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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: October 22, 2013

Agenda Item No. 8(K)(1)

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Requesting Authorization to Award the FY 2014 Documentary Stamp Surtax Funds For Local Government Contribution to Projects Receiving Tax Credits

Resolution No. R-854-13

Recommendation

It is recommended that the Board of County Commissioners (Board) authorize the County Mayor or the County Mayor's designee to do the following:

- Approve the FY 2014 Documentary Stamp Surtax (Surtax) Request for Applications (County Request for Application) for local government contribution to projects that receive low-income housing tax credits from the State.
- Conditionally award funding of $1.6 million in Surtax (funds under local match). Local Match is for applicants who will be applying for the 2013 Florida Housing Finance Corporation (Finance Corporation) Low Income Housing Tax Credits (Housing Tax Credits), and require a minimum local government contribution that is valued at a minimum $100,000.00. The County would issue a loan of $160,000.00, which would be valued at $104,000.00 for the applicant to qualify.
- Issuance of awards is contingent upon the completion of a subsidy layering review process that includes an update to the awardee(s) current financial viability.
- Administratively provide the local government contribution commitment of funds contingent upon tax credit cycle success for FY 2013 applicants and future tax credit cycles moving forward.
- Execute all conditional loan commitments (Attachment A), local government verification of contribution loan forms (Attachment B), standard shell contracts, standard shell loan documents, amendments and other agreements necessary to fulfill the purposes of this resolution.

Scope

It is the intention of this request for application process to continue funding housing developments to expedite completion of affordable living units within Miami-Dade County while maximizing the leverage of County dollars.

Fiscal Impact/Funding Source

It is anticipated that $1.6 million in Surtax funds will be needed as part of the County's Request for Applications process for local government contributions applicants. The recommended amount sets aside enough funding for up to ten successful local match contributions, if needed. Applicants that do not receive a Housing Tax Credit award will have their minimum local contribution rescinded. The County will adopt and use the Finance Corporation ranking order for development projects as the criteria for awarding County Surtax funds. Applicants who receive Finance Corporation Housing Tax Credits will be selected to receive the County Surtax allocation. In those cases where more than ten (10)

applicants are awarded Housing Tax Credits, the allocation may be increased to allocate to those successful Finance Corporation applicants.

Track Record/Monitor
Upon the approval of the local government contribution awards by the Board of County Commissioners, the Public Housing and Community Development (Department) Executive Director, Gregg Fortner, will monitor the award of low income housing tax credit awards by the Finance Corporation.

Background
This request for approval of the local government contribution portion of the County Request for Applications is synchronized with the award of funding from the State of Florida's Finance Corporation's Request for Applications (Florida Request for Applications) process, which allows proposed affordable housing developments to compete for Housing Tax Credits. In order for applicants, identified for local government contributions, to compete in the Florida Request for Applications process, a local government contribution commitment is required. The County Request for Application also includes funding for applicants that previously received Housing Tax Credits or other public funding and still require "gap" funding to complete their affordable rental housing developments. However, that is not a part of this authorization request to the Board.

This County Request for Application cycle is for threshold applicants who are applying to the Florida Request for Applications for Affordable Housing Developments Located in Broward, Miami-Dade and Palm Beach Counties for Housing Tax Credits and require a minimum local government contribution of $160,000 to be considered eligible to compete for funding. Applicants will receive the minimum local government match contribution, if the application is complete and meets all threshold information requirements. The threshold information requested in the County Request for Applications is consistent with the Florida Request for Applications requirements and includes, but is not limited to, the following: 1) Development Team; 2) Project Proximity; 3) Development Status, 4) Ability to Proceed; 5) Local Government Contribution; and 6) Site Control. In order to be eligible for housing tax credits, an applicant must set aside a portion of the total units for low- or very low-income residents. Rents for housing tax credit units are restricted as set by the United States Department of Treasury in order to ensure that units are affordable to eligible families.

The process utilized by the Finance Corporation is very competitive. After meeting all required regulatory, financial and threshold criteria, projects are then subject to a lottery system. Final determination of the successful lottery participants is anticipated to occur in the spring of 2014, at which time only those projects/developers that receive Housing Tax Credits will retain the local match. All applicants who received a minimum local government contribution will have their allocation rescinded automatically if they are not awarded housing tax credits. However, the Board should be aware that the award of a minimum local government match contribution does not ensure future additional "gap" financing under the County Request for Applications for "gap" financing. Those proposals are evaluated and recommended for award separately.

