



Legislation Text

File #: 24-0885, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Affordable Housing Agreement for HOME Funds

Purpose: To authorize the execution of a Deed Restrictive HOME Affordable Housing Agreement.

Entity Name: Thomas Street Urban Renewal, LLC

Entity Address: 300 Wilson Avenue, Newark, New Jersey 07105

Grant Amount: \$2,200,000.00

Funding Source: Federal HOME Program Funds

Contract Period: HOME Program Funds must be expended within forty-eight (48) months from the date of adoption

Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS

() Fair & Open () No Reportable Contributions () RFP () RFQ

() Private Sale (X) Grant () Sub-recipient () n/a

List of Property:

(Address/Block/Lot/Ward)

184-194 Thomas Street/Block 1164, Lot 11/East Ward

Additional Information:

To construct a new five-story residential affordable housing building that will consist of (52) senior age-restricted affordable residential rental units, (11) shall be designated by the City as HOME Program deed-restricted affordable housing units for use and occupancy by extremely low-income senior citizens and elderly persons and households earning 30% or less of Area Median Income (AMI), for property located at 184-194 Thomas Street (East Ward).

WHEREAS, the City of Newark, New Jersey (the "City"), desires to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "AHA") with Thomas Street Urban Renewal LLC (the "Entity"), having its principal place of business at 300 Wilson Avenue, Newark, New Jersey 07105, subject to the express condition that the Entity purchases and acquires fee simple title to the Property, which shall be defined as having complete and permanent ownership of the land, as well as any buildings on that land through a deed recorded with the Essex County Registrar's Office ; and

WHEREAS, the City desires to provide the Entity with Federal HOME Program Funds ("HOME Funds") in the form of a deferred zero percent (0%) interest bearing loan for a period of twenty (20) years pursuant to the Federal HOME Loan Program (24 C.F.R. part 92) and any amendments thereto (the "HOME Program"); and

WHEREAS, the AHA shall be for a maximum loan amount of Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) in Federal HOME Program Funds for the Project to be located at the Property, which shall include the construction of a new multi-family residential and affordable housing development consisting of forty (52) senior age-restricted rental units (11 HOME subsidized by the City); and

WHEREAS, the Entity has agreed that eleven (11) of the fifty-two (52) rental apartment units to be constructed for the Project shall be designated by the City as HOME Program deed-restricted affordable housing units for use and occupancy by extremely low income senior citizens and elderly persons and households earning 30% or less of Area Median Income as determined by the United States Department of Housing and Urban Development ("AMI") (collectively,

the "Affordable Housing Units"; and

WHEREAS, the Entity has agreed to construct the Affordable Housing Units in connection with the Project provided it receives an award of HOME Funds from the City in order to provide it with a financial subsidy for the construction of these Affordable Housing Units for 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 HOME Program for the time and in the manner set forth in the AHA for the receipt of said HOME Funds; and

WHEREAS, the Project is also located within an area in need of redevelopment as defined under the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "LRHL"), and is governed by and is to be built as part of the City's First Amendment to the South Ward Redevelopment Plan, adopted on September 21, 2005, by Ordinance 6S&Fe(s), as amended to date (the "Redevelopment Plan"); and

WHEREAS, the Project currently has a significant funding gap that must be bridged in order to make the Project financially feasible; and

WHEREAS, N.J.S.A. 40A:12A-8(f) of the LRHL authorizes municipalities to provide grants or loans to redevelopers to provide financial assistance for the performance of redevelopment activities in order to implement redevelopment projects in accordance with redevelopment plans; and

WHEREAS, the Project qualifies for financial assistance since it is located within a redevelopment area and is being performed in order to implement an approved Redevelopment Plan; and

WHEREAS, the Newark Municipal Council recognizes the need to complete the above Project and desires to finance the making of a forgivable zero percent (0%) interest-bearing deferred payment loan in the amount of Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) to the Entity for a term of twenty (20) years in compliance with other governmental lender requirements to be used as a subsidy to develop the Project, which such loan and funding to be made by the City is expressly contingent and conditioned upon the Entity's purchase and acquisition of fee simple title to the Property.

