



City of West Allis

Legislation Text

File #: R-2018-0094, **Version:** 1

Resolution approving revised Amendment #4 to the Purchase and Sale Agreement, Development Financing Agreement, and Development Agreement between the Community Development Authority of the City of West Allis and Element 84, LLC for a multi-family development within the 84th and Greenfield Redevelopment Area.

WHEREAS, the Community Development Authority of the City of West Allis (the “Authority”) approved the Purchase and Sale Agreement and Development Agreement (the “Agreement”) between the Authority and Element 84, LLC for a multi-family development (the “Project”) within the 84th and Greenfield Redevelopment Area through Resolution No. 1183 on May 31, 2016, and approved Amendment #1 to the Agreement through Resolution No. 1230 on April 11, 2017, approved Amendment #2 to the Agreement through Resolution No. 1241 on August 8, 2017, approved Amendment #3 to the Agreement through Resolution No. 1254 on October 10, 2017, and approved Amendment #4 through Resolution No. 1259 on November 14, 2017; and,

WHEREAS, the Common Council of the City of West Allis (the “City”) approved the Agreement between the Authority and Element 84, LLC for a multi-family development within the 84th and Greenfield Redevelopment Area through Resolution No. R-2016-0144 on June 7, 2016 and approved Amendment #1 to the Agreement through Resolution No. R-2017-0090 on April 18, 2017, approved Amendment #2 to the Agreement through Resolution No. R-2017-0233 on September 5, 2017, approved Amendment #3 to the Agreement through Resolution No. 2017-0292 on October 17, 2017, and approved Amendment #4 to the Agreement through Resolution No. 2017-0319 on November 21, 2017; and,

WHEREAS, Element 84, LLC (the “Developer”) is requesting a revision to Amendment #4 to the Agreement, seeking an extension of time to the deadlines in Amendment Number Three of the Agreement, which states that the Developer must obtain a Firm Commitment from HUD on or before December 22, 2017 and close on the HUD 221(d)(4) Loan and close on the Public Property on or before January 31, 2018; and,

WHEREAS, on January 5, 2018, the Developer obtained a firm commitment through the U.S. Department of Housing and Urban Development (“HUD”) 221(d)(4) program for the Project; and,

WHEREAS, the Developer intends to close on the HUD 221(d)(4) Loan and Public Property on or before March 15, 2018; and,

WHEREAS, HUD requires that the Developer have no payment obligations to the City until 2021 and that the first payment obligation on the City Loan Note will not occur until after HUD makes a surplus cash determination in 2021 and on an annual basis thereafter ; and,

WHEREAS, rather than the City financing the City Investment through the issuance of general obligation bonds, the Developer and City staff have proposed revising the City Investment to be funded through a loan from the State of Wisconsin’s State Trust Fund Program in the amount of \$2,500,000; the loan shall be 18-year debt service, at a fixed interest rate of 4% per annum, and shall require the Developer to pay a \$12,500 loan origination fee; and,

WHEREAS, the Department of Development staff recommends approval of the revision to Amendment #4.

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of West Allis, as follows:

1. Approves the revision to Amendment #4 to the Purchase and Sale Agreement, Financing Agreement, and Development Agreement by and between the Community Development Authority of the City of West Allis and Element 84, LLC for a multi-family development within the 84th and Greenfield Redevelopment Area, pursuant to section 66.1333(6)(b)2, Wis. Stat., copy attached herein and made a part thereof.

2. That the Executive Director of the Authority, or his designee, is hereby authorized and directed to take any and all other actions on behalf of the Authority which he deems necessary or desirable in connection with the aforementioned Amended Purchase and Sale and Development Agreement, including, without limitation, negotiating, executing, delivering and performing obligations under any and all documents in connection therewith including, without limitation, the sale of land, loan commitments, loan agreements, mortgages, notes, guaranties, security agreements, escrow agreements, certificates, affidavits, assignment agreements, pledges, disbursing agreements, subordination agreements, environmental agreements, indemnification agreements, land use restriction agreements, certified survey maps, easements, operating reserve agreements, replacement reserve agreements, working capital agreements, grant agreements and financing statements.

3. That the Executive Director, or his designee, with the approval of the City Attorney, or his designee, is hereby authorized and directed to take any and all other actions deemed necessary or desirable by him to effectuate the intent of the project.

4. That the City Attorney be and is hereby authorized to make such substantive changes, modifications, additions and deletions to and from the various provisions of any and all loan commitments, the sale of land, loan agreements, mortgages, notes, guaranties, security agreements, escrow agreements, certificates, affidavits, assignment agreements, pledges, disbursing agreements, subordination agreements, environmental agreements, indemnification agreements, land use restriction agreements, certified survey maps, easements, operating reserve agreements, replacement reserve agreements, working capital agreements, grant agreements and financing statements, development agreements, property management agreements, consulting agreements, escrow agreements, certificates, affidavits, reimbursement agreements, assignment agreements, attachments, exhibits, addendums, amendments and/or any other documents as may be necessary, proper or convenient to correct inconsistencies, eliminate ambiguity, and otherwise clarify and supplement said provisions to preserve and maintain the general intent thereof, and to prepare and deliver such other and further documents as may be reasonably necessary to complete the transactions contemplated therein.

cc: Department of Development

DEV-R-919-2-6-18