



## Legislation Text

File #: 20-0884, Version: 1

**Dept/ Agency:** Economic and Housing Development

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

**Type of Service:** Federal HUD HOME Loan and Grant Funds

**Purpose:** A resolution authorizing the subordination of the City's liens granted by Bergen Street Redevelopment Urban Renewal, LLC to its new construction lender, DB 360 LLC, and the execution of: (i) a Consent to Assignment of City Agreements; and (ii) Subordination Agreement with the Senior Lender in connection with the construction of a mixed used project called Tucker View Apartments consisting of two (2) buildings along Bergen Street in the South Ward: 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 on the property commonly known as 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark, New Jersey 07112 and identified on the Official Tax Map of the City as Block 3661, Lots 3, 5 and 8, and Block 3660, Lot 11.

**Entity Name:** Bergen Street Redevelopment Urban Renewal, LLC

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

**Grant Amount:** \$1,300,000.00 and \$1,900,000.00

**Funding Source:** Federal HUD HOME Loan and Grant Funds

**Contract Period:** Agreement shall be for a period of 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 Ward

1057-1059 Bergen Street/Block 3660/ Lot 1/South Ward

**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 as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11.

**WHEREAS**, pursuant to Resolution 7R3-d, adopted on July 7, 2016, the City of Newark, New Jersey (the "City"), approved of the City entering into an Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC, a New Jersey limited liability company (the "Redeveloper"), having its principal place of business at 953 Bergen Street, Newark, New Jersey 07112; and

**WHEREAS**, pursuant to Resolution 7R2-q, adopted on June 21, 2017, the City approved of the City entering into an Amended 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;

**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. Units assisted with HOME Program funds must be occupied by low income and very low income households;

**WHEREAS**, pursuant to Resolution 7R2-p, adopted on June 21, 2017, the City further approved the funding of a capital grant to the Redeveloper in an amount not to exceed One Million Nine Hundred Thousand Dollars and Zero Cents (\$1,900,000.00) (the "Grant") from the proceeds of the Motor Vehicle Tax Revenue Bonds, Series 2015, and the execution and delivery of an Amended and Restated Grant Agreement by the City in the amount of the Grant (the "Grant Agreement"); 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, the Redeveloper has requested and the City has agreed to: (i) subordinate its interests under the HOME Agreement and the Grant Agreement to the interests of the Redeveloper's new senior lender, DB 360, LLC (the "Senior Lender"); and (ii) Consent to a collateral Assignment of City Agreements by the Redeveloper in favor of the Senior Lender pursuant to the Subordination Documents.

**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 are hereby authorized to enter into and execute: (i) Consent to Assignment of City Agreements; and (ii) Subordination Agreement with Bergen Street Redevelopment Urban Renewal, LLC (the "Redeveloper") and DB 360 LLC (the "Senior Lender") (collectively, the "Subordination Documents"), having its principal place of business at 953 Bergen Street, Newark, New Jersey 07112, to subordinate its interests under the HOME Agreement and the Grant Agreement in favor of the Redeveloper's new construction lender, DB 360, LLC, in connection with the Project.
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 for a period of thirty (30) years.
3. The Redeveloper shall be responsible for the recordation of the final fully executed Subordination Documents, as applicable, and any amendments thereto in the Office of the Essex County Register's Office.
4. The Subordination Documents 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).

5. 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 Subordination Documents annexed hereto 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.

6. The Redeveloper must continue to 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 HOME Agreement in Exhibit D, as amended or supplemented to date, and Grant Agreement, as amended or supplemented to date. The property must continue to conform to the City of Newark Design and Construction Standards Guidelines for New Home Construction, including, without limitation, 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, 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 Redeveloper to repay all HOME program and Grant Agreement funds expended on the Project back to the City and exercise any and all other remedies as provided therein.

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 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 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 a final executed copy of the Subordination Agreement and Consent to Assignment of City Agreements.

### **STATEMENT**

This Resolution authorizes the Mayor and/or his designee, the Deputy Mayor/Director of Economic and Housing Development to enter into and execute each of the Subordination Documents with Bergen Street Redevelopment Urban Renewal, LLC, 953 Bergen Street, Newark, New Jersey 07112 and its new senior lender, DB 360, LLC, in connection with the HOME Agreement and Grant Agreement and the construction and pre-development costs for the construction and development of a mixed used Project consisting of two (2) 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 and identified on the Official Tax Map of the City as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11. The 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).

