



Legislation Details (With Text)

File #: 16-1684 **Version:** 2 **Name:** NCEDC MOU Amendment to Agreement
Type: Resolution **Status:** Adopted
File created: 10/26/2016 **In control:** Administration
On agenda: 11/2/2016 **Final action:** 11/2/2016
Title: Dept/ Agency: Administration/Office of the Business Administrator
Action: ☒ Ratifying ☒ Authorizing ☐ Amending
Type of Service: Exception to Public Bidding - Extraordinary Unspecifiable Services
Purpose: Amendment to the Funding Agreement with the Newark Community Economic Development Corporation to include the management of (a) the development of Triangle Park Project and (b) the obligations of Redevelopers within the Newark Downtown Core redevelopment area.
Entity Name: Newark Community Economic Development Corporation
Entity Address: 111 Mulberry Street, Market Street LL Suite, Newark, New Jersey 07102
Contract Amount: \$10,000,000.00
Funding Source: Capital Funds
Contract Period: September 1, 2015 through December 31, 2017
Contract Basis: ☐ Bid ☐ State Vendor ☐ Prof. Ser. ☒ EUS
☐ Fair & Open ☐ No Reportable Contributions ☐ RFP ☐ RFQ
☐ Private Sale ☐ Grant ☐ Sub-recipient ☐ n/a
Additional Information:

Sponsors: Council of the Whole

Indexes:

Code sections:

Date	Ver.	Action By	Action	Result
11/2/2016	1	Municipal Council	Adopt	Pass

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Additional Information:

WHEREAS, Newark Community Economic Development Corporation ("Newark CEDC"), formerly Brick City Development Corporation, with offices at 111 Mulberry Street, Market Street LL Suite, Newark, New Jersey 07102, was formed for the purpose of the receipt and administration of

funds for charitable purposes and the performance of activities pertaining to economic development within the City, including development of residential, commercial, industrial, and other real estate in a manner beneficial to the City, all as more specifically set forth in Newark CEDC's Certificate of Incorporation; and

WHEREAS, the Parties recognize that Newark CEDC is the City's Economic Development arm; and

WHEREAS, the services to be provided by Newark CEDC to the City were originally outlined in a Funding Agreement, which was authorized by Municipal Council by Resolution 7R3-j(as) on July 1, 2009; and

WHEREAS, by Resolution 7R3-D(s) on December 23, 2014, the Municipal Council ratified an MOU (the "2014 MOU") between the City and Newark CEDC whereby, for the time period of September 1, 2014 through August 31, 2015, Newark CEDC would continue to perform the services outlined in the Funding Agreement; and

WHEREAS, on or about June 15, 2016, the City and the Newark CEDC entered a subsequent Funding Agreement that specified that Newark CEDC would continue to provide the services formerly provided by BCDC in the 2009 Funding Agreement in addition to expanding NCEDC's ongoing role in economic development throughout the City by providing Newark CEDC with additional funding in an amount not to exceed \$3,000,000.00 from Urban Enterprise Zone (hereinafter referred to as UEZ) Program funds from which Newark CEDC would use only for those purposes outlined in June 15, 2016 Agreement; and

WHEREAS, previously the City determined to undertake the redevelopment of that certain redevelopment area in the City's downtown core as defined by the City within its resolution 7RBA adopted by the Municipal Council on July 14, 2004 as amended and extended by Ordinance 6S&FG adopted by the Municipal Council on September 7, 2005, (hereinafter referred to as the Extended Redevelopment Area); and

