



Legislation Text

File #: 12-1541, Version: 2

AN ORDINANCE GRANTING A TWENTY (20) YEAR TAX ABATEMENT TO 98 FRELINGHUYSEN REAL ESTATE URBAN RENEWAL ENTITY, LLC, 564 BROADWAY, SUITE 2, BAYONNE, NEW JERSEY 07002, THE OWNER OF A COMMERCIAL PROJECT LOCATED ON PROPERTY IDENTIFIED ON THE OFFICIAL TAX MAP AS BLOCK 2780, LOT 1, MORE COMMONLY KNOWN AS 94-120 FRELINGHUYSEN

South Ward

Deferred 8-e (as) 100312

Deferred 9-a 101712

No Action Taken, November 20, 2012

Deferred 6PSF-b 121912/ Public Hearing Open

Deferred 6PSF-b 010313/ Public Hearing Open

Deferred 6PSF-a 011613/ Public Hearing Open

Public Hearing on Amendment Only February 6, 2013

WHEREAS, 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, 564 Broadway, Suite 2, Bayonne, New Jersey 07002, filed an application with the Mayor seeking a long term tax abatement for the commercial project on land identified on the Official Tax Map of the City of Newark as Block 2780, Lot 1, more commonly known and identified by the street address of 94-120 Frelinghuysen Avenue, Newark, New Jersey (the "Property") pursuant to the Long Term Tax Abatement Law, N.J.S.A. 40A:20-1 et. seq.; 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, in accordance with Ordinance No. 6PSF-a 050411 adopted May 4, 2011, the Entity has filed with 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 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 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, 564 Broadway, Suite 2, Bayonne, New Jersey 07002, for the development, maintenance and operation of the commercial project described in the application is hereby approved in accordance with the recommendation of the Mayor.

2. The abatement from taxation on improvements is hereby granted to 98 Frelinghuysen

Real Estate Urban Renewal Entity, LLC for a period of twenty (20) years for the commercial project from the date of substantial completion of the project, pursuant to N.J.S.A. 40A:20-12, and only so long as 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC is subject to and complies with the proposed Financial Agreement and the Long Term Tax Abatement Law, as amended and supplemented, and upon the further condition that 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 execute, on the City's behalf, the Financial Agreement in the form attached hereto.

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

5. The commercial 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. 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall in the operation of the commercial 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. 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 and the Office of Affirmative Action shall forthwith investigate the matters contained therein and report its findings to the Municipal Council.

9. Subject to the requirements of paragraph 10 below, as of the Annual Service Charge Start Date (as defined in the Financial Agreement), 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall pay an estimated quarterly service charge to the City in the amount of \$16,500.00 until the correct amount due from the Entity is determined by the City's Director of Finance based upon the auditor's report that is required to be submitted under the Financial Agreement. The annual service charge shall be based on 15% of the annual gross revenue for the project pursuant to the terms of the Financial Agreement. After the auditor's report required under the Financial Agreement has been accepted by the City's Director of Finance, the City and 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC will adjust any over or under payment so made or needed to be made for the particular period covered by the auditor's report.

10. 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, and the failure to comply with these requirements will result in the cancellation of the tax abatement:

(a) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall pay full taxes on the land and improvements of the project (designated as Block 2780, Lot 1), until the annual service charge becomes effective;

(b) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, pursuant to the Revised City Ordinance 10:24-1 et seq., as amended, shall be deemed to agree that if 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 abatement, dedicated to Newark residents, of which 25% of such all new employees shall be minority residents;

(d) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 (c) above. This employment report shall be filed with the Director of Finance, the Clerk of the City of Newark, and the Director of the Department of Economic and Housing Development;

(e) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall pay all outstanding taxes and all outstanding water and sewer charges within thirty (30) days of the adoption of this ordinance;

(f) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 six 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 permitted six month extensions, subject to full written disclosure (in the form of a signed memorandum to be submitted prior to adoption) to the Newark Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development;

(g) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC to the Law Department and the Department of Economic and Housing Development. The obligation to submit lease agreements shall be a continuing obligation during the period of the 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) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall receive a favorable review and certification from the appropriate municipal departments and agencies, pursuant to Municipal Ordinance 6S&FD 102192, as amended;

(j) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall obtain fee simple ownership to the subject property, and submit a filed copy of the deed to the Office of Assessment and the Department of Law;

(k) 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC shall secure all financing prior to the commencement of any construction.

12. That in any year that 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC ineligible for any land tax credits against the annual service charge.

13. 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC 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 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC to the City shall be determined pursuant to the Financial Agreement to be executed between 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC and the City of Newark.

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

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

STATEMENT

Long Term Tax Abatement granted to 98 Frelinghuysen Real Estate Urban Renewal Entity, LLC, 564 Broadway, Suite 2, Bayonne, New Jersey 07002 for a term of twenty (20) years for the commercial project located on property identified on the City's Official Tax Map as Block 2780, Lot 1, more commonly known and identified by the street address of 94-120 Frelinghuysen Avenue, Newark, New Jersey.