



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

File #: 12-1854, Version: 1

**Dept/ Agency:** Economic & Housing Development

**Action:** ( ) Ratifying (X) Authorizing ( ) Amending

**Type of Service:** Assignment of Private Sale/Redevelopment

**Purpose:** Consent to transfer, execution and delivery of a Purchase and Sale Agreement between RBH-TRB West I Mezz Urban Renewal Entity, L.L.C. (formerly known as RBH-TRB 229 Halsey, LLC) and Teachers Village Project A QALICB Urban Renewal, L.L.C.

**Entity Name: Transferor:** RBH-TRB 229 Halsey, LLC, now known as RBH-TRB West 1 Mezz Urban Renewal Entity, LLC

**Transferee:** Teachers Village Project A QALICB Urban Renewal, L.L.C.

**Entity Address:** 16 west 36<sup>th</sup> Street, Suite 801, New York, New York 10018

**Sale Amount:** \$n/a

**Cost Basis:** ( ) \$ PSF ( ) Negotiated ( ) N/A ( ) Other:

**Assessed Amount:** n/a

**Appraised Amount:** n/a

**Contract Period:** n/a

**Contract Basis:** ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS

( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ

( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a

**List of Property:**

**(Address/Block/Lot/Ward)**

### Additional Information:

**WHEREAS**, on May 16, 2006, the Municipal Council of the City of Newark (“City”) adopted Resolution 7RN (S), authorizing the execution and delivery of a Redevelopment Agreement (the “Original Redevelopment Agreement”) with WKA Development, Inc. (the “Original Redeveloper”); and

**WHEREAS**, the Original Redevelopment Agreement would provide for the sale of certain City-owned properties, specifically Block 95, Lots 1, 2, 3, 4, 8, 10, 16 and 31 (being 265-67 Halsey Street, 324-326 Washington Street, and 40-44, 48, 50-58, 60, 62 and 64-66 Williams Street) (collectively, the “City Properties”), to the Original Redeveloper, pursuant to N.J.S.A. 40A:12A-8(g), and the construction thereon by the Original Redeveloper of a redevelopment project comprising a six story, approximately 200,000 square foot office building consisting of four levels of parking, one level of commercial/retail and one level of office space (the “Original Redevelopment Project”); and

**WHEREAS**, the City’s execution and delivery of the Original Redevelopment Agreement was thereafter enjoined by the Superior Court of New Jersey, Law Division, Essex County, by an Order to Show Cause with Temporary Restraints entered on May 31, 2006 and by an injunction entered on June 28, 2006; and

**WHEREAS**, by a Consent Order entered on June 22, 2007, the Superior Court of New Jersey permitted the City to enter into and close on any contract for the sale of City-owned property in accordance with N.J.S.A. 40A:12A-8; and

**WHEREAS**, on October 21, 2008, the Municipal Council of the City adopted Resolution 7R3-B (S) (the "2008 Resolution"), authorizing the execution and delivery of the Original Redevelopment Agreement and a Partial Settlement Agreement and Release (the "Settlement Agreement") with the Original Redeveloper; and

**WHEREAS**, on April 29, 2010, the City and the Original Redeveloper executed the Settlement Agreement, which provided for certain amendments to the unexecuted Original Redevelopment Agreement, including, inter alia, the ability of the Original Redeveloper to assign its rights under the Original Redevelopment Agreement, as modified by the Settlement Agreement, to RBH Group Partners XXVII, LP or as otherwise consented to by the Deputy Mayor/Director of the Department of Economic and Housing Development; and

**WHEREAS**, on June 2, 2010, the Municipal Council of the City adopted Resolution 7R3-F (A.S.), designating various properties, including, inter alia, Block 95, Lots 4, 8, 10 and 16 (the "Blighted City Parcels"), as an area in need of redevelopment (the "Redevelopment Area") pursuant to the Redevelopment Law; and

