



Legislation Text

File #: 17-0513, Version: 1

Dept/Agency: Economic and Housing Development

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

Type of Service: Loan

Purpose: A Resolution authorizing certain modifications to the forms of Note, Mortgage and Security Agreement and Affordable Housing Agreement to be executed by the City of Newark, New Jersey, and SH Residences, LP, the Redeveloper, for the construction of the Residences at Symphony Hall Project consisting of sixty (60) affordable residential units, forty-five (45) parking spaces, a community room, a leasing/management office, laundry facilities, and a social services suite

Entity Name: SH Residences, LP.

Entity Address: 5 Powell Lane, Collingswood, New Jersey 08108

Loan Amount: \$950,000.00

Funding Source: Federal HOME Program

Loan Term: Date of execution through April 30, 2047

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

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

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

Additional Information:

395-407 Halsey Street/Block 116/Lot 30/Central Ward

WHEREAS, the Municipal Council ("Council") of the City of Newark, New Jersey (the "City"), authorized by duly adopted Resolution 7R2-e(S) December 13, 2016 (the "Resolution") the entering into of an Affordable Housing Agreement (the "Agreement") and other related HOME Loan Documents (as such term is defined in the Resolution) with SH Residences, LP (the "Entity"), 5 Powell Lane, Collingswood, New Jersey 08108; and

WHEREAS, pursuant to Resolution 7R2-e December 13, 2016, the City authorized a redevelopment subsidy to the Entity using Federal HOME Program funds in the form of an interest bearing deferred payment loan (the "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 Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), in Federal HOME Program funds for the Residences at Symphony Hall project, 395-407 Halsey Street/Block 116/Lot 30/Central Ward (the "Property"), consisting of the construction of the Residences at Symphony Hall consisting of 60 residential units, forty-five (45) parking spaces, a community room, a leasing/management office, laundry facilities, and a social services suite (collectively, the "Project"). Units assisted with HOME Program funds must be occupied by low income and very low income households; and

WHEREAS, the HOME Program funds authorized by the Resolution in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) are only being made available to the Entity for the purpose of applying for and receiving Low Income Housing Tax Credit funds through the NJHMFA, and should the Entity not receive a Low Income Housing Tax Credit award from the NJHMFA, the HOME program funds will be rescinded and no HOME Program funds will be made available to the Entity by the City towards the Project; and

WHEREAS, subsequent to the adoption of the Resolution 7R2-e and approval of the Loan by the Municipal Council on December 13, 2016, the Entity requested certain modifications to the Agreement and other HOME Loan

Documents that require the Council to re-approve the Loan and the execution by the City of the Agreement and other HOME Loan Documents, as modified; and

WHEREAS, it is in the best interest of the City and the Department of Economic and Housing Development to re-approve the Loan and the execution of the Agreement and the other HOME Loan Documents, as modified therein, and 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 Deputy Mayor/Director of the Department of Economic and Housing Development are hereby authorized to enter into and execute the modified Agreement and other HOME Loan Documents (copies of which are attached hereto and made a part herein) with SH Residences, LP (the "Entity"), 5 Powell Lane, Collingswood, New Jersey 08108, for Federal HOME Program funds in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00), to subsidize the acquisition, construction and predevelopment costs of ten (10) of the approximately sixty (60) affordable residential units to be constructed within the project known as the "Residences at Symphony Hall" (the "Project"). The site of the Project will be located at 395-407 Halsey Street, Newark, New Jersey (also referred to as Block 116, Lot 30);
2. The Deputy Mayor/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 Department of Economic and Housing Development shall be responsible for the recordation of the final fully executed Agreement and Mortgage and Security Agreement, including any modifications and/or 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 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 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 Deputy Mayor/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 Acting 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 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 (6) 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 Acting Corporation Counsel.
7. Disbursement of the federal HOME program funds for the Project in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) shall be subject to the terms and conditions set forth in the Agreement and other HOME Loan Documents, which are 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 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, 1995) and its Affirmative Action Plan (7RbpMarch 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.

11. HOME Program funds authorized by this Resolution in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) are only being made available to the Entity for the purpose of applying for and receiving Low Income Housing Tax Credit funds through the NJHMFA, and should the Entity not receive a Low Income Housing Tax Credit award from the NJHMFA, the HOME Program funds will be rescinded and no HOME Program funds will be made available to the Entity by the City of Newark towards the Project.

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 afford ability 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 Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) 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	Department	Div./Proj.	Account #	Budget Ref.	Amount
NW051	G11	D11DO	72090	B2011	\$950,000.00

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 Affordable Housing Agreement and other HOME Loan Documents, as modified since the initial approval on December 13, 2016 pursuant to Resolution 7R2-e(S) December 13, 2016, with SH Residences, LP, 5 Powell Lane, Collingswood, New Jersey 08108, for Federal HOME program funds in the amount of Nine Hundred Fifty Thousand Dollars and Zero Cents (\$950,000.00) to subsidize the construction and pre-development costs for the construction and development of a residential project consisting of sixty (60) affordable residential units located at 395-407 Halsey Street, Newark, New Jersey (Block 116, Lot 30). The HOME Program assisted units must remain affordable for a period of thirty (30) years

pursuant to the requirements under the HOME Program (24 CFR Part 92).