



Legislation Details (With Text)

File #: 23-1523 **Version:** 1 **Name:** 301 Morris Avenue RDA First Amendment

Type: Resolution **Status:** Adopted

File created: 9/20/2023 **In control:** Economic and Housing Development

On agenda: 10/18/2023 **Final action:** 11/21/2023

Title: Dept/ Agency: Economic and Housing Development Department
 Action: Ratifying Authorizing Amending
 Type of Service: Redevelopment Agreement
 Purpose: To authorize the execution of a First Amendment of the Agreement for the Sale and Redevelopment of land between the City of Newark and 301 Morris Avenue Partners, LLC, as the Successor in Interest to Faro Development, LLC.
 Entity Name: 301 Morris Avenue Partners, LLC
 Entity Address: Newark, New Jersey 07104
 Contract Amount: Not Applicable
 Funding Source: Not Applicable
 Contract Basis: Bid State Vendor Prof. Ser. EUS
 Fair & Open No Reportable Contribution RFP RFQ
 Private Sale Grant Sub-recipient n/a
 List of Property:
 (Address/Block/Lot/Ward)
 64 14th Avenue/Block 246/Lot 5/Central Ward
 295-297 Morris Avenue/Block 246/Lot 7/Central Ward
 299 Morris Avenue/Block 246/ Lot 8/Central Ward
 301 Morris Avenue/Block 246/Lot 9/Central Ward
 303 Morris Avenue/Block 246/Lot 10/Central Ward
 Additional Information:
 Deferred 7R2-d 101823
 Deferred 7R2-b 110123
 No Action Taken 7R2-a 111323

Sponsors: LaMonica R. Mclver, Anibal Ramos, Jr.

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/21/2023	1	Municipal Council		
11/13/2023	1	Municipal Council		
11/1/2023	1	Municipal Council		
10/18/2023	1	Municipal Council	Defer	Pass

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64 14th Avenue/Block 246/Lot 5/Central Ward

295-297 Morris Avenue/Block 246/Lot 7/Central Ward

299 Morris Avenue/Block 246/ Lot 8/Central Ward

301 Morris Avenue/Block 246/Lot 9/Central Ward

303 Morris Avenue/Block 246/Lot 10/Central Ward

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WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (the “Redevelopment Law”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, pursuant to N.J.S.A. 40A: 12A-8(f), the City is authorized to arrange or contract with redevelopers for the planning, re-planning, construction or undertaking of any redevelopment project; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-8(g), the City may "convey property...without public bidding and at such prices and upon such terms as it deems reasonable"; and

WHEREAS, in order to stimulate the reinvigoration of the City, by Resolution 7Rdo(AS) adopted by the Municipal Council on June 15, 2005, the entire City of Newark was designated as an area in need of rehabilitation pursuant to the Redevelopment Law; and

WHEREAS, the Municipal Council of the City of Newark (the “Municipal Council”) then adopted Ordinance 6S&Fe(s) on August 17, 2005, adopting the First Amendment to the Central Ward Redevelopment Plan (“Redevelopment Plan”), governing the redevelopment of City owned properties located within the Central Ward; and

WHEREAS, on August 7, 2019, the Municipal Council adopted Resolution 7R2-g, authorizing execution of the Agreement for the Sale and Redevelopment of Land (“Redevelopment Agreement”) with Faro Development, LLC, 525 Route 73 North, Suite 104, Marlton, New Jersey (“Faro”), for the private sale of City owned property located at 64 14th Avenue, 295-297 Morris Avenue, 299 Morris Avenue, 301 Morris Avenue and 303 Morris Avenue, and commonly known as Block 246, Lots 5, 7, 8, 9, and 10 (“Properties”) on the Official Tax Map of the City of Newark, pursuant to N.J.S.A. 40A:12-8 (g) and the Redevelopment Plan; and

WHEREAS, on or about July 17, 2020, the City and Faro executed the Redevelopment Agreement; and

WHEREAS, pursuant to the terms of the Redevelopment Agreement, Faro was required to

redevelop the Properties by constructing a four (4) story, approximately twenty-four (24) unit residential apartment building with parking (the “Project”); and

WHEREAS, the Quitclaim Deeds (“Deeds”) for the Properties were executed by the City on or about July 29, 2020, and the City transferred the Properties to Faro; and

WHEREAS, on January 21, 2021, the County Clerk of Essex County (“County Clerk”) recorded the Deeds to transfer the Properties from the City to Faro; however, due to an administrative error in the County Clerk’s office the deed for property 303 Morris Avenue, Block 246, Lot 10, was not recorded not at that time; and

WHEREAS, the deed for 303 Morris Avenue, Block 246, Lot, was not recorded and said property was not transferred to the Faro until May 26, 2021; and

WHEREAS, since the execution of the Redevelopment Agreement (July 17, 2020) and the dates in which the Properties were transferred to Faro (January 21, 2021 and May 26, 2021), Faro Development failed to meet certain material deadlines contained in the Redevelopment Agreement, including, but not limited to: applying for site plan approval within thirty days of the expiration of the due diligence period, applying for construction permits within thirty days of the closing date, commencing construction within three months of the closing date and completing construction of the Project with twenty four month of the closing date (“Project Deadlines”); and