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 and directed to enter into and execute a Deed Restrictive HOME Affordable Housing Agreement (the "AHA") with Thomas Street Urban Renewal LLC (the "Entity"), 300 Wilson Avenue, Newark, New Jersey 07105 for Federal HOME Program funds in the form of a forgivable zero percent (0%) interest-bearing deferred payment loan in the amount of Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) to subsidize the new construction of eleven (11) of the approximately fifty two (52) affordable housing rental units to be constructed within the Project, each of which shall be for use and occupancy by extremely low-income senior citizen and elderly individuals or households earning 30% or less of AMI.
2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to establish a declaration of covenants, conditions and restrictions to ensure that the Project remains affordable for a period of twenty (20) years in accordance with the HOME Program. 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 the AHA for a period of twenty (20) years.
3. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to establish and record a declaration of covenants, conditions and restrictions to ensure that the City shall be repaid the full amount of the HOME Funds disbursed to the Entity upon the occurrence of an event of default under the AHA by the Entity by requiring the Entity to execute a separate HOME Mortgage and Security Agreement and HOME Mortgage Note for the full amount of funding provided to the Entity in the AHA. 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 during the term of the AHA and the City shall discharge such HOME Mortgage and lien in connection therewith upon its issuance of a Certificate of Completion for the Project.

4. The Entity shall be responsible for the recordation of the final fully executed AHA and the related Mortgage and any amendments thereto in the Office of the Essex County Register's Office.
5. The HOME Mortgage and HOME Mortgage Note given by the Entity in favor of the City of Newark shall ensure compliance with all of the requirements of the HOME Program, pursuant to the HOME Program Statute and Regulations (24 C.F.R. Part 92).
6. Subject to the satisfaction in the sole discretion of the City of all of the terms, covenants and other conditions set forth in the AHA and other documents and agreements executed and delivered by the Entity in connection herewith and the Project, the HOME Mortgage Note and the HOME Mortgage made in favor of the City shall be forgiven and discharged by the City upon the expiration of the twenty (20) year affordability period. Notwithstanding the foregoing, the loan will be required to be repaid in full at the end of the a twenty (20) year term or earlier if any of the terms, covenants and other conditions of the Agreement 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.
7. 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 AHA, as amended, as permitted by New Jersey Law and may enter into subordination agreements, access and right of entry agreements and other relevant documents related to these fund allocations in forms 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-month extensions of the term set forth in the AHA, as amended, and any contract timelines and milestones contained therein, provided that any contract timelines and milestones are not extended beyond the two (2) permitted six-month extensions, subject to full written disclosure (in the form of a signed memorandum to be submitted prior to adoption) to the Newark Municipal Council by the Deputy Mayor/Director of the Department of Economic and Housing Development and the approval of the Corporation Counsel.
8. Subject to the express condition that the Entity purchases and acquires fee simple title to the Property, disbursement of the Federal HOME Program Funds for the Project in the amount of Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) shall be subject to the terms and conditions set forth in the AHA, which is attached hereto and a made a part hereof.
9. The Entity must adhere to all milestones and timelines in the Project Schedule approved by the Department of Economic and Housing Development. 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.
10. The term of the AHA shall be for a period of twenty (20) 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.
11. The powers authorized in this resolution under Sections 1, 2, 3, 7 & 8 herein shall not become effective, unless and until the Entity provides the City with fee simple ownership of the Property in the form of a deed recorded in the Office of the Essex County Register's Office within ninety (90) days of the date of adoption of this Resolution. If the Entity does not provide such documentation to the City within such ninety (90) day period to the satisfaction of the City in its sole discretion, this Resolution shall become null and void without any further action or obligation of the City.

12. The Entity must remain in compliance with Municipal, State and Federal Laws including, but not limited to the City of Newark'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.
13. Units assisted with HOME Program Funds must be designated upon execution of the AHA and must remain fixed units for the duration of the affordability period. Households seeking to occupy a HOME-assisted unit must be certified prior to occupancy and recertified annually.
14. Attached hereto is a Certification of Funds from the Municipal Comptroller of the City of Newark which states:
 - a) subject to the express condition that the Entity purchases and acquires fee simple title to the Property, there are sufficient funds in the aggregate amount of Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) for the purpose set forth herein and above; and that the line appropriation of Official Budget which shall be charged as follows:

Business Unit	Department	Div./Proj.	Activity	Account	Budget Ref.:	Amount
NW051	G23	D23A0	A	72090	B2023	\$2,200,000

STATEMENT

Subject to the express condition that the Entity purchases and acquires fee simple title to the Property and Project, this Resolution hereby authorizes the Mayor and/or his designee, or the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into and execute an Affordable Housing Agreement with Thomas Street Urban Renewal LLC (the "Entity"), 300 Wilson Avenue, Newark, New Jersey 07105, for Federal HOME Program Funds in the amount of Two Million Two Hundred Thousand Dollars and Zero Cents (\$2,200,000.00) to subsidize the construction of eleven (11) of the approximately fifty two (52) affordable housing rental units to be constructed within the Project, each of which shall be for use and occupancy by senior citizens and elderly low-income households earning 30% of AMI or less upon the Property. The HOME assisted units must remain affordable for a period of twenty (20) years pursuant to the requirements under the HOME Program (24 C.F.R. Part 92).