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City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

Legislation Details (With Text)

File #: O2016-2673
Type: Ordinance
Status: Passed
File created: 4/13/2016
In control: City Council
Final action: 6/22/2016
Title: Amendment of ordinance to approve application of 2015 ARO Project and authorize Housing Assistant Payment Contract modifications
Sponsors: Burnett, Jr., Walter
Indexes: Miscellaneous
Attachments: 1. O2016-2673.pdf

Date	Ver.	Action By	Action	Result
6/22/2016	1	City Council	Passed	Pass
6/21/2016	1	Committee on Housing and Real Estate	Recommended to Pass	Pass
4/13/2016	1	City Council	Referred	

HOUSING AND REAL ESTATE

AMENDMENT TO ORDINANCE

WHEREAS, pursuant to an ordinance (the "Ordinance") adopted by the City Council (the "City Council") of the City of Chicago (the "City") on February 5, 2014, and published at pages 74094 through 74098 in the Journal of the Proceedings of the City Council of the City of Chicago ("Journal") of such date, 625 W. Division, LLC (the "Developer"), whose offices are located at 1477 NW Everett Street, Portland, OR 97209, purchased a vacant parcel of property (the "Former City Property") from the City to use in perpetuity as landscaped open space for the benefit of certain property adjacent to the Former City Parcel (the "Adjacent Property") owned by the Developer and located at 625 West Division Street, Chicago, Illinois; and

WHEREAS, the Former City Property and the Adjacent Property (collectively, the "Project Site") are located in Planned Development Number 1018 established pursuant to ordinance adopted by the City Council on June 28, 2006, and published in the Journal for such date at pages 79865 through 79881, as amended ("PD 1018"); and

WHEREAS, pursuant to PD 1018, the Developer has constructed a mixed-use building, with 240 rental units, approximately 8,000 square feet of retail use and the landscaped open space (the "Project") on the Project Site; and

WHEREAS, the Project is a "residential housing project" within the meaning of Section 2-45-110 of the Municipal Code (the "2007 ARO") and Section 2-45-115 of the Municipal Code (the "2015 ARO"); and

WHEREAS, pursuant to the 2007 ARO and the 2015 ARO, the City requires any developer of a "residential housing project" receiving land from the City ("Acquisition Assistance"), financial assistance or certain types of zoning approval to satisfy certain affordable housing obligations; and

WHEREAS, the sale of the Former City Property by the City to the Developer constituted Acquisition

Assistance; and

WHEREAS, because the 2015 ARO was not in effect at the time of the adoption of the Ordinance by the City Council, the Ordinance made the 2007 ARO applicable to the sale of the Former City Property by the City to the Developer; and

WHEREAS, pursuant to the Ordinance, the Developer entered into that certain Affordable Housing Covenant and Lien (ARO-Rental Project), dated as of March 31, 2014, in favor of the City (the "Affordable Housing Covenant"), which Affordable Housing Covenant was recorded on April 15, 2014, as Document No. 1410522091 against the Project Site with the Recorder of Deeds of Cook County, Illinois; and

WHEREAS, the Affordable Housing Covenant requires the Developer to construct and maintain twenty-four (24) rental units in the Project (collectively, the "ARO Units") for occupancy by households whose adjusted annual income does not exceed sixty percent (60%) of the Chicago-area median income; and

WHEREAS, at the request of the Developer, the Chicago Housing Authority, an Illinois municipal corporation (the "CHA"), has agreed to provide Section 8 Project-Based Voucher Housing Assistance Payments to the Developer to subsidize the rents of the ARO Units pursuant to a Section 8 Housing Assistance Payments Contract (as hereafter amended or renewed, the "HAP Contract") to be entered into by the CHA and the Developer; and

WHEREAS, in order to support the CHA's goal of expanding opportunities for low-income families to rent quality housing in the private market, the 2015 ARO authorizes developers to lease affordable units to the CHA at any price consistent with applicable federal regulations (the "HAP Contract Rent") for subsequent lease to income-eligible persons or families at affordable prices through CHA programs; and

WHEREAS, the HAP Contract would allow the Developer to collect rental assistance payments from the CHA for the difference between the HAP Contract Rent for the ARO Units and the affordable rent; and

WHEREAS, the HAP Contract, though not a lease between the Developer and the CHA, is a long-term commitment from the CHA to subsidize rental payments in the Project and is consistent with the 2015 ARO's goal of collaborating with the CHA and other providers of housing assistance to rent ARO Units to Section 8 voucher holders and other recipients of housing assistance; and

WHEREAS, the 2007 ARO, unlike the 2015 ARO, does not expressly contemplate the use of ARO units for CHA programs, nor does it expressly permit developers to accept HAP Contract Rents for affordable units under long-term contracts with the CHA; and

WHEREAS, in order to enable the Developer to enter into the HAP Contract with the CHA with respect to the ARO Units, the Developer has requested that the City amend the Ordinance to expressly permit the Developer to comply with the 2015 ARO and to accept housing assistance payments from the CHA for the ARO Units pursuant to the HAP Contract (the "HAP Modifications"); and

WHEREAS, the City is willing to amend the Ordinance to approve the application of the 2015 ARO to the Project and to authorize the HAP Modifications; and

WHEREAS, the City is a home rule unit of government by virtue of the provisions of the Constitution of the State of Illinois of 1970, and as such, may exercise any power and perform any function pertaining to its government and affairs; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The foregoing recitals are hereby adopted as the findings of the City Council.

SECTION 2. The Ordinance is hereby amended to approve the application of the 2015 ARO to the Project and to authorize the HAP Modifications. The Commissioner of the Department of Planning and Development (the "Commissioner") or a designee of the Commissioner is each hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to negotiate, execute and deliver such documents as may be necessary or appropriate to implement the provisions of this ordinance, including, without limitation, an amendment to the Affordable Housing Covenant or an amended and restated version thereof. Such documents may contain terms and provisions that the Commissioner or a designee of the Commissioner deems appropriate.

SECTION 3. If any provision of this Amendment to Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this ordinance.

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SECTION 4. All ordinances, resolutions, motions or orders in conflict with this Amendment to Ordinance are hereby repealed to the extent of such conflict.

SECTION 5. This Amendment to Ordinance shall take effect immediately upon its passage and approval.

Alderman Walter Burnett, Jr. '

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