Legislation Details (With Text)

File #:	18-1315	**Version:** 1	**Name:**	155 Washington Street Tax Abatement	
Type:	Ordinance		**Status:**	Adopted	
File created:	8/10/2018		**In control:**	Economic and Housing Development	
On agenda:	12/5/2018		**Final action:**	12/19/2018	

Title: 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. THIS ORDINANCE IS GRANTING A TAX EXEMPTION TO 155 WASHINGTON STREET URBAN RENEWAL, LLC, 155 WASHINGTON STREET, NEWARK, NEW JERSEY 07102 (C/O L&M, 1865 PALMER AVENUE, SUITE 203, LARCHMONT, NEW YORK 10538), FOR A PROJECT TO CONSTRUCT APPROXIMATELY 249 MARKET RATE RENTAL UNITS, 4,000 SQUARE FEET OF OFFICE SPACE, AND 6,000 SQUARE FEET OF RETAIL SPACE LOCATED ON PROPERTY KNOWN AS 141-149, 151-153, 155, 157-159 WASHINGTON STREET AND IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY AS BLOCK 66, LOTS 12, 13, 38, 42, 43, 44, 45, 45-B01, 47, AND 47-B01, FOR A TERM EQUAL TO THE EARLIER OF THIRTY (30) YEARS FROM THE DATE OF EXECUTION OF THE FINANCIAL AGREEMENT, OR TWENTY-FIVE (25) YEARS FROM THE DATE OF SUBSTANTIAL COMPLETION OF THE PROJECT, OR THE DATE OF WHEN NO BOND REMAINS OUTSTANDING, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCIAL AGREEMENT AND OTHER APPLICABLE DOCUMENTS RELATED TO THE ISSUANCE OF REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY), AUTHORIZING THE ISSUANCE OF THE REDEVELOPMENT AREA BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $1,250,000.00 AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH (CENTRAL WARD).

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
12/19/2018	1	Municipal Council	Close on Public Hearing and Adopt	Pass
12/5/2018	1	Municipal Council	Advance and Adopt on First Reading as 6F-	Pass

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. THIS ORDINANCE IS GRANTING A TAX EXEMPTION TO 155 WASHINGTON STREET URBAN RENEWAL, LLC, 155 WASHINGTON STREET, NEWARK, NEW JERSEY 07102 (C/O L&M, 1865 PALMER AVENUE, SUITE 203, LARCHMONT, NEW YORK 10538), FOR A PROJECT TO CONSTRUCT APPROXIMATELY 249 MARKET RATE RENTAL UNITS, 4,000 SQUARE FEET OF OFFICE SPACE, AND 6,000 SQUARE FEET OF RETAIL SPACE LOCATED ON PROPERTY KNOWN AS 141-149, 151-153, 155, 157-159 WASHINGTON STREET AND IDENTIFIED ON THE OFFICIAL TAX MAP OF THE CITY AS BLOCK 66, LOTS 12, 13, 38, 42, 43, 44, 45, 45-B01, 47, AND 47-B01, FOR A TERM EQUAL TO THE EARLIER OF THIRTY (30) YEARS FROM THE DATE OF EXECUTION OF THE FINANCIAL AGREEMENT, OR TWENTY-FIVE (25) YEARS FROM THE DATE OF SUBSTANTIAL COMPLETION OF THE PROJECT, OR THE

DATE OF WHEN NO BOND REMAINS OUTSTANDING, AND AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCIAL AGREEMENT AND OTHER APPLICABLE DOCUMENTS RELATED TO THE ISSUANCE OF REDEVELOPMENT AREA BONDS (NON-RECOURSE TO THE FULL FAITH AND CREDIT OF THE CITY), AUTHORIZING THE ISSUANCE OF THE REDEVELOPMENT AREA BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED $1,250,000.00 AND DETERMINING VARIOUS OTHER MATTERS IN CONNECTION THEREWITH (CENTRAL WARD).

