



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 06/28/2022

**REQUESTER:** Economic Development Advisory Board

**PRESENTER:** Kathryn Walker, City Attorney

**ITEM TITLE:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT OR POSTPONEMENT OF CONTRACT K-2122-142: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE NORMAN ECONOMIC DEVELOPMENT COALITION FOR THE USE OF ONE MILLION DOLLARS (\$1,000,000) IN AMERICAN RESCUE PLAN ACT FUNDS FOR QUALIFYING ECONOMIC DEVELOPMENT EXPENDITURES.

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### **BACKGROUND:**

At its retreat last summer, Council discussed earmarking American Rescue Plan Act (“ARPA”) funds for economic development and non-profits. Council had additional discussion during its Study Session on August 17, 2021. At that time, the Interim Final Rule governing expenditure of ARPA funds had been issued and Council informally allocated \$1,000,000 *each* for entrepreneur grants and non-profit support. The final rule for expenditure of ARPA funds was issued on January 6, 2022. It is important to note that any ARPA funded expenditures that do not meet the requirements of the Final Rule must be paid back by the City.

In accordance with the Final Rule, the City may spend ARPA funds on negative economic impacts from COVID-19. There were significant portions of the City’s economy that were damaged by the pandemic’s effects: hospitality, conference center, restaurants, entertainment venues, gyms, retail, service industries and services affiliated with educational institutions. Non-profits have been hit hard during the pandemic. Small businesses have been hit harder than other portions of the economy. Many of these businesses were already financially fragile before the pandemic and small businesses can face greater hurdles in accessing credit.

The pandemic has exacerbated economic disparities that existed prior to the pandemic. The effects of the pandemic were most pronounced in low-and moderate-income households and in certain communities. To address these disparities, the ARPA sets out a presumption of qualification if the recipients of ARPA funds are in Qualified or Distressed Census Tracts.

In determining what uses would be best to respond to the negative economic impact of COVID-19 public health emergency, the use must be designed to address an economic harm resulting from or exacerbated by the public health emergency. A non-exclusive list provided by the U.S. Treasury Department includes:

- Funds for small businesses and non-profits to adopt safer operating procedures, maintain operations during periods of closure, mitigate financial hardship resulting from pandemic by providing loans or grants or in-kind assistance;
- Aid for impacted industries (when doing so consider extent of economic impact experienced by the industry from the pandemic, whether the impact was due to the pandemic as opposed to longer-term economic or industry trends unrelated to the pandemic). The leisure, tourism, travel and hospitality industries will be presumed to have experienced a negative impact from the pandemic. When assistance is provided to private-sector businesses that will be publicly reported and records maintained supporting the assessment of how businesses assisted were affected by the negative economic impact of the pandemic and how the aid received responds to these impacts;
- Address educational disparities by expanding early learning services, assistance to high poverty school districts, evidence-based educational services and practices to address academic needs of students, tutoring, summer school, afterschool, extended learning and enrichment programs, evidence-based practices to address social, emotional, and mental health needs of students; and
- Plans to implement an incubator program to assist small businesses to expand their market or services and remain viable after the economic effects of COVID economy would qualify for ARPA funding especially if geared towards businesses owned by and servicing minority and low-income populations. Implementing programs within a qualified census tract is also a presumed approved use. The funding documents provided by the U.S. Treasury Department specifically address not requiring limiting services to residents of the specific qualified census tract area where training centers are located.

The City's Economic Development Advisory Board ("EDAB") discussed Council's proposal related to economic development at its September, November and January meetings. Recognizing that Council had previously appropriated \$1,000,000 in CARES Act reimbursement funding for small business relief grants, discussions by EDAB focused on the ability to use ARPA funds to make a long-term impact. A strong business incubator program has long been identified in various economic development strategic plans to support entrepreneurship and small businesses. The Norman Economic Development Coalition ("NEDC"), a joint effort of OU, the City of Norman, Moore Norman Technology Center and the Sooner Centurions of the Norman Chamber of Commerce, has a long history of success with its business incubator programs. It currently has the only State-certified business incubator program, which is 100% leased, in Cleveland County and would like to expand that effort to support small business start-ups and entrepreneurs. Incubators are designed to support small business start-ups and entrepreneurs in the form of shared resources, low overhead, programming and consultation for a period of 1 – 5 years, with ongoing support provided as needed.

At its January 2022 meeting, EDAB discussed NEDC's vision to purchase a building free and clear of debt to keep overhead costs low, hire staff to support the incubator businesses, while prioritizing those who were disproportionately impacted by COVID-19, including women, minority-owned businesses, Native Americans, and veterans. EDAB made a formal recommendation to Council to set aside \$1 million in ARPA funds for the development of an incubator program to be located in a Qualified Census Tract. Expenditure of these funds would be contingent on an agreement between the City and NEDC that would require funds to be spent

on the purchase of the incubator site within a qualified census tract, and would require reporting in accordance with the ARPA Final Rule. This recommendation was discussed by Council at its March 1, 2022 Study Session. Based on Council feedback, Staff drafted a funds disbursement agreement. This agreement was discussed by EDAB at its May 2022 meeting, and it recommended unanimously that Council consider the agreement at a future meeting. Council discussed the agreement on June 7, 2022 and directed Staff to bring the agreement forward for its formal consideration.

#### **DISCUSSION:**

The attached ARPA Subrecipient Agreement (Contract K-2122-142) is designed to ensure that ARPA funds are spent in accordance with the Final Rule, which includes regular reporting requirements. In accordance with the rule, funds, which will be disbursed within 30 days of the effective date of the agreement, must be spent by December 31, 2024. Expenditure of the funds must satisfy the requirements for all uses under the negative economic impacts eligible use category under the Final Rule, including identifying an impact or harm and designing a response to the identified impact or harm. Disbursement of ARPA funds under this agreement are conditioned on expenditure on a business incubator program that is located in a Qualified Census Tract that includes preferences for minority-owned businesses. Reporting requirements from the Final Rule are incorporated into the Agreement as well. If funds are misspent by NEDC, the City will be entitled to reimbursement of such funds from NEDC.

In a separate action, Council will consider appropriation of \$1,000,000 of American Rescue Plan Act entitlement funds to the NEDC Incubator project.

#### **RECOMMENDATION:**

Staff recommends approval of Contract K-2122-142.