



Legislation Details (With Text)

File #: 18-1068 **Version:** 1 **Name:** White Chemical Interim Redevelopment Agreement (646 Frelinghuysen Avenue)
Type: Resolution **Status:** Held in Council
File created: 6/28/2018 **In control:** Economic and Housing Development
On agenda: 9/11/2018 **Final action:** 9/19/2018

Title: Dept/ Agency: Economic and Housing Development
Action: () Ratifying (X) Authorizing () Amending
Type of Service: Private Sale/Redevelopment
Purpose: Lease Property to Interim Redeveloper for use as a parking facility
Entity Name: 3J's Development Group, LLC
Entity Address: 500 Avenue P, Newark, New Jersey 07105
Sale Amount: \$12,000.00/month
Cost Basis: () \$ PSF (X) Negotiated () N/A () Other:
Assessed Amount: \$2,632,000.00
Appraised Amount: \$2,650,000.00
Contract Period: Effective Date of Interim Redevelopment Agreement through Closing or as otherwise provided in accordance with the terms of the Interim Redevelopment Agreement
Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS
() Fair & Open () No Reportable Contributions () RFP () RFQ
(X) Private Sale () Grant () Sub-recipient () n/a
List of Property:
(Address/Block/Lot/Ward)
646-696 Frelinghuysen Avenue Rear/Block 3782/Lot 109/South Ward
Additional Information:
This Interim Redevelopment Agreement is related to 7R2-c, adopted on April 4, 2018 (the original redevelopment agreement), and Legistar 18-1069 which allows for this Interim Redevelopment Agreement.
Deferred 7R2-e (s) 091118

Sponsors:

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
9/19/2018	1	Municipal Council	Returned to Administration	Pass
9/11/2018	1	Municipal Council	Defer	Pass

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WHEREAS, the purpose of this resolution is to approve the execution of an Interim Redevelopment Agreement which provides for the occupancy of the following City-owned property for a term:

<u>ADDRESS</u>	<u>WARD</u>	<u>BLOCK</u>	<u>LOT</u>	<u>SQ. FEET</u>
646-696 Frelinghuysen Ave. Rear	South	3782	109	Approx. 217,800

(the "Property"); and

Rent: \$12,000.00 per month; and

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, *et seq.*, as amended and supplemented (the "Act"), authorizes municipalities to participate in the redevelopment and improvement of areas that are in need of redevelopment or rehabilitation; and

WHEREAS, on July 14, 2004, the Frelinghuysen Avenue Airport Support Zone Redevelopment Plan (the "Redevelopment Plan") covering the Property, as that term is defined herein, was adopted by Ordinance 6S&Fk July 14, 2004; and

WHEREAS, in order to stimulate the reinvigoration of the City, by Resolution 7Rdo(AS) adopted by the Municipal Council on June 15, 2005, the entire City of Newark was then designated as an area in need of rehabilitation pursuant to the Act; and

WHEREAS, pursuant to N.J.S.A. 40A: 12A-8(g), the City is authorized to lease or convey property to any party without public bidding and at such prices and upon such terms as it deems reasonable; and

WHEREAS, as a result of certain tax foreclosure proceedings, the City acquired that real property shown on the official tax map of the City of Newark as Block 3782, Lot 109 located in the South Ward of the City, more commonly known as 646-696 Frelinghuysen Avenue, Rear, and comprising approximately five (5) acres (the "Property"); and

WHEREAS, due to on-site industrial operations dating back to 1931, the Property is heavily

contaminated and the New Jersey Department of Environmental Protection (“NJDEP”) previously took certain initial response actions upon the Property in accordance with the New Jersey Spill Compensation & Control Act, N.J.S.A. 58:10-23.11, et seq., at a cost to NJDEP of over \$837,000.00, for which amount a lien upon the Property has been asserted as reflected in the Notice of Amended First Priority Lien (“NJDEP Lien”); and

WHEREAS, the Property is also a federal Superfund Site on the National Priorities List (identified as #NJD980755623 and known as the White Chemical Corporation Superfund Site), and has been remediated by certain responsible parties, and continues to be further remediated by the United States Environmental Protection Agency (“USEPA”) in accordance with the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq., at a cost to USEPA of approximately \$46,013,000.18, with future groundwater remediation costs estimated to be approximately \$25,000,000.00 (the “USEPA Remediation”), the total amount likely comprising over \$70,000,000.00, for which amount a lien upon the Property has been asserted pursuant to the Notice of Federal Lien (“USEPA Lien”); and

WHEREAS, the City has determined that the Property is not needed for any public use and that redevelopment of the Property, both on an interim basis and permanently, will contribute to the reinvigoration of the City and as such, the City commenced negotiations with the NJDEP and the USEPA, respectively, in order to resolve the NJDEP Lien and the USEPA Lien; and

WHEREAS, 3J’s Development Group, LLC (the “Redeveloper” or the “Interim Redeveloper”) expressed an interest in purchasing the Property and redeveloping it as follows: initially, as a secure parking facility for commercial vehicles and upon the completion of the USEPA Remediation, as an industrial warehouse, or for such other purposes as may be approved by the City and consistent with the Deed Notice which has been recorded upon the Property in connection with the USEPA Remediation; and

WHEREAS, the City determined that the Redeveloper appears to possess the proper qualifications, financial resources, and capacity to implement and complete the permanent redevelopment of the Property in accordance with all applicable laws, rules and regulations and as such, the City undertook negotiations with the Redeveloper to enter into a Redevelopment and Property Conveyance Agreement (the “Redevelopment Agreement”); and

