

RESOLUTION 2024-117

RESOLUTION OF THE TOWNSHIP OF CHATHAM, IN THE COUNTY OF MORRIS, STATE OF NEW JERSEY, AUTHORIZING A SETTLEMENT WITH KRONOS HOLDINGS, LLC WITH RESPECT TO CERTAIN ESCROWED FUNDS HELD IN COURT FOR ENVIRONMENTAL REMEDIATION OF 522 SOUTHERN BOULEVARD, AND CERTAIN RELATED ACTIONS IN CONNECTION THEREWITH

WHEREAS, the Township of Chatham (“Township”) is a municipal corporation of the State of New Jersey, which possesses, among other things, the power of eminent domain with respect to real property for public purposes; and

WHEREAS, in connection therewith, the Township had previously determined to exercise the power of eminent domain with respect to Block 128, Lot 2 within the Township and known as 522 Southern Boulevard (the “Property”) for affordable housing purposes, which, prior to the exercise of eminent domain, had been owned by Kronos Holdings, LLC (“Kronos”); and

WHEREAS, that eminent domain action was brought under *Township of Chatham v. Kronos Holdings, LLC, et als.*, Docket No. MRS-L-00789-21, in the Superior Court of New Jersey (the “Litigation”); and

WHEREAS, in connection with the Property and the Litigation, it had been determined that certain environmental remediation was required, and as a result, an environmental escrow in the total amount of \$394,022.50 was held from the proceeds otherwise paid to Kronos for the exercise of eminent domain and the taking of the Property, and placed in court with the Clerk of the Superior Court of New Jersey to pay the costs of any required environmental remediation (that escrow hereinafter the “Escrow”); and

WHEREAS, following the establishment of the Escrow as aforesaid, the environmental investigation and remediation of the Property commenced in connection with its development, and has actually now been completed by contractors retained by the Chatham Family Apartments, LLC, c/o the Walters Group (hereinafter “CFA”). The aggregate cost of the actual, completed environmental remediation is \$53,621.64, as verified by the provision of invoices from CFA’s contractors; and

WHEREAS, in connection with the Litigation, the undisputed portion of the Escrow, in the amount of \$340,400.86, was released to Kronos in February 2024, leaving only the amount of \$53,621.64 remaining for payment of the CFA contractors, all as aforesaid; and

WHEREAS, unfortunately, disputes developed between the Township and Kronos with respect to the reasonableness of the \$53,621.64 actually incurred for environmental remediation of the Property, leading the Superior Court of New Jersey to issue a scheduling and hearing order to resolve that dispute, through discovery and the holding of a plenary hearing in July of 2024; and

WHEREAS, in order to avoid the attendant cost and expense of continuing to litigate over the disputed portion of the Escrow, the parties have agreed to resolve the manner in the following manner (the “Settlement”):

- (1) With respect to the \$53,621.64 of the Escrow remaining in Court, \$29,999 thereof shall be payable to the Township (through legal counsel’s trust account), for application to the CFA environmental remediation invoices;
- (2) With respect to the \$53,621.64 of the Escrow remaining in Court, \$23,622.64 thereof shall be payable to Kronos (through legal counsel’s trust account); and
- (3) In consideration of resolving the dispute over the Escrow along the lines aforementioned, CFA has agreed to waive \$10,000.00 of its environmental remediation expenses otherwise payable by the Township; and

WHEREAS, in furtherance of the forgoing, the Township Committee is now desirous of authorizing the Settlement of the Escrow dispute in the Litigation consistent with the above, including the execution of necessary documents to effectuate the said Settlement.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Chatham, County of Morris, State of New Jersey, as follows:

Section 1. The aforementioned Recitals are incorporated herein as though fully set forth at length.

Section 2. The Settlement of the dispute over the Escrow within the Litigation be and hereby is authorized, all consistent with the above Recitals. In that regard, all necessary officers, personnel and legal counsel of the Township be and hereby are authorized and directed to execute such documents as may be reasonably necessary, and in such form as may be approved in consultation with legal counsel, to effectuate the terms of the Settlement as aforesaid. It is anticipated that such documents shall include, without limitation but only by way of example, the entry of any and all necessary orders within the Litigation to effectuate the Settlement, as well as any necessary release documents that may be executed with CTA with respect to its waiver of a portion of the environmental remediation costs with respect to the Property.

Section 3. All actions previously taken by any Township authorized officers, or by any employee, contractor, legal counsel or consultant employed by or engaged by the Township, in connection with the subject of this Resolution, are hereby ratified, confirmed and approved.

Section 4. If any part(s) of this Resolution shall be deemed invalid, such part(s) shall be severed and the invalidity thereof shall not affect the remaining parts of this Resolution.

Section 5. This Resolution shall take effect immediately.

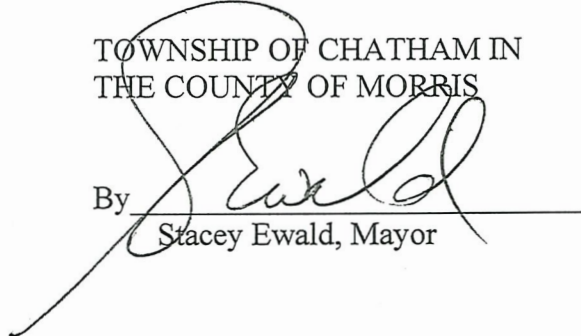
Adopted: April 23, 2024

TOWNSHIP OF CHATHAM IN
THE COUNTY OF MORRIS

Attest:




Gregory J. LaConte, Clerk

By 

Stacey Ewald, Mayor

I, Gregory J. LaConte, Township Clerk of the Township of Chatham in the County of Morris, New Jersey, hereby certify the foregoing to be a true complete copy of a resolution adopted by the Township Committee of the Township of Chatham at a regular meeting held on April 23, 2024.

Date Issued: 4-24-2024



Township Clerk