



Legislation Details (With Text)

**File #:** 16-1716      **Version:** 1      **Name:** Resolution: Authorizing a Loan Agreement for Residences at Symphony Hall - SH Residences, LP

**Type:** Resolution      **Status:** Adopted

**File created:** 11/1/2016      **In control:** Economic and Housing Development

**On agenda:** 12/13/2016      **Final action:** 12/13/2016

**Title:** Dept/Agency: Economic and Housing Development  
 Action: ( ) Ratifying (X) Authorizing ( ) Amending  
 Type of Service: Loan agreement  
 Purpose: To authorize the execution of an Affordable Housing Agreement to SH Residences, LP for the construction of the Residences at Symphony Hall Project consisting of sixty (60) affordable residential units, fifty-five (55) parking spaces, a community room, a leasing/management office, laundry facilities, and a social services suite.  
 Entity Name: SH Residences, LP  
 Entity Address: 5 Powell Lane, Collingswood, New Jersey 08108  
 Loan Amount: \$950,000.00  
 Funding Source: Federal HOME Funds  
 Loan Term: December 13, 2016 through December 13, 2046  
 Contract Basis: ( ) Bid ( ) State Vendor ( ) Prof. Ser. ( ) EUS  
 ( ) Fair & Open ( ) No Reportable Contributions ( ) RFP ( ) RFQ  
 ( ) Private Sale ( ) Grant ( ) Sub-recipient ( ) n/a  
 Additional Information:  
 395-407 Halsey Street/Block 116/Lot 30/Central Ward

**Sponsors:** Council of the Whole

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
12/13/2016	1	Municipal Council	Adopt	Pass

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**WHEREAS**, the City of Newark, New Jersey (the "City"), desires to enter into an Affordable Housing Agreement (the "Agreement") with SH Residences, LP (the "Entity"), having its principal place of business at 5 Powell Lane, Collingswood, New Jersey 08108; and

**WHEREAS**, the City desires to provide the Entity with Federal HOME Program funds in the form of an interest bearing deferred payment loan for a period of thirty (30) years pursuant to the Federal HOME Program (24 CFR Part 92) and any amendments thereto; and

**WHEREAS**, the Agreement is for the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) in Federal HOME Program funds for the Residences at Symphony Hall project to be located at 395-407 Halsey Street/Block 116/Lot 30/Central Ward (the "Property"), consisting of the construction of the Residences at Symphony Hall Project consisting of sixty (60) residential units, fifty-five (55) parking spaces, a community room, a leasing/management office, laundry facilities, and a social services suite (collectively, the "Project"). Units assisted with HOME Program funds must be occupied by low income and very low income households; and

**WHEREAS**, the HOME Program funds authorized by this resolution in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), are only being made available to the Entity for the purpose of applying for and receiving Low Income Housing Tax Credit funds through the New Jersey Housing and Mortgage Finance Agency ("NJHMFA"), and should the Entity not receive a Low Income Housing Tax Credit award from the NJHMFA, the HOME Program funds will be rescinded and no HOME Program funds will be made available to the Entity by the City towards the Project; and

**WHEREAS**, it is in the best interest of the City and the Department of Economic and Housing Development to establish contractual guarantees and procedures by which the City will ensure the Entity's compliance with the requirements of the Federal HOME Program for the time and in the manner set forth in the Agreement for the receipt of said HOME Program funds.

**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 are hereby authorized to enter into and execute an Affordable Housing Agreement with SH Residences, LP, of 5 Powell Lane, Collingswood, New Jersey 08108, for Federal HOME Program funds in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), to subsidize the acquisition, construction and pre-development costs of ten (10) of the approximately sixty (60) affordable residential units to be constructed within the project known as the "Residences at Symphony Hall." The site of the Project will be located at 395-407 Halsey Street, Newark, New Jersey (also referred to as Block 116, Lot 30 - Central Ward).
2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to establish a declaration of covenants, conditions and restrictions to ensure that the Project remains affordable for a period of thirty (30) years. Said covenants, conditions and restrictions shall run with the land and bind the Entity and any subsequent purchasers and owners, their heirs, executors, administrators and assigns and all persons claiming by, through or under their heirs, executors, administrators and assigns with this Agreement for a period of thirty (30) years.
3. The Entity shall be responsible for the recordation of the final fully executed Agreement, Mortgage and Security Agreement, the Note and any amendments thereto in the Office of the Essex County Register's Office.
4. The Mortgage and Mortgage Note given by the Entity in favor of the City shall ensure compliance with all of the requirements of the HOME Program, pursuant to the HOME Program statute and regulations (24 CFR Part 92).
5. Subject to the satisfaction in the sole discretion of the City of all of the terms, covenants and other conditions set forth in the Agreement, the Mortgage Note, the Mortgage and other documents and agreements executed and delivered by the Entity in connection herewith and the Project, the Mortgage made in favor of the City shall be discharged by the City upon the expiration of the thirty (30) year affordability period. Notwithstanding the foregoing, the loan will be required to be repaid in full together with accrued interest thereon if any of the terms, covenants and other conditions of the Agreement, the Mortgage Note, the Mortgage and/or other documents and agreements executed and delivered by the Entity in connection herewith and the Project have been violated and/or breached by the Entity or the Entity otherwise defaults with respect to their respective terms, covenants

