



## Legislation Text

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**THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE “REDEVELOPMENT AREA BOND FINANCING LAW” AND THE LIEN HEREOF IN FAVOR OF THE OWNERS OF SUCH BONDS OR OTHER OBLIGATIONS IS A MUNICIPAL LIEN SUPERIOR TO ALL OTHER NON-MUNICIPAL LIENS HEREINAFTER RECORDED.**

**ORDINANCE AMENDING ORDINANCE 6PSF-G, NOVEMBER 18, 2013, “ORDINANCE APPROVING THE EXECUTION OF A FINANCIAL AGREEMENT WITH TWO CENTER STREET URBAN RENEWAL, L.L.C. AND OTHER APPLICABLE DOCUMENTS RELATED TO THE AUTHORIZATION AND ISSUANCE BY THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY OF ITS REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY) IN AN AMOUNT SUFFICIENT TO GENERATE UP TO \$1,000,000 IN PROJECT COSTS, AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH” BY APPROVING THE EXECUTION OF A REVISED AND RESTATED FINANCIAL AGREEMENT WITH TWO CENTER STREET URBAN RENEWAL, L.L.C., AND THEATER SQUARE DEVELOPMENT COMPANY, LLC (TSDC).**

**WHEREAS**, on November 18, 2013, the Municipal Council of the City of Newark adopted Ordinance 6PSF-g entitled “ORDINANCE APPROVING THE EXECUTION OF A FINANCIAL AGREEMENT WITH TWO CENTER STREET URBAN RENEWAL, L.L.C. AND OTHER APPLICABLE DOCUMENTS RELATED TO THE AUTHORIZATION AND ISSUANCE BY THE NEW JERSEY ECONOMIC DEVELOPMENT AUTHORITY OF ITS REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY) IN AN AMOUNT SUFFICIENT TO GENERATE UP TO \$1,000,000 IN PROJECT COSTS, AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH” (the “2013 Ordinance”); and

**WHEREAS**, the 2013 Ordinance, among other things, (i) accepted and approved the long term tax abatement application filed by Two Center Street Urban Renewal, L.L.C. (“Two Center Street”) for a redevelopment project to construct a 22-story mixed-use rental residential and retail project as described more fully within the 2013 Ordinance (the “Project”) on property identified on the official tax map of the City as Block 125, Lot 26 (the “Parcel”), (ii) authorized the execution of a financial agreement between the City and Two Center Street (the “Financial Agreement”), and (iii) authorized the New Jersey Economic Development Authority to issue redevelopment area bonds in an amount sufficient to generate up to one million dollars (\$1,000,000.00) for the Project; and

**WHEREAS**, the Financial Agreement approved by the 2013 Ordinance contemplated, among other things, that the New Jersey Performing Arts Center (“NJ PAC”) would take ownership of the Parcel and would enter into a long-term (approximately 98 year) ground lease with Two Center Street so that Two Center Street may construct the Project on the Parcel; and

**WHEREAS**, the Financial Agreement approved by the 2013 Ordinance therefore required NJPAC to sign a limited joinder agreeing, among other things, to the grant of the tax abatement for the Project on the Parcel and acknowledging that any enforcement of the tax lien securing the annual service charge payable under the Financial Agreement against the Parcel shall extend to the fee interest held by NJPAC (and shall not be limited to the ground lease interest held by Two Center Street); and

**WHEREAS**, NJPAC has created Theater Square Development Company, LLC (“TSDC”), a New Jersey limited liability company whose sole member is NJPAC, and has indicated that TSDC shall be the entity that will take ownership of the Parcel and that will lease the Parcel to Two Center Street for the Project; and

**WHEREAS**, Two Center Street has submitted correspondence to the Mayor (the “Submission”) advising the City of the formation of TSDC and of the fact that TSDC (rather than NJPAC) will acquire title to the Parcel and will enter into the lease with Two Center Street; and

**WHEREAS**, on the basis of the Submission, a revised form of the Financial Agreement has been prepared (the “Revised and Restated Financial Agreement”), taking into account the presently-intended role of TSDC in lieu of NJPAC as aforesaid and changing various references from “NJPAC” to “TSDC” accordingly, including providing for TSDC as the party that will execute the limited joinder; and