Ranking Criteria
It is anticipated that all developers submitting an application and meeting the threshold for the local government contribution will receive a conditional commitment from the County to

include with their respective submissions to the Finance Corporation in response to the Florida Request for Applications.

Due Diligence

In accordance with the approved Resolution No. R-630-13, a due diligence signed affidavit was a requirement for the submittal of each application.

Attachments

Russell Benford, Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: October 22, 2013

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(K)(1)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Mayor's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(K)(1)
10-22-13

RESOLUTION NO. R-854-13

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO APPROVE THE FY 2014 DOCUMENTARY STAMP SURTAX REQUEST FOR APPLICATIONS FOR LOCAL GOVERNMENT CONTRIBUTION TO PROJECTS THAT RECEIVE 2013 LOW-INCOME HOUSING TAX CREDITS FROM THE STATE OF FLORIDA HOUSING FINANCE CORPORATION; REQUIRING A MINIMUM LOCAL CONTRIBUTION OF $160,000.00 TO QUALIFY; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO AWARD CATEGORY 1 – LOCAL GOVERNMENTAL CONTRIBUTION TO APPLICANTS UPON COMPLETION OF THE EVALUATION PROCESS AND AWARD OF TAX CREDITS; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE ANY NECESSARY AGREEMENTS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The Board ratifies and adopts the matters set forth in the foregoing recitals and in the accompanying justification memorandum.

Section 2. The Board approves the criteria, use and issuance of a FY 2014 Request for Application (RFA) process for the Documentary Surtax Program to applicants that are applying for 2013 tax credits ("Housing Tax Credits Program") from the Florida Housing Finance Corporation (Finance Corporation). The Board further requires a minimum local contribution to qualify and authorizes the County Mayor or the County Mayor's designee to fund; and conditionally award $160,000.00 as a minimum local government contribution to

applicants who meet the threshold criteria, provided, however, such funds shall automatically be rescinded from such applicants who do not receive an award of tax credits under the Housing Tax Credits Program; and authorizing the County Mayor or the County Mayor's designee to evidence such award in a format acceptable to the Finance Corporation and disburse any funds awarded to the successful applicants upon award of the tax credits to such applicants.

Section 3. All funding awards and conditional loan commitments set forth herein are contingent upon the availability of funding from the funding source or program. For all funding awards and conditional loan commitments made herein, the County Mayor or County Mayor's designee is authorized to shift funding between agencies without exceeding the total award amount to that activity or changing the scope of the activity and to shift funds for each program among activities of the same agency without exceeding the total amount allocated to that agency. For loans to be used for the construction or rehabilitation of affordable housing, the County Mayor or County Mayor's designee is authorized to execute the Conditional Loan Commitment in substantially the form attached herein as Attachment A and incorporated by reference, the Local Government Verification Of Contribution Loan Form in substantially the form attached herein as Attachment B and incorporated by reference, and to exercise the rights conferred therein. For all funding awards and, where applicable, conditional loan commitments made herein, the County Mayor or the County Mayor's designee is authorized to execute all conditional loan commitments, local government verification of contribution loan forms, standard shell contracts, standard shell loan documents, amendments and other agreements necessary to fulfill the purposes of this resolution. The Board further authorizes the County Mayor or the County Mayor's designee, upon a determination that such actions are in the best interest of the County, to subordinate and/or modify the terms of contracts, agreements,

amendments and loan documents and to exercise the termination, waiver, acceleration, or other provisions set forth therein.

The foregoing resolution was offered by Commissioner **Lynda Bell**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**aye**
Bruno A. Barreiro	**absent**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**absent**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**absent**	Dennis C. Moss	**absent**
Sen. Javier D. Souto	**absent**	Xavier L. Suarez	**aye**
Juan C. Zapata	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 22nd day of October, 2013. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: ***Christopher Agrippa***
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Terrence A. Smith

Attachment A

Miami-Dade County
Loan Commitment

Name of Agency/Developer
Address of Developer
City, State / Zip Code

Re: Name of Project
Address of the Project
Type of Project (*Ex., Multi-Family New Construction*)

Dear Developer:

