as follows: (1) Fifty Thousand Dollars and Zero Cents (\$50,000.00) check made payable to the Newark Workforce Development Board, which check shall be submitted to the attention of Amina Bey, Executive Director, 990 Broad Street, 2nd Floor, Newark, New Jersey 07102; and (2) Fifteen Thousand Dollars and Zero Cents (\$15,000.00) check made payable to the City of Newark.
3. 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, its agents, officers and/or employees whatsoever and is entered into based upon recommendations of the Acting Corporation Counsel and to eliminate all risks and future litigation costs.
4. The Acting Corporation Counsel shall file a fully executed copy of the Settlement Agreement and General Release in the Office of the City Clerk.
5. This Resolution shall be effective upon adoption in accordance with applicable State law.

STATEMENT

This resolution hereby authorizes the Acting Corporation Counsel, on behalf of the City of Newark, to enter into a Settlement Agreement and Release to resolve, without the need for litigation, the matter involving TDAF I Springfield Avenue Holding Urban Renewal Company, LLC, wherein the City will receive a combined total settlement of \$65,000.00, in exchange for the City's full dismissal and release of any and all claims pertaining to TDAF I's compliance with the Approved Affirmative Action Plan and the City agreeing to waive its right to enforce the development of the apportioned space for banking purposes.