



Legislation Text

File #: 23-0296, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Affordable Housing Agreement for Federal HOME funds

Purpose: To authorize the execution of an Affordable Housing Agreement with Rubix International Limited Liability Company.

Entity Name: Rubix International Limited Liability Company

Entity Address: 24 Commerce Street, Suite 1420, Newark, New Jersey 07102

Grant Amount: \$195,000.00

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)

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

Additional Information:

The entity will construct a new multi-family residential and affordable housing development consisting of three (3) affordable housing rental units (all HOME subsidized), upon property located at 320-322 Hawthorne Avenue (Block 3612, Lot 4) (South Ward) of the Official Tax Map of the City of Newark, County of Essex, State of New Jersey.

Deferred 7R2-n 040523

Deferred 7R2-I 041923

WHEREAS, the City of Newark (the "City"), desires to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "AHA") with Rubix International Limited Liability Company (the "Entity"), 24 Commerce Street, Suite 1420, Newark, New Jersey 07102; and

WHEREAS, the City desires to provide the Entity with Federal HOME Program 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; and

WHEREAS, the AHA is for the amount of One Hundred Ninety-Five Thousand and Zero Dollars (\$195,000.00) in Federal HOME Program Funds for the Project to be located at 320-322 Hawthorne Avenue (Block 3612, Lot 4) (South Ward), Newark, County of Essex, State of New Jersey (the "Property"), which shall include the construction of a new multi-family residential and affordable housing development consisting of three (3) rental units (all HOME subsidized) (collectively, the "Project"), upon the Property. Units assisted with HOME Program Funds must be occupied by low-income households; and

WHEREAS, the Entity has agreed that each of the three (3) apartment units constructed for the Project will be deed-restricted for use and occupancy by low income households earning 51-80% of Area Median Income ("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 Federal HOME Program for the time and in the manner set forth in the AHA for the receipt of said HOME Program 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 as declared by the Municipal Council by Resolution 7Rdo(AS), adopted on June 15, 2005, 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 November 13, 2000, by Ordinance 6S&Fp(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 loan in the amount of One Hundred Ninety-Five Thousand and Zero Dollars (\$195,000.00) to the Entity to be used as a subsidy to develop the Project.

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

1. The Mayor of the City of Newark and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "AHA") with Rubix International Limited Liability Company (the "Entity"), 24 Commerce Street, Suite 1420, Newark, New Jersey 07102, for Federal HOME program funds in the amount of One Hundred Ninety-Five Thousand and Zero Dollars (\$195,000.00) to subsidize the construction costs of a multi-family residential and affordable housing development consisting of three (3) affordable housing rental units (all HOME subsidized) for use and occupancy by low-income households earning 51-80% of Area Median Income ("Project"). The site of the Project will be located at 320-322 Hawthorne Avenue (Block 3612, Lot 4), Newark, New Jersey (South Ward).
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 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 twenty (20) year affordability period or earlier if any of the terms, covenants and other conditions of the AHA 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 (6) 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 (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 and the approval of the City's Corporation Counsel.
8. Disbursement of the Federal HOME Program Funds for the Project in the amount of One Hundred Ninety-Five Thousand and Zero Dollars (\$195,000.00) 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 AHA 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 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 on April 5, 1995) and its Affirmative Action Plan (7Rbp adopted on March 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.
12. 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.

13. Attached hereto is a Certification of Funds from the Municipal Comptroller, which states:

- a) there are sufficient funds in the aggregate amount of One Hundred Ninety-Five Thousand and Zero Dollars (\$195,000.00) for the purpose set forth herein and above; and
- b) that the line appropriation of Official Budget, which shall be charged is as follows:

Business Unit- NW051 Department- G19 Div./Proj.- D1920 Activity-A
Account#- 72090 Budget Ref.-B2019 Amount-\$195,000

STATEMENT

This Resolution hereby authorizes the Mayor of the City of Newark 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 Rubix International Limited Liability Company (the "Entity"), 24 Commerce Street, Suite 1420, Newark, New Jersey 07102, for Federal HOME Program Funds in the amount of \$195,000.00 to subsidize the construction of a new multi-family residential and affordable housing development consisting of three (3) residential rental units (all units HOME subsidized) (collectively, the "Project"), upon the property located at 320-322 Hawthorne Avenue (Block 3612, Lot 4), Newark, New Jersey (South Ward). 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).