



# City of Newark

City Hall  
920 Broad Street  
Newark, New Jersey 07102

## Legislation Text

File #: 17-1143, Version: 1

**Dept/ Agency:** Economic and Housing Development

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

**Type of Service:** Grant Agreement

**Purpose:** Amendment to Affordable Housing Agreement authorized by Resolution 7R3-d adopted July 7, 2016

**Entity Name:** Bergen Street Redevelopment Urban Renewal, LLC

**Entity Address:** 953 Bergen Street, Newark, New Jersey 07112

**Grant Amount:** \$1,300,000.00

**Funding Source:** Federal HUD HOME Funds

**Contract Period:** Agreement shall be for a period of Thirty (30) 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

**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)**

1037-1047 Bergen Street/ Block 3661/ Lot 3, 5 and 8/ South Ward

1057-1059 Bergen Street/Block 3660/ Lot 1/South Ward

and

**Additional Information:**

To grant financial assistance for a project consisting of two (2) mixed-use buildings along Bergen Street: Building A - five (5) stories, thirty-two (32) residential units, over commercial space, and fourteen (14) parking spaces, and Building B - consisting of four (4) stories, ten (10) residential units, and a community center on the ground floor located at 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey and identified on the official tax map of the City as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11.

**WHEREAS**, pursuant to Resolution 7R3-d, adopted on July 7, 2016, the City of Newark, New Jersey (the "City"), approved to enter into an Affordable Housing Agreement (the "Agreement") with Bergen Street Redevelopment, LLC, a New Jersey limited liability company (the "Entity"), 953 Bergen Street, Newark, New Jersey 07112; and

**WHEREAS**, the City desires to provide the Entity with Federal HOME program funds in the form of a deferred loan for a period of thirty (30) years pursuant to the HOME Program (24 CFR part 92) and any amendments thereto; and

**WHEREAS**, the Agreement is for the amount of One Million Three Hundred Thousand Dollars and Zero Centers (\$1,300,000.00) in Federal HOME program funds for the Tucker View Apartments Project to be located at 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey, and identified on the official tax map of the City as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11 (South Ward) (the "Property"), consisting of two mixed-use buildings along Bergen Street: Building A - five (5) stories, thirty-two (32) residential units, over commercial space, and fourteen (14) parking spaces, and Building B - consisting of four (4) stories, ten (10) residential units, and a community center on the ground floor (collectively, the "Project"). Units assisted with HOME Program funds must be occupied by low income and very low income households; and

**WHEREAS**, the HOME program funds authorized by this Resolution in the amount of One Million Three Hundred

Thousand Dollars and Zero Cents (\$1,300,000.00), 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, the HOME program funds will be rescinded and no HOME program funds will be made available to the Entity by the City towards the Project; and

**WHEREAS**, it is in the best interest of the City and the Department of Economic and Housing Development to establish contractual guarantees and procedures by which the City 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 amend and enter into and execute an Affordable Housing Agreement (the "Agreement") with Bergen Street Redevelopment, LLC (the "Entity"), 953 Bergen Street, Newark, New Jersey 07112, for Federal HOME program funds in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00), to subsidize the construction and predevelopment costs of Ten Million Ninety Thousand Seven Hundred Thirty-Six Dollars and Zero Cents (\$10,090,736.00) of the approximately forty two (42) units to be constructed within the multi-family rental project known as Tuckerview Apartments (the "Project"). The site of the Project will be located at 1037-1047 Bergen Street (Lots 3, 5 and 8 and Block 3661) and 1057-1059 Bergen Street (Lot 11 and Block 3660), Newark, New Jersey 07112.

2. The Deputy Mayor/Director of the Department of Economic and Housing Development is hereby authorized, directed and empowered to establish a declaration of covenants, conditions and restrictions to ensure that the Project remains affordable for a period of thirty (30) 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 thirty (30) years.

3. The Department of Economic and Housing Development shall be responsible for the recordation of the final fully executed Agreement, Mortgage and Security Agreement, the Note and any amendments thereto in the Office of the Essex County Register's Office.

4. The Mortgage and Mortgage Note given by the Entity in favor of the City of Newark shall ensure compliance with all of 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, directed and empowered 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 Acting 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 Acting Corporation Counsel.

6. Disbursement of the federal HOME program funds for the Project in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00), shall be subject to the terms and conditions set forth in the Agreement, which is attached hereto and a made a part hereof.

7. 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, 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.

8. The term of the Agreement shall be for a period of Affordability, Thirty 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.

9. 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&FdD April 5, 1995) and its Affirmative Action Plan (7RbpMarch 1. 1995) 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.

10. HOME program funds authorized by this Resolution in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) 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, 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.

11. Units assisted with HOME program funds must be designated upon execution of the Agreement and must remain fixed units for the duration of the afford ability period. Households seeking to occupy a HOME assisted unit must be certified prior to occupancy and recertified annually.

12. A copy of this resolution, the final duly 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.

13. 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 One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00) for the purpose set forth herein and above; and

b) that the line appropriation of official budget which shall be charged as follows:

Department	Dept. ID	Division/Proj	Activity	Account #	Budget	Amount
NW051	G15	D1540	A	72090	B2015	\$737,058.00
NW051	G07	D17M0	A	72090	B2007	\$425,491.00
NW051	G11	D11D0	A	72090	B2011	\$137,451.00

### **STATEMENT**

This Resolution amends and authorizes the Mayor and/or his designee, or the Deputy Mayor/Director of Economic and Housing Development to enter into and execute an Amendment to the existing Affordable Housing Agreement with Bergen Street Redevelopment Urban Renewal, LLC, 953 Bergen Street, Newark, New Jersey 07112, for Federal HOME program funds in the amount of One Million Three Hundred Thousand Dollars and Zero Cents (\$1,300,000.00), to subsidize the construction and pre-development costs for the construction and development of a mixed used project consisting of

two (2) buildings along Bergen Street, Bergen Street: Building A - five (5) stories, thirty-two (32) residential units, over commercial space, and fourteen (14) parking spaces, and Building B - consisting of four (4) stories, ten (10) residential units, and a community center on the ground floor located at 1037-1047 Bergen Street and 1057-1059 Bergen Street, Newark New Jersey and identified on the official tax map of the City as Block 3661, Lot 3, 5 and 8, and Block 3660, Lot 11. The HOME assisted units must remain affordable for a period of thirty (30) years pursuant to the requirements under the HOME Program (24 CFR Part 92).