



Legislation Details (With Text)

File #: 16-0360 **Version:** 1 **Name:** Essex Plaza Settlement Agreement
Type: Resolution **Status:** Filed
File created: 2/23/2016 **In control:** Law
On agenda: 3/2/2016 **Final action:** 3/2/2016
Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Potential Litigation
Docket No.: Pre-Suit
Claimant: City of Newark
Claimant's Attorney: Corporation Counsel
Attorney's Address: 920 Broad Street, Suite 316, Newark, New Jersey 07102
Settlement Amount: \$85,000.00
Funding Source: N/A
Additional Comments:
Essex Plaza Urban Renewal Company, LLC. will be making all payments as set forth in the terms of the Settlement Agreement.
Invitation: Corporation Counsel, March 1, 2016
Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
3/2/2016	1	Municipal Council	Adopt	Pass

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Invitation: Corporation Counsel, March 1, 2016

WHEREAS, on January 8, 2014, the Newark Municipal Council adopted Ordinance 6PSF-b granting a long term tax abatement to Essex Plaza Urban Renewal Company, LLC. ("Essex Plaza") for the rehabilitation of a senior citizen residential rental affordable housing project known as Essex Plaza (the "Project") located within the City of Newark at 1056-1070 Broad Street, 1048-1054 Broad Street, 15-25 Camp Street, 107 Orchard Street, 109 Orchard Street, 111 Orchard Street, 113 Orchard Street, 115 Orchard Street, 117 Orchard Street, 119-121 Orchard Street, 123-125 Orchard Street, 127 Orchard Street, 129-131 Orchard Street, 22-30 Pennington Street, 20 Pennington Street, 18

Pennington Street, and 115 Orchard Street (rear), Newark, New Jersey and identified on the official tax map of the City as Block 892, Lots 1, 16, 24, 26, 27, 28, 29, 30, 31, 33, 35, 37, 39, 40, 50, 43, 47, 48 and 53 (the "Property"), with such rehabilitation consisting of the conversion of twenty-three (23) housing units into handicap-adaptable units and the installation of a new boiler and new boiler controls, a generator, and solar, geothermal, and water conservation mechanisms, all as described more fully within the tax abatement application (the "Rehabilitation Project"); and

WHEREAS, prior to the execution of the Original Financial Agreement by the parties, Essex Plaza requested and through Ordinance 6PSF-c, the Municipal Council adopted on April 16, 2014, an Amended and Restated Financial Agreement, which was fully executed by the parties on June 6, 2014; and

WHEREAS, in connection with closing out the Rehabilitation Project with the City, Essex Plaza was unable to show proof of compliance with the terms of Section 5.05 (b)(i) and c(ii) of the Amended and Restated Financial Agreement related to Affirmative Action requirements and Local/Minority/Women Participation in Construction of the Rehabilitation Project; and

WHEREAS, pursuant to the terms of the Financial Agreement, as agreed to by the Parties, Essex Plaza's failure to comply with Section 5.05 (b)(i) and c(ii) would obligated Essex Plaza to pay the City a monetary penalty in an amount as calculated in the Financial Agreement; and

WHEREAS, to avoid any litigation the Mayor's Office of Affirmative Action and Essex Plaza negotiated a settlement whereby Essex Plaza agreed to pay Eighty Five Thousand Dollars and Zero Cents (\$85,000.00) as follows: (a) Eighty Thousand Dollars and Zero Cents (\$80,000.00) payable to the Newark Workforce Investment Board; and (b) Five Thousand Dollars and Zero Cents (\$5,000.00) payable to the City pursuant to the terms of the settlement agreement; and

WHEREAS, that given all of the facts and circumstances of the matter, Corporation Counsel recommends that it is in the best interest of the City to resolve the matter pursuant to the terms contained herein and to authorize the Corporation Counsel to effectuate the settlement of this matter.

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

1. The Mayor and the Corporation Counsel are authorized to negotiate and execute the Settlement Agreement and Release between the City of Newark and Essex Plaza Urban Renewal Company, LLC ("Essex Plaza") for settlement of claims that Essex Plaza could not provide proof of compliance with the terms of Section 5.05 (b)(i) and c(ii) of its Amended and Restated Financial Agreement with the City.

2. The Mayor and the Corporation Counsel are authorized to obtain and execute any other documents sufficient in form and content to the Corporation Counsel and take whatever actions necessary to effectuate the terms of the within resolution and settlement of this matter pursuant to the terms contained in this Resolution and Settlement Agreement.

3. In exchange for the execution of the Settlement Agreement and Release, acceptable in 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, Essex Plaza shall pay Eighty Five Thousand Dollars and Zero Cents (\$85,000.00) as follows: (a)

Eighty Thousand Dollars and Zero Cents (\$80,000.00) payable to the Newark Workforce Investment Board, Attention Amina Bey, Executive Director, 990 Broad Street, 2nd Floor, Newark, New Jersey 07102; and (b) Five Thousand Dollars and Zero Cents (\$5,000.00) payable to the City, Attention Director of Finance, Danielle Smith, 828 Broad Street, 5th Floor, Newark, New Jersey 07102, pursuant to the terms of the settlement agreement.

4. The Director of Finance is hereby authorized to accept payments received as a result of the Settlement Agreement in accordance with the terms contained therein.

5. This resolution shall not require any expenditure of funds by the City of Newark.

6. A copy of the fully executed settlement agreement and any other documents authorized herein shall be filed in the City Clerk's Office by the Corporation Counsel.

STATEMENT

This resolution hereby authorizes the Mayor and the Corporation Counsel to enter into and execute a Settlement Agreement with Essex Plaza Urban Renewal Company, LLC., whereby Essex Plaza shall pay Eighty Five Thousand and Zero Cents (\$85,000.00) as follows: (a) Eighty Thousand Dollars and Zero Cents (\$80,000.00) payable to the Newark Workforce Investment Board, Attention Amina Bey, Executive Director, 990 Broad Street, 2nd Floor, Newark, New Jersey 07102; and (b) Five Thousand Dollars and Zero Cents (\$5,000.00) payable to the City of Newark, Attention Director of Finance, Danielle Smith, 828 Broad Street, 5th Floor, Newark, New Jersey 07102, for settlement of claims that it could not provide proof of compliance with the terms of Section 5.05 (b)(i) and c(ii) of its Amended and Restated Financial Agreement with the City.