



Legislation Text

File #: 19-0384, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Affordable Housing Agreement for the construction of sixty (60) affordable residential units, five (5) of which shall be HOME-Assisted affordable housing units and on-site parking spaces.

Purpose: To authorize the execution and delivery of a Deed Restrictive Affordable Housing Agreement to Somerset Brownstones Urban Renewal Associates, L.P., to subsidize the costs for construction of the project.

Entity Name: Somerset Brownstones Urban Renewal Associates, L.P.

Entity Address: 2 Cooper Street, 14th Floor, Camden, New Jersey 08101

Grant Amount: \$500,000.00

Funding Source: HOME Funds

Contract Period: Two (2) years not to exceed three (3) years from the date of adoption of this resolution by the Municipal Council

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

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

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

(Address/Block/Lot/Ward)

25-49 Somerset Street and 50-76 Barclay Avenue/Block 2556/Lot 1.02/Central Ward

Additional Information:

25-49 Somerset Street is also known as 50-76 Barclay Avenue, Newark, New Jersey and is identified on the Official Tax Map of the City of Newark as Block 2556/Lot 1.02 (Central Ward) they are one and the same property.

An official copy of Tax Map is attached to the file.

WHEREAS, the City of Newark, New Jersey (the "City"), desires to enter into and execute a Deed Restricted Affordable Housing Agreement (the "Agreement") with Somerset Brownstones Urban Renewal Associates, L.P. (the "Entity"), having its principal place of business at 2 Cooper Street, 14th Floor, Camden, New Jersey 08101; 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 Loan Program (24 CFR Part 92) and any amendments thereto; and

WHEREAS, the Agreement is for the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), in Federal HOME Program funds for the project known as Somerset Brownstones Apartments to be located at 25-49 Somerset Street and 50-76 Barclay Avenue, Newark, New Jersey (Block 2556/Lot 1.02) (the "Property"), to construct the Somerset Brownstones Apartments Project consisting of four (4) 3-story apartment buildings with each building containing fifteen (15) apartments. There are a total of sixty (60) affordable residential units, five (5) of which shall be HOME-Assisted, and on-site parking spaces (collectively, the "Project"). Units assisted with

HOME Program funds must be occupied by very low income households, which in this project is five (5) units; 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 Acting Deputy Mayor/Acting Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "Agreement") with Somerset Brownstones Urban Renewal Associates, L.P. (the "Entity"), 2 Cooper Street, 14th Floor, Camden, New Jersey 08101, for Federal HOME Program funds in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), to subsidize the rehabilitation costs of the Project. There will be a total of sixty (60) affordable residential units, five (5) of which shall be HOME-assisted, and on-site parking spaces located at 25-49 Somerset Street and 50-76 Barclay Avenue, Newark, New Jersey (Block 2556/Lot 1.02), to be known as the "Somerset Brownstones Apartment Project".

2. The Acting Deputy Mayor/Acting 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 "Mortgage"), the Mortgage Note (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 of Newark 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 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 and forgiven 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 at the end of the thirty (30) year affordability period or earlier, together with accrued interest thereon, if any of the terms, covenants and other conditions of the Agreement, the 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 Acting Deputy Mayor/Acting 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 City of Newark's Corporation Counsel. In addition, the Acting Deputy Mayor/Acting 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 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-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 Acting Deputy Mayor/Acting Director of the Department of Economic and Housing Development and the approval of the Corporation Counsel.

7. Disbursement of the federal HOME program funds for the Project in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), 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 two (2) years from the date of adoption of this authorizing resolution by the Newark Municipal Council. HOME program funds must be expended within 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 of Newark's Minority Set-Aside Ordinance (6S&Fd April 5, 2019) and its Affirmative Action Plan (7RbpMarch 1, 1995) and Federal Executive Order 11246 (as amended by Executive Orders 11375 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 Five Hundred Thousand Dollars and Zero Cents (\$500,000.00) is subject to evidence of all other financing for the construction of the project. The City shall make such advances subject to the Entity's submission in writing of the requisition for payment certifying that it has conformed to the terms of the Agreement and the Affordable Housing Ordinance and verifies that it is entitled to receive the amount requisitioned under the terms of this Agreement.

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 from the Municipal Comptroller of the City of Newark which states:

- a) there are sufficient funds in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), 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.	Activity	Account #	Budget Ref.	Amount
NW051	G11	D11D0	A	72090	B2011	\$500,000 .00

STATEMENT

This Resolution authorizes the Mayor and/or his designee, the Acting Deputy Mayor/Acting Director of the Department of Economic and Housing Development to enter into and execute a Deed Restricted Affordable Housing Agreement (the "Agreement") with Somerset Brownstones Urban Renewal Associates, L.P., 2 Cooper Street, 14th Floor, Camden, New Jersey 08101, for Federal HOME program funds in the amount of Five Hundred Thousand Dollars and Zero Cents (\$500,000.00), to subsidize the construction of the Project located at 25-49 Somerset Street and 50-76 Barclay Avenue, Newark, New Jersey (Block 2556/Lot 1.02) for sixty (60) affordable housing units, five (5) of which shall be HOME-assisted, and on-site parking. The HOME Program assisted units must remain affordable for a minimum period of thirty (30) years pursuant to the requirements under the HOME Program (24 CFR Part 92). (Central Ward)