



Legislation Text

File #: 16-0807, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Affordable Housing Agreement to Bergen Street Redevelopment, LLC for the construction of a mixed used project consisting of two buildings along Bergen Street in the South Ward, Newark, New Jersey.

Purpose: To grant financial assistance for a project consisting of two buildings along Bergen Street, 1041 Bergen Street (Building A) - 8 stories, 32 residential units, over commercial space, and fourteen (14) parking spaces, and 1037-1047 Bergen Street and 1057-1059 Bergen Street (Building B) - consisting of four stories, 10 residential units, and a community center on the ground floor and identified on the Official Tax Map of the City as Block 3660, Lots 3, 5 and 8, and Block 3661, Lot 11.

Entity Name: Bergen Street Redevelopment, LLC

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

Grant Amount: \$1,300,000.00

Funding Source: Federal HOME Program

Contract Period: From date of adoption until 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:

(Address/Block/Lot/Ward)

Additional Information:

City to provide Bergen Street Redevelopment, LLC with \$1,300,000.00 in Federal HOME Program Funds to subsidize the acquisition, construction and predevelopment costs of six (6) of approximately forty-two (42) units to be constructed within the multi-family rental project known as the Tucker View Apartments Project, 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey and identified on the Official Tax Map of the City as Block 3660, Lots 3, 5 and 8, and Block 3661, Lot 11/South Ward.

WHEREAS, the City of Newark, New Jersey (the "City"), desires to enter into an Affordable Housing Agreement (the "Agreement") with Bergen Street Redevelopment, LLC, a New Jersey limited liability company (the "Entity"), having its principal place of business at 953 Bergen Street, Newark, New Jersey 07112; and

WHEREAS, the City desires to provide the Entity 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 Agreement is for the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) in Federal HOME Program Funds for the Tucker View Apartments Project to be 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 3660, Lots 3, 5 and 8, and Block 3661, Lot 11 (South Ward) (the "Property"), consisting of two buildings along Bergen Street: Building A - 8 stories, 32 residential units, over commercial space, and fourteen (14) parking spaces, and Building B - consisting of four stories, 10 residential units, and a community center on the ground floor (collectively, the "Project"). The six (6) units assisted with Federal HOME Program funds must be occupied by low income and very low income households; and

WHEREAS, the HOME Program Funds authorized by this Resolution in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) are only being made available to the Entity for the purpose of applying for an 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, in addition to receiving firm financial commitments from all other financing institutions, 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; and

WHEREAS, it is in the best interests 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 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 is hereby authorized to enter into and execute an Affordable Housing Agreement (the "Agreement") with Bergen Street Redevelopment, LLC (the "Entity"), having its principal place of business at 953 Bergen Street, Newark, New Jersey 07112, for Federal HOME Program Funds in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) to subsidize the acquisition, construction and predevelopment costs of six (6) of the approximately forty-two (42) units to be constructed within the multi-family rental project known as the "Tuckerview Project" (the "Project"). The site of the Project will be located at 1037-1047 Bergen Street (Lots 3, 5 and 8 and Block 3660) and 1057-1059 Bergen Street (Lot 11 and Block 3661), Newark, New Jersey 07112.

2. 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 Entity shall be responsible for the recordation of the final, fully executed Agreement, Mortgage and Security Agreement, the Note and any 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 Federal 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 and other documents and agreements executed and delivered by the Entity in connection herewith and the Project, the Mortgage Note and the Mortgage made in favor of the City shall be forgiven and 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 at the end of the thirty (30) year affordability period or earlier if any of the terms, covenants and other conditions of the Agreement 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 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 Corporation Counsel. In addition, the Department of Economic and Housing Development is hereby authorized to enter into a maximum of two (2) 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 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 Corporation Counsel.

7. Disbursement of the Federal HOME program funds for the Project in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) shall be subject to the terms and conditions set forth in the

Agreement, which is attached hereto and 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 (2) 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 all 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 (7Rbp 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 Entity has agreed to ensure that a minimum of 30% of the workers employed during the construction of the project shall be Newark residents and that 25% of all contractors, subcontractors and suppliers shall be Newark companies.

11. Federal HOME program funds authorized by this Resolution in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) are only being made available to the Entity to subsidize the acquisition, construction and predevelopment costs of six (6) of the approximately forty-two (42) units to be constructed within 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 affordability period. Households seeking to occupy a HOME assisted unit must be certified prior to occupancy and recertified annually.

13. A copy of the resolution, the final fully executed Agreement, authorized by this resolution, and Certification of Funds shall be placed on file in the Office of the City Clerk by the Department of Economic and Housing Development

14. 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 Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) 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	Division/Proj.	Activity	Account#	Budget Ref.	Amount
NW051	G15	D1540	A	72090	B2015	\$821,000.00
NW051	G05	D15M0	A	72090	B2005	\$279,000.00
NW051	G07	D17M0	A	72090	B2007	\$200,000.00

STATEMENT

This Resolution authorizes the Mayor to enter into and execute an Affordable Housing Agreement with Bergen Street Redevelopment, LLC, 953 Bergen Street, Newark, New Jersey 07112, for Federal HOME program funds in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) to subsidize the construction and pre-development costs for the construction and

development of a mixed use project consisting of two buildings along Bergen Street, Newark New Jersey, 1037-1047 Bergen Street (Building A), 4 stories, 32 residential units, over commercial space, and fourteen (14) parking spaces, and 1057-1059 Bergen Street (Building B) - consisting of four stories, 10 residential units, and a community center on the ground floor and identified on the official tax map of the City as Block 3660, Lots 3, 5 and 8, and Block 3661, Lot 11. The six (6) HOME assisted units must remain affordable for a period of thirty (30) years pursuant to the requirements under the HOME Program (24 CFR Part 92).