**WHEREAS**, on December 14, 2010, the Municipal Council of the City adopted Ordinance 6SF -A (S), authorizing the execution and delivery of a Financial Agreement (the "Financial Agreement") with Newark Teachers Village Urban Renewal, L.L.C. (the "Teachers Village URE"), providing for a long-term tax abatement for a mixed-use rental residential, retail and charter-school project (the "Teachers Village Redevelopment Project"), which includes (i) a component of approximately 126,351 square feet of residential space and approximately 28,108 square feet of retail space (the "West Component"), which West Component will be located partly on certain of the City Parcels (including the Blighted City Parcels), (ii) a component of approximately 100,361 square feet of charter school space and approximately 27,578 square feet of retail space (the "East Component"), the parking area (but no improvements) for which East Component will be located partly on certain of the City Parcels, and (iii) a component of approximately 75,015 square feet of residential space and approximately 10,139 square feet of residential space; and

**WHEREAS**, on August 3, 2011, the Municipal Council of the City adopted Resolution 7R3-k (A.S.) (the "2011 Resolution"), authorizing the execution of a Redevelopment Agreement (the "Redevelopment Agreement") which incorporates by reference the terms of the unexecuted Original Redevelopment Agreement, as modified by the Settlement Agreement, together with certain other changes; and

**WHEREAS**, the Redevelopment Agreement identified RBH-TRB 222 Halsey, LLC, now known as RBH-TRB East Mezz Urban Renewal Entity, L.L.C. (the "New Redeveloper"), as the entity to which the Redevelopment Agreement was to be assigned by the Original Redeveloper immediately following execution thereof and contemplated and approved the subsequent conveyance of a portion of the City Properties to RBH-TRB 229 Halsey, LLC, now known as RBH-TRB West 1 Mezz Urban Renewal Entity, LLC (the "New West Redeveloper"), as redeveloper of the West Component following such conveyance, subject to the New West Redeveloper executing a joinder to the Redevelopment Agreement in form and substance satisfactory to the City; and

**WHEREAS**, the “Redevelopment Project” under the Redevelopment Agreement (i.e., the portion of the Teachers Village Redevelopment Project to be located on the City Parcels) shall include (i) the construction of the West Component and provision of a portion of the surface parking required in connection therewith and (ii) provision of a portion of the surface parking required in connection with the East Component; and

**WHEREAS**, on August 10, 2011, (i) the City and the Original Redeveloper executed the Redevelopment Agreement, and the Original Redeveloper thereupon assigned to the New Redeveloper all of its right, title and interest in and to the Redevelopment Agreement and the New Redeveloper thereupon assumed all of the obligations thereunder, and (ii) the City conveyed the City Properties to the New Redeveloper by a Deed dated August 10, 2011 (the “Deed”), all in accordance with the Redevelopment Agreement; and

**WHEREAS**, pursuant to Article XVI of the Original Redevelopment Agreement (which is incorporated by reference into Section 2 of the Redevelopment Agreement) and Paragraph 5(3) of the Deed (collectively, the “Transfer Consent Conditions”), the consent of the City is required for any “transfer” of the City Properties, other than certain permitted transfers; and

**WHEREAS**, in order to provide a portion of the financing for construction of the East Component, the New Redeveloper has heretofore proposed to enter into a New Markets Tax Credit (“NMTC”) transaction in respect of the East Component; and

**WHEREAS**, NMTC transactions often necessitate the borrower to be a bankruptcy-remote, special purpose entity more commonly known as a Qualified Active Low Income Community Business (a “QALICB”), which under a NMTC structure would be the borrower of loan funds resulting from the NMTC transaction; and

**WHEREAS**, to facilitate such structure (and the requirement that the borrower in a NMTC transaction have an interest in the project) in respect of the East Component, the New Redeveloper has heretofore proposed to enter into a ground lease in the underlying properties (which include a portion of the City Properties) for a term of approximately sixty-five (65) years (the “East Component Ground Lease”) with an affiliated entity and QALICB known as Teachers Village School QALICB Urban Renewal, L.L.C. (the “East Component Lessee”); and

**WHEREAS**, on December 21, 2011, the Municipal Council of the City adopted Resolution 7R3 -B (A.S.), consenting to the East Component Ground Lease pursuant to the Transfer Consent Conditions, whereupon the New Redeveloper and the East Component Lessee entered into the East Component Ground Lease, with the New Redeveloper remaining obligated to comply with all of the provisions of the Redevelopment Agreement; and

