



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 17-1085, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Grant Agreement

Purpose: To amend and reinstate a Grant Agreement that provides financial assistance for the project.

Entity Name: Bergen Street Redevelopment Urban Renewal, LLC

Entity Address: 953 Bergen Street, Newark, New Jersey 07112

Grant Amount: \$1,900,000.00

Funding Source: Motor Vehicle Tax Revenue Bond, Series 2015

Contract Period: Upon Municipal Council adoption through Project Completion

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: (if applicable)

(Address/Block/Lot/Ward)

1037-1047 Bergen Street, Block 3661, Lots 3, 5 and 8/South Ward

1057-1059 Bergen Street, Block 3660, Lot 11/ South Ward

Additional Information:

WHEREAS, Bergen Street Redevelopment Urban Renewal, LLC (the "Redeveloper"), requests financial assistance to construct a mixed used project upon property located at 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey, and identified on the official tax map of the City as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11 (the "Property"), consisting of two (2) buildings along Bergen Street: Building A - a five (5) story building containing thirty-two (32) residential units over commercial space, and fourteen (14) parking spaces, and Building B - a four (4) story building containing ten (10) residential units, and a community center on the ground floor (collectively, the "Project"); and

WHEREAS, the Project is 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 the Bergen Street South Redevelopment Plan, as amended; 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 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 under the LRHL since it is located within a redevelopment area and is being performed in order to implement an approved redevelopment plan; and

WHEREAS, Sections 19 through 27 of Chapter 90, P.L.2009, the New Jersey Economic Stimulus Act of 2009 (N.J.S.A. 40:48H-1 et seq.) (the "Municipal Motor Vehicle Rental Tax Law") authorizes qualifying municipalities to impose, by ordinance, a tax upon motor vehicle rental transactions occurring within designated industrial zones of the municipality and to utilize the tax revenues collected hereunder (hereinafter, the "Motor Vehicle Rental Tax Revenues") for specified eligible purposes; and

WHEREAS, the City of Newark is one of the municipalities which qualifies under the Municipal Motor Vehicle Rental Tax Law, specifically N.J.S.A. 40:48H-6, to impose, by ordinance, a tax upon motor vehicle rental transactions occurring within designated industrial zones; and

WHEREAS, as authorized by the Municipal Motor Vehicle Rental Tax Law, the Municipal Council of the City of Newark adopted Ordinance 6 PSF-I May 1, 2010, (the "Motor Vehicle Rental Tax Ordinance") imposing a tax upon motor vehicle rental transactions occurring within the Second and Third Industrial Districts of the City; and

WHEREAS, the validity of the Motor Vehicle Rental Tax Ordinance has been upheld by the Law Division and by the Appellate Division and no court has stayed the City's collection or use of the Motor Vehicle Rental Tax Revenues collected pursuant to the Motor Vehicle Rental Tax Ordinance; and

WHEREAS, both the Municipal Motor Vehicle Rental Tax Law and the Motor Vehicle Rental Tax Ordinance authorize the use of Motor Vehicle Rental Tax Revenues for specified eligible purposes, including but not limited to the payment or reimbursement of costs of any redevelopment project or other undertaking in furtherance of a redevelopment plan in any area in need of redevelopment or area in need of rehabilitation within the municipality; and

WHEREAS, the provision of financial assistance to the Redeveloper for the Project is an eligible purpose for Motor Vehicle Rental Tax Revenues since the Project involves the redevelopment of property located within a redevelopment area in order to implement the Bergen Street South Redevelopment Plan, as amended; and

WHEREAS, pursuant to Ordinance 6PSF-a , adopted by the Municipal Council on February 4, 2015 (the "Bond Ordinance"), the City authorized the issuance of not to exceed \$16,000,000.00, aggregate principal amount of Motor Vehicle Tax Revenue Bonds, Series 2015 (the "Series 2015 Bonds"), the proceeds of which are to be used to fund: (i) the making of capital grants by the City in an aggregate amount not to exceed \$13,400,000.00, in support of redevelopment projects listed on Exhibit A to the Bond Ordinance (the "Designated Projects"), in each case up to the maximum grant amount indicated therein for such Designated Project, (ii) the establishment of reserves to secure payment of debt service on the Series 2015 Bonds and (iii) the payment of costs of issuance of the Series 2015 Bonds;

