



Legislation Text

File #: 13-0911, Version: 1

Dept/ Agency: Economic & Housing Development

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

Type of Service: Application for Long-Term Tax Abatement

Purpose: To construct a five (5) story mixed use building which will provide approximately ten thousand (10,000) square feet of ground floor commercial retail space and eighty-nine (89) housing units, eighty-eight (88) of which shall be affordable housing units

Entity Name: New Horizons Phase I Urban Renewal Associates, LP

Entity Address: c/o Michaels Development Company, 3 East Stow Road, Suite 100, P.O. Box 994, Marlton, New Jersey 08053

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 (x) n/a

List of Property:

(Address/Block/Lot/Ward)

200-280 Irvine Turner Boulevard/ Block 2580,/Lot 2/ Central Ward

Additional Information:

WHEREAS, as authorized under the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended and supplemented, N.J.S.A. 55:14K-1 et seq. (the "HMFA Law"), New Horizons Phase I Urban Renewal Associates, LP, a limited partnership having its principal office at c/o Michaels Development Company, 3 East Stow Road, Suite 100, P.O. Box 994, Marlton, New Jersey 08053 (the "Entity") submitted an application for the approval of an affordable rental housing/commercial retail project on property located at 220 -280 Irvine Turner Boulevard, Newark, New Jersey and identified on the City's tax map as Block 2580, Lot 2 (the "Property") in order to construct a five (5) story mixed use building which will provide approximately ten thousand (10,000) square feet of ground floor commercial retail space and eighty-nine (89) housing units, eighty-eight (88) of which shall be affordable housing units which will be restricted to low or moderate income households and one of which will be for the building superintendent, along with two elevators, on-site parking, a management office and community rooms (collectively, the "Project"); and

WHEREAS, the Project will be subject to the HMFA Law and the mortgage and other loan documents executed between the Entity and the New Jersey Housing and Mortgage Finance Agency (the "HMFA"); and

WHEREAS, the Entity is seeking a tax abatement for the Project pursuant to the provisions of the HMFA Law; 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 purpose of construction, improvement or rehabilitation of housing projects as set forth in the HMFA Law; and

WHEREAS, in accordance with Ordinance No. 6PSF-a adopted May 4, 2011 (the Redeveloper Pay-to-Play Ordinance), the Entity has filed with the City a sworn statement that it has not made any contribution in violation of said ordinance.

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

1. The application of New Horizons Phase I Urban Renewal Associates, LP, a limited partnership having its principal office at c/o Michaels Development Company, 3 East Stow Road, Suite 100, P.O. Box 994, Marlton, New Jersey 08053 (the “Entity”) for the construction, development, maintenance and operation of the affordable rental housing/commercial retail project at 220-280 Irvine Turner Boulevard, Newark, New Jersey and identified on the City’s tax map as Block 2580, Lot 2 (the “Property”) in order to construct a five (5) story mixed use building which will provide approximately ten thousand (10,000) square feet of ground floor commercial retail space and eighty-nine (89) housing units, eighty-eight (88) of which shall be affordable housing units which will be restricted to low or moderate income households is hereby approved.

2. The Municipal Council does hereby adopt this Resolution and makes the determinations and findings herein contained by virtue of, pursuant to, and in conformity with the provisions of HMFA Law with the intent and purpose that the HMFA rely thereon in making a mortgage loan to the Entity, which shall construct, own and operate the project.

3. The Municipal 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 City 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 HMFA loan on the Project is paid in full, and the Entity shall be subject to the provisions and conditions of the HMFA Law and 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 HMFA.

6. 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.

7. An executed copy of the Financial Agreement authorized by this Resolution shall be filed by the Deputy Mayor/Director of the Department of Economic and Housing Development with the Office of the City Clerk.

8. The 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 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 Office of the City Clerk. The Office of Affirmative Action shall forthwith investigate the matters contained therein and report its findings to the Municipal Council.

12. As of the Annual Service Charge Start Date (as defined in the Financial Agreement), the Entity shall pay an estimated quarterly service charge of \$15,110.00 to the City 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. After the Auditor's Report required under the Financial Agreement has been accepted by the City's Director of Finance, and within ninety (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 for the Affordable Housing Units, 15% of the Annual Gross Revenue for the Commercial/Retail Units, and 15% of all other income derived from the Project, including but not limited to parking, laundry room, vending machines, and the like.

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

- a) The Entity shall pay full taxes on the land and improvements of the Project until the annual service charge becomes effective;
- b) 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;
- 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 construction 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 11 above, attach an employment report under oath, with particulars, stating the manner and the extent to which it has complied with Section 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 date of the issuance of a Notice to Proceed by the Deputy Mayor/Director of the Department of Economic and Housing Development; 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 extensions, subject to full written disclosure (in the form of a signed memorandum) to the Newark Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development;
- 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 with a copy to the Office of City Clerk. 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) The Entity shall secure all financing prior to the commencement of any construction;
- i) The Entity shall acquire a 99 year leasehold interest in the Property prior to this tax exemption taking effect. The Entity shall provide the Office of Assessment and the Deputy Mayor/Director of the Department of Economic and Housing Development and the Office of the City Clerk with a copy of the lease within 30 days of the date that the Entity acquires this 99 year leasehold interest in the Property; and
- j) The Entity shall obtain final site plan approval for the Project from the applicable land use board within one hundred twenty (120) days of the adoption of this Resolution and shall provide proof thereof to the Deputy Mayor/Director of the Department of Economic and Housing Development and such final site plan approval shall be a condition precedent to this tax exemption taking effect.

15. The Entity shall submit to the City of Newark's Department of Economic and Housing 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 Entity shall submit to the City of Newark's Law Department and Department of Economic and Housing Development and the Office of the City Clerk copies of the mortgage and all other loan documents executed between the Entity and New Jersey Housing and Mortgage Finance Agency within 30 days of the closing.

17. The Office of the City Clerk 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.

STATEMENT

This Resolution grants a Long Term Tax exemption to New Horizons Phase I Urban Renewal Associates, LP, a limited partnership having its principal office at c/o Michaels Development Company, 3 East Stow Road-Suite 100, P.O. Box 994, Marlton, New Jersey 08053, under the HMFA Law, for a term of Thirty (30) Years for an affordable rental housing/commercial retail project on property located at 220-280 Irvine Turner Boulevard, Newark, New Jersey and identified on the City's tax map as Block 2580, Lot 2 (the "Property") in order to construct a five story mixed use building which will provide approximately ten thousand (10,000) square feet of ground floor commercial retail space and eighty-nine (89) housing units, eighty-eight (88) of which shall be affordable housing units which will be restricted to low or moderate income households and one of which will be for the building superintendent, along with two elevators, on-site parking, a management office and community rooms. (Central Ward)