

From: KDoherty@BlankRome.com
Sent: Tuesday, May 28, 2013 7:17 PM
To: Duffy, Daniel
Cc: Torres Rojas, Genara; Van Duyne, Sheree
Subject: Freedom of Information Online Request Form

Information:

First Name: Kevin
Last Name: Doherty
Company: Blank Rome LLP
Mailing Address 1: The Chrysler Building
Mailing Address 2: 405 Lexington Avenue
City: New York
State: NY
Zip Code: 10174
Email Address: KDoherty@BlankRome.com
Phone: 212-885-5543
Required copies of the records: No

List of specific record(s):

Request for all documents relating to the Port Authority providing 4 million towards the creation of the 32-acre Marion Greenway Park aka the Hackensack Riverfront Park, to be located in Hudson County, Jersey City, New Jersey underneath the Pulaski Skyway. News that Port Authority would be providing this funding grant was first published in or about May 2009 and, according to the Port Authority's press release, was given in 2010. To further assist with the document search, it was reported that the funds came from the Port Authority's Hudson-Raritan Estuary Resources Program. This request specifically includes a request for the contract agreement with Jersey City and any documents related to the terms and conditions of the Port Authority's deal with Jersey City to provide funding for the park, as well as all correspondence related to this agreement deal. We do not need additional copies of the materials at this time and plan to download them from your website. Thank you.

THE PORT AUTHORITY OF NY & NJ

FOI Administrator

October 28, 2013

Mr. Kevin Doherty
Blank Rome LLP
The Chrysler Building, 405 Lexington Avenue
New York, NY 10174

Re: Freedom of Information Reference No. 14022

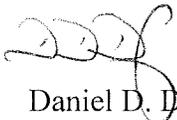
Dear Mr. Doherty:

This is a response to your May 28, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code") for a copy of the agreement with Jersey City to provide funding regarding the 32-acre Marion Greenway Park a/k/a the Hackensack Riverfront Park to be located in Hudson County, Jersey City, New Jersey underneath the Pulaski Skyway.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/14022-LPA.pdf>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy
FOI Administrator

*225 Park Avenue South, 17th Floor
New York, NY 10003
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MEMORANDUM OF AGREEMENT
BETWEEN
THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY
AND
THE CITY OF JERSEY CITY
REGARDING ACQUISITION OF LAND FOR HACKENSACK RIVERFRONT
PARK- PHASE I

This Memorandum of Agreement (MOA) made as of June 12, 2009 (Effective Date) between the City of Jersey City (City), with offices at 280 Grove Street, Jersey City, New Jersey, and the Port Authority of New York and New Jersey, a bi-state body corporate and politic created by Compact between the States of New York and New Jersey with the consent of the Congress of the United States of America, having its principal executive office at 225 Park Avenue South, New York, New York (PANYNJ or Port Authority);

WHEREAS, the City, on September 27, 2006 adopted a redevelopment plan for the Hackensack River Edge Redevelopment Area; and

WHEREAS, the subject property is a 32.52 acre tract of land located at the intersection of Sip Avenue and Truck Route 1 & 9 consisting of Block 1627, Lots 1.P, 2.A, 3.B, 5.A and Block 1639.A, Lots 1.C, 3, 4, 4.C, 6.A, 7 owned by Edwin L. Siegel and a related entity, Edlin, Ltd., commonly known as 400 Sip Avenue, is within the Redevelopment Area and a metes and bounds description of the property is attached hereto as Exhibit A (the "Property"); and

WHEREAS, the City has developed a specific plan for development of the Property parcel as shown in drawing entitled, "Jersey City Hackensack Waterfront Park Concept Master Plan – Phase I" which is annexed hereto and made a part of; and

WHEREAS, the Property has been, or is about to be, included on the list of priority acquisition property in need of preservation, to enhance access to the Hackensack River waterfront, due to the danger of development, as identified by the United States Environmental Protection Agency's Harbor Estuary Public Access Workgroup, and concurred with by the New Jersey Department of Environmental Protection; and

