



Date: September 18, 2012

To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Kevin Dick, Director – Director, Office of Economic and Workforce Development
Grace Dzidzienyo, Senior Economic Development Manager
Peter Coyle, Senior Economic Development Coordinator

Subject: Amendment to the Building Improvement Grant Contract with Atlas Foster Real Estate Holdings, LLC

Executive Summary

This item recommends the approval of a contract to amend the agreement between Atlas Foster Real Estate Holdings, LLC and the City of Durham related to the Building Improvement Grant awarded to Atlas Foster Real Estate Holdings, LLC on December 19, 2011.

Recommendation

The Office of Economic and Workforce Development (OEWD) recommends that the City Council authorize the City Manager to:

1. Hold a public hearing on the proposed amendment to an economic development economic incentive agreement per G.S. 158-7.1; and
2. Execute an amendment to the Building Improvement Grant agreement between Atlas Foster Real Estate Holdings, LLC and the City of Durham dated December 19, 2011 to extend the contract from an end date of December 19, 2012 to December 19, 2013.

Background

On December 19, 2011, the City Council approved a Building Improvement Grant of \$75,000.00 for economic incentive improvements to a building located at 733 Foster Street, in Durham.

Issues and Analysis

In a letter received August 31, 2012, Atlas Foster Real Estate Holdings, LLC informed OEWD that it had been unable to complete the building improvement project by December 19, 2012, the completion date provided in the original Agreement. In the letter, the company provided the following reasons:

Environmental Cleanup/Mitigation controlled by the NC DENR (North Carolina Department of Environmental and Natural Resources), has prevented the forward progress of the building rehabilitation. Due to many months of uncertainty around the exact steps that would be taken by the state regarding the cleanup, bank financing for the planned renovations was unattainable.

NC DENR has conducted ongoing soil sampling, and testing exercises at the property, but has been unable to commit to installing a comprehensive mitigation system. Part of the delays have related to the fact that the property is cross-contaminated with petroleum-based constituents controlled by the NC UST (Underground Storage Tank) Division in DENR and chlorinated-based constituents controlled by the NC DSCA (Dry Cleaning Solvent Cleanup Act) program. Delays were related to a lack of coordination between the two departments, fiscal budgeting periods, problems with timing of parallel work between the two departments, and both organizations' need to do more testing than had ever before been envisioned, prior to development of an action plan for cleanup/mitigation efforts. Until very recently the full site ownership and action plan had not been completely established.

At this point it appears clear that NC DSCA is taking ownership of remediation and mitigation activities at the site, with progress finally underway. Last week, a proposed vapor mitigation system had been engineered, at the hand of NC DENR's contractors, with the next step involving a bid process among state contractors to actually implement the system. While these processes remain completely outside of the developer's control, recent feedback from the state indicates that forward momentum is finally happening regarding the environmental hurdles that had to be completed prior to the work beginning on the remainder of the project.

The company also reported that renovation of the front elevation and building façade were completed in March, 2012 and that the building was listed on the National Register of Historic Places on June 20, 2012 under its original name as Scott and Roberts Dry Cleaning Plan, Office and Store.

The improvement of the building at 733 Foster Street will contribute to economic development in the Downtown area and the adaptive reuse of a historic property. Although one of the objectives of the Building Improvement Grant Program is to fund projects to be completed within twelve months, staff recommends approval of the extension because such an approval would be consistent with the broader vision of the Citywide Strategic Plan goal for a strong and diverse economy.

Alternatives

The City Manager may choose to reject the recommendation to extend the agreement or to approve a different length of time for the extension. Such decisions may impact the abilities of this project to meet the broader visions of the aforementioned plan and the ability of the project to be an important part of redevelopment at the northern end of the Downtown area.

Financial Impact

Extending the contract by one year will have no financial impact as the amount of the grant will not change.

SDBE

An SDBE summary is inapplicable because no project-specific goals have been set and no SDBEs are involved in this item.

Attachments:

Amendment to Agreement between the Atlas Foster Real Estate Holdings, LLC and the City of Durham for Building Improvement Incentives for Economic Development