



Date: August 2, 2011

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Mike Barros, Director, Department of Community Development
Subject: Master Developers Agreement with McCormack Baron Salazar, Inc. for the Redevelopment of Southside Rental Phase I

Executive Summary

On May 2, 2011 City Council approved a commitment of funding in support of Phase I of the Southside Revitalization project located on the former Rolling Hills site. With the award of 2011 tax credits on June 30, 2011 from the North Carolina Housing Finance Agency (NCHFA) to the 132 unit development, predevelopment activities by McCormack Baron Salazar, Inc (MBS) can begin. To allow predevelopment activities to begin, the City and MBS must execute a Master Development Agreement (MDA) which outlines the relationship between the two entities; execute a Community Development Block grant agreement to fund the predevelopment activities and a housing bond program loan to fund private redevelopment activities. Over the coming weeks, the Department of Community Development will prepare additional agreements associated with site preparation and infrastructure improvements and construction/permanent financing for Council consideration under the overall umbrella of the MDA.

The Master Development Agreement (MDA) will be the overarching governing document that will incorporate all individual loans and grant agreements, deeds of trust, promissory notes, budgets, development schedules, income guidelines, tenant eligibility, phase maps and any additional information that is integral to this project. The MDA will provide the parameters for the site testing and construction/ installation of all infrastructure, site improvements, utilities, street lighting, landscape design and construction of all rental units proposed on the Phase 1 site. It will detail whose responsibility it is to carry out these functions and who the financially responsible party is. In addition, the MDA will specify the source and availability of all funding sources and present a timetable for when those funds must be available for disbursement during the pre-development phase and when construction commences. Individual loan agreements and related documents will be attached to the MDA for each separate funding source, identifying specific governmental requirements for each funding source.

The Community Development Block Grant agreement will provide funding for predevelopment activities for the entire site to include a phase I environmental assessment and geotechnical exploration and testing. It will also provide funding for site design to include civil and landscape and the preparation of bid documents for site preparation of the entire site to include mass grading and infrastructure improvements for phase 1. MBS will earn a management fee of 16% or \$14,531.00 for the oversight of the phase 1 environmental assessment and the geotechnical exploration and testing.

The housing bond program loan or predevelopment loan will provide funding for the private predevelopment activities to include architectural, civil, mechanical, plumbing and electrical design of the 132 unit multi-family complex, the payment of water and sewer impact fees, legal fees and the payment of the NCFHA allocation fee.

Recommendation

The Department of Community Development recommends that City Council authorize the City Manager to execute a Master Development Agreement with McCormack Baron Salazar, Inc. (MBS) for the development of 119 multi-family rental and 13 live/work units and proposed future development on the former Rolling Hills site, authorize the expenditure of up to \$500,000.00 in Community Development Block Grant (CDBG) funds to support predevelopment activities, authorize the expenditure of \$1,200,000.00 in housing bond program income to support the development of 119 multi-family rental and 13 live/work units, and authorize the City Manager to execute a CDBG contract with MBS in an amount up to \$500,000.00 and a housing bond program loan agreement with MBS in an amount up to \$1,200,000.00.

Background

In December 2007, City Council accepted the recommendation of a review panel to select MBS as lead developer for Rolling Hills and portions of the adjacent Southside neighborhood. In the fall of 2009, a revitalization plan for the project area was prepared which identified three phases of rental development and three phases of homeownership development with the intent of serving a broad range of incomes while establishing the basis for future private investment. Subsequently, the Department was directed to craft a financing plan for the first two phases of both rental and homeownership development.

Issues/Analysis

On June 30, 2011, MBS was awarded \$1.3 million in tax credits annually for a period of 10 years which equates to approximately \$10,000,000.00 in equity or about half of the project cost. The award of tax credits establishes a completion or "in service" date of December 31, 2013. The 119 multi-family rental and 13 live/work units must be issued a certificate of occupancy from the City/County Building Inspections department by the in service date. To ensure that deadline is met, predevelopment activities must begin by mid-September to allow the design team to complete environmental and geotechnical studies as prerequisites to the preparation of a site plan for City approval and the creation of bid specifications for site preparation and infrastructure improvements.

Alternatives

The City Council could elect to not approve the MDA with MBS. Without an MDA which specifies mutual commitments between the City and MBS, the project would most likely not move forward and the tax credits would be forfeited.

Financial Impact

The financial impacts associated with the mutual commitments between the City and MBS were reviewed at special City Council meetings on the Southside Revitalization project held on March 10th and April 7th of this year. On May 2nd, Council voted to authorize the City Manager to issue a commitment letter to MBS to provide up to \$5,486,468.00 in loan funds for the first phase of mixed-income rental development on the Rolling Hills site and up to \$3,887,410.00 in grant funds for the associated site preparation and infrastructure.

The \$500,000.00 in CDBG funds for environmental investigations and site preparation and infrastructure design will be drawn from prior years' funding available for reallocation and CDBG program income. Funding for the actual construction of the site preparation and infrastructure will be provided by way of the CDBG Section 108 loan.

The \$1,200,000.00 in housing bond program income is budgeted and available in the Rolling Hills CIP (Capital Improvement Program). The funds are a part of the \$5,486,468.00 loan amount referenced above. The balance of the total loan amount required will be provided by the \$950,000.00 NSP3 grant awarded to the City, approximately \$800,000.00 in additional housing bond program income which is budgeted and available in the Rolling Hills CIP, approximately \$1,000,000.00 in prior years' HOME funds and HOME program income and dedicated future HOME funds over a two to three year period paid in during the project's construction and lease-up period.

As part of the 2011 NCHFA tax credit application process, a requirement is the submittal of a project budget for review. Upon review of MBS budget, NCHFA made downward adjustments on several line items with the largest adjustment in rent up reserves and attorney fees. This created a gap in the proposed budgets of \$673,664.00. The gap may be filled in several ways, one with an increase in equity pricing, two by value engineering or negotiation of the actual costs presented in the budget. The last option would be for the City to provide 50% of the funding gap up to an amount of \$335,000.00. The proposed budgets are attached as part of the MDA.

The proposed second phase of mixed-income rental development by MBS is subject to continued HOME entitlement funding.

As noted in the agenda memorandum associated with the Section 108 loan application, the General Fund would be impacted if the CDBG program was eliminated or substantially reduced, resulting in reliance on the General Fund as the source of loan repayment.

SDBE Summary

The Department of Equal Opportunity/Equity Assurance has established a minority participation SDBE goal of 7% and a Women's SDBE participation goal of 5% for the services to be provided under the CDBG agreement. Additionally, the department is currently working with MBS in creation of a Small Disadvantage Business Enterprise Plan to encourage the use of small SDBE firms in the City of Durham database.