WHEREAS, acquisition of this property would advance the goals of the Port Authority Hudson-Raritan Estuary Resources Program; and

WHEREAS, clean-up and closure of a once designated Superfund Site to standards that will allow its reuse as a significant public amenity is a noteworthy accomplishment which would provide vital public recreation space and waterfront access to a significantly underserved community; and

WHEREAS, the Property is within the Port District region of the Hudson-Raritan Estuary and is eligible for the Port Authority to consider funding by reimbursement of up to an aggregate of \$4 million, under the Port Authority Hudson-Raritan Estuary Resources Program and the City agrees to fund the balance of the acquisition cost; and

WHEREAS, the Property has been appraised at a value in excess of \$4 million dollars; and

WHEREAS, the City has the ability to acquire the Property through condemnation, and has the desire to be the record fee owner of the Property subject to an encumbrance in a manner satisfactory to the Port Authority in perpetuity, either through a conservation easement or through restrictive use covenants recited in the deed for the benefit of the Port Authority, and with no obligation for the Port Authority to provide any funds for environmental clean-up, and the City acknowledges that prior to reimbursing the City's costs for any such acquisition the final details of the acquisition are to be presented to the Port Authority for approval; and

WHEREAS, Waste Management of New Jersey, Inc., ("Waste Management"), has agreed to amend said plan for use of the Property as a Recreational Park Facility by providing an environmentally equivalent closure plan to the currently approved closure plan. Pursuant to an Administrative Consent Order, which it entered with New Jersey Department of Environmental Protection, Waste Management is responsible for the remediation and closure of the P.J.P. site. The P.J.P. Landfill is an inactive landfill located at 400 Sip Avenue, Jersey City, New Jersey. The Property is part of the P.J.P. site. Waste Management has a New Jersey Department of Environmental Protection-approved plan for remediation and closure of the site; and

WHEREAS, by resolution of the Mayor and Council of the City, adopted at its meeting on April 22, 2009, the City has been authorized to enter into this MOA; and

NOW, THEREFORE, the City and the Port Authority hereby agree as follows:

1. The City shall acquire or seek to acquire the Property which is located within the confines of the City that are within the Hudson-Raritan Estuary area of the Port District as defined by N.J.S.A. 32:1-3. The Property is described in Exhibit A, attached hereto. In the event the Property is not acquired by the City, the Port Authority may terminate this MOA and, upon termination thereof, the City agrees that the Port Authority shall have no further obligation for any costs whatsoever, however incurred by the City in connection with the subject Property.
2. Any Property acquired or proposed to be acquired by condemnation shall be presented to the Port Authority for consideration to determine its suitability and eligibility for funding, by reimbursement, of the costs for acquisition under the Hudson-Raritan Estuary Resources Program. The City shall provide

documentation of the planned use of the Property and a representation that the City shall be the acquiring entity and that the Property is being acquired for use of the site for public access to the Hackensack River waterfront.

