



Legislation Details (With Text)

**File #:** 15-1647      **Version:** 1      **Name:** Amendment to Financial Agreement between City of Newark and Garden Spires Urban Renewal, L.P.

**Type:** Ordinance      **Status:** Filed

**File created:** 8/25/2015      **In control:** Economic and Housing Development

**On agenda:** 10/27/2015      **Final action:** 11/10/2015

**Title:** ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK AUTHORIZING AN AMENDMENT TO THE FINANCIAL AGREEMENT BY AND BETWEEN THE CITY OF NEWARK AND GARDEN SPIRES URBAN RENEWAL, L.P.  
Sponsors: Chaneyfield Jenkins/ Gonzalez  
Deferred to Special 6PSF-e 110515

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
11/10/2015	1	Municipal Council	Close on Public Hearing and Adopt	Pass
11/5/2015	1	Municipal Council	maintained on public hearing and deferred to Special meeting	Pass
10/27/2015	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

**ORDINANCE OF THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK AUTHORIZING AN AMENDMENT TO THE FINANCIAL AGREEMENT BY AND BETWEEN THE CITY OF NEWARK AND GARDEN SPIRES URBAN RENEWAL, L.P.**

**Sponsors: Chaneyfield Jenkins/ Gonzalez**  
**Deferred to Special 6PSF-e 110515**

**WHEREAS**, on February 4, 2015 the City of Newark Municipal Council (the “City”) adopted Ordinance 6PSF-N, authorizing the Mayor to execute, on the City’s behalf, a Financial Agreement (the “Agreement”) with Garden Spires Urban Renewal, L.P. c/o Omni America, LLC, 885 Second Avenue, 31<sup>st</sup> Floor, Suite C, New York, New York 10017, (the “Entity”) for a thirty (30) year Tax Abatement in connection with the substantial rehabilitation of 544 affordable housing units (the “Project”) located on property identified as Block 1913 Lot 2, and more commonly known as 175 First Street and 195 First Street, Newark, New Jersey 07107 (the “Property”); and

**WHEREAS**, the Agreement was approved pursuant to, and in accordance with, the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq. (the “LTTE Law”); and

**WHEREAS**, the Agreement provides that the Annual Service Charge paid by the Entity for the Project shall be the amount equivalent to 6.28% of Annual Gross Revenue for the rental units and 15% of all other income derived from the Project (the “PILOT”); and

**WHEREAS**, the Agreement further provides that in no event shall the Annual Service Charge paid be less than an amount equal to the total taxes levied against the Project in the last full tax year the Project is subject to taxation (the “Minimum ASC”); and

**WHEREAS**, due to unforeseen significant increases to Project expenses, the Project is now financially infeasible with the minimum calculation of the annual service charge as currently set forth in the Agreement; and

**WHEREAS**, the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 *et seq.* (the “Bond Financing Law”) provides in part that “the provisions of [the LTTE Law] establishing a minimum or maximum annual service charge and requiring staged increases in annual service charges over the exemption period shall not apply to redevelopment projects financed with bonds”; and

**WHEREAS**, New Jersey Housing and Mortgage Finance Agency (“NJHMFA”) is financing the Project with tax exempt bonds, meeting the requirements for the exception to the Minimum ASC set forth in the Bond Financing Law; and

**WHEREAS**, on July 13, 2015, the Entity submitted a letter application to the Deputy Mayor/Director of the Department of Economic and Housing Development, requesting that the City amend Section 4.04 of the Financial Agreement to affirm that the Project is a redevelopment project financed with bonds and therefore the minimum and maximum ASC and required staged increases do not apply, consistent with the Bond Financing Law; and

**WHEREAS**, the Deputy Mayor/Director of the Department of Economic and Housing Development wishes to amend the Agreement to explicitly provide that the Entity’s obligation pursuant to the Agreement is subject to the payment of the PILOT and that the Minimum ASC shall not apply, consistent with the Bond Financing Law, as requested by the Entity, and to make such other changes in Section 4.04 of Financial Agreement as set forth in the form attached hereto;

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

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The amended application of Garden Spires Urban Renewal, L.P. c/o Omni America, LLC (the “Entity”), having its principal office at 885 Second Avenue, 31<sup>st</sup> Street, Suite C, New York, New York 10017, with such changes as requested by the City, is hereby approved in accordance with the recommendation of the Mayor.
3. All other provisions of Ordinance 6PSF-N to the extent not otherwise amended herein shall remain in full force and effect.
4. The Mayor of the City of Newark is hereby authorized to execute, on the City’s behalf, the amended and restated Financial Agreement (the “Financial Agreement”) in the form attached hereto.
5. An executed copy of the Financial Agreement authorized by this ordinance shall be filed and maintained with the City Clerk.
6. The City Clerk’s Office of the City of Newark shall forthwith submit a certified copy of the ordinance approving the tax exemption and the proposed Financial Agreement to the Director of the Division of Local Government Services.

7. This ordinance shall take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

### **STATEMENT**

This Ordinance authorizes the Mayor to enter into and execute, on the City's behalf, the amended and restated Financial Agreement with Garden Spires Urban Renewal, L.P. c/o Omni America, LLC, having its principal office at 885 Second Avenue, Floor 31, New York, New York 10017.