



# City of Newark

City Hall  
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Newark, New Jersey 07102

## Legislation Details (With Text)

**File #:** 13-0506      **Version:** 1      **Name:** PASSAIC RIVER LITIGATION SETTLEMENT 2013  
**Type:** Resolution      **Status:** Filed  
**File created:** 3/12/2013      **In control:** Law  
**On agenda:** 3/20/2013      **Final action:** 3/20/2013

**Title:** Dept/ Agency: Law  
Action: ( ) Ratifying (X) Authorizing ( ) Amending  
Purpose: Settlement of Civil Litigation  
Docket No.: ESX-L-9868-05 (PASR)  
Claimant: New Jersey Department of Environmental Protection, et. al.  
Claimant's Attorney: New Jersey State Attorney General  
Attorney's Address: P.O. BOX 080, Trenton, New Jersey 08625  
Settlement Amount: \$95,000.00  
Funding Source: City of Newark/Insurance Fund  
Additional Comments: RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION ENTITLED THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, ET AL. V. OCCIDENTAL CHEMICAL CORPORATION, ET AL., DOCKET NO. ESX-L-9868-05 (PASR)  
Invitation: Corporation Counsel. March 19, 2013

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### Code sections:

Date	Ver.	Action By	Action	Result
3/20/2013	1	Municipal Council	Adopt	Pass

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**WHEREAS**, the City of Newark is a third party defendant in litigation entitled the New Jersey Department of Environmental Protection, et al. v. Occidental Chemical Corporation, et al., Docket No.ESX-L-9868-05(PASR) (the "Passaic River Litigation"); and

**WHEREAS**, the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Environmental Protection, and the Administrator of the New Jersey Spill Compensation Fund (collectively, "Plaintiffs"), have offered to settle directly with all Third Party Defendants, including the City of Newark; and

**WHEREAS**, on behalf of the City of Newark, Counsel executed a Confidentiality Agreement and Memorandum of Understanding with Plaintiffs which, among other things, allowed for settlement negotiations between the City of Newark and Plaintiffs and for the development of settlement documentation, provided that the negotiations and the documents generated during the course of those negotiations were to remain strictly confidential; and

**WHEREAS**, negotiations between Plaintiffs and Third Party Defendants, including the City of Newark, have resulted in the preparation of a proposed Consent Judgment and related settlement documentation; and

**WHEREAS**, the Municipal Council of City of Newark has reviewed with counsel the proposed Consent Judgment and related settlement documentation in Executive Session at the Newark Municipal Council Pre-Meeting of March 19, 2013; and

**WHEREAS**, the proposed Consent Judgment and related settlement documentation continue to remain strictly confidential in accordance with the Confidentiality Agreement and Memorandum of Understanding executed by counsel on behalf of the City of Newark until such time as they are published by Plaintiffs in accordance with the Consent Order on the Approval Process for the Proposed Consent Judgment entered by the Court on January 24, 2013 ("Consent Order") a copy of which is annexed hereto as Exhibit "A"; and

**WHEREAS**, the proposed Consent Judgment and related settlement documentation may be subject to change depending on the outcome of the approval process outlined in the Consent Order; and

**WHEREAS**, Municipal Council of the City of Newark desires to approve the proposed settlement in the amount of \$95,000.00 (Ninety-Five Thousand Dollars) as reflected in the proposed Consent Judgment and related settlement documentation and allow for the approval process to move forward in accordance with the Consent Order.

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

1. All of the foregoing “Whereas” clauses are incorporated by reference as if set forth at length herein.
2. The Newark Municipal Council hereby authorizes the settlement of the Passaic River Litigation in the amount of \$95,000.00 (Ninety-Five Thousand Dollars) substantially in accordance with the terms set forth in the proposed Consent Judgment and related settlement documentation reviewed in Executive Session at the Newark Municipal Council Pre-Meeting of March 19, 2013.
3. The Newark Municipal Council hereby authorizes the Office of Corporation Counsel and City of Newark’s counsel and all other appropriate City of Newark officials and personnel to prepare and execute any and all related documents and perform all tasks, including the payment of \$95,000.00 (Ninety-Five Thousand Dollars), which will effectuate the purposes of this Resolution.
4. The Newark Municipal Council hereby authorizes the Director of Finance to issue a check in the amount of \$95,000.00 (Ninety-Five Thousand Dollars) made payable to the Treasury, State of New Jersey and mailed to: Section Chief, Cost Recovery and Natural Resource Damages Section, Department of Law and Public Safety, Division of Law, Richard J Hughes Justice Complex, 25 Market Street, P. O. Box 093, Trenton, New

Jersey 08625-0093.

5. Annexed hereto is a Certification of Funds issued by the Director of Finance, City of Newark, which states that there are available, sufficient, legally appropriated funds from fund 025, agency 25T, organization 7T25 and object 96340 in the amount of \$95,000.00 (Ninety-Five Thousand Dollars) for the purpose set forth herein.
6. A copy of the Comptroller's Certification shall be filed in the Office of the City Clerk along with this resolution.
7. This Resolution shall take effect immediately and/or as required by law.

### **STATEMENT**

RESOLUTION AUTHORIZING SETTLEMENT OF LITIGATION ENTITLED THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, ET AL. V. OCCIDENTAL CHEMICAL CORPORATION, ET AL., DOCKET NO. ESX-L-9868-05 (PASR) in the amount of \$95,000.00 (Ninety-Five Thousand Dollars)