3. The City shall provide to the Port Authority, for review the following documents: Information regarding the current owners, a title search and report; a survey, an appraisal, and environmental report, disclosure of other funding entities, the name of the municipal entity which will hold title following condemnation, title insurance, a copy of the pleadings in the condemnation proceeding, and the recorded Deed of Conservation Easement containing required Port Authority language.
4. The City shall provide documentation acceptable to the Port Authority, from Waste Management, the entity responsible for environmental remediation of the Property, that Waste Management has the capability and financial resources to commence and work to conclusion, the modified remediation plan entered by Waste Management with the New Jersey Department of Environmental Protection, consistent with the use intended herein. The aforementioned documentation shall include, but not be limited to a performance bond guaranteeing completion of the remediation work. Notwithstanding any of the foregoing, the City shall remain responsible for the remediation and closure of the site.
5. The City shall provide concurrence from the United States Environmental Protection Agency to the modified New Jersey Department of Environmental Protection Plan regarding the Property. When the Port Authority identifies the Property acquired as meeting the eligibility criteria for funding, and the final terms of the acquisition have been approved, and the fee parcel(s) acquired by condemnation are encumbered in a manner satisfactory to the Port Authority, by a conservation easement or restrictive use covenant for the benefit of the Port Authority in perpetuity, and with no obligation for the Port Authority to provide any funds for environmental clean-up, the Port Authority will reimburse the City for the costs of the acquisition of the Property in an aggregate not to exceed \$4 million.
6. The City shall acquire fee title to such properties, via condemnation, free of all mortgages, judgments, liens, fines, penalties and other encumbrances, and be named as the record owner thereof in the acquisition deed for the property or properties. Condemnation proceedings and acquisition of the property shall be completed no later than one (1) year following commencement of MOA. The Deed for such property shall contain the following restrictive covenant: "The Property acquired by the City pursuant to this MOA, shall not be used for any purpose other than as or for parkland, open space, wildlife habitat, natural resource area, public recreation, public access area, ecologically sensitive resource, buffer area, environmental enhancement, conservation, ancillary economic redevelopment, environmental mitigation, or other similar

use consistent with and in all cases in support of capital programs of The Port Authority of New York and New Jersey, hereinafter collectively referred to as the "Restriction"; the Property shall not be used for purposes inconsistent with the Restriction without the express written consent of the Port Authority. In the event any portion of the Property is used in violation of the Restriction, the fair market value of said portion of the Property at the time of such violation shall be paid to the Port Authority for reimbursement for the funding assistance with interest of 5.25% from the Port Authority used to acquire said portion of the Property. The forbearance, delay or omission in the exercise of any rights or remedies against any violation of the Restriction shall not be deemed or construed as a waiver of such rights or remedies. The Restriction shall run with the land in perpetuity and be binding upon the City, as the owner and operator of the land together with the rights and obligations thereof. The Restriction is deemed a negative easement, easement in gross, equitable servitude or such other interest as shall be necessary for the same to run with the land and be binding upon the City and any subsequent Grantees in perpetuity until amended/modified or extinguished in whole or in part by the Port Authority. The City acknowledges and agrees that the Port Authority shall have no obligation to whatsoever to provide funds for environmental clean-up or improvement/restoration for the property and shall have no obligation to comply with Environmental Law. All references to the Port Authority or to the City shall be deemed to include, where appropriate, their respective successors and/or assigns."

7. Prior to acquisition, the City must demonstrate to the satisfaction of the Port Authority that it has funding in place for the balance of the costs of condemnation.
8. No Port Authority funds shall be made available prior to the requirement of the court, pursuant to the condemnation proceeding, that purchase funds be deposited into Court. Following a determination by the Court of the fair market value acquisition cost of the property, the City shall be solely responsible for funding whatever additional costs may be required to purchase the property.
9. The City will be responsible to ensure that all remediation and Phase 1 development of the property shall be completed on or before May 1, 2013.
10. The City shall produce a "no further action letter" for the Property, from the New Jersey Department of Environmental Protection, and complete Phase 1 of the Master Plan within three (3) years of the acquisition date of the Property or refund to the Port Authority \$4 million with interest of 5.25%.
11. Neither the Commissioners of the Port Authority nor any officer, agent or employee thereof, shall be charged personally with any liability or held liable

under any term or provision of this MOA or because of its execution or because of any breach or attempted or alleged breach thereof.

12. The Port Authority shall have no responsibility of any kind for any agreement, contract, or project utilizing funds provided under this MOA. Without limiting the generality of the foregoing, the Port Authority shall have no responsibility for the design, effectuation, maintenance, ongoing operation or any other aspect (including all environmental matters) of the property to be acquired pursuant to this MOA or any contract entered into in connection with the property. Between the Port Authority and the City, the City hereby assumes the following risks, whether or not they arise from acts or omissions of the City: all risks of loss or damage to property or injury to or death of persons, and risks of other damages, to whomsoever occurring, arising out of or in any way connected with or related to the property to be acquired pursuant to this MOA, including, without limitation, the design, effectuation, maintenance, operation or any other aspect (including all environmental matters) of the property. The Port Authority shall have no responsibility for providing any monies for the Property, except for acquisition up to \$ 4.0 million, as provided in this MOA.

