



Legislation Text

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AN ORDINANCE GRANTING A TWENTY-FIVE (25) YEAR TAX ABATEMENT TO 28 MCWHORTER ST URBAN RENEWAL, LLC, 9 KENSINGTON PLACE, ROSELAND, NEW JERSEY 07208, FOR A PROJECT TO CONSTRUCT A NEW TWELVE (12) STORY MIXED-USE BUILDING CONSISTING OF APPROXIMATELY 403 MARKET RATE RENTAL UNITS, 3,222 SQUARE FEET OF RETAIL SPACE, 196 PARKING SPACES AND OTHER AMENITIES, LOCATED ON REAL PROPERTY COMMONLY KNOWN AS 51-57 UNION STREET AND 28-50 MCWHORTER STREET, NEWARK, NEW JERSEY 07105 AND IDENTIFIED ON THE OFFICIAL TAP MAP OF THE CITY OF NEWARK, AS BLOCK 184, LOTS 8 AND 28. (EAST WARD)

WHEREAS, 28 McWhorter St Urban Renewal LLC, 9 Kensington Place, Roseland, New Jersey 07208, filed an application with the Mayor of the City of Newark 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-five (25) year term for a project to construct a new twelve (12) story mixed-use building consisting of approximately 403 market rate rental units, 3,222 square feet of retail space, 196 parking spaces and other amenities, located on real property commonly known as 28-50 McWhorter Street, which includes 51-57 Union Street, Newark, New Jersey 07105 and identified on the Official Tax Map of the City of Newark, as Block 184, Lots 28 and 8 as an additional lot (the "Project"); and

WHEREAS, the Mayor of the City of Newark 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 on May 4, 2011, 28 McWhorter St Urban Renewal, LLC has filed with the City of Newark (the "City") a sworn statement that it has not made any contribution in violation of said ordinance; and

WHEREAS, the Municipal Council has determined pursuant to N.J.S.A. 40A:20-11 that the relative benefits of this Project outweigh any costs associated with this proposed tax abatement and that without the tax abatement granted herein, the Project would not be undertaken.

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

1. The application of 28 McWhorter St Urban Renewal, LLC, 9 Kensington Place, Roseland, New Jersey 07208 (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 of the City of Newark for a project to construct a new twelve (12) story mixed-use building consisting of approximately 403 market rate rental units, 3,222 square feet of retail space, 196 parking spaces and other amenities, located on real property commonly known as 28-50 McWhorter Street, which includes 51-57 Union Street, Newark, New Jersey 07105 and identified on the Official Tax Map of the City of Newark, as Block 184, Lots 28 and 8 as an additional lot (the "Project").

2. The abatement from taxation on improvements is hereby granted to the Entity for a period of twenty-five (25) 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, and upon further condition that the Entity does not file a petition of tax appeal for the premises on which the Project is to be located.

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

4. The Deputy Mayor/Director of the Department of Economic and Housing 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 of Newark 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, which shall after receiving the report send a copy to the Office of the City Clerk and the Office of Affirmative Action shall investigate the matters contained therein and report its findings to the Municipal Council.

9. The Annual Service Charge shall be as follows:

For years one (1) through five (5), the Annual Service Charge shall be equal to the greater of: (i) 10% of the Annual Gross Revenue or (ii) the Minimum Annual Service Charge.

For years six (6) through ten (10), the Annual Service Charge shall be an amount equal to the greater of: (i) 12.5% of the Annual Gross Revenue or (ii) the Minimum Annual Service Charge.

For years eleven (11) through fifteen (15), the Annual Service Charge shall be an amount equal to the greater of: (i) 13.5% of the Annual Gross Revenue, (ii) the Minimum Annual Service Charge or (iii) 20% of the amount of the taxes otherwise due on the value of the Land and Improvements.

For years sixteen (16) through twenty (20), the Annual Service Charge shall be an amount equal to the greater of: (i) 15% of Annual Gross Revenue, (ii) the Minimum Annual Service Charge, or (iii) 40% of the amount of the taxes otherwise due on the value of the Land and Improvements.

For years twenty-one (21) through twenty-three (23), the Annual Service Charge shall be an amount equal to the greater of: (i) 15% of the Annual Gross Revenue, (ii) the Minimum Annual Service Charge, or (iii) 60% of the amount of the taxes otherwise due on the value of the Land and Improvements.

For years twenty-four (24) through twenty-five (25), the Annual Service Charge shall be an amount equal to the greater of: (i) 15% of the Annual Gross Revenue, (ii) the Minimum Annual Service Charge, or (iii) 80% of the amount of the taxes otherwise due on the value of the Land and Improvements.

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, 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, pursuant to Revised City Ordinance 10:24-1 et seq., as amended, shall be deemed to agree that it will in good faith assist the City of Newark in its goal of having fifty percent (50%) of all new jobs arising out of the businesses conducted on the Project site after the issuance of the Certificate of Occupancy and during the continuation of the tax exemption, dedicated to Newark residents, of which 25% of such all new employees shall be minority residents;

(c) 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 the Department of Finance, the City Clerk, and the Deputy Mayor/Director of the Department of Economic and Housing Development;

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

(e) 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;

(f) The Entity shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to City Ordinance 6S&Fd, adopted on October 21, 1992, as amended;

(g) The Entity shall pay full taxes on the land and improvements of the Project until the Annual Service Charge becomes effective;

(h) The Entity shall complete the Project within twenty-four (24) months of the adoption of this ordinance; provided, however, that the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to enter into a maximum of two (2) six (6) month extensions of the construction schedule deadlines set forth within the Financial Agreement and any other timelines and milestones, provided that such deadlines, timelines and milestones are not extended beyond the two (2) permitted six (6) month extension, subject to full written disclosure (in the form of a signed Memorandum to be submitted prior to adoption) to the Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development; and

(i) The Entity shall secure all financing prior to the commencement of any construction.

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. The Entity agrees that the Entity shall pay to the City of Newark a fee of two percent (2%) of the Annual Service Charge as an administrative fee to be paid annually for the term of the Financial Agreement.

15. 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.

16. 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 Office of the City Clerk shall transmit a certified copy of this ordinance and the Financial Agreement to the Chief Financial Officer of the County and to the County Counsel for informational purposes.

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 28 McWhorter St Urban Renewal, LLC, 9 Kensington Place, Roseland, New Jersey 07208 pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 et seq., for a twenty-five (25) year term, for a project to construct a new twelve (12) story mixed-use building consisting of approximately 403 market rate rental units, 3,222 square feet of retail space, 196 parking spaces and other amenities, located on real property commonly known as 28-50 McWhorter Street, which includes 51-57 Union Street, Newark, New Jersey 07105 and identified on the Official Tax Map of the City of Newark, as Block 184, Lots 28 and 8 as an additional lot. (East Ward)