



Legislation Text

File #: 15-1183, Version: 1

Dept/ Agency: Economic & Housing Development

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

Type of Service: Affordable Housing Agreement

Purpose: To provide HOME Program funds to subsidize the construction and pre-development costs of Ten(10) of approximately eighty-nine (89) rental units to be constructed within the multi-family project known as Hampton Valley Apartments (the "Project"). The HOME assisted units will be affordable to low income households

Entity Name: Hampton Valley Urban Renewal, Limited Partnership

Entity Address: 136 Elizabeth Avenue, Newark, New Jersey 07108

Grant Amount: \$250,000.00

Funding Source: HUD, HOME Funding

Contract Period: The use of HOME funds provided under the Agreement shall be for a period of two (2) years and not to exceed four years, from the date of adoption of this resolution by the Newark Municipal Council

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)

106-118 Elizabeth Avenue/Block 2784/Lot 3/South Ward

122-136 Elizabeth Avenue/Block 2777/Lot 1/South Ward

Additional Information:

Resolution 7R3-B(S) 102814; determined project meets existing housing need

Ordinance 6PSF-I 052015; granted project a thirty (30) year tax abatement

WHEREAS, pursuant to Resolution 7R1-K, adopted January 7, 2015, the Mayor and/or his designee, the Business Administrator, were authorized to file FY2015 (Program Year 2014-2015) One-Year Action Plan with the U.S. Department of Housing and Urban Development (HUD), which contained requests for funds from four grant programs: Community Development Block Grants (CDBG), \$6,569,453.00; HOME Investment Partnerships (HOME), \$1,466,755.00; Housing Opportunities for People With AIDS (HOPWA), \$6,473,182.00 (on behalf of Newark and the "Eligible Metropolitan Area"); and Emergency Shelter Grants (ESG), \$548,578.00, and were further authorized to accept these grant funds and enter into a grant agreement with HUD for these funds, with no municipal funds required; and

WHEREAS, pursuant to the competitive contracting process of the State Local Public Contracts Law, as authorized by N.J.S.A. 40A:11-4.1b(1) (being the operation, management or administration of a social services program), and pursuant also to the fair and open process of State Pay-to-Play Law N.J.S.A. 19:44A-20.5, the City of Newark publicly advertised a Request for Proposals (RFP) for Federal HOME program funds on June 20, 2014 with all proposals due on July

21, 2014; and

WHEREAS, the Municipal Council of the City of Newark hereby ratifies the use of competitive contracting for processing these Housing and Urban Development Entitlement Programs from June 20, 2014 to the date of adoption of this Resolution and authorizes its use in the future; and

WHEREAS, the proposal received from Hampton Valley Urban Renewal, Limited Partnership, 136 Elizabeth Avenue, Newark, NJ 07108, hereinafter, "Sub-Recipient" was the most advantageous to the City of Newark, based on experience and all other criteria listed in the RFP; and

WHEREAS, the City of Newark desires to enter into an Affordable Housing Agreement (the "Agreement") with Hampton Valley Urban Renewal Limited Partnership. ("the Entity") having its principal place of business at 136 Elizabeth Avenue, Newark, New Jersey 07108; and

WHEREAS, the City of Newark desires to provide the entity with Federal HOME program funds in the form of a deferred loan for a period of Forty (40) years, pursuant to the HOME program (24 CFR part 92) and any amendments, thereto; and

WHEREAS, the Agreement is for the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) in Federal HOME program funds for the Hampton Valley Apartments, to be located at 106-118 Elizabeth Avenue, Block 2784, Lot 3 & 122-136 Elizabeth Avenue, Block 2777, Lot 1 Newark, New Jersey 07108 in the South Ward (the "Project"). The project will consist of approximately eighty-nine (89) units and such HOME funds will be used to subsidize the construction and pre-development costs for ten (10) multi-family rental units within the project. Units assisted with HOME program funds must be occupied by low income households; and

WHEREAS, the HOME program funds authorized by this resolution in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) are only being made available to the Entity for the purpose of applying for and receiving Low Income Housing Tax Credit funds through the NJHMFA, and should the Entity not receive a Low Income Housing Tax Credit award from the NJHMFA, in addition to receiving firm financial commitments from all other financing institutions, the HOME program funds will be rescinded and no HOME program funds will be made available to the Entity by the City of Newark towards the Project; and

WHEREAS, it is in the best interest of the City of Newark and the Department of Economic and Housing Development to establish contractual guarantees and procedures by which the City of Newark will ensure the Entity's compliance with the requirements of the federal HOME program for the time and in the manner set forth in the Agreement for the receipt of said HOME program funds.