**WHEREAS**, in order to provide a portion of the financing for construction of the West Component, (i) the New Redeveloper proposes to transfer to the New West Redeveloper the properties and contractual rights and obligations (including under the Financial Agreement and the Redevelopment Agreement) relating to the West Component as contemplated by the Redevelopment Agreement, and (ii) the New West Redeveloper now proposes to enter into a NMTC transaction in respect of the West Component; and

**WHEREAS**, to facilitate such structure (and the requirement that the borrower in a NMTC transaction have an interest in the project) in respect of the West Component, the New West Redeveloper proposes to convey title in the underlying properties (which include a portion of the City Properties) pursuant to a Purchase and Sale Agreement (the “West Component Sale Agreement”) with an affiliated entity and QALICB known as Teachers Village Project A QALICB Urban Renewal Entity, L.L.C. (the “West Component Transferee”); and

**WHEREAS**, pursuant to the Transfer Consent Conditions, the consent of the City is required for the proposed West Component Sale Agreement; and

**WHEREAS**, in order to facilitate the New West Redeveloper’s ability to obtain such financing, the City is willing to consent to the proposed West Component Sale Agreement, provided that (i) notwithstanding the West Component Sale Agreement, the New West Redeveloper will remain obligated to comply, or cause the West Component Transferee to comply, with all of the provisions of the Redevelopment Agreement in respect of the West Component and (ii) the West Component Transferee executes such documents as are necessary to fully bind it to the provisions of the Redevelopment Agreement and the Financial Agreement, in each case as to the West Component only; and

**WHEREAS**, the proposed transfer from the New West Redeveloper to the West Component Transferee is permitted without the consent of the City by Section 10.01 of the Financial Agreement; and

**WHEREAS**, the New West Redeveloper and the West Component Transferee have agreed to execute and deliver an Assignment and Assumption Agreement in substantially the form attached hereto (the “Assignment and Assumption Agreement”) evidencing (i) the joinder of the New West Redeveloper to the Redevelopment Agreement, as to the West Component only (as required by Section 4 of the Redevelopment Agreement) and (ii) the joinder of the West Component Transferee to the Redevelopment Agreement and its acceptance of the obligations of the New West Redeveloper under the Financial Agreement, in each case as to the West Component only; and

**WHEREAS**, as a result of the execution by both the New West Redeveloper and the West Component Transferee of the Assignment and Assumption Agreement, the West Component Transferee shall be fully bound by the provisions of the Redevelopment Agreement and the Financial Agreement, in each case as to the West Component only.

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

1. The City hereby consents to the execution of the West Component Sale Agreement between the New West Redeveloper and the West Component Transferee, in the form attached hereto, and to the conveyance of title to a portion of the “City Properties” (as previously defined) in accordance therewith; provided, that each of the New West Redeveloper and the West Component Transferee also execute the Assignment and Assumption Agreement in the form attached hereto. All provisions of the Redevelopment Agreement shall remain in full force and effect, and shall be binding upon the West Component Transferee. In addition, notwithstanding such transfer (and the City’s consent thereto), the New West Redeveloper shall remain obligated to comply, or cause the West

Component Transferee to comply, with all of the provisions of the Redevelopment Agreement in respect of the West Component.

2. This resolution shall take effect immediately.

#### **STATEMENT**

Resolution consenting to the execution and delivery of a Purchase and Sale Agreement between RBH-TRB West I Mezz Urban Renewal Entity, L.L.C. (formerly known as RBH-TRB 229 Halsey, LLC) and Teachers Village Project A QALICB Urban Renewal, L.L.C., relating to a Redevelopment Agreement previously entered into by the City providing for, inter alia, the private sale and redevelopment of certain formerly City-owned properties, specifically Block 95, Lots 1, 2, 3, 4, 8, 10, 16 and 31 (being 265-67 Halsey Street, 324-326 Washington Street, and 40-44, 48, 50-58, 60, 62 and 64-66 Williams Street).