



## Legislation Text

**File #: 10-1909, Version: 1**

FORM 2.5,000 20 lb. Bond

7R3-j (as) 021710

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NO. R3--0' .S7) Date of Adoption FEB 17 2010

Dept/ Agency: Economic & Housing Development

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

Type of Service: Application for Long-Term Tax Abatement

Purpose: Construction, development, maintenance and operation of residential project

Entity Name: Montgomery Two Housing, LLC

Project Location: 685-715 Dr. Martin Luther King Jr. Boulevard Block 2559, Lots 7, 47

Abatement Period: Thirty (30) years

Contract Basis: ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS ( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ ( ) Private Sale ( )

Grant ( ) Sub-recipient ( ) n/a (X) Agreement Additional Information: N/A

Approved as to For, a d Lem lity on Basis of Facts Set Forth

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Council Member,'presents the following Resolution:

WHEREAS, pursuant to the New Jersey Housing and Mortgage Finance Agency Act of 1983, as amended and supplemented, (N.J.S.A. 55:14K-1, et seq. ) Montgomery Two Housing, LLC, (hereinafter referred-to as "Entity") submitted to the Mayor an application for the approval of a plan for the construction of a residential project on land which is identified on the Official Tax Map of the City of Newark as Block 2559, Lots 7, 47, more commonly known as 685-715 Dr. Martin Luther King jr. Boulevard, Newark, New Jersey; and

. WHEREAS, the prpjct will be subject to the New Jersey Housing and Mortgage-Financing Law of 1983, N.J.S.A. 55:14K-1f et seq., and the mortgage and other loan documents executed between the Entity and the New Jersey Housing and Mortgage Finance Agency ("NJHMFA"); and

WHEREAS, the Entity represents that a tax exemption must be obtained pursuant to the provisions of N.J.S.A. 55:14K-1, et seq., to secure financing from NJHMFA; and

WHEREAS, the Mayor has submitted the application and accompanying Financial Agreement to the Municipal Council with his approval thereof, a copy of which approval is annexed hereto; and

WHEREAS, the Municipal Council has determined that the project meets an existing need, and has further determined that the project is an improvement made for the purposes of construction, improvement or rehabilitation of housing projects set forth in N.J.S.A. 55:14K-1 et seq.; and

WHEREAS, the Entity will be subject to the New Jersey Housing and Mortgage Finance Agency requirements and the mortgage and other loan documents executed between the Entity and New Jersey Housing and Mortgage Finance Agency.

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

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1. The application of Montgomery Two Housing, LLC for they construction, development, maintenance and operation' of a, residential project described in the application is hereby! approved in accordance with the recommendation of the Mayor.

2. The Council does hereby adopt the Resolution and makes the determination and findings herein contained by virtue of, pursuant to, and in conformity with the provisions of the NJHMFA requirements with the intent and purpose that the NJHMFA/ rely thereon in making a mortgage loan to the Entity, which shall construct, own and operate the Project.

3. The Council 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 Municipality shall be determined pursuant to the Financial Agreement to be executed between the Entity and the City of Newark.

4. The exemption shall take effect for a period of thirty (30) years, but shall not extend beyond the date in which the NJHMFA loan on the project is paid in full and the Entity is subject to the provisions and conditions of N.J.S.A. 55:14K-1, et seq., and in accordance with the provisions of the Financial Agreement annexed hereto.

5. The project is approved subject to any approvals that may be required by the. Department of Community Affairs of the State of New Jersey and the New Jersey Housing and Mortgage Finance Agency.

6. The Mayor of the City of Newark is hereby authorized to execute, on the City's behalf, the aforementioned proposed Financial Agreement.

7. An executed copy of the proposed Financial Agreement authorized by this Resolution shall be filed and maintained with the City Clerk.

8. The residential project when completed will conform with all State laws and ordinances of the City of Newark relating to its construction and use.

9. 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 Resolution.

10. The Entity shall in the operation of the residential 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 file an employment report (herein described below) with the Office of Affirmative Action who shall forthwith after receiving the report send a copy thereof to the City Clerk. The Office of Affirmative Action shall forthwith investigate the matters contained therein and report its findings to the Municipal Council.

12. The Entity shall from the time the annual service charge on the improvements becomes effective pay to the City

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the estimated quarterly service of \$10,664.75 until the correct amount due from the Entity is determined by the auditor's report that is required to be submitted to the Director of Finance, and the City Clerk by the proposed Financial Agreement. After the, auditor's report has been accepted by the City's Director of

Finance, and within 90 days thereafter, the City and the Entity will adjust any over or under payment so made or needed to be; made for the particular period covered by the auditor's report.

13. The annual service charge shall be calculated based on

6.28% of the annual gross revenue of residential rentals, 15%

of annual gross revenue of retail/commercial rentals and 15% of all other income derived from the project.

14. The following occurrences and requirements are express conditions of the granting of this tax exemption, to be performed by Montgomery Two Housing, LLC, and the failure to comply with these requirements will result in cancellation of the tax abatement:

(a) The Entity shall pay full taxes on the land and improvement of the project (designated as Block 2559, Lots 7, 47), until the annual service charge becomes effective;

(b) The Entity shall not, without prior consent of the Municipal Council of the City of Newark, 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;

(c) The Entity, pursuant to the Revised City Ordinance 10:24-1 et seq., as amended, shall be deemed to agree that if the Entity operates, controls or manages the project that it will in good faith assist the City of Newark in its goal of having 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;

(d) The Entity shall concomitantly with the submission of the annual report, required of it by paragraph 12 above, attach an employment report under oath, with particulars, stating the manner and the extent to which it has complied with 14(c) above. This employment report shall, like the annual report, be filed with both the Director of Finance and the Clerk of the City of Newark;

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

(f) The Entity shall complete the construction of the project within twenty four (24) months of the adoption of this Resolution;

(g) The Entity shall submit any and all lease agreements and/or subleases entered into with related or third parties for the use and occupancy of space made available by the Entity to the Law Department and the Division of Tax Abatements & Special Taxes. The obligation to submit lease agreements

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shall be a continuing obligation during the period of the proposed Financial Agreement. All lease agreements shall be subject to review by the City for the purpose of determining the validity thereof and to ensure that lease agreements are executed as part of an arms length transaction;

(h) 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;

(i) The Entity shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to Municipal Ordinance 10:24-5, as amended;

(j) The Entity shall obtain fee simple ownership to the subject property, and submit a filed copy of the deed to the Tax Assessor's Office and the Department of Law;

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

(1) The Entity must receive Final Site Plan approval from the Planning Board within 30 days of the adoption of this Resolution.

15. The Entity shall submit to the City of Newark's

Department of Economic Development or its assigned agent all documentation which is required to submit and maintain in accordance with the terms and conditions of the financing provided by the New Jersey Housing and Mortgage Finance Agency and the New Jersey Department of Community Affairs (DCA) and all other sources of funding received.

16. The City Clerk's Office of the City of Newark shall forthwith submit a certified copy of the resolution approving the tax exemption and the proposed Financial Agreement to the Director of the Division of Local Government Services.

