



## Legislation Text

File #: 19-0035, Version: 1

**AN ORDINANCE GRANTING A TWENTY-THREE (23) YEAR TAX ABATEMENT TO 98 FRELINGHUYSEN REAL ESTATE URBAN RENEWAL ENTITY, LLC, 56 NEW HOOK ROAD, SUITE 2F, BAYONNE, NEW JERSEY 07002, FOR A PROJECT TO DELIVER A SITE PAD AND CONSTRUCT A ONE HUNDRED TEN (110) ROOM HOTEL ABOVE THE EXISTING PARKING GARAGE LOCATED AT 94-120 FRELINGHUYSEN AVENUE, NEWARK, NEW JERSEY, ALSO KNOWN AS 98 FRELINGHUYSEN AVENUE, NEWARK, NEW JERSEY AND IDENTIFIED ON THE CITY'S TAX MAP AS BLOCK 2780, LOT 1.**

**Deferred 6PSF-d 032019**

**Deferred 6PSF-a (s) 032619**

**WHEREAS**, on February 6, 2013, the City adopted Ordinance 6PSF-f approving a tax abatement for 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, 56 New Hook Road, Suite 2F, Bayonne, New Jersey 07002 (the "Entity"), for a twenty (20) year term for a project to construct a parking garage located at 94-120 Frelinghuysen Avenue, Newark, New Jersey, also known as 98 Frelinghuysen Avenue, Newark, New Jersey and identified on the City's tax map as Block 2780, Lot 1; and

**WHEREAS**, on February 19, 2014, the City and the Entity entered into that certain Financial Agreement governing the tax abatement for the parking garage (the "Original Financial Agreement"); and

**WHEREAS**, the Entity, filed a new application with the Mayor seeking a Long Term Tax Abatement under the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., for a twenty-three (23) year term for a project to deliver a site pad and construct a one hundred ten (110) room hotel above the existing parking garage located at 94-120 Frelinghuysen Avenue, Newark, New Jersey, also known as 98 Frelinghuysen Avenue, Newark, New Jersey and identified on the City's tax map as Block 2780, Lot 1 (the "Project"); and

**WHEREAS**, the Mayor has submitted the application and proposed Financial Agreement to the Municipal Council with his recommendation thereof, a copy of which is annexed hereto; and

**WHEREAS**, in accordance with Ordinance 6PSF-a adopted May 4, 2011, 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC has filed with the City a sworn statement that it has not made any contribution in violation of said ordinance; and

**WHEREAS**, the Department of Economic and Housing Development has determined pursuant to N.J.S.A. 40A:20-11 that the relative benefits of this Project outweigh any costs associated with this tax exemption and that without the tax abatement granted herein, the Project would not be undertaken; and

**WHEREAS**, the Original Financial Agreement shall automatically terminate in accordance with

its terms, without any further action of the parties, upon adoption of this Ordinance by the Municipal Council of the City of Newark and full execution of the Financial Agreement.

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

1. The application of 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, 56 New Hook Road, Suite 2F, Bayonne, New Jersey 07002 (the "Entity"), for the development, maintenance and operation of the Project described in the application is hereby approved in accordance with the recommendation of the Mayor for a project to deliver a site pad and construct a one hundred ten (110) room hotel above the existing parking garage located at 94-120 Frelinghuysen Avenue, Newark, New Jersey, also known as 98 Frelinghuysen Avenue, Newark, New Jersey and identified on the City's tax map as Block 2780, Lot 1 (the "Project").

2. The abatement from taxation on improvements is hereby granted to the Entity for a period of twenty-three (23) years pursuant to N.J.S.A. 40A:20-12, and only so long as the Entity is subject to, and complies with, the proposed Financial Agreement and the Long Term Tax Exemption Law, as amended and supplemented.

3. The Mayor of the City of Newark is hereby authorized and directed to execute and enter into, on the City's behalf, the Financial Agreement in the form attached hereto.

4. The Interim Deputy Mayor/Director of the Department of Economic and Housing Development shall file an executed copy of the Financial Agreement authorized by this ordinance in the Office of City Clerk.

