



Legislation Details (With Text)

File #: 19-1383 **Version:** 1 **Name:** First Amendment to El Sid Redevelopment Agreement

Type: Resolution **Status:** Adopted

File created: 8/28/2019 **In control:** Economic and Housing Development

On agenda: 10/2/2019 **Final action:** 10/2/2019

Title: Dept/ Agency: Economic and Housing Development
 Action: () Ratifying (X) Authorizing () Amending
 Type of Service: Private Sale/Redevelopment
 Purpose: To authorize the execution of a First Amendment to the Redevelopment Agreement.
 Entity Name: El Sid Properties, LLC
 Entity Address: 500 Avenue P, Newark, New Jersey 07105-4802
 Sale Amount: \$4,450,000.00
 Cost Basis: () PSF (X) Negotiated () N/A () Other:
 Assessed Amount:
 Appraised Amount:
 Contract Period: Construction to commence no later than two (2) years from the Amended Effective Date and completed within twelve (12) months thereafter
 Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS
 () Fair & Open () No Reportable Contributions () RFP () RFQ
 (X) Private Sale () Grant () Sub-recipient () n/a
 (Address/Block/Lot/Ward)
 704-738 Doremus Avenue/Block 5074/Lot 1/East Ward
 Additional Information:

Sponsors: Augusto Amador, Carlos M. Gonzalez

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
10/2/2019	1	Municipal Council	Adopt	Pass

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Additional Information:

WHEREAS, on June 15, 2005, the Municipal Council of the City of Newark adopted Resolution 7Rdo(AS), designating the entirety of the City as “an area in need of rehabilitation” as defined by the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, following the “area in need of rehabilitation” designation, the Municipal Council adopted the East Ward Redevelopment Plan (the “Redevelopment Plan”) that includes within it the City-owned property, together with all buildings, structures and improvements thereon, located at 704 -738 Doremus Avenue, Block 5074, Lot 1, more commonly known as the “Central Steel Drum Site” or “Central Steel Site” (the “Property”); and

WHEREAS, the City of Newark (the “City”) and Doremus Newark II, LLC (“Doremus II”) executed a Redevelopment Agreement providing for the conveyance, remediation and redevelopment of the Property, as authorized by Resolution 7R3-a(S) adopted by the Municipal Council of the City on August 17, 2010 (the “Original Redevelopment Agreement”); and

WHEREAS, the original Project set forth in the Original Redevelopment Agreement to be undertaken by Doremus II included the acquisition and redevelopment of the Central Steel Site and the redevelopment of the adjacent property owned by Doremus II at Block 5074, Lots 5, 9, and 9.01 located on the Tax Maps of the City of Newark (more commonly known as the “Motiva Site”); and

WHEREAS, the purpose of this resolution is to authorize the execution of a First Amendment to the Original Redevelopment Agreement (First Amendment), attached hereto as **Attachment A**; and

WHEREAS, Doremus II, on August 17, 2010, was comprised only of Doremus Newark, LLC (“Doremus”), and El Sid was a 50% member of Doremus; and

WHEREAS, the original Project, as set forth in the Original Redevelopment Agreement, comprised a 200,000 sq. ft. industrial facility capable of generating 200 full time jobs (the “Facility”) and a new 2.85 acre Gun Range to be utilized by the City for 99 years at \$1/year; and

WHEREAS, since the Effective Date of the Agreement, on or about December 2013, certain litigation commenced between the Doremus entities and their members, which the City is advised resulted in a Confidential Settlement Agreement and Release (the “Settlement Agreement”) dated on or about October 20, 2016; and

WHEREAS, the City is further advised that pursuant to the Settlement Agreement, the Motiva Site is now owned entirely by Doremus, which is owned 100% by Equity Industrial Partners (“EIP”), and Doremus assigned and transferred 100% of its interest in Doremus II to El Sid, which resulted in El Sid owning 100% of the interest in Doremus II (the “Transfer”); and

WHEREAS, pursuant to a letter from the City dated October 18, 2016, attached hereto as **Attachment B**, *inter alia*, the Transfer was informally approved; and

WHEREAS, pursuant to a separate lease dating back to 1993, the City of Newark Police Department Firing Range (the “Gun Range”), now the Department of Public Safety, Police Division,

has been and is located on a portion of the Motiva Site, currently owned solely by Doremus, and since June 15, 2009, Ironbound Intermodal Industries, Inc. has been the lease holder of the remainder of the Motiva Site; and

WHEREAS, the City and El Sid acknowledge the need to amend the Original Redevelopment Agreement (“First Amendment”) in order to, *inter alia*: (i) ratify the Transfer; (ii) redefine the Project; and (iii) establish the Redeveloper’s obligation to pay to the City the Redeveloper Contribution, which shall be made up of a \$75,000.00 lump sum payment to the Community and Economic Development Dedicated Trust Fund for use by the City in support of workforce development, including forklift/Commercial Driver’s License training programs, the Newark Prisoner Reentry Initiative, and/or other related community employment programs in the City’s discretion; and