and/or conditions as provided therein.

6. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to effectuate certain business terms and conditions related to the Agreement annexed hereto as permitted by New Jersey Law and may enter into subordination agreements, access and right of entry agreements, mortgages and other relevant documents related to this fund allocation in a form subject to the approval of the Corporation Counsel. In addition, 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 term of the contract and any contract timelines and milestones, provided that any contract 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 be submitted prior to adoption) to the Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development with the approval of the Corporation Counsel.
7. Disbursement of the Federal HOME Program funds for the Project in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), shall be subject to the terms and conditions set forth in the Agreement, which is attached hereto and a made a part hereof.
8. The Entity must adhere to all milestones and timelines in the Project Schedule approved by the Department of Economic and Housing Development. The project completion is further defined in the Agreement in Exhibit D. The property must conform to the City of Newark Design and Construction Standards Guidelines for New Home Construction, including standards for environmental sustainability and energy efficiency, as established by the Department of Economic and Housing Development. Should the Entity fail to complete the project within the specified time frame, then the City, in its sole discretion, in addition to any other remedy available by the Agreement or as allowed by law, may direct the Entity to repay all HOME Program funds expended on the Project back to the City.
9. The term of the Agreement shall be for a period of thirty (30) years from the date of adoption of this authorizing resolution by the Municipal Council. HOME Program funds must be expended within forty-eight (48) months from the date of adoption.
10. The Entity must remain in compliance with Municipal, State and Federal laws including, but not limited to the City's Minority Set-Aside Ordinance (6S&Fd adopted April 5, 1995) and its Affirmative Action Plan (7Rbp adopted March 1, 1995) and Federal Executive Order 11246 (as amended by Executive Orders 1137 and 12086) with respect to the award of goods and services. The Entity has agreed to ensure that a minimum of 40% of the workers employed during the construction of the Project shall be Newark residents and that 30% of all contractors, subcontractors and suppliers shall be Newark companies.
11. HOME Program funds authorized by this resolution in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), are only being made available to the Entity for the purpose of applying for and receiving Low Income Housing Tax Credit funds through the New Jersey Housing and Mortgage Finance Agency ("NJHMFA") and should the Entity not receive a Low Income Housing Tax Credit award from the NJHMFA, the HOME program funds will be rescinded and no HOME Program funds will be made available to the Entity by the City towards the Project.
12. Units assisted with HOME Program funds must be designated upon execution of the Agreement and must remain fixed units for the duration of the affordability period. Households seeking to occupy a HOME Program assisted unit must be certified prior to occupancy and recertified annually.
13. Attached hereto is a Certification of Funds from the Municipal Comptroller of the City, which states:
  - a) there are sufficient funds in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), for the purpose set forth herein and above; and
  - b) that the line appropriation of Official Budget which shall be charged as follows:

Business Unit	Dept.	Div./Proj.	Account#	Budget Ref.	Amount
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NW051	G11	D11D0	72090	B2011	\$950,000.00
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**STATEMENT**

This resolution hereby authorizes the Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into and execute an Affordable Housing Agreement with SH Residences, LP, of 5 Powell Lane, Collingswood, New Jersey 08108, for Federal HOME Program funds in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), to subsidize the construction and pre-development costs for the construction and development of a residential project consisting of sixty (60) affordable residential units located at 395-407 Halsey Street, Newark, New Jersey (Block 116, Lot 30). The ten (10) HOME assisted units must remain affordable for a period of thirty (30) years pursuant to the requirements under the HOME Program (24 CFR Part 92).