



Legislation Details (With Text)

File #: 24-0940 **Version:** 1 **Name:** Rubix International, LLC Subordination Agreement
Type: Resolution **Status:** Adopted
File created: 6/27/2024 **In control:** Economic and Housing Development
On agenda: 7/10/2024 **Final action:** 7/10/2024

Title: Dept./ Agency: Economic and Housing Development
Action: Ratifying Authorizing Amending
Type of Service: Private Sale/Redevelopment/Subordination Agreement/Reverter
Purpose: An Agreement to subordinate the City's rights of reverter by entering into a Subordination of Right of Reverter, Estoppel Certificate and First Amendment to Agreement for the Sale and Redevelopment of Land in order to permit construction financing necessary for the redevelopment of an affordable rental housing project.
Entity Name: Rubix International, LLC
Entity Address: 24 Commerce Street, Suite 1420, Newark, New Jersey 07102
Sale Amount: \$0.00
Cost Basis: \$ PSF Negotiated N/A Other:
Assessed Amount: \$0.00
Appraised Amount: \$0.00
Contract Period: Not Applicable
Contract Basis: Bid State Vendor Prof. Ser. EUS
 Fair & Open No Reportable Contributions RFP RFQ
 Private Sale Grant Sub-recipient n/a
List of Property:
(Address/Block/Lot/Ward)
320-322 Hawthorne Avenue/Block 3612/Lot 4/South Ward
Additional Information:
Resolution 7R2-b(S) adopted on May 25, 2021, authorized the Private Sale/Redevelopment Agreement.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
7/10/2024	1	Municipal Council		

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320-322 Hawthorne Avenue/Block 3612/Lot 4/South Ward

Additional Information:

Resolution 7R2-b(S) adopted on May 25, 2021, authorized the Private Sale/Redevelopment Agreement.

WHEREAS, pursuant to Resolution 7R2-b(s) duly adopted on May 25, 2021 (File # 20-0779), the Mayor and the Deputy Mayor/Director of the Department of Economic and Housing Development were authorized to enter into and execute an Agreement for the Sale and Redevelopment of Land, dated as of June 7, 2022 (the “Agreement”) with Rubix International Limited Liability Company (the “Redeveloper”) for the sale of land owned by the City of Newark located at 320-322 Hawthorne Avenue and identified on the official tax map of the City as Block 3612, Lot 4 (the “Property”), for the development and construction of the Property to create a new 3-story building consisting of three (3) units of affordable rental housing (the “Project”); and

WHEREAS, the Redeveloper acquired the Property from the City by Quit Claim Deed, dated on June 24, 2022, and recorded in the Essex County Registers Office on June 30, 2022 as Instrument Number 2022062261 (the “Deed”); and

WHEREAS, such sale was authorized pursuant to N.J.S.A. 40A:12-13 which requires that such conveyance be subject to the condition that title to the Property revert back to the City under Section V.4. of the Agreement and Section d., of the Deed in the event of a Default as defined in Section V.1. of the Agreement (collectively, the “Right of Reverter”); and

WHEREAS, the Redeveloper has secured construction financing from Community Loan Fund of New Jersey, Inc. (the “Senior Lender”) in the approximate principal amount of \$560,000.00 (the “Loan”), to develop and complete the Project, which Loan will be evidenced by a Promissory Note in the principal amount of the Loan, and will be secured by a Mortgage on the Properties (“Mortgage”); and

WHEREAS, as a condition of the above Loan, the Senior Lender has requested that the City subordinate the Right of Reverter to the rights of the Senior Lender with respect to the Mortgage and Loan; and

WHEREAS, pursuant to N.J.S.A. 40:60-51.2, “Any municipality is authorized and empowered, by resolution of the Governing Body thereof, to waive, release, modify or subordinate any terms, covenants, conditions, limitations or reverters imposed in sales and conveyances of lands as to the erection, alteration or demolition of buildings or any other use to be made of land heretofore imposed by said municipality to accomplish the purposes for which such lands were sold and conveyed either at public or private sale including those set forth pursuant to Section 21 of P.L.1971, c. 199 (C.40A:12-21), but only after public hearing held before such Governing Body, of the holding of which notice describing the lands in question, and the terms, covenants, conditions, limitations or reverters to be waived, released, modified or subordinated, and, if to be modified or subordinated, describing the manner in which the same shall be modified or subordinated, shall first have been

given by advertisement published once each week for two weeks in a newspaper published in said municipality or, if no newspaper be published therein, then in a newspaper circulating in such municipality, provided, however, that the power herein granted shall not be exercised to impair any vested or contractual rights of third parties"; and

WHEREAS, a subordination by the City shall ensure that the development and construction of the Project continues and completion remains financially feasible for the benefit of the City and its residents; and

WHEREAS, the Mayor and/or his designee the Deputy Mayor/Director of the Department of Economic and Housing Development determined that the Project is in the best interest of the City and recommends that the City execute and deliver the Subordination of Right of Reverter, a First Amendment to the Agreement and an Estoppel Certificate in favor of the Senior Lender for recording on the Property thereby subordinating the City's Right of Reverter contained therein to that of the rights of the Senior Lender with respect to the Mortgage and Loan, so as to develop, construct and complete the Project.

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

1. The Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, empowered and directed to enter into, execute, deliver and record a Subordination of Right of Reverter, the First Amendment to the Agreement for the Sale and Redevelopment of Land and an Estoppel Certificate with and in favor of the Community Loan Fund of New Jersey, Inc., the Senior Lender, in the forms attached hereto or such other forms reasonably acceptable to the parties, related to the Property located at 320-322 Hawthorne Avenue, Newark, New Jersey, as shown on the official tax map of the City as Block 3612, Lot 4, which is located in the South Ward, to permit the development of the Property and construction of the Project as affordable rental housing.
2. Notice in accordance with N.J.S.A. 40:60-51.2 of the subordination of the City's Right of Reverter to the Senior Lender's mortgage with respect to the Property has been duly given by publication as required by law and the holding of a public hearing on said resolution at a Meeting of the Municipal Council on July 10, 2024, in the Council Chamber located at City Hall, 920 Broad Street, Newark, New Jersey.
3. The Deputy Mayor/Director of the Department of Economic and Housing Development shall place filed copies of the fully executed Subordination of Right of Reverter, the First Amendment to the Agreement for the Sale and Redevelopment of Land and the Estoppel Certificate with the Office of the City Clerk.

STATEMENT

This Resolution authorizes the Mayor of the City of Newark and/or designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to subordinate the City's Right of Reverter through the execution, delivery and recording of the Subordination of Right of Reverter, in accordance with N.J.S.A. 40:60-51.2, the First Amendment to the Agreement for the Sale and Redevelopment of Land and an Estoppel Certificate to enable the Redeveloper to obtain

financing necessary for the development of the Property as an affordable rental housing Project located at 320-322 Hawthorne Avenue, Newark, New Jersey, as shown on the official tax map of the City as Block 3612, Lot 4 located in the South Ward.