



City of Newark

City Hall
920 Broad Street
Newark, New Jersey 07102

Legislation Text

File #: 17-1280, Version: 1

Dept/ Agency: Economic and Housing Development

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

Type of Service: Grant Agreement

Purpose: To rehabilitate/construct a 4 1/2 story vacant structure with 23 residential units for very low income households for Veterans and Special Needs

Entity Name: Fairmount S. 10th Street Apartments LLC

Entity Address: 73 Washington Street, Suite 100, Bloomfield, New Jersey 07003-2414

Grant Amount: \$1,000,000.00

Funding Source: City of Newark Redevelopment Area Bond (PSE&G Project Series 2018)

Total Project Cost: \$6,576,883.00

City Contribution: \$1,000,000.00

Other Funding Source/Amount: NJHMFA, HUD McKinney-Vento, Essex County HOME/Developer Equity/\$5,226,883.00

Contract Period: Shall commence on the date of execution and delivery of the Grant Agreement by the Entity and the City of Newark, and expire upon the City's issuance of a Certificate of Completion for the project as provided in the Grant Agreement.

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)

101 South 9th Street and 128-134 South 10th Street/Block 1827/Lots 12 and 70/West Ward

Additional Information:

WHEREAS, Fairmount S. 10th Street Apartments LLC, 73 Washington Street, Suite 100, Bloomfield, New Jersey 07003-2414, a New Jersey Limited Liability Company (the "**Redeveloper**") intends to rehabilitate/construct a project known as the "Fairmount South 10th Street Apartments" upon real property located at 101 S. 9th Street and 128-134 S. 10th Street, Newark, New Jersey and identified on the official tax map of the City as Block 1827, Lots 12 and 70 (the "**Properties**") consisting of a 4 1/2-story vacant structure with twenty-three (23) rental residential units, eleven (11) of which shall be deed-restricted for use and occupancy by extremely low income households earning 30% or less than the Area Median Income and twelve (12) of which shall be deed-restricted for use and occupancy by very low income households earning 31% to 50% of Area Median Income; and the basement will consist of laundry facilities, a bathroom for tenants and a common room for tenants to hold social events and have regular empowerment services available for tenant use (collectively, the "**Project**"); and

WHEREAS, the Project is located within an area in need of redevelopment as defined under the Local Redevelopment and Housing Law, P.L.1992, c.79, and the acts amendatory thereof and

supplemental thereto, as codified in N.J.S.A. 40A:12A-1 et seq. (the "**LRHL**"), and is governed by the West Ward 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 capital grants 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 under the LRHL since it is located within a redevelopment area and is being performed in order to implement an approved redevelopment plan; and

WHEREAS, the City submitted an application to the Local Finance Board ("**LFB**") in the Department of Community Affairs to issue and sell non-recourse Redevelopment Area Bonds in an amount not to exceed Twenty-Five Million Dollars and Zero Cents (\$25,000,000.00) (the "**Bonds**") to provide financing for various redevelopment projects as permitted under N.J.S.A. 40A:12A-29(a)(3) of the LRHL; and

WHEREAS, on April 13, 2016, the LFB duly adopted Resolution 19869/G-515 (the "**LFB Resolution**") which authorized such issuance and sale of the Bonds through a private sale to provide capital grant financing for the various redevelopment projects listed in the LFB Resolution (collectively, the "**Designated Projects**"); and

WHEREAS, the Project is a Designated Project which has been designated for a capital grant by the City pursuant to the LFB Resolution; and

WHEREAS, in accordance with Ordinance 6PSf, duly adopted by the Municipal Council of the City of Newark on May 18, 2016 (the "**Bond Ordinance**"), the City authorized the issuance and sale of not to exceed Twenty-Five Million Dollars and Zero Cents (\$25,000,000.00) aggregate principal amount of Bonds, the proceeds of which (the "**Bond Proceeds**") are to be used to fund, among other things, (1) the payment or reimbursement of costs of any "redevelopment project" or other undertaking in furtherance of a "redevelopment plan" in any "area in need of redevelopment" or "area in need of rehabilitation" within the City, as such terms are defined in the LRHL, (2) the making of municipal subsidies, contributions, grants or loans as authorized by the LRHL with respect to those Designated Projects named in the LFB Resolution, and (3) planning, evaluation, negotiation, and other preliminary expenses relating to any of the foregoing purposes; and

WHEREAS, in accordance with the Bond Ordinance, the LRHL and the Redevelopment Area Bond Financing Law, Sections 1 through 10 of P.L. 2001, Chapter 310 (follow format as codified at N.J.S.A. 40A:12A-64 to 73) (the "**RAB Law**"), the City authorized and approved by Resolution 7R2b (A.S.) duly adopted on February 1, 2017 (the "**Resolution**"), the sale and issuance of the Bonds in the aggregate principal amount of Twenty Five Million Dollars and Zero Cents (\$25,000,000.00) pursuant to the Bond Ordinance and a Trust Indenture by and between the City and the Trustee named thereunder (the "**Trust Indenture**"); and

