



City of Newark

City Hall
920 Mayor Kenneth A.
Gibson Boulevard
Newark, New Jersey 07102

Legislation Text

File #: 26-0230, Version: 1

..Title

Dept/ Agency: Economic and Housing Development

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

Type of Service: Execute Affordable Housing Agreement for HOME funds.

Purpose: To authorize the execution of a HOME Affordable Housing Agreement with TMA General Contracting LLC to develop and construct a new three-family home consisting of one (1) two-bedroom unit and two (2) three-bedroom units (3) HOME designated and subsidized units upon the property located at 43 Jacob Street (Block 303; Lot 1) (Central Ward) of the Tax Map of the City of Newark, County of Essex, State of New Jersey

Entity Name: TMA General Contracting LLC

Entity Address: 17 Academy Street, Suite 301, Newark, New Jersey 07102

Grant Amount: \$85,000.00

Funding Source: Federal HOME Program Funds

Contract Period: HOME Program 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)

43 Jacob Street (Block 303; Lot 1) (Central Ward) of the Tax Map of the City of Newark, County of Essex, State of New Jersey

Additional Information:

WHEREAS, the City of Newark, New Jersey (the “City”), desires to enter into and execute a Deed Restrictive Affordable Housing Agreement (the “AHA”) with **TMA GENERAL CONTRACTING LLC** (the “Entity”), having its principal place of business at 17 Academy Street, Suite 301, Newark, New Jersey 07102; 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 (the “HOME Program”); and

WHEREAS, the AHA is for the amount of EIGHTY FIVE THOUSAND DOLLARS and ZERO CENTS (\$85,000.00) in Federal HOME Program funds (the “HOME Program Funds”) for a project to be located at 43 Jacob Street (Block 303; Lot 1) (Central Ward) of the Tax Map of the City of Newark, County of Essex, State of New Jersey (the “Property”), which shall include the development and construction of a new three-family home consisting of one (1) two-bedroom unit and two (2) three-bedroom units (3 HOME designated and subsidized units) upon the property located at 43 Jacob Street (Block 303; Lot 1) (Central Ward) of the Tax Map of the City of Newark, County of Essex, State of New Jersey (collectively, the “Project”). Units assisted with HOME Program funds shall be occupied by low income, very low income and extremely low-income households and families; and

WHEREAS, the Entity has agreed that three (3) apartment units constructed as part of the Project and

designated by the City for subsidy with HOME Funds under this Agreement shall be deed-restricted for occupancy by income-eligible households, one (1) unit restricted to households earning no more than 80% of the Area Median Income ("AMI"), one (1) unit restricted to households earning no more than 50% of AMI, and one (1) unit restricted to households earning no more than 30% of AMI (collectively, the "HOME Assisted Units"); and

WHEREAS, the Entity has agreed to construct the HOME Assisted Units in connection with the Project provided it receives an award of HOME Program Funds from the City in order to provide it with a financial subsidy for the construction of these HOME Assisted 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 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 as declared by the City Council by Resolution 7Rdo(AS) 061505, adopted on June 15, 2005, and is governed by and is to be built as part of the City's West Ward Redevelopment Plan, as amended by Ordinance 6PhS+F(as) adopted by the Municipal Council on June 6, 2002 (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 Newark Municipal Council recognizes the need to complete the above Project and desires to finance the making of a non-interest bearing deferred payment loan in the amount of EIGHTY FIVE THOUSAND DOLLARS and ZERO CENTS (\$85,000.00) to the Entity to be used as a subsidy to develop and construct 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, are hereby authorized, directed and empowered to enter into and execute a Deed Restrictive HOME Affordable Housing Agreement (the "AHA") with TMA GENERAL CONTRACTING, LLC, a New Jersey limited liability company (the "Entity"), 17 Academy Street, Suite 301, Newark, New Jersey 07102, for Federal HOME Program Funds in the amount of EIGHTY FIVE THOUSAND DOLLARS and ZERO CENTS (\$85,000.00) to subsidize the development and construction of a new three-family home consisting of one (1) two-bedroom unit and two (2) three-bedroom units (3 HOME designated and subsidized units) (collectively, the "Project") upon the property located at 43 Jacob Street (Block 303; Lot 1) (Central Ward) of the Tax Map of the City of Newark, County of Essex, State of New Jersey (collectively, the "Property") for use and occupancy by extremely low income, very low-income and low income households.
2. The Entity has agreed that three (3) apartment units constructed as part of the Project and designated by the City for subsidy with HOME Funds under this Agreement shall be deed-restricted for occupancy by income-eligible households, one (1) unit restricted to households earning no more than 80% of the Area Median Income ("AMI"), one (1) unit restricted to households earning no more than 50% of AMI, and one (1) unit restricted to households earning no more than 30% of AMI (collectively, the "HOME Assisted Units").
3. 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.

4. 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 Program 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 (the "Mortgage") and Note (HOME Loan) (the "Note") for the full amount of funding provided to the Entity in the AHA for a term of twenty (20) years commencing after the date on which construction of the Project is completed pursuant to 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. The Mortgage shall secure repayment of the Note.
5. The City 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.
6. The Mortgage and Note given by the Entity in favor of the City of Newark shall ensure compliance with all the requirements of the HOME Program, pursuant to the HOME Program Statue and Regulations (24 C.F.R. Part 92).
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 amended, as permitted by New Jersey Law, and may enter into subordination agreements, estoppel certificates, access and right of entry agreements and other relevant documents related to these fund allocations in forms subject to the approval of the 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-month extensions of the term set forth in the AHA, as amended, and any contract timelines and milestones contained therein, 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.
8. Disbursement of the Federal HOME Program Funds for the Project in the amount of EIGHTY FIVE THOUSAND DOLLARS and ZERO CENTS (\$85,000.00) 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 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 April 5, 1995) and its Affirmative Action Plan (7Rbp adopted 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 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.
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 of the City of Newark, which states:

- a) there are sufficient funds in the aggregate amount of EIGHTY FIVE THOUSAND DOLLARS and ZERO CENTS (\$85,000.00) for the purpose set forth herein and above; and that the line appropriation of Official Budget which shall be charged as follows:

Business Unit	Department	Div./Proj.	Activity	Account #	Budget Ref.:	Amount
NW051	G21	D21F0	A	72090	B2021	\$85,000.00

STATEMENT

This Resolution hereby authorizes the Mayor and/or his designee, or the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into and execute an Affordable Housing Agreement with TMA GENERAL CONTRACTING, LLC (the "Entity"), having its principal place of business at 17 Academy Street, Suite 301, Newark, New Jersey 07102, for Federal HOME Program Funds in the amount of \$85,000.00 to subsidize the development and construction of a new three-family home consisting of one (1) two-bedroom unit and two (2) three-bedroom units (3 HOME designated and subsidized units) (collectively, the "Project") upon the property located at 43 Jacob Street (Block 303; Lot 1) (Central Ward) of the Tax Map of the City of Newark, County of Essex, State of New Jersey (collectively, the "Property") for use and occupancy by extremely low income, very low-income and low income households. 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).