



Legislation Text

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ORDINANCE OF THE CITY OF NEWARK AUTHORIZING THE ACQUISITION BY PURCHASE OR CONDEMNATION OF THE UTILITY EASEMENTS LOCATED ON BLOCK 5001, LOTS 42, 46, AND 50 (THE “EASEMENTS”), WHICH SERVE THE PROPERTY LOCATED AT 70 BLANCHARD STREET, BLOCK 5001, LOT 58, OWNED BY NORPAK CORPORATION, FOR THE PURPOSE OF REDEVELOPMENT IN ACCORDANCE WITH THE LOCAL REDEVELOPMENT AND HOUSING LAW, N.J.S.A. 40A:12A-1 ET SEQ.

Sponsors: Amador/ Gonzalez

WHEREAS, on March 15, 2006 the City of Newark (City), through the Municipal Council, by Resolution 7Rg, designated Morris Fairmount Associates, LLC (“Redeveloper”) as the redeveloper for Block 2438, Lots 74, 76, 78, 82, 84, 85, and 92 (the “Blanchard Street Redevelopment Area”) and authorized the City to enter into a Redevelopment Agreement (the “Redevelopment Agreement”) with the Redeveloper, which was fully executed by all of the parties on April 11, 2006; and

WHEREAS, on December 17, 2008, by Resolution 7R3-d, the Municipal Council authorized the Planning Board to undertake a preliminary investigation to determine whether Block 5001, Lots 93, 50, 50.01, 49, 48, 46, 42, and 40 and the Blanchard Street Redevelopment Area (collectively referred to as the “Study Area”) should be designated as in need of redevelopment; and

WHEREAS, on May 2, 2011, the City’s Central Planning Board adopted a resolution that recommended to the City’s Municipal Council the Designation of the Study Area as an area in need of redevelopment pursuant to the Local Redevelopment and Housing Law (“LRHL”), N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, by Resolution 7R3-b, adopted on August 3, 2011, the City’s Municipal Council determined that the Study Area qualified as an “area in need of redevelopment” under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, Section 8.1 of the Redevelopment Agreement provides, among other things, that the “Redeveloper shall be required to make good-faith efforts to acquire properties within the Project Area through private negotiations with the individual property owners. If the Redeveloper is unable to acquire the property(s) through private negotiations, the Redeveloper shall notify the City in writing” (hereinafter such notice will be referred to as a “Condemnation Notice”); and

WHEREAS, Section 8.1 of the Redevelopment Agreement also states that, upon receipt of a Condemnation Notice, “the City shall expeditiously commence the necessary actions to acquire said property(s) pursuant to Eminent Domain under State Law and this Agreement;” and

WHEREAS, Section 8.5 of the Redevelopment Agreement provides, among other things, that the “Redeveloper, as part of its obligations herein, shall be responsible to pay all reasonable costs and fees incurred by the City in acquiring properties in the Project Area through Eminent Domain,

including but not limited to: (a) Condemnation Award; (b) all cost and fees incurred, including the cost of professional fees, expert fees, inspections, appraisals, court deposits and the like; (c) all costs and fees for relocation assistance paid to the residents or businesses displaced by the Project in accordance with the WRAP"; and

WHEREAS, in accordance with Section 8.6 of the Redevelopment Agreement, the Redeveloper deposited an initial escrow ("Acquisition Escrow") of \$50,000.00 to pay for costs associated with implementing the Redevelopment Plan including cost of acquisition, appraisals, and professional fees and agreed to replenish the Acquisition Escrow to the full amount of \$50,000.00 if it was reduced to an amount of \$10,000.00 or less; and

WHEREAS, pursuant to the Redevelopment Agreement, the Redeveloper acquired, by private negotiations, the property located at 144-154 and 156-166 Blanchard Street, Newark, New Jersey, commonly known as Block 5001 Lots 42 and 46 on the Official Tax Map and Tax Duplicates of the City from its owner, Lennard & Associates (the "Lennard Property"), as well as the Property located at 38-202 Blanchard Street, formerly owned by the City of Newark, commonly known as Block 5001, Lot 50; and