WHEREAS, in connection with the designation of the Extended Redevelopment Area, the City has adopted a Redevelopment Plan by Ordinance 6S&FF finally adopted by the Municipal Council on October 6, 2004 (the "Original Redevelopment Plan"), as amended by Ordinance 6S&FG finally adopted by the Municipal Council on September 7, 2005 (the "First Amendment"), as further amended by Ordinance 6PSF-H finally adopted by the Municipal Council on May 5, 2010 (the "Second Amendment"), as further amended by Ordinance 6PSF-A(s) finally adopted by the Municipal Council on February 24, 2015 (the "Third Amendment"), and as further amended by the Municipal Council by Ordinance 6PSF-B, as amended on September 2, 2015 (the "Fourth Amendment" for the purpose, among others, of rescinding the Third Amendment) (collectively, and as may be further amended from time to time, in accordance with the terms of this Agreement, the "Redevelopment Plan"; and

WHEREAS, in order to implement the Original Redevelopment Plan, the Housing Authority of the City of Newark (the "Authority"), duly designated by and acting as redevelopment entity for the City, entered into separate redevelopment agreements with (i) Station Plaza Newark Downtown Core Urban Renewal Company, LLC ("Station Plaza"); (ii) Devils Renaissance Development, LLC (the "Devils"); (iii); Lafayette Broad, LLC ("Lafayette Broad") and (iv) Trustees of the Old First Presbyterian Church in Newark (the "Church", and collectively with Station Plaza, the Devils, and

Lafayette Broad), for the purpose of implementing the Original Redevelopment Plan including the development and financing of the multi-purpose sports arena (the “Arena Project”); and

WHEREAS, in order to facilitate the Arena Project, pursuant to the terms of the Original Other Redevelopment Agreements, the Affected Parties implemented the initial exchange of real estate parcels in July 2007 (the “Initial Exchange”) necessary to create the development parcels contemplated under the Redevelopment Agreements described above and in furtherance of the Original Redevelopment Plan and the First Amendment; and

WHEREAS, in connection with the proposed development of that certain land identified in the Original Redevelopment Plan as the triangle park property (the “Triangle Park Development Proposal”), the Authority entered into that certain Redevelopment and Land Disposition Agreement with Boraie Development LLC (“Boraie”) dated May 23, 2013; and

WHEREAS, to facilitate and in furtherance of the Triangle Park Development Proposal, the Municipal Council, adopted the Third Amendment; and

WHEREAS, in its opposition to the Triangle Park Development Proposal and the Third Amendment, Station Plaza initiated proceedings challenging the implementation of the Triangle Park Development Proposal (the “Litigation”); and

WHEREAS, in an effort to resolve the Litigation, the City and Station Plaza agreed to settle the Litigation and in connection therewith, (i) the Municipal Council adopted the Fourth Amendment, and (ii) the redevelopment agreements with Station Plaza and Lafayette Broad were amended (the Station Plaza Redevelopment Agreement” and “Lafayette Redevelopment Agreement”), providing for among other things the consummation of the subsequent exchange of real estate parcels contemplated by the original other redevelopment agreements, as amended by the Station Plaza Redevelopment Agreement and Lafayette Redevelopment Agreement (the “Triangle Park Exchange”), the development and financing of the Triangle Park Project (as defined in the redevelopment agreements between the City, Lafayette Broad, and Station Plaza) and the pedestrian access walkway to Newark Penn Station and revised development milestones; and

WHEREAS, as a component of the settlement of litigation briefly described earlier herein, the City, the Authority, Station Plaza, and Lafayette Broad closed on the Triangle Park Exchange on July 7, 2016; and

WHEREAS, pursuant to the Station Plaza Redevelopment Agreement, the City is obligated to complete construction of the Triangle Park Project pursuant to and in accordance with certain design and timeline requirements; and

WHEREAS, in order to satisfy its obligations under the redevelopment agreements between the City and the third party entities and to efficiently implement the Triangle Park Project, the City has determined to designate the Newark CEDC to manage (a) the development of Triangle Park Project and (b) the obligations of Redevelopers within the Newark Downtown Core redevelopment area; and

