



Legislation Details (With Text)

File #: 19-1281 **Version:** 1 **Name:** State Aid Agreement (NJEP/USACE)
Type: Resolution **Status:** Adopted
File created: 8/1/2019 **In control:** Economic and Housing Development
On agenda: 8/20/2019 **Final action:** 8/20/2019
Title: Dept/ Agency: Economic and Housing Development
Action: () Ratifying (X) Authorizing () Amending
Type of Service: State Aid Agreement pursuant to N.J.S.A. 40a:12-13(b), conveying perpetual and temporary easements to the City of Newark property
Purpose: State Aid Agreement providing for the Construction of Erosion Control measures along the Passaic River
Entity Name: State of New Jersey Department of Environmental Protection, Bureau of Coastal Engineering
Entity Address: 150 Hooper Avenue, Toms River, New Jersey 08753
Amount Expended: N/A
Funding Source: N/A
Agreement Period:
List of Property:
(Address/Block/Lot/Ward)
Additional Information:
Sponsors: Council of the Whole

Indexes:

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Date	Ver.	Action By	Action	Result
8/20/2019	1	Municipal Council	Adopt	Pass

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WHEREAS, the United States Congress, through Section 101(a)(18) of the Water Resources Development Act of 1990 authorized the construction of the Joseph G. Minish Passaic River Waterfront Park Flood Control Project (the "Project") along the Passaic River in the City of Newark;

and

WHEREAS, the Municipal Council, through Resolution 7RBi, adopted on August 4, 1999, authorized the Mayor and his designee, to enter into and execute a State Aid Agreement with the New Jersey Department of Environmental Protection (the “1999 State Aid Agreement”); and

WHEREAS, through the 1999 State Aid Agreement, the City of Newark agreed to collaborate with the United States Army Corps of Engineers (the “USACE”) and the State of New Jersey, Department of Environmental Protection, Division of Engineering and Construction of the State of New Jersey (the “NJDEP”), as “Non-Federal Sponsor”, to construct the Joseph G. Minish Passaic River Waterfront Park and Historic Area (the “Project”) as defined in the Project Cooperation Agreement between USACE and NJDEP dated May 25, 1999 (the “1999 PCA”); and

WHEREAS, the Project includes bulkhead construction; streambank stabilization; and periodic maintenance work, all of which may be performed solely by the Department of Environmental Protection and/or in conjunction to the Army Corps of Engineers; and

WHEREAS, the USACE constructed portions of the Project intermittently between 1999-2010; and

WHEREAS, during Superstorm Sandy in October 2012, the Passaic River breached its banks and Newark’s residents endured flooding, exposure to pollutants, loss of power, loss of transportation, and loss of work and school days; and

WHEREAS, Congress then passed the Disaster Relief Appropriations Act of 2013, Public Law (P.L.) 113-2, identifying the Project as an authorized but partially constructed project in the US Army Corps of Engineers’ Second Interim report to Congress, Disaster Relief Appropriations Act of 2013, and earmarking additional funding for the completion of the Project; and

WHEREAS, the USACE then, as part of its planning and implementation process, prepared the “Joseph G. Minish Passaic River Waterfront Park and Historic Area, Phase I - Final Hurricane Sandy Limited Reevaluation Report” (“HSLRR”), which updated the prior engineering and design efforts, physical surveys, and environmental compliance for the Project. The HSLRR calls for 6,000 feet of new bulkhead to be installed as Phase I, in order to reduce erosion and provide environmental restoration, recreation, and economic development benefits; and

WHEREAS, on December 15, 2015, the City provided a letter of support to the Department of Environmental Protection for the remaining portions of the Project to be 100% funded by Chapter 4, Title X, Division A of the Disaster Relief Appropriations Act of 2013, Public Law 113-2 (127 Stat. 24-25) enacted January 29, 2013; and

WHEREAS, the USACE and NJDEP then entered into the Project Partnership Agreement (the “PPA”), providing for the construction of the remaining portions of the Project, and acknowledging that the Project will be 100% federally funded; and

WHEREAS, the PPA requires, among other things, that NJDEP, as the non-federal sponsor of the Project, acquire all real estate, including permanent and temporary easements and rights-of-way, for the Project; and

WHEREAS, the NJDEP wishes to enter into a State Aid Agreement (the “Agreement”) in the form attached hereto as Exhibit A, and made a part of this resolution, in order to delegate its responsibility to obtain all real estate for the Project to the City; and

WHEREAS, the Agreement requires the City to acquire all real estate, perpetual and temporary easements and rights-of-ways on certain properties as set forth in Appendix C to the Agreement, for the purpose of completing the Project and for the periodic future maintenance, which may be performed solely by the Department of Environmental Protection or in conjunction with the Army Corps of Engineers; and

WHEREAS, the Agreement provides that the City shall be entitled to reimbursement for costs associated with the acquisition of the real estate, including, but not limited to remedial investigations, court proceedings, filings, just compensation, closing and title costs, appraisal costs, survey costs, attorney’s fees, plat maps, and mapping costs; and

WHEREAS, the Agreement further provides, once the Project is completed, the City shall be responsible for maintenance and upkeep of the Project.

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 Acting Deputy Mayor/Director of the Department of Economic and Housing Development on behalf of the City of Newark be and is hereby authorized, to enter into the State Aid Agreement in the form attached hereto as Exhibit A, with the New Jersey Department of Environmental Protection for the purpose of the continuation of the construction of the Joseph G. Minish Passaic River Waterfront Park and Historic Area.

2. Upon passage of an Ordinance pursuant to N.J.S.A. 40A:12-4, the Acting Deputy Mayor/Director of the Department of Economic and Housing Development shall be authorized to acquire the easements as set forth in the State Aid Agreement, as same are approved as to form and legality by the Corporation Counsel and acknowledged by the City Clerk.

3. A copy of the executed State Aid Agreement shall be filed with the City Clerk by the Acting Deputy Mayor/Director of the Department of Economic and Housing Development.

4. This resolution shall take effect immediately.

STATEMENT

This Resolution authorizes the Acting Deputy Mayor/Director of the Department of Economic and Housing Development, to execute a State Aid Agreement which provides for the acquisition and conveyance of easements in perpetuity and temporary easements to the New Jersey Department of Environmental Protection for use by the State of New Jersey, the United States Department of the Army and the City of Newark and their representatives, agents, assigns and contractors to continue the construction of the Joseph G. Minish Passaic River Waterfront Park and Historic Area, and further provides for the reimbursement of all costs associated with the acquisition of said easements.