WHEREAS, the Project is a Designated Project and the City wishes to fund a capital grant to the Redeveloper in an amount not to exceed One Million Nine Hundred Thousand Dollars and Zero Cents (\$1,900,000.00), (the "Grant") from the proceeds of the Series 2015 Bonds deposited in the Project Fund in accordance with that certain Trust Indenture, dated as of March 1, 2015, by and between the City, as Issuer, and U.S. Bank National Association, as Trustee (the "Indenture");

WHEREAS, the Municipal Council duly adopted Resolution 7R3-a(S/AS) on February 9, 2016, which authorized the Grant and the execution and delivery of the Grant Agreement by the City;

WHEREAS, the City and the Redeveloper executed and delivered the Grant Agreement as of

March 10, 2016;

WHEREAS, subsequently thereto, the Redeveloper requested and the City has agreed to amend the description and scope of the Project and restate the terms and conditions of the Grant Agreement as provided in the Amended and Restated Grant Agreement (the "Agreement") attached hereto; and

WHEREAS, it is in the best interest of the City and the Department of Economic and Housing Development to approve the execution and delivery of the Agreement, the Note and Mortgage and any other grant documents, and establish contractual guarantees and procedures by which the City will ensure the Entity's compliance for the time and in the manner set forth in the Agreement for the receipt of said Grant.

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 the modified Amended and Restated Grant Agreement, in the form attached hereto (the "Agreement"), and other grant documents (copies of which are attached hereto and made a part herein) with Bergen Street Redevelopment Urban Renewal, LLC (the "Entity"), 953 Bergen Street, Newark, New Jersey 07112, providing that the City will provide the Grant in an amount not to exceed One Million Nine Hundred Thousand Dollars and Zero Cents (\$1,900,000.00) to the Entity to subsidize the acquisition, construction and predevelopment costs of the Project, subject to the terms and conditions of the Agreement. The Municipal Council of the City of Newark hereby re-authorizes the use and payment of up to One Million Nine Hundred Thousand Dollars and Zero Cents (\$1,900,000.00), to Redeveloper from monies on deposit in the Project Fund (as defined in the Indenture) for the purpose of funding a grant to the Redeveloper for use in connection with the development and construction of the Project.

2. The Mayor of the City of Newark and/or his designee, or the Deputy Mayor/Director of the Department of Economic and Housing Development, are each hereby authorized to execute and deliver a written requisition or instruction to the Trustee under the Indenture: (i) requesting payment of One Million Nine Hundred Thousand Dollars and Zero Cents from moneys on deposit in the Project Fund to the Redeveloper for the Project which is a Designated Project as set forth on Schedule 1 to the Indenture, and (ii) certifying that all conditions precedent to the payment have been satisfied.

4. Upon delivery of written requisition or instruction signed by the Chief Financial Officer of the City for the purposes enumerated in paragraphs 1 and 2 above, the Deputy Mayor/Director of the Department of Economic and Housing Development shall file such written requisition or signed instruction with the Office of the City Clerk.

5. Upon full execution of the modified Grant Agreement referenced within paragraph 1 above, the Deputy Mayor/Director of the Department Economic and Housing Development shall file the fully executed Agreement with the Office of the City Clerk.

6. 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 One Million Nine Hundred Thousand Dollars and Zero Cents (\$1,900,000.00), 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. ID.	Account #	Budget Ref.
NW026	BS	38740	B2015

STATEMENT

This Resolution 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 Amended and Restated Grant Agreement with Bergen Street Redevelopment Urban Renewal, LLC, 953 Bergen Street, Newark, New Jersey 07112, in an amount not to exceed One Million Nine Hundred Thousand Dollars and Zero Cents (\$1,900,000.00), funded by the proceeds of the Series 2015 Bonds on deposit in the Project Fund under the Indenture to provide a grant to financially assist in the construction and development of a mixed used project consisting of two buildings along Bergen Street, Newark, New Jersey; 1037-1047 Bergen Street: Building A- a five (5) story building containing thirty-two (32) residential units, over commercial space and fourteen (14) parking spaces, and 1057-1059 Bergen Street: Building B consisting of a four story (4) building containing 10 residential units, and a community center on the ground floor and identified on the official tax map of the City as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11.