



Legislation Details (With Text)

File #: 22-1149 **Version:** 1 **Name:** Resolution: Affordable Housing Agreement for HOME Funds - 446 ITB URBAN Renewal, LLC

Type: Resolution **Status:** Adopted

File created: 8/9/2022 **In control:** Economic and Housing Development

On agenda: 1/18/2023 **Final action:** 2/1/2023

Title: Dept/ Agency: Economic and Housing Development
Action: () Ratifying (X) Authorizing () Amending
Type of Service: Affordable Housing Agreement for Home Funds
Purpose: To authorize the execution of an Affordable Housing Agreement to 446 ITB Urban Renewal, LLC, for the complete renovation of an existing four-story structure consisting of twenty-nine (29) rental units, of which four (4) are HOME subsidized, at the property located at 446-450 Irvine Turner Boulevard.
Entity Name: 446 ITB Urban Renewal, LLC
Entity Address: 116 Village Boulevard, Suite 307, Princeton, New Jersey 08540
Grant Amount: \$400,000.00
Funding Source: Federal HOME Program Funds
Contract Period: 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)
446-450 Irvine Turner Boulevard/Block 2693/Lot 22/South Ward
Additional Information:
Deferred 7R2-b 011823

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
2/1/2023	1	Municipal Council	Adopt	Pass
1/18/2023	1	Municipal Council	Defer	Pass

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WHEREAS, the City of Newark, New Jersey (the "City"), desires to enter into and execute a Deed Restrictive Affordable Housing Agreement (the "AHA") with 446 ITB Urban Renewal, LLC, 116 Village Boulevard, Suite 307, Princeton, New Jersey 08540 (the "Entity"); 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 Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) in Federal HOME Program Funds for the project known as Irvine Turner Apartments located at 446-450 Irvine Turner Boulevard, and on the Official Tax Map of the City of Newark, as Block 2693, Lot 22 (South Ward), County of Essex, State of New Jersey (the "Property"), which shall include the complete renovation of an existing four (4) story structure consisting of twenty-nine (29) rental units, four (4) of which shall be HOME subsidized (collectively, the "Project"). Units assisted with HOME Program Funds must be occupied by low-income and/or very low-income households; and

WHEREAS, the Entity has agreed that four (4) apartment units of the twenty-nine (29) rental units renovated in the Project will be deed-restricted for use and occupancy by households earning 31-80% 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 is governed by and is to be built as part of the City's Third Amendment to the South Ward Redevelopment Plan, adopted on August 17, 2005, by Ordinance 6S+d (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 Municipal Council recognizes the need to complete the above Project and desires to finance the making of a loan in the amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) 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 with 446 ITB Urban Renewal, LLC, 116 Village Boulevard, Suite 307, Princeton, New Jersey 08540 for Federal HOME Program funds in the amount of Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) to subsidize the complete renovation of an existing four (4) story structure consisting of approximately twenty-nine (29) affordable housing rental units, of which four (4) shall be Home assisted, to be constructed within the Project known as Irvine Turner Apartments for use and occupancy by very low-income and low income households earning 31-80% of AMI, located at 446-450 Irvine Turner Boulevard, Newark, New Jersey (Block 2693, Lot 22) ("Project")(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 ("Mortgage") and HOME Note ("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 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 Office of the Essex County Register's Office.
5. The Mortgage and 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, the Note, the Mortgage and other documents and agreements executed and delivered by the Entity in connection herewith and the Project, the Note and the 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, together with accrued interest thereon, if any of the terms, covenants and other conditions of the AHA, Note, 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.
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 permitted by New Jersey Law and may enter into subordination agreements, access and right of entry agreements and other relevant documents related to this fund allocations in forms subject to the approval of the City's 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, and any timelines and milestones contained therein, provided that any 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 Four Hundred Thousand Dollars and Zero Cents (\$400,000.00) 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 Project completion is further defined in the AHA 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 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 thirty (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 Four Hundred and Thousand Dollars and Zero Cents (\$400,000.00) 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.	Activity	Account #	Budget Ref.:	Amount
NW051	G19	D19M0	A	72090	B2019	\$322,284.26
NW051	G19	D1920	A	72090	B2019	\$ 77,715.74

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 a Deed Restricted Affordable Housing Agreement with 446 ITB Urban Renewal, LLC, 116 Village Boulevard, Suite 307, Princeton, New Jersey 08540, for Federal HOME Program Funds in the amount of \$400,000.00 to subsidize the complete renovation of an existing 4 story structure consisting of twenty-nine (29) rental units, of which four (4) units are HOME subsidized, located at 446-450 Irvine Turner Boulevard (Block 2693, Lot 22) (South Ward) of the Official Tax Map of the City of Newark, County of Essex, State of New Jersey. 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).