



## Legislation Text

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File #: 18-0984, Version: 1

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

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

**Purpose:** Approving Assignment Agreement

**Project Information:** **RESCINDING RESOLUTION 7R2-E(AS)042418, AND CONSENTING TO THE ASSIGNMENT OF A FINANCIAL AGREEMENT FROM S.H.E URBAN RENEWAL ASSOCIATES, LP, TO BRUCE STREET GARDENS NJ, LLC, 10 HILL STREET, NEWARK, NEW JERSEY 07102, FOR AN AFFORDABLE HOUSING PROJECT LOCATED AT 35-61 12<sup>TH</sup> AVENUE, FOR THE CONSTRUCTION OF FOUR (4) BUILDINGS CONTAINING 108 RENTAL UNITS, A 3,500 SQUARE FOOT RECREATIONAL AND PRE-SCHOOL CENTER, A 850 SQUARE FOOT SECURITY AND MANAGEMENT OFFICE, LAUNDRY ROOM, AND 166 PARKING SPACES. (CENTRAL WARD)**

**Additional Information:**

Resolution 7RDE(AS) adopted on January 6, 1999

Original Resolution 7R2-E(AS) adopted on April 24, 2018

**WHEREAS**, on January 6, 1999, the Municipal Council adopted Resolution 7Rde(AS) granting a long term tax abatement to S.H.E. Urban Renewal Associates, LP (“Assignor”) pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended and supplemented, N.J.S.A. 55:14K-1 et seq. (the “HMFA Law”) for the construction of four (4) buildings containing one hundred eight (108) rental units, a 3,500 square foot recreational and pre-school center, a 850 square foot security and management office, laundry room, and one hundred sixty-six (166) parking spaces located at 35-61 12<sup>th</sup> Avenue and designated as Block 420, Lot 1.02 on the Official Tax Map of the City (Central Ward) (the “Project”); and

**WHEREAS**, as authorized under Resolution 7Rde(AS) adopted on January 6, 1999, the City entered into a Financial Agreement with the Assignor governing the tax abatement for the Project (the “Financial Agreement”); and

**WHEREAS**, the Assignor has entered into a contract with Bruce Street Gardens NJ, LLC (“Assignee”) to sell the Project, which contract requires that the City approve the transfer of the Financial Agreement to the Assignee; and

**WHEREAS**, the Assignee has represented to the City that upon its’ purchase of the Project, it will assume the Assignor’s mortgage with HMFA; and

**WHEREAS**, the Assignee has filed an application with the City (the “Application”) seeking City consent to the sale of the Project and of the transfer of the Financial Agreement from the Assignor to the Assignee; and

**WHEREAS**, the City has reviewed the Application and has determined that the Assignee has the

capacity and experience to own and operate the Project and to assume all of the rights and obligations of the Assignor under the Financial Agreement; and

**WHEREAS**, on April 24, 2018, the Municipal Council adopted Resolution 7R2-e(AS) (the “Original Resolution”) consenting to the assignment of that certain Financial Agreement from the Assignor to the Assignee for an affordable housing project located at 35-61 12<sup>th</sup> Avenue and authorizing the execution and delivery of that certain Assignment and Assumption of the Financial Agreement (the “Original Agreement”); and

**WHEREAS**, the Original Resolution and the Original Agreement did not reflect the correct termination date of the Financial Agreement; and

**WHEREAS**, the correct termination date of the Financial Agreement is October 1, 2030, but no sooner than the maturity date of the New Jersey Housing and Mortgage Finance Agency mortgage loan, provided that Assignee complies with all applicable State statutes, City ordinances, resolutions, and the terms of the Assignment Agreement (as such term is defined herein) and the Financial Agreement; and

**WHEREAS**, the Assignment and Assumption of Financial Agreement attached hereto as Exhibit A reflects the correct termination date of the Financial Agreement (the “Assignment Agreement”); and

**WHEREAS**, the Municipal Council wishes to rescind the Original Resolution and the Original Agreement and consent to the conveyance of the Project and of the transfer of the Financial Agreement to the Assignee and to authorize the Mayor to execute, on behalf of the City, the Assignment Agreement attached hereto as Exhibit A.

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

1. The Municipal Council hereby rescinds Resolution 7R2-e(AS), adopted on April 24, 2018, and the Original Agreement.
2. The Municipal Council hereby consents to: (i) the conveyance of the Project by Assignor to Assignee; and (ii) the assignment of the Financial Agreement governing the Project from the Assignor to the Assignee.
3. The Municipal Council hereby authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development, to enter into and execute, on behalf of the City, the Assignment and Assumption Agreement of Financial Agreement amongst the City, the Assignor and the Assignee (the “Assignment Agreement”) in the form attached hereto).
4. The long term tax abatement for the Project will expire October 1, 2030, but no sooner than the maturity date of the New Jersey Housing and Mortgage Finance Agency mortgage loan and will remain in effect until such time provided that the Assignee complies with all applicable State statutes, City ordinances, resolutions, and terms of the Assignment Agreement and Financial Agreement. This resolution will not extend the period of the tax abatement beyond the date of expiration.

5. The Assignee shall pay all outstanding amounts due to the City, including without limitation, all water and sewer charges and all other amounts due under the Financial Agreement, within thirty (30) days of the adoption of this resolution.
6. The Assignment Agreement, once fully executed, shall be filed by the Acting Director of the Department of Economic and Housing Development with the Office of the City Clerk.
7. This resolution shall take effect immediately.

## **STATEMENT**

This resolution rescinds Resolution 7R2-e(AS) adopted by the Municipal Council on April 24, 2018 and memorializes the City's consent to: (i) the conveyance of the affordable housing project consisting of four (4) buildings containing one hundred eight (108) rental units, a 3,500 square foot recreational and pre-school center, a 850 square foot security and management office, laundry room and one hundred sixty-six (166) parking spaces located at 35-61 12<sup>th</sup> Avenue and designated as Block 420, Lot 1.02 on the Official Tax Map of the City (Central Ward) by S.H.E. Urban Renewal Associates, LP to Bruce Street Gardens NJ, LLC; and (ii) the assignment of the Financial Agreement governing the Project from the Assignor to the Assignee. This resolution also authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development, to execute, on behalf of the City, an Assignment and Assumption Agreement with the Assignor and the Assignee.