



Legislation Details (With Text)

File #: 24-0088 **Version:** 1 **Name:** Civil Settlement - Seabra Brothers II
Type: Resolution **Status:** Adopted
File created: 1/18/2024 **In control:** Law
On agenda: 2/7/2024 **Final action:** 2/7/2024

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Pre-litigation (Condemnation) Settlement Agreement
Docket No.: Not Applicable
Claimant: Seabra Brothers II, 263 Lafayette Street, Suite 101, Newark, New Jersey 07105
Claimant's Attorney: Not Applicable
Attorney's Address: Not Applicable
Settlement Amount: \$1,950,800.00
Funding Source:
Additional Comments:
The acquisition cost of \$1,950,800.00 will ultimately be reimbursed by United States Army Corps of Engineers.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
2/7/2024	1	Municipal Council	Adopt	Pass

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WHEREAS, the City of Newark recognizes that the Passaic River shoreline existing within the City of Newark, County of Essex, State of New Jersey is subject to constant erosion and degradation, thereby destroying a valuable natural resource, and threatening the property of Grantor and the citizens of the State of New Jersey; and

WHEREAS, the City of Newark desires to participate with the New Jersey Department of Environmental Protection (the "NJDEP") and the United States Army Corps of Engineers (the "USACE") to construct the Joseph G. Minish Passaic River Waterfront Park and Historic Area, Newark, New Jersey, as defined in the May 25, 1999 Project Cooperation Agreement entered into by

and between the Department of the Army and the State of New Jersey (the “Project”); and

WHEREAS, construction of the Project includes bulkhead construction; bank stabilization; and periodic maintenance work to be performed by the NJDEP and the USACE in conjunction with park and pedestrian walkway construction to be subsequently performed by the City of Newark; and

WHEREAS, in order to accomplish part of the Project, the City of Newark needs to acquire a temporary work area easement in a privately owned parcel designated on the Official Tax Map of the City of Newark as Block 4, Lot 9; and

WHEREAS, in order to accomplish part of the Project, the City of Newark also needs to acquire a perpetual and permanent easement in a privately owned parcel designated on the Official Tax Map of the City of Newark as Block 4, Lot 9; and

WHEREAS, the USACE and the State of New Jersey will not participate in the Project unless the City of Newark acquires the temporary work area and permanent easements in this parcel as identified hereinabove which is necessary for the Project; and

WHEREAS, the City of Newark, desirous of cooperating in allowing the Project to be completed as the City of Newark and its residents will benefit from the successful implementation of the Project, by the adoption of Ordinance 6PSF-a adopted May 3, 2023, previously authorized the acquisition by the City of Newark of the temporary the work area and permanent easements in Block 4, Lot 9; and

WHEREAS, Integra Realty Resources has prepared an appraisal of the parcel designated as Block 4, Lot 9 for the City of Newark to support the acquisition of the temporary work area and permanent easement in this parcel for the sum of \$1,950,800; and

WHEREAS, pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq., and the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq., the City is authorized to acquire easement interests in property in furtherance of public projects, such as the Project; and

WHEREAS, Seabra Brothers II, as owner of the Block 4, Lot 9 parcel, has proposed and is willing to enter into a settlement to resolve the acquisition of the temporary work area and permanent easements in the Block 4, Lot 9 parcel by payment from the City of Newark to Seabra Brothers II in the total amount of One Million Nine Hundred Fifty Thousand Eight Hundred Dollars and Zero Cents (\$1,950,800.00), and execution of a Settlement Agreement and the documents memorializing the temporary work area and permanent easements; and

WHEREAS, based upon all facts and circumstances surrounding the matter, it has been determined that it is in the best interests of the City of Newark to resolve this matter by payment in the amount set forth above.

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

1. The Mayor and the Deputy Mayor/Director of the Department of Economic and Housing Development are each hereby authorized to on behalf of the City of Newark execute and accept the terms of the Settlement Agreement, the Deed of Temporary Work Area Easement and the Deed of

Easement Dedication and Perpetual Bank Protection Easement each attached hereto.

2. Upon receipt by the Corporation Counsel of the fully executed Settlement Agreement, Deed of Temporary Work Area Easement and Deed of Easement Dedication and Perpetual Bank Protection Easement, the Assistant Director of the Department of Finance is hereby authorized and directed to issue payment in the amount of One Million Nine Hundred Fifty Thousand Eight Hundred Dollars and Zero Cents (\$1,950,800.00) which payment will be made payable to Seabra Brothers II, 263 Lafayette Street, Suite 101, Newark, New Jersey 07105.

3. Annexed hereto is the Certification of Funds issued by the Assistant Director of the Department of Finance, City of Newark, which states that there are available sufficient legally-appropriate funds from _____, in the amount of One Million Nine Hundred Fifty Thousand Eight Hundred Dollars and Zero Cents (\$1,950,800.00) for the purpose set forth herein.

4. A copy of the Comptroller's Certification shall be filed in the Office of the City Clerk along with this Resolution by the Corporation Counsel.

5. The Corporation Counsel shall file a fully executed copy of the Settlement Agreement in the Office of the City Clerk.

6. This Resolution shall be effective upon adoption in accordance with applicable State Law

7. The Settlement Agreement 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.

STATEMENT

This Resolution authorizes the Mayor and Deputy Mayor/Director of the Department of Economic and Housing Development on behalf of the City of Newark to enter into and execute a Settlement Agreement and related Deed of Temporary Work Area Easement and the Deed of Easement Dedication and Perpetual Bank Protection Easement to settle the acquisition of a temporary work area easement and a perpetual easement in Block 4, Lot 9 as said acquisition was previously authorized by Ordinance 6PSF-a adopted May 3, 2023.