



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

File #: 12-2254, Version: 1

**Dept/ Agency:** Administration/Office of the Business Administrator

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

**Type of Service:** Amend Resolution 7R3-D-(AS) 050510 , funding agreement

**Purpose:** Amend NSP2 Agreement with Community Loan Fund of New Jersey, Inc. to provide additional funding of reprogrammed funds in the amount of \$702,663.29 , allow entity to use unexpended loan loss reserve balance of \$195,000.00 and extend the termination date of said Agreement to August 11, 2013

**Entity Name:** Community Loan Fund of New Jersey, Inc.

**Entity Address:** 108 Church Street, 3<sup>rd</sup> FL, New Brunswick, New Jersey 08901

**Grant Amount:** \$1,320,163.29

**Funding Source:** U.S. Department of Housing and Urban Development

**Contract Period:** February 11, 2010 through August 11, 2013

**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)**

**Additional Information:**

**Invitation: Michael Meyer, Director of Division of Housing and Real Estate, March 19, 2013**

**Deferred 7R1-c 032013**

**Deferred 7R1-a (s) 032613**

**Deferred 7R1-a 040313**

**Deferred 7R1-a 041713**

**Deferred 7R1-a 050113**

**WHEREAS**, through Resolution 7R3-D-(AS) adopted May 5, 2010 the Municipal Council, authorized the Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development, with the City of Newark serving in the capacity as Lead Member of the Newark/Essex County NSP2 Consortium, to enter into separate Neighborhood Stabilization Program 2 (NSP2) Funding Agreements with six (6) nonprofit Consortium Members and two (2) for-profit Developers, to undertake NSP2 eligible housing activities as defined by the U.S. Department of Housing and Urban Development (HUD), pursuant to the Grant Agreement and all Federal, State and Local laws, regulations and restrictions related to the procurement, obligation, expenditure and use of the U.S. Department of Housing and Urban Development's NSP2 grant funding; and

**WHEREAS**, through Resolution 7R3-D(AS), the Municipal Council specifically authorized the Mayor and/or his designee, the Deputy Mayor/Director of the Department of Economic and Housing Development to enter into a NSP2 Agreement with New Jersey Community Capital, Managing Member of Community Loan Fund of New Jersey Inc. (CLFNJ), (hereinafter collectively referred to as the "CLFNJ"), located at 108 Church Street, 3<sup>rd</sup> FL, New Brunswick, New Jersey 08901 in the amount

of \$617,500.00, (the "Agreement"), for the term of February 11, 2010 to February 11, 2013, for the creation of a loan loss reserve pool, an eligible NSP2 housing activity, to be accessible by the Newark Consortium Members conducting NSP2 activities within the City of Newark; and

**WHEREAS**, the U.S. Department of Housing and Urban Development NSP2 regulations establish an expenditure deadline for all NSP2 funds of February 11, 2013; and

**WHEREAS**, the City of Newark, in its capacity as Lead Member, is responsible for ensuring compliance with all Federal, State and Local laws, regulations and restrictions related to the procurement, obligation, expenditure and use of the U.S. Department of Housing and Urban Development's NSP2 grant funding, including the February 11, 2013 expenditure deadline and, in consultation with Consortium Members, has identified an amount of Seven Hundred, Two Thousand, Six Hundred Sixty-three Dollars and Twenty-nine Cents (\$702,663.29), which will not be spent by the deadline and must be reallocated; and

**WHEREAS**, the City of Newark has recommended that these funds be re-allocated to CLFNJ, for the reimbursement of funds spent prior to the NSP2 deadline of February 11, 2013 for the acquisition of approximately 18 defaulted and distressed mortgages within the City of Newark at substantial discount from outstanding principal amounts and below market values, a Project known as Neighborhood Prosperity Fund #1, which is an eligible NSP2 housing activity; and

