



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 19-1966, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Private Sale/Redevelopment

Purpose: Authorizing an Amendment to the Redevelopment Agreement between the City of Newark and Newark Makerhoods, LLC

Entity Name: Newark Makerhoods Urban Renewal, LLC and Newark Makerhoods Master Lease, LLC

Entity Address: 200 Central Park South, Apt. 9R, New York, New York 10019

Sale Amount: \$105,396.10

Cost Basis: () \$ PSF (X) Negotiated () N/A () Other:

Assessed Amount: \$901,100.00

Appraised Amount: \$0.00

Contract Period: To commence within approximately three (3) months and be completed within approximately thirty-six (36) months from the transfer of ownership by the City

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

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

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

List of Property:

(Address/Block/Lot/Ward)

597-601 Dr. Martin Luther King, Jr. Boulevard/Block 2508/Lot 29/Central Ward

129-145 Court Street/Block 2508/Lot 52/Central Ward

Additional Information:

Authorizing the execution of a First Amendment to the Redevelopment Agreement with Newark Makerhoods Urban Renewal, LLC and Newark Makerhoods Master Lease, LLC to provide for, among other things, the subordination of the City's reverter rights to permit financing for the rehabilitation of the Krueger Scott Mansion and redevelopment of a mixed use housing and commercial project.

WHEREAS, by Resolution 7R2-d (AS), adopted by the Municipal Council of the City of Newark on August 2, 2017, the Municipal Council approved the execution of an Agreement for the Sale of Land and Redevelopment by and between the City of Newark, as Redevelopment Entity, and Newark Makerhoods, LLC, a New Jersey Limited Liability Company, as Redeveloper (the "Agreement"); and

WHEREAS, the Agreement was fully executed on December 7, 2017, by the City and Newark Makerhoods, LLC; and

WHEREAS, the Agreement provides for the sale of certain property owned by the City of Newark (the "City"); and

WHEREAS, since the execution of the Agreement, certain changes have been made to the

Project Description, the Project Schedule, and the Project; and

WHEREAS, an amendment to the Agreement (the “Amendment”) in the form attached hereto as Schedule A, reflecting those changes is necessary in order to effectuate the Project; and

WHEREAS, the Project Description has been expanded and refined to provide for additional amenities, including the provision of performance spaces for movie screenings, art exhibits, and other artistic endeavors, as well the addition of a community kitchen, as more fully set forth in Exhibit B to the Amendment; and

WHEREAS, the Redeveloper, as part of the Project, has also agreed to provide reduced-cost memberships to city residents for co-working spaces to be constructed as part of the Project, as more fully set forth in the Financial Agreement between the Parties authorized by Ordinance 6PSF-a, adopted September 24, 2019; and

WHEREAS, the City believes that the Project, as more fully set forth herein, will serve to revitalize an important historic asset, provide affordable housing, and stimulate small business growth in the City; and

WHEREAS, pursuant to its authority as a Redevelopment Entity under N.J.S.A. 40A:12A-8(f), the City has agreed to provide the Redeveloper with certain financing for the Project; and

WHEREAS, pursuant to a letter dated August 11, 2017, and signed by the Former Deputy Mayor/Director of Economic and Housing Development, the City committed to provide a \$5,000,000.00 (Five Million Dollars and Zero Cents) loan, as is further set forth below, \$2,500,000.00 (Two Million Five Hundred Thousand Dollars and Zero Cents) in the form of Redevelopment Area Bonds (the “RAB”s), and a \$500,000.00 (Five Hundred Thousand Dollars and Zero Cents) grant (the “City Grant”) to the Redeveloper in support of the Project; and

WHEREAS, on July 29, 2013, U.S. Department of Housing and Urban Development (“HUD”), awarded to the City a loan guarantee commitment in the amount of \$12,000,000.00 (Twelve Million Dollars and Zero Cents), in accordance with Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (“Section 108”), which authorizes the U.S. Department of Housing and Urban Development (“HUD”), to guarantee loans as part of its Community Development Block Grant (“CDBG”) program; and

WHEREAS, in accordance with the Section 108 Regulations, the City may utilize the loan proceeds to fund certain economic development projects, or may lend those loan proceeds to qualified entities to fund economic development projects which meet certain criteria as determined by HUD; and

WHEREAS, HUD has determined that the Project meets its criteria for funding under Section 108; and

WHEREAS, the City has agreed to lend a portion of its Section 108 loan funding to the Project, in the amount of (Five Million Dollars and Zero Cents) \$5,000,000.00 (the “Section 108 Loan”), which Section 108 Loan shall be governed by separate agreements subject to authorization by the Municipal Council; and

WHEREAS, on September 24, 2019 the Municipal Council adopted Ordinance 6PSF-aSs) authorizing the issuance of the RABs in accordance with the approval obtained from the Local Finance Board; and

WHEREAS, the City initially agreed to reduce the Purchase Price by up to fifty percent (50%) of Redeveloper's qualified environmental remediation expenses ("Remediation Credit"); and