We are pleased to advise you that on _____, the Board of County Commissioners (BCC) approved a Conditional Loan Commitment for development activity at the above-listed property (the "Property"). The loan is conditionally committed for the *[MAYOR OR MAYOR'S DESIGNEE – CHOOSE AS APPLICABLE: [[[payment of hard construction costs]]] [[[acquisition of the Property]]]* as a portion of the development costs to *[[[construct]]] [[[rehabilitate]]]* the affordable housing units on the Property. This Conditional Loan Commitment is made based upon the application submitted by Borrower in response to, for HOME funds, the Miami-Dade County Consolidated Request for Applications for FY 2014 Funding – Housing Application, Book Two or, for Surtax funds, the Miami-Dade County Consolidated Request for Applications for FY 2014 Funding – Documentary Stamp Surtax Funding, Book Three (the "RFA") and is subject to the following terms and conditions:

Borrower: *[[[NAME OF AGENCY/DEVELOPER]]]*

Project: *[[[NAME OF THE PROJECT, # OF UNITS AND TYPE OF PROJECT]]]*

Loan Amount: The loan amount of not-to-exceed $_____ is the amount approved by the BCC in Resolution No. _____ and includes all terms and conditions of such BCC approval, including project scope, activity type and, for federal funds, national objective to be achieved (the "Loan"). The loan amount may be decreased as determined by the Mayor or the Mayor's designee, based on the information and documentation provided by Developer

Conditions: The Loan is conditioned upon the terms, conditions and requirements set forth below (the "Conditions"). The County shall not issue a final unconditional loan commitment, enter into a funding contract, close on the Loan or disburse the Loan funds until all the Conditions are met.

Collateral: Upon satisfaction of the Conditions, Miami-Dade County (County) and Borrower will enter into a funding contract and loan agreement. The Loan shall be evidenced by a promissory note and secured by a construction/permanent mortgage with assignment of leases and rents, a collateral assignment of leases and rents, a collateral assignment of construction documents, a rental regulatory agreement (where applicable), and any other security or collateral as deemed appropriate by the Mayor or Mayor's designee, in his or her sole discretion, with approval of the County Attorney's Office. Borrower shall additionally be required to provide the County with an environmental indemnification agreement, a UCC-1, title affidavit, partnership affidavit (if applicable), corporate resolution approving the loan documents, opinion of counsel, certification of borrower to borrower's counsel, and title policy making the County an insured. The Collateral shall be determined based upon financial feasibility and subsidy layering

underwriting to be performed by County staff in an internal process and by an independent underwriter and paid for by Borrower ("Underwriting") following review of a current title search. Additional forms of security may be required if liens, encumbrances, restrictions or covenants exist on the Property which the Mayor or Mayor's designee determines, in his or her sole discretion, threaten the County's Collateral. The Mayor or Mayor's designee shall determine, in his or her sole discretion and in consultation with the County Attorney's Office, whether the Collateral provided by Borrower is sufficient to close and disburse the Loan.

Interest Rate: Loan terms, including the interest rate, are those set forth in the RFA, on page 20 for HOME funds or page 12 for Surtax funds, as modified prior to closing by the Mayor or Mayor's designee in accordance with the results of Underwriting.

Repayable: There will be no penalty for prepayment of the Loan (payment of Loan balance before the end of the repayment term). Repayment terms are those set forth in the RFA, on page 20 for HOME funds or page 12 for Surtax funds, as modified prior to closing by the Mayor or Mayor's designee in accordance with the results of Underwriting. The prepayment of any Loan shall not affect the term of affordability set forth in the Rental Regulatory Agreement or in any of the other Loan Documents.

Term: The Loan will be for the period of time set forth in the RFA, on page 20 for HOME funds or page 12 for Surtax funds, as it may be modified prior to closing by the Mayor or Mayor's designee in accordance with the results of Underwriting.

