



Legislation Details (With Text)

File #: 20-0087 **Version:** 1 **Name:** 140 Raymond 1st Amendment and Access Agreement

Type: Resolution **Status:** Adopted

File created: 1/15/2020 **In control:** Economic and Housing Development

On agenda: 5/20/2020 **Final action:** 5/20/2020

Title: Dept/ Agency: Economic and Housing Development
Action: () Ratifying (X) Authorizing (X) Amending
Type of Service: Private Sale/Redevelopment
Purpose: Authorizing the execution of the First Amendment of the Agreement for the Sale of Land and Redevelopment of 140-166 Raymond Boulevard and related Access Agreement.
Entity Name: 140 Raymond Urban Renewal LLC
Entity Address: 494 Broad Street, Newark, New Jersey 07102
Sale Amount: \$3,200,000.00, subject to certain credits as set forth in the Agreement
Cost Basis: () PSF (X) Negotiated () N/A () Other:
Assessed Amount: \$0.00
Appraised Amount: \$0.00
Contract Period: Construction shall commence no later than six (6) months from closing and completed within twenty-four (24) months from commencement of construction
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)
140-166 Raymond Boulevard /Block 5002/Lots 3, 5, 14, and 16/East Ward
Additional Information:

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
5/20/2020	1	Municipal Council	Adopt	Pass

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Additional Information:

WHEREAS, in or about May 2002, the City of Newark (the “City”) and BayBar Development, LLC, (the “Redeveloper”) (collectively, the “Parties”), executed an Agreement for the Sale of Land and Redevelopment of 140-166 Raymond Boulevard (the “Redevelopment Agreement,” a copy of which is attached hereto as Attachment A) which was authorized by Resolution 7Ra(S) adopted by the Municipal Council of the City of Newark (the “Municipal Council”) on May 29, 2002, in connection with the redevelopment of certain properties pursuant to the Bayonne Barrel Redevelopment Plan (all capitalized terms used herein and not otherwise defined shall have the meaning set forth within the Redevelopment Agreement); and

WHEREAS, the Redevelopment Agreement provides for the conveyance, from the City to the Redeveloper, and the redevelopment of certain properties that are located at Block 5002, Lots 3, 5, 14 and 16 as same are identified on the Tax Map of the City of Newark (collectively, referred to herein as the “Property”); and

WHEREAS, the Redevelopment Agreement further provides for, *inter alia*, the City’s acquisition of certain property from the New Jersey Department of Transportation (“NJDOT”) known as Parcels VXW13 and VX28 (collectively, referred to herein and in the Redevelopment Agreement as the “NJDOT Property”) by Contract of Sale dated on or about May 11, 2005 (referred to herein as the “NJDOT Contract”), and the subsequent or simultaneous conveyance of the NJDOT Property by the City to the Redeveloper such that Redeveloper’s Project would encompass both the Property and the NJDOT Property (to be utilized as an access road); and

WHEREAS, the Property is being remediated by members of the Bayonne Barrel & Drum Site Potentially Responsible Party Group (the “PRP Group”) under the oversight of a Licensed Site Remediation Professional (“LSRP”) pursuant to a Memorandum of Agreement between the PRP Group and the New Jersey Department of Environmental Protection (“DEP”) effective December 11, 2002; and

WHEREAS, the PRP Group and Redeveloper entered into an Agreement for Remediation and Redevelopment of 140-166 Raymond Boulevard, Newark, New Jersey, dated July 2010 (the “Remediation Agreement”), whereby (a) the PRP Group agreed generally, *inter alia*, to implement a Remedial Action Workplan, to complete the remediation of the Property, (b) the Redeveloper agreed to grant access to the PRP Group to complete said remediation after taking title to the Property, as applicable, and (c) the Redeveloper agreed to assume principal responsibility pursuant to any Remedial Action Permit (“RAP”) for Soil, as applicable; and

WHEREAS, the PRP Group has installed an interim engineering control to cap the Property comprised of a clean vegetated soil cover over a clay layer, and is in the process of preparing the deed notice and the application for the Soil RAP; and

WHEREAS, Baybar Development, LLC, has heretofore assigned all of its rights, title and interest in and to the Redevelopment Agreement (the “Transfer”) to 140 Raymond Urban Renewal

LLC, a New Jersey Urban Renewal Limited Liability Company (referred to hereinafter as “Redeveloper”), as permitted by the Redevelopment Agreement; and

WHEREAS, upon Redeveloper’s acquisition of title to the Property, Redeveloper will redevelop the Property with a warehouse/distribution facility, or a facility for port related uses which may include a truck terminal or a commercial or retail use, as more specifically set forth in the Redevelopment Agreement (the “Project”), which will include installation of the permanent cap for soil as well as any required modification of the Soil RAP; and

WHEREAS, the Redevelopment Agreement provides that the Purchase Price for the Property is \$3,200,000.00, subject to certain credits and, *inter alia*, that the purchase price for the NJDOT Property is \$70,000.00; and

WHEREAS, the Parties acknowledge and agree that over time, certain laws, conditions and circumstances have materially changed and, thus, the Redevelopment Agreement needs to be amended to reflect these material changes; and

WHEREAS, the Parties continue to cooperate with each other with regard to implementing the overall terms of the Redevelopment Agreement while certain conditions precedent may remain in the process of being satisfied; and

