



Legislation Details (With Text)

File #: 24-0546 **Version:** 1 **Name:** Invest Newark Subordination Agreement

Type: Resolution **Status:** Adopted

File created: 4/8/2024 **In control:** Economic and Housing Development

On agenda: 4/24/2024 **Final action:** 4/24/2024

Title: Dept./ Agency: Economic and Housing Development
Action: () Ratifying (X) Authorizing () Amending
Type of Service: Subordination Agreement to facilitate financing for The Newark Land Bank's Section 8 Homeownership Program
Purpose: Authorizing an Agreement to Subordinate the City's Reverter Rights in order to permit financing necessary for the construction of sixteen (16) two-family and three-family homes for sale to low and moderate income households for Newark Land Bank's Section 8 Homeownership Program.
Entity Name: Invest Newark, a NJ Non-Profit Corporation
Entity Address: 111 Mulberry Street, Lower Level, Newark, New Jersey 07102
Sale Amount: \$0.00
Cost Basis: () \$ PSF () Negotiated (X) N/A () Other:
Assessed Amount: \$0.00
Appraised Amount: \$0.00
Contract Period: Not Applicable
Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS
() Fair & Open () No Reportable Contributions () RFP () RFQ
() Private Sale () Grant () Sub-recipient (X) n/a
List of Property:
(Address/Block/Lot/Ward)
See Exhibit A - Property Vitals
Additional Information:
Ordinance 6PSF-g adopted on October 16, 2019 established the Land Bank.
Ordinance 6PSF-a adopted on April 7, 2020, designated Invest Newark as the Land Bank Entity for the City of Newark, New Jersey.
Ordinance 6PSF-r adopted on November 5, 2020, authorized the execution of a Trust Agreement between the City of Newark and Invest Newark.
Resolution 7R2-a adopted on October 19, 2022, authorized Invest Newark to acquire, maintain and dispose of certain city-owned blighted, vacant and abandoned properties not needed for public use.

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
4/24/2024	1	Municipal Council		

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Ordinance 6PSF-a adopted on April 7, 2020, designated Invest Newark as the Land Bank Entity for the City of Newark, New Jersey.

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Resolution 7R2-a adopted on October 19, 2022, authorized Invest Newark to acquire, maintain and dispose of certain city-owned blighted, vacant and abandoned properties not needed for public use.

WHEREAS, pursuant to Ordinance 6PSF-g adopted on October 16, 2019, the Newark Municipal Council (“Municipal Council”) established the Land Bank of the City of Newark; and

WHEREAS, pursuant to Ordinance 6PSF-a, adopted on April 7, 2020, the Municipal Council designated Invest Newark as the land bank entity for the City of Newark and authorized the execution of that certain Land Bank Agreement between the City and Invest Newark (the “Land Bank Agreement”); and

WHEREAS, pursuant to Ordinance 6PSF-e adopted on November 5, 2020, the Municipal Council authorized the execution of a Trust Agreement with Invest Newark for the transfer of certain City-owned properties to be held in trust on behalf of the City; and

WHEREAS, pursuant to Resolution 7R2-a adopted on October 19, 2022, the Municipal Council authorized the conveyance to Invest Newark of certain lots of real property including those properties set forth on Exhibit A attached hereto and made a part hereof (the “Properties”); and

WHEREAS, Article VIII of the Land Bank Agreement required, Invest Newark to convey and transfer to the City, within ninety (90) days of termination of the Land Bank Agreement, without consideration, all Properties in its possession (the “Reverter Right”); and

WHEREAS, Invest Newark has secured financing from Local Initiatives Support Corporation, a New York not-for-profit corporation (“LISC”) and Community Foundation Of New Jersey/Victoria Foundation Fund, a New Jersey not-for-profit corporation (collectively, the “Lender”) in the approximate cumulative maximum principal amount of \$2,400,000 (the “Loan”), to develop sixteen two-family and three-family homes in Newark for sale to low and moderate income households who receive Housing Assistance Payment vouchers from the Newark Housing Authority as part of the Newark Land Bank’s Section 8 Homeownership Program (the “Project”), which Loan will be evidenced by one or more promissory notes, and will be secured by one or more mortgages on the Properties (collectively, the “Mortgage”); and

WHEREAS, as a condition of the above Loan, the Lender has requested that the City subordinate its Reverter Rights within the Land Bank Agreement and the Deeds, to the Mortgage; and

WHEREAS, pursuant to N.J.S.A. 40:60-51.2, “Any municipality is authorized and empowered, by resolution of the Governing Body thereof, to waive, release, modify or subordinate any terms, covenants, conditions, limitations or reverters imposed in sales and conveyances of lands as to the erection, alteration or demolition of buildings or any other use to be made of land heretofore imposed by said municipality to accomplish the purposes for which such lands were sold and conveyed either at public or private sale including those set forth pursuant to Section 21 of P.L.1971, c. 199 (C.40A:12-21), but only after public hearing held before such Governing Body, of the holding of which notice describing the lands in question, and the terms, covenants, conditions, limitations or reverters to be waived, released, modified or subordinated, and, if to be modified or subordinated, describing the manner in which the same shall be modified or subordinated, shall first have been given by advertisement published once each week for two weeks in a newspaper published in said municipality or, if no newspaper be published therein, then in a newspaper circulating in such municipality, provided, however, that the power herein granted shall not be exercised to impair any vested or contractual rights of third parties”; and

WHEREAS, the Department of Economic and Housing Development caused a notice to be advertised, including the requirements established in N.J.S.A. 40:60-51.2, in the Star Leger on April 8, 2024, and April 15, 2024, which complies with the notice requirement of once each week for two weeks; and

WHEREAS, the Deputy Mayor/Director of the Department of Economic and Housing Development determined that the Project is in the best interest of the City and recommends making a modification to the Right of Reverter contained in the Land Bank Agreement and Deed(s), as may be applicable, by entering into a Subordination Agreement, so as to accomplish the Project.

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 is hereby authorized to enter into a Subordination Agreement with the Lender and Invest Newark, in the form attached hereto or such other forms reasonably acceptable to the parties, to permit financing related to the Properties referenced in Exhibit A of the Subordination Agreement, for the construction of sixteen two-family and three-family homes in Newark for sale to low and moderate income households who receive Housing Assistance Payment vouchers from the Newark Housing Authority as part of the Newark Land Bank’s Section 8 Homeownership Program (the “Project”).
2. Notice by advertisement in the Star Ledger on April 8, 2024, and April 15, 2024, in accordance with N.J.S.A. 40:60-51.2 has been duly given as required by law.
3. The Deputy Mayor/Director of the Department of Economic and Housing Development shall place a filed copy of the fully executed Subordination Agreements with the Office of City Clerk.

STATEMENT

This Resolution authorizes the Mayor of the City of Newark and/or designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to subordinate the City's Reverter Rights through the execution of a Subordination Agreement, in accordance with N.J.S.A. 40:60-51.2, to enable Invest Newark, the Newark Land Bank, to obtain financing necessary for the rehabilitation of the sixteen properties to be sold under the Newark Land Bank's Section 8 Homeownership Program.