Conditions:

1. Underwriting, as explained above, shall include financial feasibility review, subsidy layering review, and credit review. Underwriting is performed to protect the County's scarce affordable housing funds and is performed to ensure that the Project has sufficient financing to be completed timely and that the Project is not over-subsidized, meaning the Loan is not needed or the Loan Amount is too high. The County reserves the right to reduce the Loan Amount subject to Underwriting. The County further reserves the right to refuse to issue a final, unconditional loan commitment to Borrower or to enter into a contract for the Loan or to close on the Loan in the event that Underwriting determines that the project is financially unfeasible or otherwise is unfeasible. The costs of Underwriting are to be paid by Borrower.
2. Borrower must prove control of the Property through purchase or lease, as evidenced by a deed or lease and recorded memorandum of lease in Borrower's name. Absence of any threat of foreclosure, taking by eminent domain, or pending bankruptcy are additionally required.
3. Borrower must provide the County with written financing commitments showing committed financing for the entire Development Cost of the Project, including any gaps between the Loan and the overall costs to develop the Project. The Development Cost of the Project means the total cost of completing the entire Project, from acquisition to the issuance of Certificate of Occupancy, including but not limited to the costs for acquisition, design and planning, zoning and variances, financing costs, legal costs, construction, and permitting. In the event of a dispute as to what amount constitutes the actual Development Cost, Borrower and County will use the amount determined by Underwriting to be the Development Cost.

4. Conformance of the Project design with the application submitted in the RFA, unless changes are approved by the Mayor or Mayor's designee.
5. Complete plans and specifications of the Project.
6. Payment and performance bond in the amount of the entire construction budget or otherwise in conformance with applicable law. Where a payment and performance bond is not required by law, the Mayor or Mayor's designee may alternatively accept – at the Mayor or Mayor's designee's sole discretion – a letter of credit in an amount acceptable to the Mayor or Mayor's designee.
7. Appraisal of the Property showing that the value of the Project and Property, when completed, exceeds the total amount of debt from all sources to be secured by the Project, unless waived by the Mayor or Mayor's designee.
8. A Phase I environmental report requiring no further action.
9. Such other conditions which are customary and reasonable for a loan of this nature, such as adhering to all Federal, State and local regulations, ordinances, codes and standards.
10. Meeting all requirements of the [[HOME]] [[Surtax]] program.

This Conditional Loan Commitment **will expire in six (6) months** if not extended by Miami-Dade County. An extension of this Conditional Loan Commitment must be signed by the Mayor or Mayor's Designee to be valid. If the loan does not close prior to the expiration or extension of this Conditional Loan Commitment, the funds will be subject to recapture and allocated to other projects.

This Conditional Loan Commitment is not assignable. This Conditional Loan Commitment is the sole and complete agreement between the parties as to the terms of the Loan described herein. The terms of this Conditional Loan Commitment may only be changed in writing in a document signed by the Mayor or the Mayor's designee. No representations, written or verbal, of Miami-Dade County employees, or others purporting to act on behalf of Miami-Dade County, may change the terms of this Commitment.

Miami-Dade County wishes to thank you for your proposal and the opportunity to provide financing for this development, and we look forward to closing this transaction.

Sincerely,
Miami-Dade County

_____
Carlos A. Gimenez, Mayor

c: Russell Benford, Deputy Mayor
Gregg Fortner, Executive Director

Approved as to Form and Legal Sufficiency:

_____
Assistant County Attorney

Date: _____

Agreed and Accepted:

NAME OF DEVELOPER

By: _____

Name: _____

Title: _____

Date: _____

2013 LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION – LOAN FORM

Name of Development: _____

Development Location: _____
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county). If the Development consists of Scattered Sites, the Development Location stated above must reflect the Scattered Site where the Development Location Point is located.)

On or before the Application Deadline, the City/County of _____, committed
(Name of City or County)
$_____ (which may be used as a Non-Corporation Funding Proposal in the Application if it meets the
(loan amount)

required criteria) in the form of a reduced interest rate loan to the Applicant for its use solely for assisting the proposed Development referenced above.

The net present value of the above-referenced loan, based on its payment stream, inclusive of a reduced interest rate and the designated discount rate (as stated in the applicable RFA) is: $_____.

No consideration or promise of consideration has been given with respect to the loan. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. The commitment for this loan is effective as of the Application Deadline referenced above, and is provided specifically with respect to the proposed Development.

CERTIFICATION

I certify that the foregoing information is true and correct and that this commitment is effective at least through June 30, 2014.

_____ _____
Signature Print or Type Name

_____
Print or Type Title

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this certification must be signed by the Chair of the Land Authority. One of the authorized persons named above may sign this form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that is directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO). Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. To be considered for points, the amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

If the Application is not eligible for automatic points, this contribution will not be considered if the certification contains corrections or 'white-out' or if the certification is altered or retyped. The certification may be photocopied.

Please note: This form may be modified by Florida Housing Finance Corporation per Section 67-60.005, F.A.C.