# Legislation Details (With Text)

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| **File #:** | 2020-0557 **Version:** 1 | | |
| **Type:** | Resolution | **Status:** | Passed Finally |
| **File created:** | 7/10/2020 | **In control:** | Committee on Public Works |
| **On agenda:** | 7/14/2020 | **Final action:** | 7/28/2020 |
| **Enactment date:** | 7/28/2020 | **Enactment #:** | 401 |
| **Effective date:** | 7/31/2020 | | |

**Title:** Resolution authorizing the Mayor and the Director of the Department of Public Works to enter into a Settlement Agreement and Release between the City of Pittsburgh and Judith B. Nozling owner of real property located at 7320 Trevanion Avenue, Swissvale, Allegheny County PA; Sharon S. Hadley owner of real property located at 7322 Trevanion Avenue, Swissvale, Allegheny County PA; Charles, Laura and Shaina Kaiser owners of real property located at 7324 Trevanion Avenue, Swissvale, Allegheny County PA; Alex Mychkovsky owner of real property located at 7326 Trevanion Avenue, Swissvale, Allegheny County PA; Anna Zemke owner of real property located at 7328 Trevanion Avenue, Swissvale, Allegheny County PA; Schuchert's Landscaping, Inc. and Regis J. Schuchert for the purpose of settlement of the City's claims against the aforementioned parties as a result of a retaining wall failure and subsequent landslide into Frick Park; and further authorizing the Mayor and the Director of the Department of Public Works to enter into a Right of Entry and License Agreement to allow temporary access into Frick Park for repair work on City-property and non-City property and installation of a retaining wall on non-City property; and a separate agreement, as needed, for the City to own a portion of a geo-grid mesh to stabilize designated hillside in Frick Park.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2020-0557 Cover Ltr-Frick Park Council ltr, 2. Summary 2020-0557

| Date | Ver. | Action By | Action | Result |
|---|---|---|---|---|
| 7/31/2020 | 1 | Mayor | Signed by the Mayor | |
| 7/28/2020 | 1 | City Council | Passed Finally | Pass |
| 7/22/2020 | 1 | Standing Committee | Affirmatively Recommended | Pass |
| 7/14/2020 | 1 | City Council | Read and referred | |

Resolution authorizing the Mayor and the Director of the Department of Public Works to enter into a Settlement Agreement and Release between the City of Pittsburgh and Judith B. Nozling owner of real property located at 7320 Trevanion Avenue, Swissvale, Allegheny County PA; Sharon S. Hadley owner of real property located at 7322 Trevanion Avenue, Swissvale, Allegheny County PA; Charles, Laura and Shaina Kaiser owners of real property located at 7324 Trevanion Avenue, Swissvale, Allegheny County PA; Alex Mychkovsky owner of real property located at 7326 Trevanion Avenue, Swissvale, Allegheny County PA; Anna Zemke owner of real property located at 7328 Trevanion Avenue, Swissvale, Allegheny County PA; Schuchert's Landscaping, Inc. and Regis J. Schuchert for the purpose of settlement of the City's claims against the aforementioned parties as a result of a retaining wall failure and subsequent landslide into Frick Park; and further authorizing the Mayor and the Director of the Department of Public Works to enter into a Right of Entry and License Agreement to allow temporary access into Frick Park for repair work on City-property and non-City property and installation of a retaining wall on non-City property; and a separate agreement, as needed, for the City to own a portion of a geo-grid mesh to stabilize designated hillside in Frick Park.



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WHEREAS, Charles, Laura and Shaina Kaiser (collectively "Kaiser") and Alex Mychkovsky ("Mychkovsky") contracted with Regis J. Schuchert ("Schuchert") to install a retaining wall on their property;

WHEREAS, subsequent to the installation, on or about February 18, 2018, the retaining wall failed forcing material and debris down the slope; ("Wall Collapse");

WHEREAS, claims for damages arising from the Wall Collapse have been asserted by and against some of the Released Parties;

WHEREAS, the City has asserted claims for damages arising from the Wall Collapse against the Released Parties;

WHEREAS, the City desires to enter into this Release to facilitate restoration of the City property in Frick Park simultaneous with the repair to the property owned by Judith B. Nozling, Sharon S. Hadley, Kaiser, Mychkovsky and Anna Zemke;

WHEREAS, Kaiser and Mychkovsky are prepared to enter into a design-build agreement ("DBA") with GeoBuild, LLC ("GeoBuild"), to perform repairs to their properties simultaneous with property owned by the City, Nozling, Hadley, and Zemke as intended third party beneficiaries of GeoBuild's performance under the DBA for work on their properties, respectively;

WHEREAS, the City of Pittsburgh, as the owner of Frick Park and the Trustee of Frick Park for the benefit of the people of the City, seeks to preserve the safety of its people and the integrity of the park; and

WHEREAS, the City of Pittsburgh is willing to satisfy, settle and resolve any and all claims against the above-mentioned homeowners and Schuchert for an additional payment of $21,900 for damage to 2 trees, namely, a 41-inch Oak Tree and a 32-inch Tulip Poplar Tree, this payment is in addition to a payment of $100,000.00 previously made to the City for tree and slope damage caused by the landslide and retaining wall failure; and

WHEREAS, the City of Pittsburgh further agrees to enter into a Right of Entry and License Agreement with designated parties to allow temporary access into Frick Park for property repair work on City-property and non-City property and installation of a retaining wall on non-City property as well as a separate agreement, as needed, for the City to own a portion of a geo-mesh grid to stabilize designated hillside in Frick Park.

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** The Mayor and the Director of the Department of Public Works of the City of Pittsburgh are hereby authorized to enter into a Release and Settlement Agreement whereby the City is willing to satisfy, settle and resolve any and all claims against the above mentioned homeowners and Schuchert in case GD 20-2211 for an additional payment of $21,900 for damage to 2 trees, namely, a 41 inch Oak Tree and a 32 inch Tulip Poplar Tree, this payment is in addition to a payment of $100,000.00 previously made to the City for tree and slope damage caused by the landslide and retaining wall failure. The Release and Settlement Agreement shall be in a form approved by the City Solicitor. Additional monies received through the settlement shall be deposited in the Allegheny Regional Asset District Trust Fund at JDE: 4000280300.28003.42381.

Section 2. The Mayor and the Director of the Department of Public Works, on behalf of the City of Pittsburgh, are further authorized to enter into a Right of Entry and License Agreement with Geo-Build, Kaiser and Mychkovsky to authorize Geo-Build to perform repairs to the Kaiser and Mychkovsky's properties and the



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City's property and to construct a retaining wall on non-City property. The City's affected property involves a temporary access road into Frick Park off of Trevanion Avenue. The Right of Entry and License Agreement shall be in a form approved by the City Solicitor. The Mayor and the Director of the Department of Public Works is also authorized to enter into an agreement, as needed, for the City to own a portion of the geo-mesh grid to stabilize designated hillside in Frick Park.



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