



Legislation Text

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ORDINANCE AUTHORIZING ACQUISITION OF EASEMENT RIGHTS IN PROPERTY LOCATED AT 103-109 RIVERSIDE AVENUE AND IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY AS BLOCK 725, LOTS 1.01 AND 1.02 BY NEGOTIATED PURCHASE OR EMINENT DOMAIN IN ORDER TO INSTALL AND THEREAFTER MAINTAIN AND OPERATE COMBINED SEWER OVERFLOW IMPROVEMENTS AND RESCINDING PRIOR AUTHORIZATION TO ACQUIRE SUCH PROPERTY RIGHTS GRANTED UNDER ORDINANCE 6PSF-dD050113

WHEREAS, the City of Newark owns and operates a combined sewer system, which collects both domestic wastewater and stormwater runoff; and

WHEREAS, there are numerous combined sewer overflow (“CSO”) points located throughout the City, which service areas and convey excess wet weather flow from the combined sewer overflow system to the waters of the State; and

WHEREAS, the City’s combined sewer system and CSO points are located, in part, on or under privately-owned land; and

WHEREAS, in accordance with the New Jersey Pollutant Discharge Elimination System program, and pursuant to an Administrative Consent Order between the New Jersey Department of Environmental Protection (the “DEP”) and the City, the DEP has mandated that the City construct certain improvements to its combined sewer system and CSO points (the “CSO Improvements” or the “CSO Improvements Project”) within a prescribed timeframe in order to limit or eliminate the discharge of certain substances into the State’s waters during times of excess storm water runoff; and

WHEREAS, the City’s Department of Water and Sewer Utilities originally designed the CSO Improvements Project, so that the CSO Improvements would be located above-ground and, in so doing, identified the property rights that had to be acquired by the City in order to construct the above-ground project; and

WHEREAS, on January 19, 2005, the Municipal Council of the City of Newark (the “Municipal Council”) adopted Ordinance 6S&FG (a copy of which is attached hereto) authorizing the Director of the Department of Economic and Housing Development to acquire the property rights necessary for the above-ground CSO Improvements Project, as identified within the Ordinance, by negotiated purchase or eminent domain; and

WHEREAS, the property located at 103-109 Riverside Avenue and identified on the Official Tax Map of the City as Block 725, Lots 1.01 and 1.02 (the “Property”) was one of the properties included within Ordinance 6S&FG 011905; and

WHEREAS, rather than proceeding with the above-ground CSO Improvements Project, in response to concerns raised by the owners of the properties impacted by the project, the Department of Water and Sewer Utilities decided to redesign the project so that the CSO Improvements would be located underground, thereby reducing the impact of these improvements upon the use of the properties by the property owners, reducing the scope of the property rights that the City needs to acquire in each of these properties, and reducing in most instances the cost to acquire these property rights; and

WHEREAS, as a result of the redesign of the CSO Improvements Project, the rights that the City needs to acquire in the Property have changed from those originally identified within Ordinance 6S&FG 011905; and

WHEREAS, the easement rights that the City has now determined that it must acquire in the Property in order to construct the CSO Improvements Project (as revised) are set forth within the property description and map that are appended hereto as Exhibit A (the "Easement Rights"); and

WHEREAS, the City attempted to negotiate a voluntary conveyance of the Easement Rights with the owner of the Property and obtained authorization from the Municipal Council to enter into an Easement Agreement with that owner through Ordinance 6PSF-D050113 (a copy of which is attached hereto); and

WHEREAS, subsequently, however, it became apparent that the owner was unwilling and/or unable to sign the Easement Agreement and to voluntarily convey these Easement Rights to the City; and

WHEREAS, the City therefore arranged for the appraisal of these Easement Rights; and

WHEREAS, the City has obtained an appraisal from Hendricks Appraisal Company, LLC, which concludes that the value of the Easement Rights being acquired by the City in the Property is Four Thousand Three Hundred Dollars and Zero Cents (\$4,300.00); and

WHEREAS, the City wishes to authorize the Acting Director of the Department of Water and Sewer Utilities to acquire these Easement Rights by negotiated purchase in an amount not to exceed Four Thousand Three Hundred Dollars and Zero Cents (\$4,300.00) and, if negotiated purchase cannot be effectuated, to initiate an eminent domain action to acquire the property rights identified herein; and

WHEREAS, the City also wishes to rescind the authorization to acquire these Easement Rights provided under Ordinance 6S&FG 011905 as such authorization is being superseded by the authorization provided through the adoption of this Ordinance.

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

1. The Acting Director of the Department of Water and Sewer Utilities is hereby authorized to acquire the property rights identified within Exhibit A (the "Easement Rights") to the property located at 103-109 Riverside Avenue and identified on the Official Tax Map of the City as Block 725, Lots 1.01 and 1.02 (the "Property") in an amount not to exceed Four Thousand, Three Hundred

Dollars and Zero Cents (\$4,300.00) and, if negotiated purchase cannot be effectuated, to initiate an eminent domain action to acquire the property rights identified herein.

2. The Acting Director of the Department of Water and Sewer Utilities is hereby authorized to execute any and all legal documents necessary to effectuate the acquisition of the Easement Rights in the Property, including, but not limited to easement agreements and deeds, as well as all documents required in order to initiate and prosecute an eminent domain proceeding and to take title to the Easement Rights through eminent domain.

3. A Certification of Funds is attached hereto indicating that there are sufficient funds available in the amount of Four Thousand, Three Hundred Dollars and Zero Cents (\$4,300.00) available in Business Unit NW044, Depart. ID G95, Div./Proj S65Q0, Account 94710, Budget Year B2001, to acquire the Easement Rights in the Property identified herein.

4. When property rights are acquired hereunder, a copy of the applicable conveyance document or Declaration of Taking will be filed by the Acting Director of the Department of Water and Sewer Utilities with the Office of the City Clerk.

5. The authorization to acquire the Easement Rights set forth within Ordinance 6PSF-D050113 is hereby rescinded and the funds certified under Ordinance 6PSF-D050113 are hereby released from such restriction.

6. This Ordinance shall take effect in accordance with the laws of the State of New Jersey after final passage and publication.

STATEMENT:

This Ordinance authorizes the Acting Director of the Department of Water and Sewer Utilities to acquire the property rights described within Exhibit A to the Ordinance in the Property located at 103-109 Riverside Avenue and identified on the Official Tax Map of the City as Block 725, Lots 1.01 and 1.02 (the "Property") in an amount not to exceed Four Thousand, Three Hundred Dollars and Zero Cents (\$4,300.00) and, if negotiated purchase cannot be effectuated, to initiate an eminent domain action to acquire the property rights identified herein. This Ordinance also rescinds the authorization to acquire these property rights set forth within Ordinance 6PSF-D050113 and releases the funds certified and restricted thereunder.