



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

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**AN ORDINANCE AMENDING 6PSF-A ADOPTED FEBRUARY 4, 2015 ENTITLED, “ORDINANCE OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AUTHORIZING THE ISSUANCE OF UP TO \$16,000,000.00 AGGREGATE PRINCIPAL AMOUNT OF MOTOR VEHICLE RENTAL TAX REVENUE BONDS OF THE CITY, AUTHORIZING THE PLEDGE AND ASSIGNMENT OF ALL OR A PORTION OF THE PROCEEDS OF THE CITY’S MOTOR VEHICLE RENTAL TAX TO THE PAYMENT OF SUCH BONDS, APPROPRIATING THE PROCEEDS OF SUCH BONDS TO FUND CAPITAL GRANTS IN AN AGGREGATE AMOUNT NOT TO EXCEED \$13,400,000.00 IN SUPPORT OF CERTAIN ELIGIBLE PROJECTS AND FOR OTHER PURPOSES, AND AMENDING SECTION 10:22A-3 OF ORDINANCE 6PSF-i ADOPTED BY THE MUNICIPAL COUNCIL ON MAY 5, 2010” TO EXPAND THE PURPOSES TO WHICH THE PROCEEDS OF SUCH BONDS MAYBE APPROPRIATED TO THE ELIGIBLE PROJECTS TO INCLUDE ALL ELIGIBLE PURPOSES AND TO MAKE RELATED CHANGES NECESSITATED THEREBY.**

**WHEREAS**, the New Jersey Economic Stimulus Act of 2009, specifically N.J.S.A. 40A:48H-1 et seq. (the “Municipal Motor Vehicle Rental Tax Law”) authorized certain municipalities to impose a tax on the rental of certain motor vehicles within designated industrial zones within such municipality (the “Rental Tax”) and to use the proceeds thereof for certain “eligible purposes” related to redevelopment purposes, as defined in the Municipal Motor Vehicle Rental Tax Law, specifically N.J.S.A. 40:48H-2.b (the “Eligible Projects”); and

**WHEREAS**, pursuant to Ordinance 6PSF-i, adopted by Municipal Council on May 5, 2010 (the “Tax Ordinance”), the City of Newark (the “City”) authorized the imposition of a Rental Tax on motor vehicle rental transactions that occur within certain designated industrial zones of the City; and

**WHEREAS**, pursuant to and in accordance with the provisions of the Municipal Motor Vehicle Rental Tax Law, specifically N.J.S.A. 40:48H-6, by Ordinance 6PSF-a finally adopted February 4, 2015 (the “Original Ordinance”), the City authorized the issuance of bonds in an amount not to exceed \$16,000,000.00 for the purpose of financing Eligible Projects, which bonds were payable

from and secured by Rental Tax proceeds; and

**WHEREAS**, the City issued \$13,490,000.00 Motor Vehicle Rental Tax Revenue Bonds, Series 2015 on March 31, 2015 (the “Series 2015 Bonds”), pursuant to and in accordance with the provisions of the Municipal Motor Vehicle Rental Tax Law and the Local Redevelopment and Housing Law, constituting Chapter 79 of the Pamphlet Laws of 1992 of the State of New Jersey, and the acts amendatory thereof and supplemental thereto, as codified in N.J.S.A. 40A:12A-1 et seq. (the “LRHL”); and

**WHEREAS**, the City, *inter alia*, appropriated the proceeds of such Series 2015 Bonds toward the funding of Eligible Projects as described in Exhibit A to the Original Ordinance; and

**WHEREAS**, the Original Ordinance authorized the issuance of the Series 2015 Bonds to finance the making of certain capital grants by the City in support of the designated Eligible Projects, and (ii) the appropriation of the proceeds of such Series 2015 Bonds to make such capital grants; and

**WHEREAS**, the Original Ordinance contemplated that the terms of the grants to be made in respect of said designated Eligible Projects and related grant agreements be approved by resolutions adopted, or to be adopted, by the Municipal Council from time to time; and

**WHEREAS**, the City desires to expand the purposes for which the Series 2015 Bond proceeds may be utilized in support of the Designated Projects to include grants as well as contributions, payments, subsidies and loans to mirror the definition of Eligible Purposes contained in the Motor Vehicle Rental Tax Statute and the LRHL; and

**WHEREAS**, the City desires to amend the Original Ordinance to expand the type of financial support permitted to be given to the Designated Projects to include Eligible Purposes which shall include, but are not limited to, loans, contributions, subsidies, payments and grants.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY** (not less than two-thirds of all members thereof affirmatively concurring), **THAT:**

