



**Date:** August 5, 2014

**To:** Thomas J. Bonfield, City Manager  
**Through:** Keith Chadwell, Deputy City Manager  
**From:** Reginald J. Johnson, Director  
Department of Community Development  
**Subject:** Approval of Public and Private Pre-Development Costs for the  
Redevelopment of Southside Rental Phase 2 with McCormack Baron  
Salazar Development, Inc.

### **Executive Summary**

On June 20, 2012, City Council approved a Master Development Agreement with McCormack Baron Salazar, Inc. (MBS) that established the roles and responsibilities of the City and MBS for the redevelopment of the former Rolling Hills site. The MDA is the document that defines the roles and responsibilities of the parties and which governs the general terms of all individual loans and grant agreements, the provision of the land, deeds of trust, promissory notes, budgets, development schedules, income guidelines, tenant eligibility, phase maps and any additional information that is integral to this project, and most specifically, the number and type of low and moderate housing units obtained in return for the City's subsidy. It specifies the responsibilities of the City and of MBS as the project developer, including the terms for disbursement of funds during the pre-development and construction phases for Phase 1 and for Phase 2.

As Phase 1 construction progresses toward a December 31, 2014 placed in service date, discussion has begun on the second phase of development. In preparation for a 2015 Tax Credit Application to the North Carolina Housing Finance Agency, the rezoning process as well as site preparation and infrastructure design and design of the proposed 79-unit project must begin promptly. Approximately forty-eight of the proposed seventy nine units will serve families at 60% or below of the area median income. The site preparation and public infrastructure design for the entire remaining site, to include Phase 2, will be funded by way of a Community Development Block Grant (CDBG) grant to MBS with the design of the private site improvements and the Phase 2 residential buildings themselves to be funded by a repayable predevelopment loan made with funds repaid to the City from prior housing bond loans, along with funds that MBS will provide. As with the CDBG grant, the loan amount is included as part of the overall financial plan for the Community Development department.

A right of entry agreement is also required as it will allow MBS to enter on the City-owned site and conduct required associated activities in support of preparing the required documents for the submittal of a tax credit application.

## **Recommendation**

The Department of Community Development recommends that City Council authorize the expenditure of up to \$449,630.00 in CDBG funds for site preparation, public infrastructure design and design of on street parking services, authorize the expenditure of \$500,000.00 in housing bond program income for the design of the 79-unit Southside Revitalization project Phase 2, and authorize the City Manager to execute the following agreements with McCormack Baron Salazar Development, Inc., a CDBG contract in an amount up to \$449,630.00, a housing bond program income predevelopment loan agreement in an amount up to \$500,000.00, and a right of entry agreement.

## **Background**

Language in the MDA defines the roles and responsibilities of each party to the agreement. As construction moves toward completion on the Phase 1 site, now is the time to begin preparing for a 2015 tax credit application for development of the Phase 2 site. As set forth in the MDA, the City will provide funding to assist in the private and public predevelopment activities to include architectural, civil, mechanical, plumbing and electrical design of the seventy nine unit multi-family complex, rezoning of the Phase 2 parcel which is estimated to be an eight month process, payment of water and sewer impact fees, legal fees and the payment of the NCFHA application and allocation fees. A preliminary design to include site preparation and public infrastructure improvements as well as housing design is a required component of the preliminary tax credit application which is due in January of 2015.

Additionally, included in a previous agreement with MBS was funding for the design of on street parking along the south side of the first block of Lakewood Avenue and the east side of the first block of South Roxboro Street and the re-signalization of the intersection along with the payment of nutrient fees for the second phase of the development. The tasks were not completed or the funds expended so staff has added the task along with costs associated with the completion of the Brownfield agreement to the proposed contract. The costs associated with the parking services is \$79,840.00, the payments of the nutrient fees or credits are \$59,230.00 and the Brownfield agreement is \$3,160.00 for a total of \$142,230.00.

