



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 11-1282, Version: 1

Dept/ Agency: Economic & Housing Development

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

Type of Service: Private Sale/Redevelopment

Purpose: Redevelopment Agreement

Entity Name: Atlantic Street Fidelco, LLC

Entity Address: 225 Millburn Avenue, Suite 202, Millburn, NJ., 07041

Sale Amount: \$275,000.00 (land sale), \$1.00 (easement);

Cost Basis: () \$ PSF () Negotiated () N/A (X) Other: Fair Market Value

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

(X) Private Sale () Grant () Sub-recipient () N/A

List of Property:

(Address/Block/Lot/Ward)

472 Broad Street, Block 25, Lot 18 and a portion of 468-470 Broad Street, Block 25, Lot 20 (Central Ward)

Additional Information:

Resolution 7R3-g 070208: Settlement Agreement Bergen Clinton Market, LLC

Ordinance 6PSF-e 092111: NJ Transit Sale Contract

Ordinance 6PSF-d 092111: Atlantic Street Right-of-Way

Ordinance 6PSF-A 050411: Pay-to-Play Policy for Developers

WHEREAS, the entire territory of the City of Newark (the “City”) has been designated as an “area in need of rehabilitation” in accordance with the provisions of N.J.S.A. 40A:12A-14 of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the “LRHL”); and

WHEREAS, following the “area in need of rehabilitation” designation, the Municipal Council adopted the Broad Street Station District Redevelopment Plan dated October 22, 2008, amended December 3, 2008 (collectively, the “Redevelopment Plan”), that includes within it the parcels of real property identified on the City’s tax map as Block 25, Lot 18 and a portion of Lot 20, as more fully described herein, and all buildings, structures and improvements thereon (collectively, the “NJ Transit Property”), and the hereinafter-defined Atlantic Street Right-of-Way; and

WHEREAS, Broad Street Fidelco, LLC, a New Jersey limited liability company, is the owner of certain parcels of real property adjacent to the NJ Transit Property identified on the City’s tax map as Block 25, Lots 7, 8, 10, 11, 12, 15 and 17 and portions of Lots 1, 13, 16, 23, 24 and 76, and all buildings, structures and improvements thereon (collectively, the “Redeveloper Property”), and wishes to acquire, through its affiliate Atlantic Street Fidelco, LLC, a New Jersey limited liability company (the “Redeveloper”) the NJ Transit Property and a limited easement over a portion of the

Atlantic Street Right-of-Way for a proposed elevated architectural element (the "Easement"), in order to proceed with a redevelopment project thereon (the NJ Transit Property, the Redeveloper Property and the Easement are collectively referred to herein as the "Property"), such project to consist generally of the construction of a multi-level parking garage and several floors of office space above this parking structure (the "Project"); and

WHEREAS, pursuant to the LRHL, the City has determined to act as the "Redevelopment Entity" (as such term is defined at N.J.S.A. 40A:12A-3) for the Property in accordance with the Redevelopment Plan; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-8(f), the City is authorized to arrange or contract with redevelopers for the planning, replanning, construction or undertaking of any redevelopment project; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-8(g), the City is authorized to convey property or improvements to any other party, without public bidding and at such prices and upon such terms as it deems reasonable, provided that the conveyance is made in conjunction with a redevelopment plan; and

WHEREAS, based on its review of the submissions and presentations made by representatives of the Redeveloper, the City determined that the Redeveloper has the professional experience and financial capabilities to carry out the Project in accordance with the approved Redevelopment Plan; and

WHEREAS, the City believes the Project to be in the vital and best interests of the City, and that it promotes the health, safety, morals and welfare of the City's residents; and

WHEREAS, the NJ Transit Parcel and the Atlantic Street Right-of-Way are each currently owned by New Jersey Transit Corporation, an instrumentality of the State of New Jersey ("NJ Transit"); and

WHEREAS, pursuant to Resolution No. 7R3-g adopted July 2, 2008, the City entered into a Settlement Agreement (the "Settlement Agreement") with an affiliate of the Redeveloper, Bergen Clinton Market, LLC ("BCM"), by the terms of which the City is required to make payment to BCM in an amount equal to the certain unused credits against purchases by BCM of real property from the City for redevelopment purposes; and

WHEREAS, pursuant to N.J.S.A. 40:60-25.1 and N.J.S.A. 40A:12-5(a), the City is authorized to acquire by purchase, any real property or interest therein for the purpose of making facilities available to the public for the public parking of vehicles; and

WHEREAS, the City and the Redeveloper have agreed that, in order to facilitate the redevelopment of the Property for the purpose of making facilities available to the public for the public parking of vehicles, the City will purchase the NJ Transit Property from NJ Transit at a price equal to the fair market value thereof, and will thereupon (pursuant to the hereinafter defined Redevelopment Agreement) convey title to the NJ Transit Parcel to the Redeveloper; and

WHEREAS, the City, the Redeveloper and BCM have further agreed that the consideration for

such conveyance to the Redeveloper shall be a dollar-for-dollar offset, in an amount equal to the purchase price paid by the City to NJ Transit, against the amount payable by the City to BCM under the Settlement Agreement; and

WHEREAS, the City also intends to acquire title to the Atlantic Street Right-of-Way from NJ Transit for nominal consideration, and will thereupon (pursuant to this Agreement) convey the Easement to the Redeveloper; and

WHEREAS, by Ordinance No. 6PSF-e finally adopted by the Municipal Council on September 21, 2011, the City authorized the execution of a Contract for Sale of Real Estate with NJ Transit (the "NJ Transit Sale Contract"), by which the City will acquire title to the NJ Transit Parcel for the purpose of making facilities available to the public for the public parking of vehicles; and

