



Legislation Details (With Text)

File #: 19-1897 **Version:** 1 **Name:** Pass Through Agreement: Environmental Investigation and Remediation at Riverfront Park

Type: Resolution **Status:** Adopted

File created: 11/26/2019 **In control:** Economic and Housing Development

On agenda: 1/28/2020 **Final action:** 1/28/2020

Title: Dept/ Agency: Economic and Housing Development
Action: (X) Ratifying (X) Authorizing (X) Amending
Type of Service: Third Amendment to Pass-Through Agreement
Purpose: Implementing an environmental investigation and remedial action work at Newark Riverfront Park.
Entity Name: The Trust for Public Land
Entity Address: 60 Park Place, Newark, New Jersey 07102
Grant Amount: \$1,702,604.00
(NJDEP- \$1,273,475.00 and /NJEDA- \$429,129.00)
Funding Source: State of New Jersey, Department of Environmental Protection ("NJDEP") and the New Jersey Economic Development Authority ("NJEDA")
Total Project Cost: \$1,702,604.00
City Contribution: No City funds required
Other Funding Source/Amount: \$0.00
Contract Period: July 1, 2017 through December 31, 2020
Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS
() Fair & Open () No Reportable Contributions () RFP () RFQ
() Private Sale (X) Grant () Sub-recipient () n/a
List of Property: (if applicable)
(Address/Block/Lot/Ward)

Additional Information:
The total balance remaining in the grant to drawdown is \$454,680.37.
(NJDEP A10E0 - \$250,157.98 and NJEDA A10F0 - \$204,522.39)

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
1/28/2020	1	Municipal Council	Adopt	Pass

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WHEREAS, the Trust for Public Land (“TPL”) is a nonprofit dedicated to conserving land for recreation and open space purposes and has partnered with the City of Newark to design, remediate and redevelop the area to be known as Newark Riverfront Park, which consists of a 7.8-acre portion of the Passaic River Waterfront in Newark (the “Site”) on a portion of the area formerly known as Joseph G. Minish Passaic Riverfront Park and Historic Area; and

WHEREAS, TPL retained an environmental consulting firm to perform Preliminary Assessment and Site Investigation of the Site and determined that there has been a discharge of hazardous substances on the property due to historic industrial activity and the historic use of fill materials; and

WHEREAS, the New Jersey Department of Environmental Protection (“NJDEP”) and the New Jersey Economic Development Authority (“NJEDA”) have made funds available through its Hazardous Discharge Site Remediation Fund Municipal Grant Program (“HDSRF Program”) by providing grants for investigation and cleanup activities of sites contaminated with hazardous substances; and

WHEREAS, NJDEP will work with communities to design and implement coordinated remediation and reuse plans for areas affected by multiple underutilized properties with known or suspected contamination through the Brownfield Development Area (“BDA”) Initiative and the Municipal Council of the City of Newark approved the determination of the Lister Avenue BDA via Resolution 7Rcd(AS) adopted on June 4, 2003; and

WHEREAS, pursuant to Resolution 7R3-d, adopted April 15, 2009, the Municipal Council authorized the Mayor to take action necessary and appropriate to investigate and remediate the Site and to extend the Lister Avenue BDA to include properties within the Joseph G. Minish Passaic Riverfront Park and Historic Area, including the Site, with the goal of redeveloping and rehabilitating the properties for public open space; and

WHEREAS, in November 2009, NJDEP approved the expansion of the Lister Avenue BDA; and

WHEREAS, the City of Newark owns or controls, via long-term lease and development rights, the following parcels, which are listed in the expanded BDA and are part of the proposed Newark

Riverfront Park and are collectively referenced herein as the “City Parcels”:

- Owned parcels shown on the Tax Map of the City of Newark as Block 2025, Lot 1, Block 2026, Lots 7, 19, and 22, Block 2027, Lot 2, and Block 2028, Lots 1 and 2; and
- Leased from New Jersey Department of Transportation (NJDOT) and shown on the Tax Map of the City of Newark as Block 2029, Lots 1, 7, 21, and 22, and Block 171, Lots 1, 6 and 8; and

WHEREAS, TPL assisted the City and other public property owners to submit applications for HDSRF funding for the environmental investigation performed to date and the NJDEP approved remedial action for the proposed Newark Riverfront Park within the BDA; and

WHEREAS, in February 2010 the NJEDA awarded the City of Newark a HDSRF grant in the amount of \$1,273,475.00 for Remedial Investigation and Remedial Action as well as report preparation for the City Parcels; and

WHEREAS, in May 2010, the NJEDA awarded the City of Newark a HDSRF grant in the amount of \$429,129.00 based on a supplemental request for Remedial Action funding for Block 2028, Lots 1 and 2, and for Block 2027, Lot 2 on a portion of the Site, (collectively, the “Grants” and, individually, the “Grant”); and

WHEREAS, pursuant to Resolution 7R1-b, adopted September 1, 2010, the Municipal Council of the City of Newark authorized the Business Administrator to enter into an agreement with NJEDA and to accept these Grants; and