13. The City hereby agrees to assume all risk of loss or damage to property or injury to or death of persons, and the risk of all other claims, arising out of or in any way connected with or related to the property to be acquired pursuant to this MOA, and to indemnify and save harmless the Port Authority, its successors, Commissioners, officers, agents, and employees, and each of them, from and against claims, suits, and demands, including the costs of legal defense arising therefrom, for any such injury, death, loss, damage, or other claim, whether said claims, suits or demands are just or unjust, fraudulent or not, and irrespective of whether such risks are beyond the control of the City.

The City, in indemnifying the Port Authority, shall, if so requested by the Port Authority, defend against such claims at no cost and expense to the Port Authority, in which event the City shall not, without obtaining express advance written permission from General Counsel of the Port Authority, raise any defense involving in any way the jurisdiction of the tribunal over the Port Authority, the immunity of the Port Authority, the governmental nature of the Port Authority, or the provisions of any statutes respecting suits against the Port Authority.

14. No payment, approval, failure to approve or make payment, act, or omission to act on the part of either the Port Authority or the City shall preclude either party from subsequently asserting that any payment, approval, or act on its part was in correct and requesting an adjustment to remedy same or seeking all remedies allowed by law.

15. All disagreements under this MOA shall be submitted to the Executive Director of the Port Authority and the Mayor of the City for their review and decision, which decision shall be binding upon the parties. In the event that the Executive Director of the Port Authority and the Mayor of the City shall disagree, then either party may seek all legal or equitable remedies to the extent permitted by applicable law.

16. The term of this MOA shall commence on the date on which it has been fully executed by both parties, and shall extend for a one (1) year period from the commencement of the MOA.

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(CMAA)

17. If any provision of this MOA shall be such as to destroy its mutuality or to render it invalid or illegal, then, if it shall not appear to have been so material that without it this MOA would not have been made by the parties, it shall not be deemed to form a part hereof, but the balance of this MOA shall remain in full force and effect.

18. The City acknowledges that it has not relied on any data, opinions, drawings, or information of any kind supplied by the Port Authority or its staff in evaluating the propriety of the Plan, "Jersey City Hackensack Riverfront Park Concept Master Plan", Waste Management's Amended Remediation Plan or their implementation.

19. The entire agreement between the parties is contained herein and no change or modification, termination or discharge of this MOA shall be effective unless in writing and signed by both parties.

20. This MOA shall be governed by and construed in accordance with the laws of the State of New Jersey, without reference to choice of law principles.

21. If any of the actions required to acquire, remediate and improve the property have not been completed within 3 years of the acquisition date of the property, the City shall refund the PA contribution of \$4.0 million plus interest of 5.25%

IN WITNESS WHEREOF, the City of Jersey City and the Port Authority have caused this Memorandum of Agreement to be duly executed the day and year first above written.

ATTEST

City of Jersey City

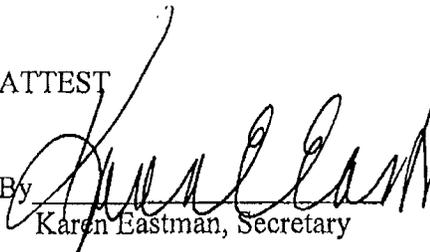
By *[Signature]*
By *[Signature]*



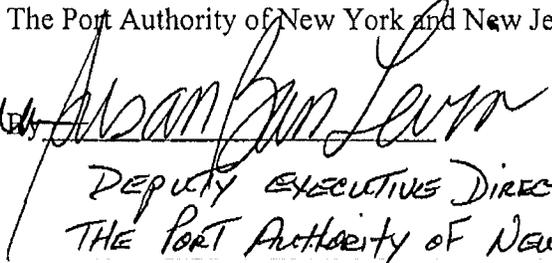
ATTEST

The Port Authority of New York and New Jersey

By


Karen Eastman, Secretary

By


DEPUTY EXECUTIVE DIRECTOR
THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