5. The Project, when completed, will conform with all State laws and ordinances of the City relating to its construction and use.

6. The Affirmative Action Program now on file in the Office of the City Clerk is declared to be a material condition of the Financial Agreement authorized by this ordinance.

7. The Entity shall in the operation of the Project comply with all laws so that no person shall be subject to any discrimination because of race, religious principles, color, national origin, or ancestry.

8. The Entity shall file an employment report (herein described below) with the Office of Affirmative Action who shall forthwith after receiving the report send a copy thereof to the City Clerk and the Office of Affirmative Action shall forthwith investigate the matters contained therein and report its findings to the Municipal Council.

9. The annual service charge shall be based on a minimum of \$100,000.00 per year for the hotel and fifteen percent (15%) of Annual Gross Revenues generated from the parking garage as further set forth in the Financial Agreement.

10. The Entity shall pay the minimum annual service charge, as calculated pursuant to N.J.S.A. 40A:20-12(b)(2)(e) and the Financial Agreement, in each year in which the annual service charge, as provided in paragraph 9 above, would be less than the minimum annual service charge.

11. The following occurrences and requirements are express conditions of the granting of this tax abatement, to be performed by the Entity and the failure to comply with these requirements will result in the cancellation of the tax abatement:

(a) The Entity shall not, without prior consent of the Municipal Council of the City of Newark, sell, lease, assign, encumber, subordinate, convey, mortgage or transfer all, or any part of the Project, so as to sever, disconnect or divide the improvements from the land embraced within the Project;

(b) The Entity shall concomitantly, with the submission of the annual report required of it by N.J.S.A. 40A:20-9(d), attach an employment report under oath, with particulars, stating the manner and the extent to which it has complied with 11(b) above. This employment report shall be filed with the Director of Finance, the City Clerk, and the Director of the Department of Economic and Housing Development;

(c) The Entity shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this ordinance;

(d) The Entity shall submit to the City a copy of its formation documents, as approved by the Department of Community Affairs and filed with the Secretary of State;

(e) The Entity shall receive a favorable review and Certification from the appropriate City departments and agencies, pursuant to City Ordinance 6PS&f, adopted October 21, 1992, as amended.

12. In any year that the Entity shall fail to make four (4) consecutive land tax payments when due and owing in the manner defined in N.J.S.A. 40A:20-12(b)(2)(e), such delinquency shall render the Entity ineligible for any land tax credits against the annual service charge.

13. The Entity understands and agrees that the revenue projections set forth in the application are estimates and that the actual payments in lieu of taxes to be paid by the Entity to the City shall be determined pursuant to the Financial Agreement to be executed between the Entity and the City of Newark.

14. To the extent of any inconsistency with any prior City ordinance and/or Municipal Code provision governing the granting of long-term tax exemptions, including, inter alia, procedures for application, review and approval, required terms of the financial agreement, required conditions and covenants, limits on duration, means of enforcement, and all other matters whatsoever, such prior City ordinances and/or Municipal Code provisions are hereby waived, but only with respect to this Ordinance.

15. Within ten (10) calendar days following the later of the effective date of this Ordinance or the execution of the Financial Agreement by the Entity, the City Clerk Office shall transmit a certified copy of the Ordinance and Financial Agreement to the Chief Financial Officer of the county and to the County Counsel for informational purposes.

16. Upon execution of this Financial Agreement, the Original Financial Agreement entered into on February 19, 2014, pursuant to Ordinance 6PSF-f, adopted on February 6, 2013, shall automatically terminate in accordance with its terms without any further action of the Parties.

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

### **STATEMENT**

This Ordinance grants a Long Term Tax Abatement to 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, 56 New Hook Road, Suite 2F, Bayonne, New Jersey 07002, for a twenty-three (23) year term for a project to deliver a site pad and construct a one hundred ten (110) room hotel above the existing parking garage located at 94-120 Frelinghuysen Avenue, Newark, New Jersey, also known as 98 Frelinghuysen Avenue, Newark, New Jersey and identified on the City's tax map as Block 2780, Lot 1.