## **Issues/Analysis**

MBS is responsible for preparing and submitting a tax credit application for Phase 2 which will consist of the seventy-nine multi-family units on approximately 4 acres of the 13 remaining acres of the 20 acre site. Although the site infrastructure improvements and architectural design are a required component of the tax credit application, there is no guarantee that the proposed project will receive an allocation of tax credits. It should be noted however that Durham is guaranteed one tax credit project under North Carolina Housing Finance Agency's current Qualified Allocation Plan (QAP) and no changes in that rule are anticipated. The department will also need to return to Council in the near future for approval of an option agreement to transfer the four acre Phase 2 parcel to MBS and for preliminary approval of a commitment of funding in support of the tax credit application.

Additionally, if the tax credits are awarded for the Phase 2 development and upon City Council approval, the City will be responsible for providing the public infrastructure improvements in addition to the construction financing in an amount up to \$3,400,000.00 for the development of the second phase. In order for NCHFA to consider an award of tax credits, it will likely be necessary to start site prep and public improvements work on the Phase 2 site in advance of the full tax credit application being submitted in May 2015, and sufficient progress will need to be made before the tax credit award date in August 2015.

**Alternatives**

The City Council could elect to not approve the funding for the predevelopment costs. Without an agreement, the redevelopment of the second phase would not move forward with MBS as a developer and the City would need to discuss other options to develop the Phase 2 site as well as the remaining acreage on the site. Language is included in the MDA that states the City will undertake Phase 2 with MBS as long as MBS is not in default of the agreement and tax credits are awarded for the second phase.

**Financial Impact**

The estimated cost for the housing predevelopment activities is \$816,900.00 and will be funded by housing bond program income in the amount of \$500,000.00 from the City of Durham with MBS providing the remaining costs in the amount of \$316,900.00. The housing bond program income funds are budgeted and available for this activity.

<b>Southside Revitalization Phase 2 Housing Predevelopment Budget</b>			
<b>Use</b>	<b>City of Durham</b>	<b>Owner/MBS</b>	<b>Total</b>
1. Architectural Design	\$190,000	\$25,000	\$215,000
2. Cost Estimating	\$0.00	\$5,000	\$5,000
3. Engineering	\$200,000	\$30,000	\$230,000
4. Environmental	\$7,000	\$3,000	\$10,000
5. Water, Sewer, Impact Fees	\$0.00	\$5,000	\$5,000
6. Zoning, Site Plan, Design Review, Fees	\$51,500	\$5,000	\$56,500
7. NCHFA Application Fee	\$0.00	\$86,400	\$86,400
8. NCHFA Market Study Fee	\$9,000	\$0.00	\$9,000
9. Survey/Plats	\$7,500	\$2,500	\$10,000
10. Legal	\$0.00	\$75,000	\$75,000
11. Travel and Expenses	\$0.00	\$75,000	\$75,000
12. Miscellaneous/Contingency	\$30,000	\$10,000	\$40,000
<b>13. Total</b>	<b>\$500,000</b>	<b>\$316,900</b>	<b>\$816,900</b>

Additionally, CDBG funds in the amount of \$449,630.00 are budgeted and available for predevelopment costs associated with site preparation and infrastructure design for public infrastructure improvements. The scope of work will include design and engineering, environmental, legal, parking design services, completion of the Brownfield certification and a contingency fund. Per the MDA, and in keeping with the like arrangement for Phase 1, MBS will also earn a management fee of 16% (\$42,400.00) on the amount of \$265,000.00 which is the estimated cost for the public improvements and design and engineering scope of work.

<b>Southside Revitalization Phase 2 Public Improvements Design and Engineering Budget</b>	
<b>Use</b>	<b>City of Durham</b>
1. Mass Grading Design/Project Coordination	\$47,000
2. Design Development/GMP Pricing Documents	\$48,000
3. Final Construction Documentation	\$56,000
4. Construction Administration	\$37,000
5. Reimbursable Expenses	\$18,000

6. Environmental Allowance	\$20,000
7. Legal	\$ 6,000
8. Contingency	\$33,000
<b>9. TOTAL</b>	<b>\$265,000</b>
10. Management Fee	\$42,400
11. Parking Services	\$79,840
12. Nutrient Fees/Credits	\$59,230
13. Brownfield Certification	\$3,160
<b>14. Total</b>	<b>\$449,630</b>

**SDBE Summary**

Based on the specifications outlined for this project, the M/SDBE participation is 0% and the W/SDBE participation is 1%.