



Legislation Details (With Text)

File #: 17-1789 **Version:** 1 **Name:** RESOLUTION AUTHORIZING EXECUTION OF COMMUNITY BENEFITS AGREEMENT AND SETTLEMENT OF LITIGATION WITH OTG MANAGEMENT EWR, LLC

Type: Resolution **Status:** Adopted

File created: 10/8/2017 **In control:** Law

On agenda: 10/24/2017 **Final action:** 11/8/2017

Title: Dept/ Agency: Law
Action: () Ratifying (X) Authorizing () Amending
Purpose: Settlement of Civil Litigation
Docket No.: A-001556-16
Claimant: OTG Management EWR, LLC.
Claimant's Attorney: Lawrence H. Shapiro, Esq., Ansell Grimm & Aaron, P.C.
Attorney's Address: 1500 Lawrence Avenue, Ocean, New Jersey 07712
Settlement Amount: Special
Funding Source: N/A
Additional Comments:
Deferred 7R6-a (s/as) 102417
Deferred 7R6-a 110117

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/8/2017	1	Municipal Council	Adopt	Pass
11/1/2017	1	Municipal Council	Defer to a Special Meeting	Pass
10/24/2017	1	Municipal Council	Defer	Pass

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WHEREAS, the retail sale of alcoholic beverages at Newark Liberty International Airport has historically been licensed and regulated by the City of Newark; and

WHEREAS, in 2013, United Airlines entered into an agreement with OTG Management EWR, LLC, for the operation of the food and beverage concession at Terminal C of Newark Liberty International Airport, which agreement has since been approved by the Port Authority of New York and New Jersey; and

WHEREAS, OTG Management EWR, LLC, subsequently made an application to the City of Newark for approvals necessary to continue the historical practice of selling alcoholic beverages within Terminal C; and

WHEREAS, based upon a review of applicable law, OTG Management EWR, LLC, subsequently withdrew its application to the City of Newark and made a new application, in October 2014, for issuance of State licenses, or special concessionaire permits, for the sale of alcoholic beverages in the terminal; and

WHEREAS, by Order dated November 6, 2014, the Director of the State of New Jersey Division of Alcoholic Beverage Control reviewed the applicable law and assumed jurisdiction over the retail sale of alcoholic beverages at Terminal C of Newark Liberty International Airport; and

WHEREAS, the Director of the State of New Jersey Division of Alcoholic Beverage Control has since issued a series of Orders assuming regulatory jurisdiction over the airport as a public project, issuing OTG Management EWR, LLC, one or more State special concessionaire permits to engage in the retail sale of alcoholic beverages, and finding that pursuant to the ABC Act, the Division of Alcoholic Beverage Control is the appropriate licensing authority for the sale of alcoholic beverages at the airport; and

WHEREAS, on November 4, 2016, the Director of the State of New Jersey Division of Alcoholic Beverage Control issued a Final Order in this matter granting OTG Management EWR, LLC, special concessionaire permits at the airport; and

WHEREAS, the City thereafter filed an appeal from and challenged the Final Order in the Appellate Division of the Superior Court, in I/M/O Special Concessionaire Permit, OTG Management EWR, LLC, Docket No. A-1556-16; and

WHEREAS, the City subsequently entered into settlement negotiations with OTG Management EWR, LLC, regarding the subject matter of the litigation; and

WHEREAS, the parties have negotiated a Community Benefits Agreement, the purpose of which is to provide the framework for a coordinated effort between the City and OTG Management EWR, LLC, to promote the employment of more Newark residents by OTG Management EWR, LLC, to increase travel and tourism to the City of Newark, to promote investment in the City and to assist in providing outreach and services to the homeless; and

WHEREAS, in exchange for OTG Management EWR, LLC, participation in the foregoing initiative, the agreement further provides that the City will withdraw and discontinue the litigation; and

WHEREAS, the Director of the State of New Jersey Division of Alcoholic Beverage Control has also agreed to issue a letter ruling, confirming the City's continued right to be informed of, and comment upon, further licensing and enforcement activity at the airport; and

WHEREAS, after a review and analysis of the Community Benefits Agreement, it has been determined that this settlement is in the best interests of the City.

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

1. The Mayor of the City of Newark is hereby authorized to execute the Community Benefits Agreement in the form annexed hereto as Exhibit A.

2. The Acting Corporation Counsel is hereby authorized to execute the Stipulation of Dismissal annexed to the settlement agreement, after receipt from the parties of all documents deemed appropriate.

STATEMENT

This Resolution authorizes the Mayor to execute the annexed Community Benefits Agreement and for the Acting Corporation Counsel to execute the Stipulation of Dismissal with regard to the litigation captioned I/M/O Special Concessionaire Permit, OTG Management EWR, LLC, Superior Court of New Jersey, Appellate Division, Docket No. A-1556-16.