



Legislation Text

File #: 12-1514, Version: 1

Dept/ Agency: Economic & Housing Development

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

Type of Service: Affordable Housing Agreement

Purpose: HOME Program funds provided to subsidize the construction costs of eleven (11) of the ninety-six (96) units within the multi-family rental project. The HOME assisted units will be affordable to low and very low income households, eighty-five (85) units are designated as market rate.

Entity Name: Cherry Park, LLC or an entity under common control of Cherry Park, LLC to be formed under the laws of the State of New Jersey.

Entity Address: 480 North 4th Street, Newark, New Jersey 07107

Grant Amount: \$800,000.00

Funding Source: HUD, HOME Funding

Contract Period: The contract period shall run from the date of adoption until September 30, 2014

Contract Basis: () Bid () State Vendor () Prof. Ser. () EUS

() Fair & Open () No Reportable Contributions () RFP () RFQ

() Private Sale () Grant () Sub-recipient (x) n/a

List of Property:

(Address/Block/Lot/Ward)

144-178 Sylvan Avenue, Newark, New Jersey 07104, Block 839.01, Lot 32, North Ward

Additional Information:

Project Name: Cherry Park Apartments Project

WHEREAS, the City of Newark desires to enter into an Affordable Housing Agreement (the "Agreement") with Cherry Park, LLC or an entity under common control of Cherry Park, LLC, to be formed under the laws of the State of New Jersey ("the Entity"), having its principal place of business at 480 North 4th Street, Newark, New Jersey 07107; 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 twenty (20) years, pursuant to the HOME program (24 CFR part 92) and any amendments, thereto; and

WHEREAS, the Agreement is for the amount of Eight Hundred Thousand Dollars (\$800,000.00) in federal HOME program funds for the Cherry Park Apartments Project, to be located at 144-178 Sylvan Avenue, Newark, New Jersey 07104 (Block 839.01, Lot 32) in the North Ward (the "Project") and such funds will be used to subsidize the construction costs of eleven (11) of the ninety-six (96) units within the two (2) three (3) story multi-family rental project. Units assisted with HOME program funds must be occupied by low and very low income households, eighty five (85) of the rental units in the project are designated as market rate; 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 Cherry Park, LLC or an entity under common control of Cherry Park, LLC, to be formed under the laws of the State of New Jersey (“the Entity”), having its principal place of business at 480 North 4th Street, Newark, New Jersey 07107, for Federal HOME program funds in the amount of Eight Hundred Thousand Dollars (\$800,000.00) to subsidize the construction costs of eleven (11) of the ninety-six (96) units within the two (2) three (3) story multi-family rental project. Units assisted with HOME program funds must be occupied by low and very low income households, eighty five (85) of the rental units in the project are designated as market rate. The Cherry Park Apartments Project will be located at 144-178 Sylvan Avenue, Newark, New Jersey 07104 (Block 839.01, Lot 32) in the North 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 twenty (20) 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 the agreement for a period of twenty (20) years, mortgage and mortgage note to ensure compliance with the requirements of the HOME program, pursuant to the HOME program statute and regulations (24 CFR Part 92).
3. The Entity shall be responsible for the recordation of the final fully executed Agreement and Mortgage and any amendments thereto in the Office of the Essex County Register’s Office.
4. 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 subordination agreements, 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 Agreement and any timelines and milestones, provided that said 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.
5. Disbursement of the federal HOME program funds for the project in the amount of Eight Hundred Thousand Dollars (\$800,000.00) shall be subject to the terms and conditions set forth in the Agreement, which is attached hereto.

6. 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 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 Agreement or as allowed by law, may direct the Entity to repay all HOME program funds expended on the project back to the City.
7. The term of the Agreement shall be for a period of two years from the date of adoption of this authorizing resolution by the Municipal Council. A copy of this resolution, the final fully executed Agreement authorized by this resolution and any further amendments, authorized herein, and the certification of funds shall be placed on file in the Office of the City Clerk by the Deputy Mayor/Director of the Department of Economic and Housing Development.
8. 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 (7RBP030195) 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.
9. Units assisted with HOME program funds must be designated upon execution of the Agreement. Households seeking to occupy a HOME assisted unit must be certified prior to occupancy and recertified annually.
10. 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 Eight Hundred Thousand Dollars (\$800,000.00) for the purpose set forth herein and above and:
 - b) that the line appropriation of official budget which shall be charged as follows:

Department	Division/Proj.	Activity	Account	Budget Ref.
G10	1D030	A	72090	B2010

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 Cherry Park, LLC, or an entity under common control of Cherry Park, LLC, to be formed under the laws of the State of New Jersey (*“the Entity”*), having its principal place of business at 480 North 4th Street, Newark, New Jersey 07107, for Federal HOME program funds in the amount of Eight Hundred Thousand Dollars (\$800,000.00), to subsidize the construction costs of eleven (11) of the ninety six (96) units within the two (2) three (3) story multi-family rental project. The Cherry Park Apartments Project will be located at 144-178 Sylvan Avenue, Newark, New Jersey 07104 (Block 839.01, Lot 32) in the North Ward. The HOME assisted units must remain affordable for a period of twenty (20) years pursuant to the requirements under the HOME Program (24 CFR Part 92).