By


Executive Director
The Port Authority of NY & N J

HUDSON-RARITAN ESTUARY RESOURCES PROGRAM – MEMORANDUM OF AGREEMENT WITH THE CITY OF JERSEY CITY, NEW JERSEY FOR THE ACQUISITION OF LAND FOR HACKENSACK RIVERFRONT PARK

It was recommended that the Committee on Operations (Committee) authorize the Executive Director to enter into a Memorandum of Agreement (MOA) with the City of Jersey City, New Jersey (City) pursuant to which the Port Authority would provide an amount not to exceed \$4 million to the City, representing a portion of the cost for the City to acquire, by condemnation, an approximately 32.5-acre parcel of real property located along the Hackensack River in Jersey City at the intersection of Sip Avenue and Truck Route 1 & 9, with a current postal address of 400 Sip Avenue in Jersey City (Property), as part of the Hudson-Raritan Estuary Resources Program (Program). Funding by the Port Authority would be subject to the grant of a perpetual encumbrance with respect to the Property for the benefit of the Port Authority, created in a manner satisfactory to the Port Authority.

On July 26, 2001, the Board authorized the Executive Director and/or General Counsel, either one acting individually, to acquire, for and on behalf of the Port Authority, one or more sites in New York and New Jersey in the Port District areas of the Hudson-Raritan Estuary that may be identified by Port Authority staff as suitable for conservation, ecological enhancement, public access or environmental mitigation in support of Port Redevelopment, Economic Development and other Port Authority Capital Programs, in each case, with the final details of the acquisition to be presented to the Committee for approval prior to the acquisition. At the November 21, 2002 meeting of the Board, the Program was certified as a Port Authority facility.

The Property has been identified as suitable for conservation acquisition and public access. Acquisition of this site would advance the goals of the Program and the Port Authority's Capital Investment Plan Sustainability goal of protecting 50 acres of land per year from development. The acquired property would be included in the Program facility.

The MOA with the City would provide for the Port Authority to partially fund the City's acquisition of the Property, by condemnation, in an amount not to exceed \$4 million, with the remainder of the acquisition cost to be provided by the City and other sources. Under the MOA, the City would acquire fee title to, and would be the record owner of, the Property. As a condition of funding by the Port Authority, the deed conveying the Property to the City would be subject to a perpetual encumbrance for the benefit of the Port Authority in a manner satisfactory to the Port Authority, either through a conservation easement or through restrictive covenants for the benefit of the Port Authority. The City intends to develop the site for public recreation and waterfront access, to be known as Hackensack Riverfront Park. The Port Authority would have no obligation to provide any funds for environmental cleanup.

Pursuant to the foregoing report, the following resolution was adopted by the Committee with Commissioners Bauer, Coscia, Holmes, Hochberg, Silverman and Steiner voting in favor; none against:

RESOLVED, that the Executive Director be and he hereby is authorized, for and on behalf of the Port Authority, to enter into a Memorandum of Agreement with the City of Jersey City, New Jersey (City) pursuant to which the Port Authority will provide the City with an amount not to exceed \$4 million, representing a portion of the cost for the City to acquire, by condemnation, an approximately 32.5-acre

parcel of real property located along the Hackensack River in Jersey City at the intersection of Sip Avenue and Truck Route 1 & 9, with a current postal address of 400 Sip Avenue in Jersey City, for inclusion in the Port Authority's Hudson-Raritan Estuary Resources Program, and such other related agreements as may be necessary in connection therewith, substantially in accordance with the terms and conditions outlined to the Committee; and it is further

RESOLVED, that the form of the foregoing agreement shall be subject to the approval of the General Counsel or his authorized representative.