



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 10/24/2023

REQUESTER: Anthony Purinton, Assistant City Attorney

PRESENTER: Anthony Purinton, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF CONTRACT K-2324-89: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND MILESTONE PROPERTY DEVELOPMENT, LLC, FOR AN AFFORDABLE HOUSING PROJECT.

BACKGROUND:

The City of Norman is in a very unique position to utilize a portion of the funding received from the American Recovery Program Act (ARPA) to address the shortage of affordable housing within our community. The City originally allocated 6.4 million dollars of its ARPA award to be used for Affordable Housing. The City used some of that funding to purchase real property located on the NE Corner of Imhoff and Oakhurst as a potential location for an affordable housing development. The City closed on the property in January 2023 and issued RFP-2223-62 in May 2023 seeking proposals for an affordable housing development using City ARPA funds in conjunction with Low Income Housing Tax Credit funding.

The Low-Income Housing Tax Credit (LIHTC) subsidizes the acquisition, construction, and rehabilitation of affordable rental housing for low- and moderate-income tenants. The LIHTC was enacted as part of the 1986 Tax Reform Act and has been modified numerous times. Since the mid-1990s, the LIHTC program has supported the construction or rehabilitation of about 110,000 affordable rental units each year.

Affordable Housing projects are eligible uses for ARPA/SLFRF funds, specifically being categorized as a presumptively eligible use that combats the public health and negative economic impacts of the pandemic when the funds are used in conjunction with the LIHTC program. If the project is using the SLFRF funds as a long-term loan and the project meets certain criteria, the repayment on such loans are not subject to program income rules, meaning the City can retain those funds once repaid by the developer.

DISCUSSION:

Contract K-2324-89 is the initial agreement with the Milestone Property Development, LLC, who was the selected developer from the RPF process. The contract is an initial term sheet, which serves as a master agreement setting out general overall terms of the final contracts which will be executed later this year. The highlights of the agreement are as follows:

Development of an Affordable Housing Project

The developer agrees to design, construct, finance, own, and manage a 75-unit affordable housing development. The contract sets out minimum development requirements, such as setting minimum HERS ratings, requiring compliance with the City's visitability program, and setting aside at least 10 units for project-based vouchers.

Affordability Restrictions

The developer is required to maintain the units at a certain level of affordability for households making 30%-60% or less of the area median income (AMI) for the City of Norman. The affordability requirements must be maintained for forty (40) years from when the development receives its certificate of occupancy. The developer must also file a Declaration of Affordability Requirements, a restrictive covenant running with the land, to ensure compliance during the affordability period.

Funding

The developer will receive a long-term loan from the City using its SLFRF funds with an aggregate amount of \$5,500,000.00 at 3% interest paid over 30-years. The loan will not be amortized, but will be repaid as 75% of the development's annual surplus cash. This loan shall be repaid in the event that the project fails to meet the affordability requirements or upon sale of the property. In addition to its SLFRF loan, the City agrees to also contribute \$500,000.00 in additional funds for prepping the site, including widening Imhoff road.

The developer is required to apply and receive tax credit funding through the Oklahoma Housing Finance Agency. The developer has two chances to apply for funding in 2024. If the developer is not successful in obtaining funding through OHFA, the City has the right to terminate all agreements between the two parties. Due to SLFRF requirements, the developer must be successful in obtaining financing through OHFA in order for the City to finance the project using SLFRF funds.

Construction

The agreement contains several construction benchmarks for the developer to meet after obtaining OHFA funding. The completion deadline for the project depends on which application period the project was funded in: if funded during the first round, the completion deadline is August 31, 2026; if fully funded during the second round, the deadline is October 31, 2026.

Prohibition on Transfer

The agreement requires the developer to obtain approval from the City prior to transferring the property to another entity that is not already associated with the developer or tax credit investors.

Funds are available for the SLFRF loan (in the amount of \$5,500,000.00) in ARPA Miscellaneous-Other (account 22330303-45799). For the \$500,000.00 for the City's contribution to the property's site work, one project has been identified with available funding, proposed to be re-allocated to fund the City's contribution. The fund identified (BG0255-LAND – 50594908-46001) was appropriated in FY21 for use as a final balloon payment to NEDC as a part of the ASP Ave Parking Lot Purchase project. The funds for the balloon payment were ultimately paid from another account, leaving \$900,000.00 in the account.

RECOMMENDATION:

Staff recommends approval of K-2324-89 with Milestone Property Development, LLC.