



Legislation Text

File #: 20-184, **Version:** 1

STRATEGIC PRIORITY: Economic and Neighborhood Vitality
AGENDA DATE: February 26, 2020
COUNCIL DISTRICT(S): 4, 7
DEPARTMENT: Department of Housing & Neighborhood Revitalization
EXECUTIVE: Michael Mendoza

SUBJECT

Authorize **(1)** an amendment to the Purchase and Sale Agreement and the Development Agreement between the Dallas Housing Acquisition and Development Corporation (DHADC) and Marcer Construction Company, LLC (Developer), for the sale and development of eight single family homes pursuant to the Urban Land Bank Demonstration Program to correct errors in the purchase price of each property; and **(2)** a reimbursement to the Developer in the amount of \$45,000.00 by DHADC - Estimated Revenue Foregone: Non-tax City Liens \$145,016.26

BACKGROUND

On June 18, 2003, Governor Rick Perry signed the Urban Land Bank Demonstration Program Act. The Act allows the governing body of a municipality to adopt an Urban Land Bank Demonstration Program in which the officer charged with selling real property ordered sold pursuant to foreclosure of a tax lien may sell certain eligible real property by private sale to a land bank for the purpose of affordable housing development. On January 28, 2004, City Council designated the DHADC as its land bank for the purpose of acquiring, holding, and transferring unimproved real property pursuant to 379C of the Texas Local Government Code by Resolution No. 04-0458.

In June of 2019, Marcer Construction Company, LLC (Developer) submitted a proposal to purchase eight vacant lots from the DHADC. City staff evaluated the proposal pursuant to the standards set forth in the land bank application, which included determining whether Developer met the eligibility standards to be deemed a "Qualified Participating Developer" under Chapter 379C and underwriting the proposal. City staff scored the proposal and compared it with the scores assigned to all other proposals submitted for the same lots and determined that Developer's proposal received the highest score.

On June 20, 2019, the DHADC Board of Directors approved the terms of sale and development, subject to City Council approval, for the eight vacant lots proposed to be sold to Developer. The sale of the eight lots will result in foregone revenues from the release of non-tax City liens. This item authorized the DHADC to enter into a development agreement with Developer with the following terms:

- **Vacant Lot Sales Price:** Listed per lot in the amount of \$5,000.00 per vacant lot.
- **Targeted Income of Homebuyer:** Listed per lot in Exhibit A of Resolution No. 19-1243.
- **Construction Timeframe:** Developer must apply for a construction permit and close on any construction financing within three years of purchase from the Land Bank.
- **Affordability Period:** Once the property is sold to a low-income household, it must be occupied as the household's principal place of residence for five years. If the original purchaser re-sells the property during the affordability period, the property must be sold to another qualified low-income household. Developer or subsequent owners must inform prospective purchaser of the five-year affordability period.
- **Right of Reverter:** Title to the property may revert to the DHADC if Developer does not: (1) apply for a construction permit within eighteen months from the date the Deed without Warranty is filed; (2) close on any construction financing within three years from the date the Deed without Warranty is filed; and (3) complete construction within four years from the date the Deed without Warranty is filed.
- **Single-Family Home Sales Price:** The sales price of the home cannot exceed the 2018 U.S. Department of Housing and Urban Development (HUD) HOME homeownership sales price for the Dallas, Texas HUD Metro Fair Market Rent Area and must be affordable based on the income of the targeted homebuyer.

As a condition, the Developer was required to place restrictive covenants on the eight vacant lots stating that Developer must (1) sell each lot to a low-income household as specified; (2) prior to the sale, Developer must provide to DHADC written documentation of the income of the proposed purchaser and the sales price; and (3) after sale of the home, the property must be occupied as a low-income household's principal residence during the entire term of the five-year affordability period.

Pursuant to Resolution No. 19-1243, approved by City Council on August 28, 2019, DHADC executed a Development Agreement and a Purchase and Sale Agreement with Developer and sold eight lots for the development of affordable housing. The Developer and DHADC closed on January 14, 2020, at which time staff discovered an error in the sales price of the eight lots. The sales prices did not reflect what the DHADC board approved, \$40,000.00 (\$5,000.00 per lot). Developer proceeded with the closing of the eight lots at the stated price in the resolution, \$85,000.00, in order to avoid delays in the project timeline. DHADC is requesting an amendment to correct the purchase price, so that it reflects the sale price approved by the DHADC board on June 20, 2019 and to reimburse the Developer in the amount of \$45,000.00.

Developer is a limited liability company formed in Texas in 2003. The managing member is Raul Estrada. Developer has previously participated in the City's Urban Demonstration Land Bank Program (Land Bank Program) and successfully completed the lot acquisition, development, and sale of 12 homes to income-qualified homebuyers on land bank lots. Past performance strongly suggests that the Developer will continue to construct quality affordable housing units on the lots while meeting the requirements of the Land Bank Program.

PRIOR ACTION/REVIEW (COUNCIL, BOARDS, COMMISSIONS)

On January 28, 2004, City Council designated the DHADC as its land bank for the purpose of acquiring, holding, and transferring unimproved real property for the purpose of promoting the development of affordable housing as allowed under Chapter 379C of the Texas Local Government Code by Resolution No. 04-0458.

On January 9, 2019, City Council approved the FY 2018-19 Urban Land Bank Demonstration Program Plan by Resolution No. 19-0117.

On June 20, 2019, the DHADC Board of Directors approved the terms of sale and development for the eight vacant lots proposed to be sold to Developer, subject to City Council approval.

On August 28, 2019, City Council approved the sale of eight vacant lots from DHADC to Developer for the development of eight single family affordable homes pursuant to the Land Bank Program, subject to restrictive covenants and a right of reverter, and authorized the release of lien for any non-tax City liens that were filed on the eight vacant lots prior to the Sherriff's deeds transferring the lots to DHADC by Resolution No. 19-1243.

FISCAL INFORMATION

Estimated Revenue Foregone: Non-tax City Liens \$145,016.26

DHADC will reimburse the Developer \$45,000.00; therefore, there is no cost consideration to the City.