



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 15-1724, Version: 1

Dept/ Agency: Engineering

Action: () Ratifying (X) Authorizing () Amending

Type of Service: Accepting Funds

Purpose: Acceptance of funds directed to the City of Newark in Administrative Compliance Orders from the United States Environmental Protection Agency by three (3) Port Terminal Operators

Entity Name: United States Environmental Protection Agency, Region 2, Subjects of Administrative Compliance Orders:

1. APM Terminals North America, Inc. ("APM"), 1 5080 McLester Street, Elizabeth, New Jersey 07207
2. Maher Terminals LLC ("Maher Terminals"), 1210 Corbin Street, Elizabeth, New Jersey 07201 and
3. Port Newark Container Terminals LLC ("PNCT"), 241 Calcutta Street, 4th Floor, Newark, New Jersey 07114

Entity Address: Listed Above

Amount: \$200,000.00 in each of three Orders on Consent for a total of \$600,000.00

City Contribution: N/A

Other Funding Source/Amount: No cost to the City. All funds contributed by Port Terminal Operators.

Contract Period:

Additional Information:

City of Newark is not a party to or subject to the Administrative Compliance Orders. The City of Newark is named as a third-party beneficiary within the Orders for the purpose of implementing certain environmental projects.

WHEREAS, the United States Environmental Protection Agency (EPA) issued an Administrative Compliance Order on Consent ("Order on Consent") to APM Terminals North America, Inc. ("APM"), 5080 McLester Street, Elizabeth, New Jersey 07207, Maher Terminals LLC ("Maher Terminals"), 1210 Corbin Street, Elizabeth, New Jersey 07201, and Port Newark Container Terminals LLC ("PNCT"), 241 Calcutta Street, 4th Floor, Newark, New Jersey 07114 (collectively "the Respondents"), pursuant to 42 U.S.C. § 7413(a)(1), Section 113(a)(1) of the Clean Air Act (the "Act" or "CAA"), 42 U.S.C. § 7401 *et seq.* and identifies violations of New Jersey Administrative Code 7:27-14.3(a), which is part of the federally enforceable CAA state implementation plan for the State of New Jersey; and

WHEREAS, the violations involve causing, allowing and/or permitting the idling of diesel-powered trucks for more than three minutes at a time at the Port Newark Elizabeth-Port Authority Marine Terminal; and

WHEREAS, the City of Newark was not a party to and is not subject to any of the three Orders of Consent; and

WHEREAS, each of the three Orders of Consent, duly executed by the EPA and the Respondents contains a provision that names the City of Newark as a third-party beneficiary, stating in Section D, paragraph 31: “Respondent will contribute \$200,000.00 to the City of Newark, New Jersey for Newark Greenstreets Projects”; and

WHEREAS, the Orders of Consent include specific language directing the funds sent to the City of Newark to be used “to remove concrete and introduce green spaces through a community-driven design process in order to manage stormwater volume, filter stormwater pollutants from waterways, and cool and beautify neighborhoods” through the collaboration of multiple City agencies and the stakeholder group Newark DIG; and

WHEREAS, the Orders of Consent further specify that Newark Greenstreets Projects are to be located “in areas of Newark that are most impacted by air emissions associated with activities at the Port Newark-Port Authority Marine Terminal” including projects that include vegetative barriers; plantings; replacement of impervious surfaces with pervious ones; and bioswales; and

WHEREAS, the Orders of Consent state that the Two Hundred Thousand Dollars and No Cents (\$200,000.00) contributed by each of the three Respondents “shall be used solely for such projects, and shall not be used for any other purpose”; and

WHEREAS, in compliance with the Orders of Consent, each of the three Respondents has transmitted a check for \$200,000.00 to the City of Newark for a total sum of \$600,000.00.

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 Director of Engineering, on behalf of the City of Newark, are hereby authorized to accept funding in a total amount of \$600,000.00 from the following sources in the following amounts:
 - APM Terminals North America, Inc. (“APM”) located at 5080 McLester Street, Elizabeth, New Jersey 07207 - Two Hundred Thousand Dollars and No Cents (\$200,000.00);
 - Maher Terminals LLC (“Maher Terminals”) located at 1210 Corbin Street, Elizabeth, New Jersey 07201 - Two Hundred Thousand Dollars and No Cents (\$200,000.00);
 - Port Newark Container Terminals LLC (“PNCT”) located at 241 Calcutta Street, 4th Floor, Newark, New Jersey 07114 - Two Hundred Thousand Dollars and No Cents (\$200,000.00);
2. The Mayor and/or his designee, the Director of Engineering are hereby authorized and directed to utilize the funds for only the above-referenced purposes as set forth in the Orders of Consent.
3. The Director of Finance shall deposit these funds into a trust account to be created through a Dedication by Rider and approved by the Municipal Council and the State of New Jersey,

Director of the Division of Local Government Services, Department of Community Affairs, pursuant to N.J.S.A. 40A:4-39.

4. The Director of the Department of Engineering shall file copies of the Orders of Consent in the Office of the City Clerk by the Department of Engineering.

STATEMENT

This resolution authorizes the Mayor and/or his designee, the Director of the Department of Engineering, to accept funds in the total amount of Six Hundred Thousand Dollars and No Cents (\$600,000.00), comprised of Two Hundred Thousand Dollars and No Cents (\$200,000.00) each from Port Terminal Operators APM Terminals North America, Inc., Maher Terminals LLC, and Port Newark Container Terminals LLC. No municipal funds are required.