WHEREAS, pursuant to Resolution 7R1-k, adopted January 5, 2011, the Municipal Council of the City of Newark authorized the Business Administrator to enter into and execute a Pass-Through Agreement with the TPL for grant funds in the amount of \$1,702,604.00, which was comprised of two (2) separate grants in the amount of \$1,273,475.00 and \$429,129.00 from the NJEDA and NJDEP through its HDSRF Municipal Grant Program related to Remedial Investigation, Remedial Action and report preparation for Newark Riverfront Park as part of the Lister Avenue BDA, for the period commencing on January 5, 2011 and terminating on December 31, 2012 and said Pass-Through Agreement was executed on March 8, 2011; and

WHEREAS, pursuant to the Pass-Through Agreement, the Municipal Council authorized TPL and the City to pursue and support a collaborative effort between them to redevelop, rehabilitate, and improve the Site, by conducting environmental assessment, remediation and development of improvements in order to rehabilitate the Site and serve the recreational needs of children and members of the community; and

WHEREAS, pursuant to Resolution 7R3-a(S), adopted April 21, 2015, the Municipal Council of the City of Newark authorized the Business Administrator to enter into and execute the First Amended Pass-Through Agreement extending the Pass-Through Agreement until December 31, 2015; and

WHEREAS, pursuant to Resolution 7R3-a, adopted February 17, 2016, the Municipal Council

of the City of Newark authorized the Business Administrator to enter into and execute the Second Amended Pass-Through Agreement extending the Pass Through Agreement until June 30, 2017; and

WHEREAS, TPL and the City developed Newark Riverfront Park in phases as part of broader efforts to develop expansive park and public access amenities along the Newark Riverfront, and the first phase of the area developed by TPL (now known as Newark Riverfront Park Phase II) along with associated remediation was substantially complete on June 30, 2013, and the second phase developed by TPL (now known as Newark Riverfront Park Phase III) along with associated remediation was substantially complete on December 13, 2017; and

WHEREAS, a final extension of the Pass-Through Agreement is needed to reimburse TPL for remediation costs approved by NJDEP and to permit reimbursement for qualifying remediation costs incurred after the Second Amended Pass-Through Agreement which ended on June 30, 2017; and

WHEREAS, through enacting N.J.S.A. 40:12-20 et seq., the State of New Jersey recognizes the needs of municipalities to enter into agreements to rehabilitate, improve, and maintain their parks, and thus authorizes municipalities to establish mutually beneficial partnerships, through an agreement, with nonprofit organizations that will result in municipal parks that are better maintained, operated, and improved for the use and enjoyment of the public; and

WHEREAS, N.J.S.A. 40:12-21 defines “improvement” as meaning, but not necessarily limited to, construction, reconstruction, stabilization, repair, rehabilitation, renovation, restoration of a park or park facility, building, structure, infrastructure, or feature; and

WHEREAS, N.J.S.A. 40:12-23 allows a municipality to provide the partnering nonprofit organization with equipment, materials, supplies, or services to assist with the municipal park maintenance, operation, or improvements; and

WHEREAS, this Agreement is not subject to the requirements or provisions of Local Public Contracts Law pursuant to N.J.S.A. 40:12-28(b); and

WHEREAS, the parties wish to amend the terms of the Agreement between the City and TPL such that it terminates no later than December 31, 2020.

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 Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a Third Amended Pass-Through Agreement with the Trust for Public Land, 60 Park Place, Newark, New Jersey 07102, extending the term of the Agreement authorized by Resolutions 7R1-k, adopted on January 5, 2011; 7R3-a(S) adopted on April 21, 2015; and 7R3-a adopted on February 17, 2016, to a term no later than December 31, 2020.
2. Attached are Certifications of Funds from the Chief Financial Officer stating that the remaining available balance of \$454,680.37 is available for the purposes set forth herein and the line appropriations, which shall be charged, are as follows:

Bus. Unit	Dept. ID	Div./Proj.	Acct.#	Budget Ref.
NW051	G10	A10F0	72090	B2010
NW051	G10	A10E0	72090	B2010

3. This agreement is ratified to July 1, 2017 to permit reimbursement for qualifying remediation work performed and remediation costs incurred after the Second Amended Pass-Through Agreement that ended on June 30, 2017.
4. All other terms and conditions of the Agreement remain the same and shall be ratified from the commencement of the Agreement through December 31, 2020.
5. The Business Administrator shall file a fully executed copy of the Third Amended Pass-Through Agreement herein authorized in the Office of the City Clerk.

STATEMENT

This resolution authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development to ratify, amend and enter into a Third Amended Pass-Through Agreement with the Trust for Public Land, 60 Park Place, Newark, New Jersey 07960, to extend the term of a Pass-Through Agreement for grant funds in the amount of One Million Seven Hundred-Two Thousand Six Hundred and Four Dollars and Zero Cents (\$1,702,604.00) authorized by the Newark Municipal Council pursuant to Resolution 7R1-k, adopted on January 5, 2011; Resolution 7R3-a(S) adopted on April 21, 2015; and Resolution 7R3-a adopted on February 17, 2016, for a term no later than December 31, 2020.