WHEREAS, the terms of the First Amendment addresses Redeveloper’s obligation to construct, *inter alia*, a Firing Range with all new equipment upon the Central Steel Site promptly after the execution of the First Amendment so as to avoid eviction by the current owner of the Motiva Site, which currently houses the City’s Gun Range; and

WHEREAS, the Amendment further provides that upon construction of the Firing Range and possession by the City’s Department of Public Safety, Police Division, the City shall not pay rent for a period of three years (“Rent Abatement Period”); and

WHEREAS, upon the conclusion of the Rent Abatement Period, the City shall pay rent for the portion of the Property occupied by the Firing Range at a rate based on fair market value to be determined in a process outlined in the Letter of Intent attached to the First Amendment; and

WHEREAS, eviction of the City’s Gun Range shall not take place until such time that the separate Interim Indemnity Agreement, and any extension thereof, by and between the Parties and the owner of the Motiva Site expires; and

WHEREAS, on May 15, 2019, by Resolution 7R2-b(AS), the Municipal Council of the City of Newark authorized the execution of an Extension to the Interim Indemnity Agreement, which extends the term of the original Interim Indemnity Agreement to September 30, 2019; and

WHEREAS, City Council is considering a Second Extension to the Interim Indemnity Agreement, which will extend the terms of the original Interim Indemnity Agreement to October 31, 2019; and

WHEREAS, the City and the Redeveloper seek to enter into the First Amendment, which shall require the Closing of the Property to occur within sixty (60) days of the execution of the First Amendment, or within such timeframe as may be extended by the Acting Director of the Department of Economic and Housing Development, but which extensions shall not exceed sixty (60) days in order that the Property may be redeveloped in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., the East Ward Redevelopment Plan, and all applicable Federal, State and Local laws, rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Mayor and/or his designee, and the Acting Director of the Department of Economic

and Housing Development are hereby authorized to enter into and execute a First Amendment to the Redevelopment Agreement in substantially the form attached hereto as **Attachment A**, with El Sid Properties, LLC, 500 Avenue P, Newark, New Jersey 07105-4802.

2. All other terms and conditions of the Agreement not amended by the First Amendment are hereby ratified and confirmed and shall remain in full force and effect.

3. The Mayor and/or his designee, and the Acting Director of the Department of Economic and Housing Development are hereby authorized to effectuate certain business terms and conditions related to the Property and the Redevelopment Agreement, as amended, and may execute related documents which may be appropriate and necessary in order to effectuate the terms and conditions of the Redevelopment Agreement and the First Amendment, all in forms which shall be subject to the approval of the City of Newark's Corporation Counsel, including any Deed.

4. The Redeveloper shall have thirty (30) days from the date this resolution is certified by the Office of the City Clerk to execute the First Amendment and return same to the Department of Economic and Housing Development. Should the Redeveloper fail to execute and return the First Amendment within this thirty (30) day time period, the authorization provided by this resolution shall be null and void, unless the Acting Director of the Department of Economic and Housing Development agrees in writing to extend this thirty (30) day time period.

5. The Acting Director of the Department of Economic and Housing Development shall place a copy of the executed First Amendment and all such other executed documents and agreements authorized by this resolution on file in the Office of the City Clerk.

6. This resolution shall take effect immediately.

STATEMENT

This Resolution authorizes the Mayor and/or his designee, and the Acting Director of the Department of Economic and Housing Development to execute and enter into a First Amendment to the Redevelopment Agreement (the "First Amendment"), in substantially the form attached hereto, in order to, *inter alia*: (i) ratify the Transfer; (ii) redefine the Project; and (iii) establish the Redeveloper's obligation to pay to the City the Redeveloper Contribution, which shall be made up of a \$75,000.00 lump sum payment to the Economic and Housing Development Trust Fund for use by the City in support of workforce development and/or forklift/Commercial Driver's License training programs, including the Newark Prisoner Reentry Initiative and other related community employment programs, at the City's discretion. The First Amendment further provides for a Department of Public Safety, Police Division Firing Range to be constructed on the Property and for a three-year Rent Abatement Period. Upon conclusion of the Rent Abatement Period, the City is to pay rent based on fair market value to be determined in a separate process. The First Amendment also requires that the Closing occur within sixty (60) Days of the execution of the First Amendment, or within such timeframe as may be extended by the Director of Economic Housing and Development, but which extensions shall not exceed sixty (60) Days in order that the Property may be redeveloped in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., the East Ward Redevelopment Plan, and all applicable Federal, State and Local laws, rules and regulations.

<u>ADDRESS</u>	<u>WARD</u>	<u>BLOCK</u>	<u>LOT</u>	<u>SIZE</u>
704-738 Doremus Avenue	East	5074	1	8.495 ac.