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 an Affordable Housing Agreement (The "Agreement") with Hampton Valley Urban Renewal Limited Partnership. ("the Entity"), having its principal place of business at 136 Elizabeth Avenue, Newark, New Jersey 07108, for Federal HOME program funds in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) to subsidize the construction and pre-

development costs of ten (10) of approximately eighty-nine (89) units within the multi-family rental project known as Hampton Valley Apartments (the "Project"). The site of the Project will be located at 106-118 Elizabeth Avenue, Block 2784, Lot 3 & 122-136 Elizabeth Avenue, Block 2777, Lot 1 Newark, New Jersey 07108 in the South Ward.

2. 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 Forty (40) years. 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 this Agreement for a period of Forty (40) years.
3. The Entity shall be responsible for the recordation of the final fully executed Agreement, Mortgage and the Mortgage Note any amendments thereto in the Office of the Essex County Register's Office.
4. The mortgage and mortgage note given by the Entity shall ensure compliance with 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 to effectuate certain business terms and conditions related to the Agreement annexed hereto as permitted by New Jersey Law and may enter into access and right of entry agreements, mortgages and other relevant documents related to this fund allocation in a form 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 six month extensions of the term of the contract and any contract timelines and milestones, provided that any contract timelines and milestones are not extended beyond the two 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.
6. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to enter into subordination agreements, subject to Municipal Council approval.
7. Disbursement of the Federal HOME program funds for the project in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) shall be subject to the terms and conditions set forth in the Agreement, which is attached hereto.
8. The Entity must 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 Agreement in Exhibit D. The property must conform to the City of Newark Design and Construction Standards Guidelines for New Home Construction/Extensive Rehabilitation, 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 Agreement or as allowed by law, may direct the Entity to repay all HOME program funds expended on the project back to the City.

9. The term of the Agreement shall be for a period of two years from the date of adoption of this authorizing resolution by the Newark Municipal Council. HOME program funds must be expended within 48 months from the date of adoption.
10. 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 040595) and its Affirmative Action Plan (7RBP 030195) 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.
11. HOME program funds authorized by this resolution in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) are only being made available to the Entity for the purpose of applying for and receiving Low Income Housing Tax Credit funds through the NJHMFA, and should the Entity not receive a Low Income Housing Tax Credit award from the NJHMFA along with confirmed commitments from all other financing institutions to support the project, the HOME program funds will be rescinded and no HOME program funds will be made available to the Entity by the City of Newark towards the Project.
12. Entity shall provide evidence of proof of financial commitments from all other funding source(s) that support the project prior to commitment of HOME funds or the Agreement will be deemed null and void.
13. Units assisted with HOME program funds must be designated upon execution of the Agreement 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.
14. Attached hereto is a certification from the Municipal Comptroller of the City of Newark which states:
 - a. there are sufficient funds in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) for the purpose set forth herein and above; and
 - b. that the line appropriation of official budget which shall be charged as follows: Business Unit, NW051; Dept. ID, G09; Div./Proj., D19K0; Activity, A; Account #, 72090; Budget Ref., B2009.
15. The Deputy Mayor/Director of the Department of Economic and Housing Development shall file an executed copy of the Affordable Housing Agreement with the Office of the City Clerk.

STATEMENT

The Mayor and/or his designee the Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized to enter into and execute an Affordable Housing Agreement (“The Agreement”) with Hampton Valley Urban Renewal, L.P. (“the Entity”) for Federal HOME program funds in the amount of Two Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) to subsidize the construction and pre-development costs of ten (10) of the approximately eighty-nine (89) units to be constructed within the multi-family rental project known as Hampton Valley Apartments (the “Project”). The site of the Project will be located at 106-118 Elizabeth Avenue, Block 2784, Lot 3 & 122-136 Elizabeth Avenue, Block 2777, Lot 1 Newark, New Jersey 07108 in the South Ward. The HOME assisted units must remain affordable for a period of forty (40) years pursuant to the requirements under the HOME Program (24 CFR Part 92).