Section 1. Section 2 of the Original Ordinance is hereby amended in its entirety to read, “The purpose for which the Bonds are being issued is to fund or to pay the cost of any Eligible Purpose (“Funding”) permitted under the Motor Vehicle Rental Tax Statute and the LRHL, including, without limitation, loans, contributions, subsidies, payments and grants in support of the several redevelopment projects listed on Exhibit A hereto (the “Designated Projects”) in an aggregate amount not to exceed \$13,400,000.00, in each case up to the maximum Funding amount indicated therein for such Designated Project, (ii) the establishment of reserves to secure the payment of debt service on the Series 2015 Bonds, if any and (iii) the payment of costs of issuance of the Bonds. The Municipal Council hereby determines that the Designated Projects reflected on Exhibit A constitute Eligible Projects and Eligible Purposes to which the proceeds of the Series 2015 Bonds may be applied. *Eligible Purposes* shall mean (1) the payment or reimbursement of costs of any “redevelopment project” or other undertaking in furtherance of a “redevelopment plan” in any “area in need of redevelopment” or “area in need of rehabilitation” within the City (including, but not limited to, redevelopment projects and undertakings located within the industrial zone), as such terms are defined in the Act, (2) the making of municipal subsidies or contributions as authorized by P.L.1992, c.79, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.*, (3) the payment or reimbursement, within or relating to any Urban Enterprise Zone located within the City, of such costs as are enumerated in the definition of “Project” as contained in subsection c. of section 29 of P.L.1983, c.303 (C.52:27H-88), without reference to the zone assistance fund or the zone development corporation, (4) the payment of bonds issued for any of the foregoing purposes, (5)

planning, evaluation, negotiation, and other preliminary expenses relating to any of the foregoing purposes, and (6) costs of administration and enforcement, including costs and expenses of the City incurred in collecting the tax.”

Section 2. Section 3 of the Original Ordinance is hereby amended in its entirety to read, “The Funding in support of each Designated Project shall be implemented through Funding Agreements (the “Agreements”) with the designated recipients as identified on Exhibit A, which Funding Agreements shall be reflective of the method/type of each such Funding including without limitation, loans, contributions, subsidies, payments and grants, and shall be in such form(s) as have been, or shall be, approved from time to time by resolution of the Municipal Council. Aforesaid Funding Agreements may contain modifications to the descriptions of the respective Designated Projects, which modified descriptions shall, to the extent so approved by resolution of the Municipal Council, be deemed to be incorporated herein by reference without further need for amending the Original Ordinance or this Amendatory Bond Ordinance (“Amendatory Bond Ordinance).”

Section 3. The proceeds of the Series 2015 Bonds shall be applied to the purposes described in Section 2 of the Original Ordinance as amended by Section 1 hereof, and such proceeds are hereby appropriated to such purposes.

Section 4. Any matter which is required or permitted hereunder to be determined by resolution of the Governing Body may be delegated by resolution of the Municipal Council to the any Authorized Officer of the City, as set forth in a subsequent resolution.

Section 5. Section 10 of the Original Ordinance is hereby amended in its entirety to read, “Section 10. The City reasonably expects that the designated recipients of the Funding as indicated on Exhibit A hereto may commence their respective Designated Projects, and may advance all or a portion of the costs in respect thereof, prior to the issuance of the Series 2015 Bonds and the authorization, execution and delivery of the respective Agreements with the City. To the extent such

costs are advanced, the City further reasonably expects to reimburse such expenditures from the proceeds of the Series 2015 Bonds, in an aggregate amount not to exceed the amount of the Series 2015 Bonds authorized in Section 2 of the Original Ordinance as amended by Section 1 hereof.”

Section 6. To the extent that any previous ordinance or resolution is inconsistent herewith or contradictory hereto, said ordinance or resolution is hereby repealed or amended to the extent necessary to make it consistent herewith.

Section 7. DeCotiis, Fitzpatrick & Cole, LLP, Bond Counsel to the City (“Bond Counsel”) in conjunction with the Chief Financial Officer of the City are each hereby authorized and directed to make and execute such filings and/or send such correspondence to the Local Finance Board and/or the Division of Local Government Services as may be necessary to effectuate the provisions of this Amendatory Bond Ordinance to expand the method of funding the Designated Projects to include the application and appropriation of the proceeds of Series 2015 Bond to all Eligible Purposes.

Section 8. Exhibit A attached to the Original Ordinance is hereby amended to change the words “Amount of Grant” to “Amount of Funding” and to make changes in the description of the One Theater Square Project.

Section 9. The provisions of this Ordinance are severable. To the extent any clause, phrase, sentence, paragraph or provision of this Ordinance shall be declared invalid, illegal or unconstitutional, the remaining provisions shall continue in full force and effect.

Section 10. Except as expressly amended hereby or as set forth herein, the Original Ordinance shall remain in full force and effect.

Section 11. This Amendatory Bond Ordinance shall take effect 20 days after the first publication thereof after final adoption, and upon the receipt of any approvals of the Local Finance Board and such approval(s) of the Director as are required pursuant to the MOU and the Local Government Supervision Act.

Section 12. Upon the final adoption hereof, the City Clerk is authorized and directed to forward a certified copy of this Ordinance to DeCotiis, Fitzpatrick & Cole, LLP, Attention: Cheryl J. Oberdorf, Esquire, Bond Counsel to the City.

### **STATEMENT**

This ordinance amends Ordinance 6PSF-a February 4, 2015, to expand the purposes for which the Series 2015 Bond proceeds in the amount of \$43,400,000.00, may be appropriated from being limited solely capital grants to permit, without limitation, contributions, payments, subsidies, loans and grants to fund redevelopment projects to conform to the provisions of and the definition of Eligible Purposes contained in the Motor Vehicle Rental Tax and the Local Redevelopment and Housing Law and authorizes the appropriation of the proceeds of such Series 2015 Bonds to the Designated Projects for any of such purposes.