WHEREAS, on March 3, 2023, Faro sent the City’s Economic Housing and Development Department (“EHD”) a letter containing the following: (i) a request for an extension of the Project Deadlines contained in the Redevelopment Agreement, (ii) an explanation regarding Faro Development, LLC’s inability to meet the Project Deadlines; (iii) an explanation of Faro Development, LLC’s activities to complete the Project despite its inability to satisfy all Project Deadlines; and (iv) a request to change the Redeveloper Entity from Faro Development, LLC to 301 Morris Avenue Partners, LLC, whereby transferring all of Faro’s rights, title, and interest in, to and under the Properties and the Redevelopment Agreement; and

WHEREAS, Faro Development, LLC’s March 3, 2023 letter to EHD further explained that on October 21, 2021, the Zoning Board of Adjustment of the City of Newark passed a Resolution (Application No. ZBA-21-77) approving the construction of a four-story mixed use structure with twenty seven (27) residential apartments over ground floor commercial basement parking, which is a major step in the redevelopment process (“Board Approval”); and

WHEREAS Andrew Ro is the 100% owner and sole managing member of both Faro Development LLC and 301 Morris Avenue Partners LLC; and

WHEREAS, the City finds that there is good cause to extend all Project Deadlines pursuant to the schedule affixed to the First Amendment of the Agreement for the Sale and Redevelopment of Land by and Between the City of Newark and 301 Morris Avenue Partners LLC as the successor in interest to Faro Development, LLC (the “Amended Agreement”), a copy of which is enclosed herewith in a form substantially consistent with **Exhibit A**; and

WHEREAS, 301 Morris Avenue Partners LLC, as the successor in interest to Faro Development LLC, acknowledges that should it fail to meet any of the deadlines contained in the Amended Agreement, the City will exercise its reversionary rights to the Properties pursuant to Article

V, Section 3 of the Amended Agreement, without any further notice to both Faro Development LLC and 301 Morris Avenue Partners LLC, absent the notice requirements for service of process under the New Jersey Court Rules; and

WHEREAS, the Parties have engaged in negotiations relative to the Project, Board Approval and Project Deadlines, and the City has determined that in furtherance of the goals and objectives of the Redevelopment Plan, it is in the City's best interest to enter into the Amended Agreement with 301 Morris Avenue Partners LLC; and

WHEREAS, the City determined that 301 Morris Avenue Partners LLC ("Redeveloper") possess the proper qualifications, financial resources, and capacity to implement and complete the rehabilitation of the Properties in accordance with the Redevelopment Plan, the Board Approval, and all other applicable laws, ordinances and regulations; and

WHEREAS, the City believes the project identified in the Board Approval, as that term is defined herein, is in the vital and best interests of the City and that it promotes the health, safety, morals and welfare of the City's residents; and

WHEREAS, the City and Redeveloper desire to enter into Amended Agreement in order to memorialize the terms and conditions of the redevelopment of the Properties; and

WHEREAS, the Amended Agreement shall supersede any previous agreement(s) or conditions related to the redevelopment of the Property.

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

1. The Mayor and/or the Deputy Mayor/Director of the Department of Economic and Housing Development of the City, or either of them, hereby: (a) designate 301 Morris Avenue Partners LLC, 484 Clifton Avenue, Suite 301, Newark, New Jersey 07102 (the "Redeveloper") as the redeveloper of the Properties located at 64 14th Avenue, 295-297 Morris Avenue, 299 Morris Avenue, 301 Morris Avenue and 303 Morris Avenue and identified on the Official Tax Map of the City of Newark as Block 246; Lots 5, 7, 8, 9, and 10 (the "Properties"); (b) and authorize the Mayor and Deputy Mayor/Director of the Department of Economic and Housing Development to enter into the First Amendment of the Agreement for the Sale and Redevelopment of Land by and Between the City of Newark and 301 Morris Avenue Partners LLC as the Successor in Interest to Faro Development, LLC (the "Amended Agreement), in substantially the form attached hereto as **Exhibit A.**
2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to effectuate certain business terms and conditions related to the Amended Agreement and may enter into any related documents, which may be necessary in order to effectuate the Amended Agreement.
3. The executed Amended Agreement shall be placed on file in the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.

4. The Deputy Mayor/Director of Department of Economic and Housing Development is authorized to enter into a maximum of two (2) six (6) month extensions of any timeframe set forth in the Agreement, subject to full written disclosure of such extension(s) (in the form of a signed Memorandum to be submitted to the Office of the City Clerk prior to adoption) to the Municipal Council of the City of Newark by the Deputy Mayor/Director of the Department of Economic and Housing Development and the approval of the City of Newark's Corporation Counsel.

5. The Redeveloper shall have thirty (30) days from the date this Resolution is certified by the Office of the City Clerk to execute the attached Amended Agreement for the Sale and Redevelopment of Land and return same to the Department of Economic Housing Development. Should the Redeveloper fail to execute and return the attached Amended Agreement within this thirty (30) day time period, the authorization provided by this resolution shall be null and void, unless the Deputy Mayor/Director of Department of Economic and Housing Development agrees in writing to extend this thirty (30) day period.

STATEMENT

This Resolution authorizes the Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development, on behalf of the City of Newark, to enter into a First Amendment of the Agreement for the Sale and Redevelopment of Land with 301 Morris Avenue Partners LLC, 484 Clifton Avenue, Suite 301, Newark, New Jersey for the redevelopment of the properties located at 64 14th Avenue, 295-297 Morris Avenue, 299 Morris Avenue, 301 Morris Avenue and 303 Morris Avenue and identified on the City of Newark Tax Map Block 246; Lots 5, 7, 8, 9, and 10 (Central Ward).