WHEREAS, the City sold and closed on the Bonds on February 8, 2018, the proceeds of

which have been collected by the Trustee under the terms and conditions of the Trust Indenture; and

WHEREAS, the Project was awarded an original One Million Dollars and Zero Cents (\$1,000,000.00) as stated in the LFB Resolution and Bond Resolution; and

WHEREAS, in accordance therewith, the Newark Municipal Council recognizes the need to complete the above Project and desires to finance the making of a capital grant in the amount of One Million Dollars and Zero Cents (\$1,000,000.00) to the Redeveloper to be used as a subsidy to develop the Project; and

WHEREAS, the City further desires to enter into a Grant Agreement with the Redeveloper to provide it with such capital grant in the amount of One Million Dollars and Zero Cents (\$1,000,000.00) with funds for this grant to be provided from the Bond Proceeds collected by the Trustee pursuant to the Trust Indenture and the City's issuance and sale of the Bonds; and

WHEREAS, the Project is a Designated Project and consistent with the purposes set forth in the Bond Ordinance, the LRHL, LFB Resolution and Bond Resolution and the City further wishes to fund a capital grant to the Redeveloper in an amount not to exceed One Million Dollars and Zero Cents (\$1,000,000.00) (the "**Grant**") from the amounts collected and deposited with the Trustee in accordance with the Trust Indenture.

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 Acting Director of the Department of Economic and Housing Development, are each hereby authorized to enter into and execute a grant agreement with the Redeveloper, in the form attached hereto ("**Grant Agreement**"), in the amount of One Million Dollars and Zero Cents (\$1,000,000.00) from the Bond Proceeds (the "**Grant Funds**"), to be used as financing assistance to develop and subsidize the costs of the Project which shall facilitate redevelopment of the City and implementing related activities for the rehabilitation/construction of a 4-1/2 story vacant structure with 23 residential units for very low income households for Veterans and Special Needs on properties located on 101 S. 9th Street and 128-134 S. 10th Street, Block 1827, Lots 12 and 70.
2. The Acting 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 Grant Funds disbursed to the Redeveloper upon the occurrence of an event of default under the Grant Agreement by the Redeveloper by requiring the Redeveloper to execute a separate Mortgage and Mortgage Note for the full amount of funding provided to the Redeveloper in the Grant Agreement. Said covenants, conditions and restrictions shall 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 during

the term of the Grant Agreement and the City shall discharge such Mortgage and lien in connection therewith upon its issuance of a Certificate of Completion for the Project.

3. The term of the Grant Agreement shall commence on the date of execution and delivery of the Grant Agreement by the Redeveloper and the City and expire upon the City's issuance of a Certificate of Completion for the Project as provided in the Grant Agreement.
4. The Redeveloper shall be responsible for the recordation of the final fully executed Grant Agreement and the related Mortgage and any amendments thereto in the Office of the Essex County Register's Office.
5. The Acting Director of the Department of Economic and Housing Development is hereby authorized to effectuate certain business terms and conditions related to the Grant Agreement as permitted by New Jersey Law and may enter into access and right of entry agreements and other relevant documents related to the allocation of these funds in forms subject to the approval of the Acting Corporation Counsel. In addition, the Acting Director of the Department of Economic and Housing Development is hereby authorized to enter into a maximum of two six (6) month extensions of the term set forth in the Grant Agreement and any contract timelines and milestones contained therein, provided that any contract timelines and milestones are not extended beyond the two 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 Acting Director of the Department of Economic and Housing Development and the approval of the Acting Corporation Counsel.
6. The Redeveloper must adhere to all milestones and timelines in the Project Schedule as further set forth in the Grant Agreement. The Project must conform to the City of Newark's 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 Redeveloper fail to complete the Project within the specified time frame set forth in the Grant Agreement, then the City, in its sole discretion, in addition to any other remedy available by the Grant Agreement or as allowed by law, may direct the Redeveloper to repay all funding authorized in the Grant Agreement.
7. The Redeveloper 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&dD 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, as may be amended from time to time. 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. A copy of the fully executed Grant Agreement, the Mortgage Note and the recorded Mortgage and Security Agreement must be placed on file in the Office of the City Clerk by the Acting Director of the Department of Economic and Housing Development.
9. There is no need for Certification of Funds, as this project is being funded through the City of Newark's Redevelopment Area Bond (PSE&G Project Series 2018).

10. Funds for this contract in the amount of One Million Dollars and Zero Cents (\$1,000,000.00) shall be provided by the Bond Proceeds through U.S. Bank and payments made for this Project shall be monitored by the City of Newark, Department of Finance.

STATEMENT

11. This Resolution authorizes the Mayor and/or his designee, the Acting Director of the Department of Economic and Housing Development to enter into and execute a Grant Agreement, in the form attached hereto, in the amount of One Million Dollars and Zero Cents (\$1,000,000.00) from the City's Bond Proceeds in order to subsidize the costs necessary to complete the Project activities for the rehabilitation/construction of a 4-1/2 story vacant structure with 23 residential units for very low income households for Veterans and Special Needs on properties located on 101 S. 9th Street and 128-134 S. 10th Street, Block 1827, Lots 12 and 70.
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