WHEREAS, in accordance with the Local Redevelopment and Housing Law, constituting Chapter 79 of the Pamphlet Laws of 1992 of the State, and the acts amendatory thereof and supplemental thereto (the "Redevelopment Law", as codified by N.J.S.A. 40A:12A-1 *et seq.*), the City has declared certain property in the City's downtown area, commonly known as 141-149, 151-153, 155, 157-159 Washington Street, and designated as Block 66, Lots 12, 13, 38, 42, 43, 44, 45, 45-B01, 47, and 47-B01, located in the Central Ward, as an area in need of redevelopment in accordance with, and pursuant to the Redevelopment Law, as designated by the City by Resolution 7R2-f adopted by the Municipal Council on August 8, 2018 (the "Property"); and

WHEREAS, in connection with the redevelopment of the Property, the City has adopted the Living Downtown Redevelopment Plan by Ordinance 6S&Fg finally adopted by the Municipal Council on September 3, 2008 (as amended and as may be further amended from time to time, the "Redevelopment Plan"); and

WHEREAS, 155 Washington Street Urban Renewal, LLC, 155 Washington Street, Newark, New Jersey 07102 (c/o L&M, 1865 Palmer Avenue, Suite 203, Larchmont, New York 10538), "the Entity" is entering into a ground lease agreement ("Ground Lease Agreement") with the owner of the Property, Rutgers, the State University ("Rutgers"), creating a ground leasehold interest in the Property ("Ground Leasehold Interest"), for a term no less than the term of the exemption granted hereby and by the Ordinance, and which Property the Entity proposes to redevelop by adaptively reusing the existing 220,000 square foot building that will house up to 220 market rate residential units; up to 4,000 square feet of non-residential, institutional space (for use by Rutgers); up to 6,000 square feet of retail; and a new construction element of up to 30,000 square feet resulting in 29 or fewer new market rate residential rental units, on a currently underused surface parking lot (collectively, the "Project"); and

WHEREAS, pursuant to the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq*. (the "Tax Exemption Law"), the City is authorized to provide for tax exemption within a redevelopment area and for payments in lieu of taxes in accordance with the applicable provisions thereof; and

WHEREAS, pursuant to and in accordance with the provisions of the Redevelopment Area Bond Financing Law, constituting Chapter 310 of the Pamphlet Laws of 2001 of the State, and the acts amendatory thereof and supplemental thereto (the "Redevelopment Bond Law", as codified in N.J.S.A. 40A:12A-64 *et seq*., and together with the Redevelopment Law and the Tax Exemption Law, the "Acts"), specifically N.J.S.A. 40A:12A-66(a), the City is authorized to provide for such tax exemption and payments in lieu of taxes in a manner that deviates from the structure otherwise established under the Tax Exemption Law, if the redevelopment project is to be financed with bonds issued in accordance with the Redevelopment Bond Law; and

WHEREAS, the Entity has submitted an application to the City for the approval of a project, as such term is used in the Tax Exemption Law, all in accordance with N.J.S.A. 40A:20-8 (the "Exemption Application"); 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, pursuant to and in accordance with the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-67(a), the City may issue bonds secured by all or a portion of any annual service charge; and

WHEREAS, the City desires to authorize the issuance of the bonds (the "Bonds") pursuant to the Redevelopment Bond Law and the Redevelopment Law, and debt service for the repayment of the Bonds shall come from all or a portion of the Annual Service Charge (as that term is defined in the Financial Agreement attached hereto); and

WHEREAS, in order to set forth the terms and conditions under which the Entity and the City (the "Parties") shall carry out their respective obligations with respect to (a) payment of the Annual Service Charge (as that term is defined in the Financial Agreement attached hereto), in lieu of real property taxes, and (b) issuance of the Bonds by the City, the Parties have determined to execute the Financial Agreement; and

WHEREAS, pursuant to the Redevelopment Bond Law, the City may enter into contracts as necessary, for the purpose of securing the Bonds; and

WHEREAS, the Redevelopment Bond Law requires the approval of the New Jersey Local Finance Bond prior to the issuance of financial instruments such as the Redevelopment Area Bonds where such financial instruments are to be secured by payments in lieu of taxes such as the Annual Service Charges; and

WHEREAS, the City believes that: (a) it is in the public interest for the Entity to undertake the Project; (b) the Project is for the health, welfare, convenience, or betterment of the inhabitants of the City, and; (c) the Project and the exemption granted herein will not create an undue financial burden upon the City.

