



## Legislation Details (With Text)

**File #:** 20-0943      **Version:** 1      **Name:** Resolution: Amending Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC

**Type:** Resolution      **Status:** Adopted

**File created:** 7/30/2020      **In control:** Economic and Housing Development

**On agenda:** 9/2/2020      **Final action:** 9/2/2020

**Title:** Dept/ Agency: Economic and Housing Development  
Action: ( ) Ratifying (X) Authorizing (X) Amending  
Type of Service: Amendment to Affordable Housing Agreement authorized by Resolution 7R3-d adopted on July 7, 2016  
Purpose: A Resolution authorizing the extension of time for completion of the Project and the execution of a First Amendment to the Amended and Restated Deed Restrictive Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC.  
Entity Name: Bergen Street Redevelopment Urban Renewal, LLC  
Entity Address: 953 Bergen Street, Newark, New Jersey 07112  
Grant Amount: \$1,300,000.00  
Funding Source: Federal HUD HOME Loan  
Contract Period: Thirty (30) years from the date when a Certificate of Occupancy has been issued by the City and the first low-income eligible tenant occupies the Affordable Housing Units  
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/Lot 3, 5 and 8/South  
1057-1059 Bergen Street/Block 3660/Lot 11/South  
Additional Information:  
To grant financial assistance for a Project consisting of two (2) mixed-use buildings along Bergen Street: Building A - five (5) stories, thirty-two (32) residential units, over commercial space, and fourteen (14) parking spaces, and Building B - consisting of four (4) stories, ten (10) residential units, and a community center on the ground floor located at 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey 07112 and identified on the Official Tax Map of the City of Newark, as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11. (South Ward)

**Sponsors:** John Sharpe James, Eddie Osborne

**Indexes:**

**Code sections:**

Date	Ver.	Action By	Action	Result
9/2/2020	1	Municipal Council	Adopt	Pass
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**WHEREAS**, pursuant to Resolution 7R3-d, adopted on July 7, 2016, the City of Newark (the "City"), approved of the City's entering into of a Deed Restrictive Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC, a New Jersey limited liability company (the "Redeveloper"), 953 Bergen Street, Newark, New Jersey 07112; and

**WHEREAS**, pursuant to Resolution 7R2-q(AS), adopted on June 21, 2017, the Municipal Council approved the City entering into of an Amended and Restated Deed Restrictive Affordable Housing Agreement (the "HOME Agreement") with the Redeveloper which provided the Redeveloper with Federal HOME program funds in the form of a deferred loan for a period of thirty (30) years pursuant to the HOME Program (24 CFR part 92) and any amendments thereto; and

**WHEREAS**, the HOME Agreement was for the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) in Federal HUD HOME program funds for the Project (the "HOME Loan"). Units assisted with HOME Program funds must be occupied by low income and very low-income households; and

**WHEREAS**, the HOME Loan is secured by a Mortgage and Security Agreement filed against the Project premises (the "HOME Mortgage"); and

**WHEREAS**, in connection with a loan made by DB360 LLC (the "Lender") to the Redeveloper, the Lender has requested that the subordination provisions in the HOME Mortgage be extended to Lender; and

**WHEREAS**, as a result of various unforeseen delays and environmental remedial costs beyond the control of the Redeveloper and to ensure that construction of the Project continues and completion remains feasible, the Redeveloper has requested and the City has agreed to extend the time to complete the Project to April 30, 2022 pursuant to the terms of the HOME Agreement and the other agreements and documents executed and delivered in connection with the Project.

**NOW, THEREFORE, BE IT ORDAINED 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 a First Amendment to the Mortgage and Security Agreement (the "First Amendment to HOME Mortgage") and a First Amendment to Amended and Restated Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC (the "Redeveloper") (the "First Amendment to HOME Agreement"), 953 Bergen Street, Newark, New Jersey 07112, to extend the time for completion of construction

of the Project to April 30, 2022.

2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to take any and all such further action to ensure that the Project continues to remain affordable for a period of thirty (30) years. Said covenants, conditions and restrictions shall continue to run with the land and bind the Redeveloper 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 HOME Agreement, as amended hereby, for a period of thirty (30) years.

3. The HOME Agreement and the First Amendment to HOME Agreement given by the Redeveloper in favor of the City and all other documents and/or agreements executed by the Redeveloper in connection with the HOME Agreement and the Project shall continue to ensure compliance with all of the requirements of the HOME program, pursuant to the HOME program statute and regulations (24 CFR Part 92).

4. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to effectuate all such business terms and conditions related to the HOME Agreement, as amended hereby, including, without limitation, the execution and delivery of that certain First Amendment to the Mortgage and Security Agreement, annexed hereto, which Redeveloper granted to the City to secure its obligations under the HOME Agreement, as permitted by New Jersey Law and may enter into any other relevant documents related to these matters in a form subject to the approval of the Corporation Counsel.

5. The completion date set forth in Section 3(a) of the HOME Agreement shall be extended until April 30, 2022, subject to two (2) six (6) month extensions of the term of the HOME Agreement at the discretion of the Deputy Mayor/Director of the Department of Economic and Housing Development, provided that any contract timelines and milestones shall not be extended beyond the two (2) permitted six (6) month extensions, subject to full written disclosure and approval (in the form of a signed memorandum to be submitted prior to adoption) by the Municipal Council, the Deputy Mayor/Director of the Department of Economic and Housing Development and Corporation Counsel. Pursuant to Section 3(b), the Project will remain affordable for thirty (30) years from certificate of occupancy and initial tenant lease up. The purpose of this amendment is only to extend the construction completion date in Section 3(a) of the HOME Agreement/ Deed Restriction.

6. The subordination provision in Section 9.11 of the HOME Mortgage shall be extended to the Lender pursuant to the First Amendment to HOME Mortgage.

7. The Redeveloper must continue to remain in full compliance with Municipal, State and Federal laws including, but not limited to the City of Newark's Minority Set-Aside Ordinance (6S&Fd adopted April 5, 1995) and its Affirmative Action Plan (7Rbp adopted on March 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 Redeveloper 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.

8. The Deputy Mayor/Director of the Department of Economic and Housing Development shall place on file with the Office of the City Clerk's a final executed copy of the First Amendment to the Amended and Restated Affordable Housing Agreement and First Amendment to the Mortgage and Security Agreement.

### **STATEMENT**

This resolution authorizes the Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into, execute and deliver on behalf of the City the First Amendment to the Amended and Restated Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC, 953 Bergen Street, Newark, New Jersey 07112, to extend the time for completion of construction of the Project to April 30, 2022, in connection with the construction and pre-development costs of a mixed used project consisting of two (2) buildings along Bergen Street, Bergen Street: Building A - five (5) stories, thirty-two (32) residential units, over commercial space, and fourteen (14) parking spaces, and Building B - consisting of four (4) stories, ten (10) residential units, and a community center on the ground floor located at 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey 07112 and identified on the Official Tax Map of the City of Newark, as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11. (South Ward)