WHEREAS, in the interim, the parties desire to amend the Redevelopment Agreement to, among other things: (i) revise certain definitions; (ii) update the purchase price of the NJDOT Property, consistent with a NJDOT appraisal and protocol as well as a separate amendment of the NJDOT Contract anticipated in the future, which purchase price amount is to be paid directly by the Redeveloper to NJDOT pursuant to the Redevelopment Agreement; and (iii) address changes in certain Remediation requirements consistent with new Environmental Laws adopted after 2002; and

WHEREAS, the Parties have accordingly negotiated the terms of a proposed “First Amendment of the Agreement for the Sale of Land and Redevelopment of 140-166 Raymond Boulevard” (the “First Amendment,” a copy of which is attached hereto as Attachment B); and

WHEREAS, in order to facilitate the Project, the City wishes to provide the Redeveloper and its prospective tenant, CenterPoint Raymond LLC (“CenterPoint”), or any subsequent tenant(s) or ground lessee(s) of Redeveloper which has been approved in writing by the Director of the Department of Economic and Housing Development (the “Director”) in the event that CenterPoint determines not to proceed (the “Redeveloper’s Tenant”), with access to the Property for the purpose of testing and investigating environmental conditions, surveying and other such related pre-development activities on the Property; and

WHEREAS, the Parties have also accordingly negotiated the terms of a proposed “Access Agreement for City of Newark-Owned Property” between the City, Redeveloper and Redeveloper’s Tenant setting forth the terms and conditions of the City’s grant of access to the Property to Redeveloper and CenterPoint (“Access Agreement”), which proposed Access Agreement is incorporated in and attached to the First Amendment; and

WHEREAS, Redeveloper and CenterPoint also have an access agreement with the PRP Group and said access agreement and the Access Agreement are mutually conditioned upon each other; and

WHEREAS, the Parties intend that the form of Access Agreement may be used and executed, without having to adopt an amended or separate Access Agreement, in the event that CenterPoint elects not to lease the Property and any subsequent, prospective tenant(s) or ground lessee(s) of the Redeveloper which has been approved in writing by the Director, wishes to access the Property for the limited purpose set forth in the Access Agreement.

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

1. Baybar Development, LLC's, assignment of all of its rights, title and interest in the Redevelopment Agreement (the "Transfer") to 140 Raymond Urban Renewal LLC, a New Jersey Urban Renewal Limited Liability Company ("Redeveloper"), as permitted by the Redevelopment Agreement; is hereby ratified and approved such that 140 Raymond Urban Renewal, LLC, 494 Broad Street, Newark, New Jersey 07102, shall be the Redeveloper of the Property.

2. The Mayor and/or his designee, the Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a First Amendment of the Agreement for the Sale of Land and Redevelopment of 140-166 Raymond Boulevard in substantially the form attached hereto as Attachment B.

3. The Mayor and/or his designee, Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute an Access Agreement for City of Newark-owned Property, in substantially the form as that attached to the First Amendment, with 140 Raymond Urban Renewal LLC, 494 Broad Street, Newark, New Jersey 07102 and CenterPoint Raymond LLC, 1808 Swiss Drive, Oak Brook, Illinois 60523 (or such other Tenant as may be identified by Redeveloper and approved by the Director of the Department of Economic and Housing Development in the future, so long as the scope of work proposed by the Tenant is acceptable to the Director of the Department of Economic and Housing Development).

4. All other terms and conditions of the Redevelopment Agreement not amended by the First Amendment are hereby ratified and confirmed and shall remain in full force and effect.

5. The Mayor and/or his designee, the Director of the Department of Economic and Housing Development are hereby authorized to effectuate certain business terms and conditions related to the Property and the Redevelopment Agreement, as amended, and may enter into any related documents which may be appropriate and necessary in order to effectuate the terms and conditions of the Redevelopment Agreement and the First Amendment, all in forms which shall be subject to the approval of the City of Newark's Corporation Counsel, including any Deed.

6. The Redeveloper shall have thirty (30) days from the date this Resolution is certified by the Office of the City Clerk to execute the First Amendment and return same to the Department of Economic and Housing Development. Should Redeveloper fail to execute and return the First Amendment 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.

7. The Director of the Department of Economic and Housing Development shall place a copy of the executed First Amendment and all such other executed documents and agreements

authorized by this resolution on file in the Office of the City Clerk.

STATEMENT

This resolution authorizes the Mayor and/or his designee the Director of the Department of Economic and Housing Development to enter into and execute a First Amendment to the Redevelopment Agreement, in substantially the form attached hereto, in order to, *inter alia*: (i) revise certain definitions; (ii) update the purchase price of the NJDOT Property, consistent with an NJDOT appraisal and protocol as well as a separate amendment of the NJDOT Contract anticipated in the future, which purchase price amount is to be paid directly by Redeveloper to NJDOT; and (iii) address changes in certain Remediation requirements consistent with new Environmental Laws adopted after 2002. The resolution also authorizes the execution of an Access Agreement for City of Newark-owned Property, in substantially the form incorporated in and attached to the First Amendment, between the City, Redeveloper and its tenant and any subsequent tenant(s) or ground lessee(s) which may be approved in writing by the Director of the Department of Economic and Housing Development, in order to provide the Redeveloper and its tenant(s) or ground lessee(s) with access to the Property for the purpose of testing and investigating environmental conditions, surveying and other such related pre-development activities on the Property.

<u>ADDRESS</u>	<u>WARD</u>	<u>BLOCK</u>	<u>LOT(S)</u>
140-166 Raymond Blvd.	East	5002	3, 5, 14 and 16