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

1. The Tax Exemption Application is hereby approved in accordance with the recommendation of the Mayor granting a tax exemption to 155 Washington Street Urban Renewal, LLC, 155 Washington Street, Newark, New Jersey 07102 (c/o L&M, 1865 Palmer Avenue, Suite 203, Larchmont, New York 10538), for a project to rehabilitate and renovate an existing 220,000 square foot building that will house up to 220 market rate residential units; up to 4,000 square feet of non-residential, institutional space (for use by Rutgers); up to 6,000 square feet of retail; and a new construction element of up to 30,000 square feet for 29 or fewer new market rate residential rental units, on property commonly known as , 141-149, 151-153, 155, 157-159 Washington Street, and designated as Block 66, Lots 12, 13, 38, 42, 43, 44, 45, 45-B01, 47, and 47-B01, Newark, New Jersey 07102, and authorizes the execution and delivery of a Financial Agreement and other applicable documents related to the issuance of Redevelopment Area Bonds, in an amount not to

exceed $1,250,000.00 and determine various other matters in connection therewith.

2. The Municipal Council hereby finds and determines that the Financial Agreement is to the direct benefit of the health, welfare and financial well-being of the City and its citizens because the Project will adaptively reuse the existing 220,000 square foot building and will create 249 residential units, 4,000 square feet of office space and 6,000 square feet of retail space, and further (a) the costs associated with the tax exemption granted herein are minor compared to the estimated Total Project Cost of approximately $73,000,000 and the benefit created by (i) the creation of approximately 100 jobs during the construction period and (ii) the creation of 4 permanent jobs, and (b) without the tax exemption granted herein it is highly unlikely that the Project would otherwise be undertaken.

3. The exemption from taxation on the improvements is hereby granted to the Entity for a period equal to the earlier of: (i) thirty (30) years from the date of execution of the Financial Agreement, (ii) twenty-five (25) years from Substantial Completion of the Project, or (iii) the date on which no Bonds remain outstanding.

4. The Financial Agreement, the form of which is attached hereto, is approved and 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 Financial Agreement in substantially such form, with such changes to the Financial Agreement as an Authorized Officer deems necessary and proper to effectuate the terms and conditions of the Financial Agreement. The City Clerk is hereby authorized and directed to attest to the execution of the Financial Agreement by the Authorized Officers of the City as determined hereunder and to affix the corporate seal of the City of the Financial Agreement.

5. Pursuant to the provisions of the Redevelopment Bond Law, specifically N.J.S.A. 40A:12A-67(c) and, if applicable, N.J.S.A. 40A:12A-69, the City is hereby authorized to assign any or all of the City's right, title and interest in and to the Annual Service Charges as security for the Bonds. The Authorized Officers, or either of them, are each hereby authorized to execute and deliver, on behalf of the City, an assignment of the Annual Service Charges in such form as they may deem to be necessary or appropriate for the purpose of effectuating such assignment. The City Clerk is hereby authorized and directed to attest to the execution of such assignment(s) by the Authorized Officer(s) of the City as determined hereunder and to affix the corporate seal of the City to such assignment(s).

6. An executed copy of the Financial Agreement authorized by this ordinance shall be filed and maintained with the City Clerk.

7. Upon the execution of the Financial Agreement as contemplated herein, the Authorized Officers and the City Clerk are each hereby severally authorized and directed to file and record this ordinance and the Financial Agreement with the Essex County Clerk. 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 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 to otherwise arising, without any additional notice, recording, filing, continuation filing or action, until payment of all of the Bonds.

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8. 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 certificate or other document that is determined to be necessary or desirable in connection with the execution and delivery of the 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 are necessary or desirable in relation to the execution and delivery thereof.

