



Legislation Text

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AN ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AUTHORIZING THE ACCEPTANCE OF THE NEW JERSEY DEPARTMENT OF TRANSPORTATION ("NJDOT") PARCELS LOCATED AT ROUTE 25, SECTION 34, PARCELS VXW13 AND VX28 (THE "NJDOT PROPERTY") FOR \$1.00, TO BE USED FOR A PUBLIC PURPOSE AND EXECUTION OF THE EXCESS LAND REQUEST FOR THE ACQUISITION OF NJDOT PROPERTY FROM NJDOT.

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 Exhibit A), which was authorized by Resolution 7Ra(S) adopted by the Municipal Council on May 29, 2002, pursuant to the Bayonne Barrel Redevelopment Plan; and

WHEREAS, the Redevelopment Agreement provides for the conveyance, from the City to the Redeveloper, and the redevelopment of certain properties located at 140-166 Raymond Boulevard and commonly known as Block 5002, Lots 3, 5, 14 and 16 on the Official Tax Map of the City of Newark (collectively, referred to herein as the "City 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 (the "NJDOT") known as Parcels VXW13 and VX28 (collectively, referred to herein and in the Redevelopment Agreement as the "NJDOT Property") for Seventy Thousand Dollars and Zero Cents (\$70,000.00) 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 Redevelopment Agreement required Redeveloper to directly pay the NJDOT directly for the NJDOT Property; and

WHEREAS, the City Property is being remediated by members of the Bayonne Barrel and 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 07105, 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 City 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 City 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 "New Redeveloper"), as permitted by the Redevelopment Agreement and said Transfer was ratified by the Municipal Council, pursuant to Resolution 7R2-b adopted on May 20, 2020 (Exhibit B); and

WHEREAS, since the execution of the Redevelopment Agreement, certain laws, conditions and circumstances have materially changed and, thus, required an Amendment to the Redevelopment Agreement to reflect these material changes, on May 20, 2020, the Municipal Council authorized the execution of the First Amendment of the Agreement for the Sale of Land and Redevelopment of 140-166 Raymond Boulevard (the "First Amendment"), pursuant to Resolution 7R2-b; and

WHEREAS, upon New Redeveloper's acquisition of title to the City Property, New Redeveloper will redevelop the City Property into 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 use of NJDOT Property as an access road; and

WHEREAS, NJDOT has determined that it does not require the payment of Seventy Thousand Dollars and Zero Cents (\$70,000.00), pursuant to the Redevelopment Agreement nor payment of One Hundred Sixty-One Thousand Dollars and Zero Cents (\$161,000.00) pursuant to the First Amendment, but will convey the NJDOT Property for a nominal amount, if the NJDOT Property will be retained by the City and used for public purposes; and

WHEREAS, pursuant to Section 3 of the First Amendment, the City may, in its sole discretion, dedicate the NJDOT Property as a public road; and

WHEREAS, in order to effectuate the transfer of the NJDOT Property, pursuant to the terms of the Redevelopment Agreement and First Amendment, for a nominal amount and use for public purposes, the City is required to execute the NJDOT Excess Land Request and deliver same to the NJDOT, a copy of which is attached hereto as Exhibit C;

WHEREAS, the City determined and NJDOT agrees that utilizing the NJDOT Property by the New Redeveloper for access to its property, City Property, does not violate the City's obligation to maintain the NJDOT Property for public purposes.

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

1. The Mayor of the City of Newark, and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to: (a) execute the Excess Land Request Form in a form substantially consistent with the Excess Land Request hereto attached as Exhibit C and deliver same to the New Jersey Department of Transportation ("NJDOT") for the City's acquisition of the NJDOT Property located at Route 25, Section 34, Parcels VXW13 and VX28 (the "NJDOT Property") for One Dollar and Zero Cents (\$1.00) to be used for a public purpose; and (b) accept the NJDOT Property.

2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to effectuate certain business terms and conditions related to the Excess Land Request Form and may enter into any related documents, which may be necessary in order to effectuate the Excess Land Request Form and acquisition of the NJDOT Property.

3. The executed Land Excess Form and all exhibits shall be placed on file in the Office of the City Clerk by the Deputy Mayor/Director of Department of Economic and Housing Development.

STATEMENT

This Ordinance authorizes the Mayor of the City of Newark, and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to: (a) execute the Excess Land Request Form in a form substantially consistent with the Excess Land Request hereto as Exhibit C, and deliver same to the New Jersey Department of Transportation ("NJDOT") for the City's acquisition of the NJDOT property located at Route 25, Section 34, Parcels VXW13 and VX28 (the "NJDOT Property") for \$1.00 to be used for a public purpose; and (b) authorizes the acceptance of the NJDOT Property from the NJDOT.