**WHEREAS**, the Financial Agreement approved by the 2013 Ordinance has not been signed by the parties thereto and the parties now wish to enter into the Revised and Restated Financial Agreement to supersede and replace the Financial Agreement authorized by the 2013 Ordinance; and

**WHEREAS**, the Mayor has provided the Submission, together with the Revised and Restated Financial Agreement, to the Municipal Council with his written recommendation of approval (the “Mayor’s Recommendation”), a copy of which is attached hereto; and

**WHEREAS**, the City now desires to authorize the execution of the Revised and Restated Financial Agreement to supersede and replace the Financial Agreement.

**NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, IN THE COUNTY OF ESSEX, NEW JERSEY, AS FOLLOWS:**

1. The Submission, a copy of which is attached hereto as Exhibit A, is hereby approved in accordance with the Mayor’s Recommendation, a copy of which is attached hereto as Exhibit B.

2. The Revised and Restated Financial Agreement, in substantially the form attached hereto as Exhibit C, is hereby approved. The Mayor and the Director of the Department of Economic and Housing Development of the City (each, an “Authorized Officer”) are each hereby authorized to execute, on the City’s behalf, the Revised and Restated Financial Agreement in substantially such form, with such changes as the Authorized Officers shall determine, in consultation with the Corporation Counsel, such determination to be conclusively evidenced by their execution of the Revised and Restated Financial Agreement. The City Clerk is hereby authorized and directed to attest to the execution of the Revised and Restated Financial Agreement by the Authorized Officers of

the City as determined hereunder and to affix the corporate seal of the City to the Revised and Restated Financial Agreement.

3. Executed copies of the Revised and Restated Financial Agreement shall be certified by the City Clerk and filed with the Office of the City Clerk. The Office of the City Clerk shall also forthwith file certified copies of the 2013 Ordinance, this ordinance, and the Revised Financial Agreement with the Director of the Division of Local Government Services pursuant to N.J.S.A. 40A:20-12.

4. Upon the execution of the Revised and Restated Financial Agreement as contemplated herein, the Authorized Officers and the City Clerk are each hereby severally authorized and directed to file and record the 2013 Ordinance, this ordinance, and the Revised and Restated Financial Agreement with the Essex County Register such that the Financial Agreement and this ordinance shall be reflected upon the land records of the County of Essex as a lien upon and a covenant running with each and every parcel of land constituting the Parcel. Pursuant to and in accordance with the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-68(c), and notwithstanding any other law to the contrary, upon recordation of both this ordinance and the Revised and Restated Financial Agreement, the lien thereof shall be perfected for all purposes in accordance with law and the lien shall thereafter be superior to all non-municipal liens thereafter recorded or otherwise arising, without any additional notice, recording, filing, continuation filing or action, until payment of all of the Redevelopment Area Bonds.

5. The Authorized Officers of the City are hereby further severally authorized and directed to (i) execute and deliver, and the City Clerk is hereby further authorized and directed to attest to such execution and to affix the corporate seal of the City to, any document, instrument or certificate deemed necessary, desirable or convenient by the Authorized Officers or the City Clerk, as applicable, in their respective sole discretion, after consulting with the Corporation Counsel, to be executed in connection with the execution and delivery of the Revised and Restated Financial Agreement and the consummation of the transactions contemplated thereby, which determination shall be conclusively evidenced by the execution of each such certificate or other document by the party authorized hereunder to execute such certificate or other document, and (ii) perform such other actions as the Authorized Officers deem necessary, desirable or convenient in relation to the execution and delivery thereof.

6. Except as otherwise provided herein, the 2013 Ordinance shall remain in full force and effect in accordance with its terms.

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

### **STATEMENT**

This ordinance amends Ordinance 6PSF-g, November 18, 2013 and approves the execution of a revised and restated Financial Agreement with Two Center Street Urban Renewal, L.L.C., and Theater Square Development Company, LLC (“TSDC”), for the redevelopment project on Block 125, Lot 26..