**WHEREAS**, the Deputy Mayor/Director of the Department of Economic and Housing Development desires to enter into a First Amended NSP2 Agreement with CLFNJ to provide them with an additional amount of Seven Hundred, Two Thousand, Six Hundred Sixty-three Dollars and Twenty-nine Cents (\$702,663.29) to reimburse expenditures made prior to the NSP2 deadline of February 11, 2013 as part of the Neighborhood Prosperity Fund #1 for a total NSP2 allocation amount of One Million Three Hundred Twenty Thousand and One Hundred and Sixty Three Dollars and Twenty-nine Cents (\$1,320,163.29); and

**WHEREAS**, properties acquired with NSP2 funds under the Neighborhood Prosperity Fund #1 will carry the HOME Program affordability requirements as set forth in 24 CFR Part 92.254 for households that are at or below 120% AMI; and

**WHEREAS**, Resolution 7R3-D-(AS) adopted May 5, 2010 authorized CLFNJ to utilize NSP2 funding in the amount of \$617,500.00 for the creation of a loan loss reserve pool, assessable by the Newark Consortium Members conducting NSP2 activity within the City and presently One Hundred, Ninety-five Thousand Dollars and Zero Cents (\$195,000.00) of this amount is no longer needed for the reserve; and

**WHEREAS**, CLFNJ has requested that the unexpended NSP2 loan loss reserve balance of One Hundred, Ninety-five Thousand Dollars and Zero Cents (\$195,000.00) be utilized for the Neighborhood Prosperity Fund #1 and the City of Newark agrees that said request complies with all Federal, State and Local laws, regulations and restrictions related to the procurement, obligation, expenditure and use of the U.S. Department of Housing and Urban Development's NSP2 grant funding; and

**WHEREAS**, the Deputy Mayor/Director of the Department of Economic and Housing Development further desires to further Amended the NSP2 Agreement with the Consortium Member

for to allow the Consortium Member to use the unexpended NSP2 loan loss reserve balance of One Hundred, Ninety-five Thousand Dollars and Zero Cents (\$195,000.00) be utilized for the Neighborhood Prosperity Fund #1; and

**WHEREAS**, all funds allocated under this Resolution constitute a reimbursement of previous expenditures made within the NSP deadline of February 11, 2013; and

**WHEREAS**, in order to ensure sufficient time for the performance of due diligence and review activities related to the close-out of the program, which activities do not include expenditure of funds,, the Deputy Mayor/Director of the Department of Economic and Housing Development further desires to extend the expiration date of the NSP2 Agreement for an additional period of Six (6) months, terminating on August 11, 2013.

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

1. The Mayor and/or his designees, the Deputy Mayor/Director of the Department of Economic and Housing Development, are hereby authorized to Amend Resolution 7R3-D(AS) 050510 and enter into a First Amended NSP2 Agreement with Newark Community Loan Fund of New Jersey, Inc.( CLFNJ), 108 Church Street, 3<sup>rd</sup> Fl. New Brunswick, New Jersey 08901, for the following purposes:
  - a. Provide CLFNJ with additional reprogrammed NSP2 funding consisting of unexpended funds in an amount of Seven Hundred, Two Thousand, Six Hundred Sixty-three Dollars and Twenty-nine Cents (\$702,663.29), for a total amount of One Million Three Hundred Twenty Thousand and One Hundred and Sixty Three Dollars and Twenty-nine Cents (\$1,320,163.29); to reimburse expenditures made prior to the NSP2 deadline of February 11, 2013 as part of the Project known as Neighborhood Prosperity Fund #1 which involves the purchase of approximately 18 defaulted and distressed mortgages within the City of Newark; and
  - b. Allow CLFNJ to use the above-referenced unexpended NSP2 loan loss reserve balance of One Hundred, Ninety-five Thousand Dollars and Zero Cents (\$195,000.00) for the Neighborhood Prosperity Fund #1; and
  - c. Extend the expiration date of the NSP2 Agreement for an additional period of Six (6) months, terminating on August 11, 2013 in order to ensure sufficient time for the performance of due diligence and review activities related to the close-out of the program, which activities do not include expenditure of funds.
2. This First Amended NSP2 Agreement with CLFNJ is ratified from February 11, 2013 until the date of adoption of this authorizing resolution.
3. The Deputy Mayor/Director of the Department of Economic and Housing Development hereby certifies that this Resolution and the above amendments fully comply with the procurement, obligation, expenditure use and reallocation of the U.S. Department of Housing and Urban Development's NSP2 grant funds and further conforms with all Federal, State and Local laws, regulations and restrictions including, but not limited to, the Home Investment Partnership