WHEREAS, by Resolution 7R2-c of the Municipal Council of the City of Newark, dated April 4, 2018, the City authorized the execution of a Redevelopment Agreement with the Redeveloper which provides for, *inter alia*, the conveyance of the Property to the Redeveloper for a Purchase Price of \$2,900,000.00, subject to certain credits, and the redevelopment of the Property in phases as set forth above; and

WHEREAS, satisfactory resolution of the NJDEP Lien and the USEPA Lien are express conditions precedent to any obligation under the Redevelopment Agreement and any proposed resolution of either Lien is to be submitted separately to the Municipal Council of the City of Newark for consideration; and

WHEREAS, the City has arrived at an agreement with the USEPA to resolve the USEPA Lien (the “USEPA Agreement”) and the Redeveloper is expected to be a party to the USEPA Agreement; and

WHEREAS, while the City continues to negotiate a resolution of the NJDEP Lien with NJDEP, and while the Parties work towards satisfying the Conditions Precedent set forth in the Redevelopment Agreement, the Redeveloper has proposed to clean up the debris that has accumulated from illegal dumping upon the Property, install a fence around the Property in order to discourage further dumping, generally secure the Property, and utilize the site on an interim basis for employee and truck parking to support its nearby local business operations (the “Interim Project”), which such interim use the USEPA supports; and

WHEREAS, the City believes that the implementation of the Interim Project upon the Property is in the vital and best interests of the City and that it promotes the health, safety, morals and welfare of the City's residents and as such, the City wishes to lease the Property for a term to the Interim Redeveloper for a monthly rent of \$12,000.00 (the “Rent”), 50% of which shall be credited against the Purchase Price upon the conveyance of the Property by the City to 3 J's Development Group, LLC pursuant to the terms of the Redevelopment Agreement; and

WHEREAS, the City wishes to enter into an Interim Redevelopment Agreement with the Interim Redeveloper in substantially the form attached hereto, the terms of which, including the Rent, the City deems reasonable; and

WHEREAS, the USEPA Agreement is to be considered in conjunction with the Interim Redevelopment Agreement attached hereto.

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 the Department of Economic and Housing Development, are hereby authorized to enter into and execute an Interim Redevelopment Agreement in the form attached hereto as **Exhibit A**, with 3J's Development Group, LLC, 500 Avenue P, Newark, New Jersey 07105.

2. The Director of the Department of Economic and Housing Development is hereby authorized to effectuate certain business terms and conditions related to the Property and may enter into access and right of entry agreements, and any related documents which may be appropriate and necessary in order to effectuate the terms and conditions of the Interim Redevelopment Agreement, all in forms which shall be subject to the review and approval of the City of Newark's Corporation Counsel.

3. Except as otherwise provided herein with specific regard to the Redevelopment Agreement with 3 J's Development Group, LLC, any other prior legislation authorizing or intended to authorize the sale, lease and/or redevelopment and/or rehabilitation of the Property is hereby rescinded.

4. The Interim Redeveloper shall have thirty (30) days from the date this resolution is certified by the Office of the City Clerk to execute the attached Interim Redevelopment Agreement and return same to the Department of Economic and Housing Development. Should the Interim Redeveloper fail to execute and return the attached Interim Redevelopment Agreement within this thirty (30) day time period, the authorization provided by this resolution shall be null and void, unless the Director of the Department of Economic and Housing Development agrees in writing to extend this thirty (30) day time period.

5. The Director of Finance is hereby authorized to receive proceeds of the Rent and to deposit same as follows: ninety percent (90%) of the proceeds shall be deposited into the Community and Economic Development Dedicated Trust Fund established under Resolution 7Rg, November 6, 1985; and ten percent (10%) of the sale proceeds shall be placed in the City's Affordable Housing Trust Fund established under City Ordinance 6S&Ff, June 21, 2006, for the purpose of preserving low and moderate income affordable housing.

6. In the implementation of the Interim Redevelopment Agreement, as same may be applicable, the Interim Redeveloper shall be required to comply with the City of Newark's Minority Set-Aside Ordinance 6S&Fd, April 5, 1995; the City of Newark's Affirmative Action Plan 7Rbp, March 1, 1995; Federal Executive Order 11246, (as amended by Executive Orders 11375 and 12086) regarding the award of goods and services contracts; and the City of Newark Ordinance 6PSF-c June 17, 2015, Amending Title II, Administration, Chapter 4, General Administration, Section 20, Hiring of Newark Residents by Contractors or Other Persons Doing Business with the City of Newark and Section 21, Newark Residents' Employment Policy, by Adding Language to Address Immediate Short Term Training and Employment Opportunities and Repealing the Newark Employment Commission, a copy of which is attached to the Agreement (the "First Source Ordinance") and in addition, the Interim Redeveloper is to ensure that thirty percent (30%) of all contractors, subcontractors and suppliers, as may be applicable, shall be Newark-based companies.

7. The implementation of the Interim Project is to commence promptly upon the effective date of the Interim Redevelopment Agreement and is to continue in accordance with the terms of the Interim Redevelopment Agreement.

8. The Director of the Department of Economic and Housing Development shall place a copy of the executed Interim Redevelopment Agreement and all such other executed documents and agreements authorized by this resolution on file in the Office of the City Clerk.

9. This resolution shall take effect immediately.

STATEMENT

This Resolution authorizes the execution of an Interim Redevelopment Agreement in the form attached hereto, in order to provide for the lease of the Property to the Interim Redeveloper for a monthly Rent of \$12,000.00, 50% of which is to be credited against the Purchase Price upon the conveyance of the Property by the City to the Redeveloper, and the implementation of the Interim Project, in accordance with the terms of the Redevelopment Agreement, pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., and all applicable Federal, State and Local laws, rules and regulations.

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