WHEREAS, the Mayor and the City have determined that the successful redevelopment of the Extended Redevelopment Area would serve the best interests of the City, its residents, workforce and visitors, and as such, calls for, at a minimum, (i) the efficient planning, design, financing, and construction of the Triangle Park Project, and if possible and practical, the Penn Station Bridge, the expansion of Peter Francisco Park, and the Uniform Grading Plan (as defined herein), and (ii) the

establishment of the Newark Arena District Redevelopment Office ("NADRO") within Newark CEDC to execute the City's duties relative to the Redevelopment Plan; and

WHEREAS, in entering into this Agreement, it is clearly not the intention of the City (nor of the Newark CEDC) to amend, modify or in any way alter the terms and conditions set forth in the various settlements of the subject litigation actions set forth above; nor is it the intention of the City (nor the Newark CEDC) to create or vest in any third party any third party beneficiary status or rights regardless of whether or not any such third party could be deemed to be a stakeholder in the implementation, planning, design, engineering or construction of the Triangle Park Project; and,

WHEREAS, the City has determined that efficient planning development and construction of Triangle Park Project is essential for the successful redevelopment of the Redevelopment Area and as such seeks to empower the Newark CEDC to effectuate the redevelopment of the Triangle Park Project under the clear terms set forth in this Amendatory Agreement.

WHEREAS, this Agreement is being awarded to Newark CEDC in compliance with the Local Public Contracts Law, including but not limited to N.J.S.A. 40A:11-5(1)(a)(ii); and

WHEREAS, this Agreement is being awarded to a non-profit organization and as such is not governed by the State Pay to Play Law N.J.S.A. 19:44A-20.5 or the City of Newark Contractor Pay-to-Play Reform Ordinance, R.O. 2:4-22C.

NOW, THEREFORE, BE IT RESOLVED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

1. The Municipal Council of the City of Newark hereby consents to the continuation of the services previously undertaken by Newark CEDC and authorizes the Mayor and/or his designees, the Deputy Mayor/Director of the Department of Economic and Housing Development and the Business Administrator, to enter into and execute an Amendment to the Funding Agreement with Newark CEDC ("Amendatory Agreement") in the form attached hereto, for the purpose of managing (a) the development of Triangle Park Project and (b) the obligations of Redevelopers within the Newark Downtown Core redevelopment area
2. The Term of this Amendatory Agreement is September 1, 2015 through December 31, 2017
3. The Amendatory Agreement is ratified from September 1, 2015 until the adoption by the Municipal Council.
4. The Municipal Council of the City of Newark hereby consents to the appointment of the Newark Community Economic Development Corporation ("Newark CEDC") as the City's administrator and manager of (a) the development of Triangle Park Project and (b) the obligations of Redevelopers within the Newark Downtown Core redevelopment area.
5. The Amendatory Agreement is being awarded pursuant to the fair and open procedures of the State Pay-to-Play Law (N.J.S.A. 19:44A-20.5) and pursuant to the provisions of the Local Public Contracts Law (N.J.S.A. 40A:11-5(1)(a)(i)).
6. Attached hereto are Certifications of Funds from the Director of Finance, which states that there are sufficient funds for the purpose set forth hereinabove and (2) the line appropriation of the

official budget which shall be charged is as follows:

Business Unit	Department	Div/Proj.	Activity	Account	Budget
NW045	007	07A00	A	94710	\$4,251,622.15
NW045	007	07A02	A	94710	\$5,880,095.82

7. A copy of the fully executed Amendatory Agreement, Use and Occupancy Agreement herein authorized and the Certifications of Funds shall be filed in the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.

8. A notice of this action shall be published in the newspaper authorized by law to publish a legal advertisement and as required by law within ten (10) days of the adoption of this Resolution.

STATEMENT

This resolution ratifies and authorizes the Mayor and/or his designees, the Deputy Mayor/Director of the Department of Economic and Housing Development and the Business Administrator, to enter into and execute an Amendment to the Funding Agreement with the Newark Community Economic Development Corporation in the form attached hereto, for the purpose of managing (a) the development of Triangle Park Project and (b) the obligations of Redevelopers within the Newark Downtown Core redevelopment area.