WHEREAS, in lieu of providing the City Grant and any Remediation Credit, the City shall reduce the Purchase Price of the Property from (Six Hundred Five Thousand Three Hundred Ninety-Six Dollars and Ten Cents) \$605,396.10 to (One Hundred Five Thousand Three Hundred Ninety-Six Dollars and Ten Cents) \$105,396.10; and

WHEREAS, in order to facilitate financing for the Project, Redeveloper has heretofore proposed to enter into a New Markets Tax Credit ("NMTC") transaction; and

WHEREAS, NMTC transactions necessitate the borrower to be a bankruptcy-remote, special purpose entity, which under a NMTC structure would be the borrower of loan funds resulting from the NMTC transaction; and

WHEREAS, in order for the City to provide funding to the Project through the NMTC structure, the bankruptcy-remote entity must be named as a Redeveloper; and

WHEREAS, the Parties wish to amend the Agreement to name Newark Makerhoods Master Lease, LLC, as a Redeveloper; and

WHEREAS, Newark Makerhoods Urban Renewal, LLC, is a permitted transferee of the Agreement; and

WHEREAS, as a result of the execution by both the Redeveloper and Newark Makerhoods Master Lease, LLC ("the NMTC entity"), the NMTC entity shall be named a co-Redeveloper, and as such shall be fully bound by the provisions of the Agreement; and

WHEREAS, as a condition of the receipt of funding for the Project from City sources, Redevelopers agree to make available certain amenities of the Project to residents of the City (the "Community Benefits"), which Community Benefits shall be memorialized in a Declaration of Covenants and Restrictions, in the form annexed to the Amendment as Exhibit D; and

WHEREAS, the Redeveloper has also obtained financing commitments from a variety of sources in order to complete the Project, including Local Initiatives Support Corporation, a New York not-for-profit corporation ("LISC"), and NJCC CDE Eagleton LLC, a New Jersey limited liability company ("CDE Lender"); and

WHEREAS, the Agreement, as executed, provided that the sale of the Property under the LRHL requires that such conveyance be subject to the condition that title to the Property revert back to the City in the event of a Default as defined in the Agreement (the "Reverter Right"); and

WHEREAS, as a condition of financing, the Lenders have requested that the City subordinate its Reverter Rights to the Property; and

WHEREAS, Section IV(10) of the Agreement provides that upon request of a lender, the City shall subordinate its Reverter Rights to the Property, provided that the conditions of N.J.S.A. 40:60-51.2 have been met; and

WHEREAS, N.J.S.A. 40:60-51.2 provides that “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, the Mayor and/or his designee the Acting Director of the Department of Economic and Housing Development determined that the Project is in the best interests of the City and recommend subordinating the City’s mortgage and making a modification to the Right of Reverter contained in the Agreement, so as to accomplish the Project, and recommend that the Agreement be amended to reflect same, as well as the other changes set forth herein.

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

1. The Mayor and/or his designee of the Mayor and the Acting Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a First Amendment to the Redevelopment Agreement in substantially the form attached hereto as Schedule A, with Newark Makerhoods Urban Renewal, LLC and Newark Makerhoods Master Lease, LLC.

2. All other terms and conditions of the Agreement not amended by the First Amendment are hereby ratified and confirmed and shall remain in full force and effect.

3. The Mayor and/or a designee of the Mayor and the Acting Director of the Department of Economic and Housing Development are hereby authorized to effectuate the subordination of the City’s Reverter Rights, as set forth in the Agreement, as amended, and may enter into any related documents which may be appropriate and necessary in order to effectuate the terms and conditions of the Redevelopment Agreement and the First Amendment, all in forms which shall be subject to the approval of the City of Newark’s Corporation Counsel, including any Deed.

4. The Redeveloper shall have thirty (30) days from the date this resolution is certified by the Office of the City Clerk to execute the First Amendment and return same to the Department of

Economic and Housing Development. Should Redeveloper fail to execute and return the First Amendment within this thirty (30) day time period, the authorization provided by this resolution shall be null and void, unless the Acting Director of the Department of Economic and Housing Development agrees in writing to extend this thirty (30) day time period.

5. The Acting Director of the Department of Economic and Housing Development shall place a copy of the executed First Amendment and all such other executed documents and agreements authorized by this resolution on file in the Office of the City Clerk.

6. This Resolution shall take effect immediately.

STATEMENT

This Resolution authorizes the execution of an Amendment to the Redevelopment Agreement (the "Amendment"), in substantially the form attached hereto, in order to, inter alia: (i) refine the Project Description and Project Schedule; (ii) name Newark Makerhoods Master Lease, LLC, as a co-Redeveloper, in order to effectuate certain financing, and (iii) provide for the subordination of the City's Reverter Rights as set forth in the Agreement executed December 7, 2017. The First Amendment further provides for the execution of a Declaration of Covenants and Restrictions requiring the Redevelopers to provide certain programming and other amenities, and to observe certain other covenants which shall run with the land.