Programs and the Community Development Block Grant Programs.

4. The Deputy Mayor /Director of the Department of Economic and Housing Development, is hereby authorized to establish a declaration of covenants, conditions and restrictions. Said covenants, conditions and restrictions shall run with the land and bind CLFNJ 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 this agreement, mortgage and mortgage note for the period of fifteen (15) years, to ensure compliance with the requirements of the NSP 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 shall file a fully-executed copy of the First Amended NSP2 Agreement with CLFNJ in the Office of City Clerk.
6. The CLFNJ must adhere to all milestones and timelines in the Project Schedule. Should the CLFNJ fail to complete the Project pursuant to the approved milestones and timelines, 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 CLFNJ to repay all NSP program funds expended on the project back to the City.
7. Disbursement of the additional federal NSP2 program funds for the project in the amount of Seven Hundred, Two Thousand, Six Hundred Sixty-three Dollars and Twenty-nine Cents (\$702,663.29) shall be subject to the terms and conditions set forth in this First Amended NSP2 Agreement, which is attached in its final form and all Federal, State and Local laws, regulations and restrictions pertaining to the use of the U.S. Department of Housing and Urban Development's NSP2 grant funds.
8. Attached hereto are certifications from the Director of Finance of the City of Newark which states (1) that there are sufficient funds for the purpose set forth hereinabove and (2) that the line appropriation of the official budget which shall be charged is as follows: Business Unit, NW051; Department, G10; Division D10VO; Account 72090; Budget, B2010.
9. The Mayor and/or his designee, 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 First Amended NSP2 Agreement annexed hereto and may enter into subordination agreements, access and right of entry agreements, and other relevant documents, as permitted under the Law, in a form subject to the approval of the Corporation Counsel
10. The CLFNJ shall be responsible for the recordation of a final Agreement and any amendments thereto, in the Office of the Essex County Register's Office and shall also be solely responsible for forwarding a copy of such book and page to the Department of Economic and Housing Development.
11. A copy of this Resolution and the fully executed First Amended NSP2 Agreement shall be placed on file in the Office of the City Clerk by the Deputy Mayor/Direct of the Department of Economic and Housing Development.

12. The CLFNJ 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 040595) and its Affirmative Action Plan (7RBP030195) and Federal Executive Order 11246 (as amended by Executive Orders 1137 and 12086) with respect to the award of goods and services. The CLFNJ 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.
13. This First Amended NSP2 Agreement with the CLFNJ is in compliance with executive Order Number MEO-07-0001 Pay to Play, which requires reporting of political contributions to Newark Municipal Candidates and prohibits certain political contributions during the duration of the contract.

### **STATEMENT**

Resolution ratifying and authorizing the Mayor and or his designee, the Deputy Mayor /Director of the Department of Economic and Housing Development to enter into a First Amended NSP2 Agreement with Community Loan Fund of New Jersey Inc. (CLFNJ), 108 Church Street, 3rd Fl, New Brunswick, New Jersey 08901 to provide additional funding of \$ 702,663.29 for a total contract amount of \$1,320,163.29, allow CLFNJ to use unexpended funds of \$195,000.00 for Neighborhood Property Fund #1 activity and extend expiration date of NSP2 Agreement an additional six (6) months to August 11, 2013.