WHEREAS, the Redeveloper engaged in efforts to acquire the easements on the Lennard Property and Lot 50 that presently serve the adjacent property owned by Norpak Corporation (which adjacent property is located at 70 Blanchard Street, Newark, New Jersey), including but not limited to the easements recorded at Deed Book X63-223 and Deed Book N107-227 (the "Easements"), and all rights and property interests attendant thereto; and

WHEREAS, Redeveloper has by written offer dated October 1, 2015, agreed to compensate Norpak for the loss of its current Easements by providing, as set forth more fully on the annexed site plans, new utility lines underneath its own property, and by paying, in perpetuity, the costs of maintaining said lines, and Norpak has refused said offer; and

WHEREAS, the Redeveloper notified the City in writing, by Condemnation Notice dated November 2, 2015 attached hereto as Exhibit A, to pursue acquisition of the Easements in accordance with the Redevelopment Agreement and the Redevelopment Plan; and

WHEREAS, Lasser Sussman Associates ("Sussman"), who was retained by the City's Legal Counsel as agent of the City, conducted an analysis of the impact on the adjacent property owned by Norpak as a result of the acquisition of the Easements and replacement of the utility lines as described in the letter sent by Sussman, and determined that the Owner will be adequately compensated by the addition of these new utility lines to replace the Easements as more fully set forth in the letter which is attached hereto as Exhibit B and made a part of this Ordinance ("Sussman Letter"); and

WHEREAS, in accordance with N.J.S.A. 40A:12-5(a) "any municipality, by ordinance, may provide for the acquisition of any real property, capital improvement, or personal property: (1) [b]y purchase, gift, devise, lease, exchange, condemnation or installment purchase agreement"; and

WHEREAS, the Municipal Council wishes to authorize the Mayor and/or the Deputy Mayor/Director of the Department of Economic and Housing Development to negotiate for the acquisition of the Easements for the amount of \$1.00 based on the analysis set forth in the Sussman

Letter, and if negotiated purchase cannot be effectuated, to initiate eminent domain actions to extinguish the Easements under the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq. and to thereafter prosecute such eminent domain actions to completion and to arrange for the City to satisfy any judgments entered in such eminent domain proceedings.

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

Section 1. The valuation of the Easements which serve the property located at 70 Blanchard Street, and impact on the adjacent property owned by Norpak set forth in the Sussman Letter prepared on behalf of the City is hereby accepted and approved in its entirety.

Section 2. The Redeveloper is not required to deposit the purchase amount with the City as the amount is de minimis.

Section 3. The Mayor and/or his designee, the Deputy Mayor/ Director of the Department of Economic and Housing Development, are hereby authorized to negotiate for the acquisition of the Easements by voluntary purchase and, if voluntary acquisition cannot be effectuated, to carry out the condemnation of the Easements for an amount not to exceed \$1.00 for the purpose of reversing conditions of deterioration within the Redevelopment Area and promoting the advancement of community interests in accordance with N.J.S.A. 40A:12A-1 et seq.

Section 4. The Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to execute any and all agreements and other legal documents necessary to accomplish the acquisition of the Easements, including but not limited to a written offer for the purchase of the aforementioned Easements, sale contracts and deeds for the sale of the Easements and Verified Complaints, Declarations of Taking, and any other necessary documents for eminent domain proceedings for the Easements in accordance with the Eminent Domain Act of 1971, N.J.S.A. 20:3-1 et seq.

Section 5. A copy of the Ordinance and any agreements authorized herein shall be placed on file with the City Clerk's Office by the Deputy Mayor/Director of the Department of Economic and Housing Development.

Section 6. If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provisions so adjudicated, and the remainder of the Ordinance shall be deemed valid and effective.

Section 7. This Ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This Ordinance authorizes the acquisition by purchase or condemnation of the utility easements located on the property at 144-154 and 156-166 Blanchard Street, Newark, New Jersey, commonly

known as Block 5001, Lots 42, 46, and Lot 50 on the Official Tax Map and Tax Duplicates of the City, which serve the adjacent property located at 70 Blanchard Street and owned by Norpak Corporation, in the amount not to exceed (\$1.00) one dollar.