9. The Project, when completed, shall conform with all Federal and State law and ordinances and regulations of the City relating to its construction and use.

10. 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.

11. The Entity shall, from the time the Annual Service Charge becomes effective, pay the Annual Service Charge as set forth in the Financial Agreement. The Annual Service Charge shall be based on 6.5% Annual Gross Revenue and may increase as set forth more fully within the Financial Agreement.

12. There is hereby authorized the issuance by the City of not more than $1,250,000.00 aggregate principal amount of its Bonds under the Redevelopment Bond Law and the Redevelopment Law and other applicable provisions of law, for the purpose of financing the cost of redevelopment projects, and in connection therewith, to finance or refinance any other cost or expense of the City, as shall hereafter be specified by resolution of the Municipal Council. The Bonds may be issued in one or more series and from time to time, and shall be designated as shall be determined by subsequent resolution of the Municipal Council, and shall contain such other terms and conditions as shall be provided by subsequent resolution of Municipal Council. The Bonds shall constitute non-recourse obligations as to the City and shall not be secured by the full faith and credit of the City, but shall be payable solely from a pledge and assignment of all or a portion of the Annual Service Charges, as shall be determined by subsequent resolution of the Municipal Council and as shall be set forth in one or more trust indentures to be entered into by the City setting forth the terms of the Bonds. Said trust indenture(s) (collectively, the “Indenture”) shall be authorized by subsequent resolution of the Municipal Council, and in addition to providing for the terms of the Bonds, may also provide for the issuance, from time to time, of one or more additional series of bonds on a parity with the Bonds. Pursuant to N.J.S.A. 40A:12A-67(d), the Bonds shall be issued as non-recourse obligations, and shall not be considered to be direct and general obligations of the City, and the City shall not be obligated to levy and collect a tax sufficient in an amount to pay the principal and interest on the Bonds when the same become due and payable, and the Bonds shall not be considered gross debt of the City on any debt statement filed in accordance with the Local Bond Law, and accordingly no supplemental debt statement need be filed in connection herewith. The Bonds shall bear interest at such rate or rates, shall be sold at public sale, or if approved by the Local Finance Board, at private sale, to such purchaser or purchasers at such price or prices, shall contain such maturity and redemption terms, and shall contain such other terms and conditions as may be determined by subsequent resolution of the Municipal Council and as shall be set forth in the Indenture.

13. All City officers and professionals are hereby authorized to take all necessary and

appropriate steps to assist the Entity in connection with its application to the New Jersey Local Finance Board for approval to issue the Bonds for the funding of a part of the costs of the Project.

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, requirements for contribution to the City's Affordable Housing Trust Fund, 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's Office of the City of Newark 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. This ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

STATEMENT

This ordinance grants a long term tax exemption to 155 Washington Street Urban Renewal, LLC, 155 Washington, Newark, New Jersey 07102 (c/o L&M, 1865 Palmer Avenue, Suite 203, Larchmont, New York 10538), under the Long Term Tax Exemption Law, N.J.S.A. 40A:20-1 *et seq*. and the Redevelopment Area Bond Financing Law, N.J.S.A. 40A:12A-64 *et seq*., for a term equal to the earlier of: (i) thirty (30) years from the date of execution of the Financial Agreement; (ii) twenty-five (25) years from the completion of the Project; or (iii) the date on which no Bonds remain outstanding, for the construction of approximately 249 market rate rental units, 4,000 square feet of office space, and 6,000 square feet of retail space located on property known as 141-149, 151-153, 155, 157-159 Washington Street and identified on the City's tax map as Block 66, Lots 12, 13, 38, 42, 43, 44, 45, 45-B01, 47, and 47-B01 and authorizing the execution and delivery of a Financial Agreement and other applicable documents related to the issuance of Redevelopment Area Bonds (non-recourse to the full faith and credit of the City) and authorizes the issuance of the Redevelopment Area Bonds in a principal amount not to exceed $1,250,000.00..

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