



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 13-1680, Version: 1

Dept/ Agency: Law

Action: () Ratifying (X) Authorizing () Amending

Purpose: Settlement of Civil Litigation

Docket No.: n/a

Claimant: Bayonne Barrel & Drum Site Potentially Responsible Party Group

Claimant's Attorney: William H. Hyatt, Jr.

Attorney's Address: K&L Gates LLP, One Newark Center, 10th Floor, Newark, New Jersey 07102

Settlement Amount: One-half interest in Purchase Money Mortgage

Funding Source: Baybar Development LLC or Redeveloper

Additional Comments:

Invitation: Corporation Counsel, October 22, 2013

No Action Taken 7R7-b 102313

WHEREAS, the City of Newark is the fee owner through tax foreclosure of 140-166 Raymond Boulevard, Newark, New Jersey, which includes Block 5002, Lots 3, 5, 14 and 16 and Parcel 560, known as the Bayonne Barrel & Drum Site (the "Site"); and

WHEREAS, the environmental contamination at the Site includes contamination associated with the presence of "historic fill" as defined at N.J.A.C. 7:26E-1.8; and

WHEREAS, by Resolution 7-R-a(S) May 29, 2002, the City of Newark Municipal Council authorized the execution of a Redevelopment Agreement with BayBar Development, LLC for the Sale of Land and Redevelopment of 140-166 Raymond Boulevard (the "Redevelopment Agreement"); and

WHEREAS, the Redevelopment Agreement provides, among other things, that BayBar Development, LLC will pay a Purchase Price for the Site not below Six Hundred Thousand Dollars (\$600,000.00) in the form of a purchase money mortgage note (the "Purchase Money Mortgage Note"); and

WHEREAS, members of the so-called Bayonne Barrel & Drum Site Potentially Responsible Party Group (the "BB&D Group") entered into a Memorandum of Agreement with the New Jersey Department of Environmental Protection (the "NJDEP"), effective December 11, 2002, pursuant to which the BB&D Group agreed to perform a remedial action at the Site ("MOA"); and

WHEREAS, the BB&D Groups asserts that the City of Newark is liable for certain costs incurred by the BB&D Group pursuant to the MOA; and

WHEREAS, the BB&D Group has proposed that the parties settle any disputes by agreeing that the City of Newark will assign a one-half interest in the Purchase Money Mortgage Note to BB&D Group

or its nominee; and

WHEREAS, the City of Newark denies any and all liability for the environmental contamination at the Site and desires to avoid the expense of litigation; and

WHEREAS, the Corporation Counsel based upon all facts and circumstances deems it in the best interest of the City of Newark to resolve said matter by operation of the proposed Settlement.

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

1. The Corporation Counsel is hereby authorized on behalf of the City of Newark to execute and accept the terms of the Settlement Agreement to resolve claims for costs associated with remedial environmental action taken at 140-166 Raymond Boulevard, Newark, New Jersey (Block 5002, Lots 3, 5, 14 and 16 and Parcel 560) also known as the Bayonne Barrel & Drum Site.
2. A fully executed copy of the Settlement Agreement shall be filed in the Office of the City Clerk by the Corporation Counsel.
3. This resolution shall be effective upon adoption in accordance with applicable State Law.

STATEMENT

This Resolution authorizes the Corporation Counsel on behalf of the City of Newark to enter into a Settlement Agreement to resolve claims of costs owed for remedial action at 140-166 Raymond Boulevard, Newark, New Jersey, which includes Block 5002, Lots 3, 5, 14 and 16 and Parcel 560, known as the Bayonne Barrel & Drum Site.