WHEREAS, the NJ Transit Sale Contract imposes certain indemnification and other obligations upon the City, and it is the intent of the Parties that such obligations be passed through to the Redeveloper through this Agreement; and

WHEREAS, by Ordinance No. 6PSF-d finally adopted by the Municipal Council on September 21, 2011, the City authorized the acquisition of the portion of Atlantic Street, as constructed, extending from Bridge Street to its terminus at Broad Street and including an additional dedication for the widening of the easterly right-of-way line of Broad Street from a point north of Bridge Street to Division Street (the "Atlantic Street Right-of-Way") from NJ Transit for dedication as a public right-of-way; and

WHEREAS, the Redeveloper has agreed to purchase the NJ Transit Property from the City for a purchase price of Two Hundred Seventy-Five Thousand Dollars (\$275,000.00), the amount NJ Transit has determined is the fair market value of the NJ Transit Property, which amount shall not be paid in cash, but rather shall be deemed to have been paid by the Redeveloper to the City upon passage of title in the NJ Transit Property and the simultaneous (and automatic) crediting of such amount against the amount payable by the City to BCM under the terms of the Settlement Agreement, and to accept the Easement from the City for a purchase price of One Dollar (\$1.00), and to undertake the Project on the Property, in order to effectuate the rehabilitation of the Property in accordance with the Redevelopment Plan; and

WHEREAS, the City has determined that the NJ Transit Property and the Easement are each not needed for public use and that the rehabilitation thereof in accordance with the applicable provisions of the Redevelopment Plan will contribute to the rehabilitation and reinvigoration of the City and to the social and economic improvement of the City in accordance with the legislative intent, goals and objectives of the LRHL and will also of make facilities available to the public for the public parking of vehicles in accordance with N.J.S.A. 40:60-25.1; and

WHEREAS, the City and the Redeveloper have engaged in negotiations and the City has determined that in furtherance of the City's objectives to implement the rehabilitation contemplated within the Redevelopment Plan, it is in the public interest for the City to designate Atlantic Street Fidelco, LLC the "Redeveloper" as the redeveloper for the Property under the LRHL and to enter into the hereinafter-defined Redevelopment Agreement with the Redeveloper setting forth in greater detail the respective undertakings, rights and obligations of the parties in connection with the Project; and

WHEREAS, in accordance with Ordinance No. 6PSF-A 050411 adopted May 4, 2011, the New Redeveloper has filed with the City a sworn statement that it has not made any contribution in violation of said ordinance.

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

1. The City hereby designates Atlantic Street Fidelco, LLC, 225 Millburn Avenue, Suite 202, Millburn, New Jersey, 07041, the "Redeveloper" as the redeveloper for the Property under the LRHL, and authorizes (i) the sale of the NJ Transit Property to the Redeveloper for the sum of Two Hundred Seventy-Five Thousand Dollars (\$275,000.00), which amount shall not be paid in cash, but rather shall be deemed to have been paid by the Redeveloper to the City upon passage of title in the NJ Transit Property to the Redeveloper and the simultaneous (and automatic) crediting of such amount against the amount payable by the City to BCM under the terms of the Settlement Agreement, and (ii) the granting of the Easement to the Redeveloper for the sum of One Dollar (\$1.00), in each case subject to the terms and conditions of the hereinafter defined Redevelopment Agreement between the City and the Redeveloper. Such terms and conditions include, *inter alia*, the undertaking of Redeveloper to provide to the City certain environmental indemnities similar to those to be provided by the City to NJ Transit under the NJ Transit Sale Contract.

2. The Mayor and/or his designee, the Deputy Mayor/Director of Economic and Housing Development are hereby authorized to execute a Redevelopment Agreement with the Redeveloper in substantially the form attached hereto, with such changes as may be approved by the officer executing same, with the advice of Corporation Counsel, such approval to be conclusively evidenced by such officer's execution thereof (the "Redevelopment Agreement"). The Deputy Mayor/Director of Economic and Housing Development is hereby authorized to: (i) execute a deed in the form required under the Redevelopment Agreement in order to transfer title in the NJ Transit Property to the Redeveloper, (ii) to execute the easement agreement in the form attached hereto in accordance with the Redevelopment Agreement, and (iii) to effectuate any other terms and conditions contained in the Redevelopment Agreement annexed hereto. The Deputy Mayor/Director of Economic and Housing Development is hereby further authorized to take such additional actions as may be necessary to consummate the transactions contemplated by the Redevelopment Agreement.

3. A copy of the executed Redevelopment Agreement, deed and easement agreement shall be placed on file in the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.

4. This resolution shall take effect immediately in accordance with the laws of the State of New Jersey.

STATEMENT

Passage of this resolution shall permit the City of Newark to execute a redevelopment agreement with Atlantic Street Fidelco, LLC (the "Redeveloper") for (i) the private sale of City-owned properties located within the Central Ward and identified on the City's tax map as 472 Broad Street, Block 25, Lot 18 and a portion of 468-470 Broad Street, Block 25, Lot 20, for the sum of Two Hundred Seventy-Five Thousand Dollars (\$275,000.00), which amount shall not be paid in cash, but rather shall be deemed to have been paid by the Redeveloper to the City upon passage of title in such property to the Redeveloper and the simultaneous (and automatic) crediting of such amount against the amount payable by the

City to Bergen Clinton Market, LLC under the terms of a Settlement Agreement and General Release executed on or about July 3, 2008 with the City, and (ii) the grant of an easement over a portion of the City's Atlantic Street right-of-way for the sum of One Dollar (\$1.00), and (iii) the undertaking by the Redeveloper, on such property and certain adjacent property, of a redevelopment project consisting generally of the construction of a multi-level parking garage to which will be available to the public for the public parking of vehicles and several floors of office space above this parking structure.