



City of Grand Island

Tuesday, July 12, 2016

Council Session

Item G-10

**#2016-168 - Approving Agreement with Victory Place, LLC
Regarding Use of CDBG Program Income Reuse Funds**

Staff Contact: Charley Falmlen

Council Agenda Memo

From: Charley Falmlen, Community Development

Meeting: July 12, 2016

Subject: Agreement with Victory Place, LLC Regarding Use of CDBG Program Income Reuse Funds

Presenter(s): Charley Falmlen, Community Development

Background

The Community Development Division maintains a Community Development Block Grant (CDBG) Program Income Reuse Fund, which is funded by income from former CDBG programs and is maintained with the intent of funding future qualifying projects.

The Program Income Reuse Plan was approved by City Council on May 28, 2013. This plan outlines the acceptable uses of CDBG Program Income Reuse funds, including housing projects and various housing programs which may support low-moderate income persons.

Discussion

Pioneer Group, LLC, representing Victory Place, LLC has presented the City of Grand Island with a budget shortfall, which developed after unplanned changes had to be made to the sewer extension on the corner of Wheeler and Capital.

Victory Place, LLC when operational, will be a housing development which specifically serves homeless and near homeless veterans within the community of Grand Island. This objective, qualifies this project for CDBG Program Income Reuse funds. The Victory Place project has not received any CDBG funds to date, but has received other veteran based funding packages including V.A.S.H vouchers. For this reason, the Victory Place project is currently under contract, and reporting subsequently, as a Davis-Bacon Labor Standard project. The Davis-Bacon compliance will continue through the change order proposed in this sewer extension, as Davis-Bacon Labor compliance would also be required for CDBG funding.

The City of Grand Island does not have the capacity to place a lien on the federally owned land, and for this reason the funds are being dispersed as a forgivable grant, which will be forgiven upon project completion.

The construction contract, which exists between Victory Place, LLC and 4Sight Construction, will continue and the 15' pipe extension will be addressed via a change order.

The agreement between the City of Grand Island and Victory Place, LLC ensures the dispersal of CDBG upon completion of the contract between Victory Place, LLC and 4Sight Construction. The City of Grand Island will not directly oversee 4Sight Construction's work. However they City will be included in all of 4Sights Davis-Bacon Labor Standard document submissions.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve the agreement
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

Recommendation

City Administration recommends that the Council approve the agreement with Victory Place, LLC.

Sample Motion

Move to approve the agreement, and authorize the Mayor to sign all related documents.

AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2016, by and between the **CITY OF GRAND ISLAND, NEBRASKA**, a Municipal Corporation, hereinafter referred to as "City" and **Victory Place, LLC**, hereinafter referred to as "Grantee".

WHEREAS, the City has received Program Income Reuse Funds, allocated for projects which further housing options for low to moderate income persons; and

WHEREAS, Grantee has proven the scope of the project which will ultimately benefit low to moderate income veterans; and

WHEREAS, the Contract between Victory Place, LLC and 4Sight Group, LLC dba 4Sight Construction dated November 10, 2015 and subsequent Change Order #002 fully describes the project and is incorporated herein by reference as a part of this Agreement; and

WHEREAS, the Grantee is a qualifying business under the City's Program Income Reuse Guidelines; and

WHEREAS, the allocation the Program Income Reuse funds requires that the Grantee fully execute all requirements of the previously mentioned contract and change order; and

WHEREAS, the project will be of substantial benefit to the homeless and near homeless veteran populations in Grand Island and its surrounding area; and

WHEREAS, the disbursement of Program Income Reuse funds set forth below constitutes a fulfillment of the major objective of the City.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the City along with the Grantee agree as follows:

1. DISBURSEMENTS. The City shall disburse funds of a Grant to the Grantee as follows:

(A) Grantee shall obtain all permits to complete the project.

(B) The Grantee will create all bid and construction documents, inclusive of Davis-Bacon language. Copies of all bid documents, contract documents and pertinent construction documents must be submitted to the City prior to contract completion.

(C) The entirety of the project shall remain subject to Davis-Bacon. The Grantee is responsible for ensuring all required Davis-Bacon paperwork is submitted to the City.

(D) Payment will only be made to the Grantee upon submittal of a request for payment along with an Affidavit of the General Contractor certifying the work completed as of the date of the submittal.

(E) All changes to the project must be approved by the City and Grantee prior to implementation of any changes to the project.

(F) Any unapproved changes shall void the Grant.

(G) TOTAL DISBURSEMENTS: Pursuant to this Agreement, the City shall not disburse more than \$84,121.45 (EIGHTY FOUR THOUSAND ONE HUNDRED AND TWENTY ONE DOLLARS AND FORTY FIVE CENTS) to the Grantee.

2. PROGRAM INCOME GRANT FORGIVENESS. The City shall forgive the entire amount of the AMOUNT disbursed on behalf of Grantee, not to exceed \$84,121.45, upon completion of all required benchmarks of the contract and change order.

3. BREACH OF AGREEMENT. In the event Grantee fails to comply with any of the terms as set forth in this Agreement, the City may declare Grantee in breach and shall follow the procedure set for below:

(A) Any such declaration shall be given in writing, clearly stating the nature of the breach, signed by such person duly authorized to make such declaration, and delivered to Grantee by Certified U.S. Mail, return receipt requested to the Grantee at Grantee's last known address.

(B) Grantee shall respond, in writing, to such declaration within fifteen (15) days of receipt of declaration.

(C) Grantee shall be given thirty (30) days from date of receipt of said declaration to cure the breach.

(D) Upon agreement of the City, the Grantee may be granted additional time to cure said breach.

(E) Should the breach not be cured, any monies disbursed by the City and not forgiven pursuant to the terms of Paragraph 2 of this Agreement shall become immediately due and owing by Grantee to the City.

(F) Upon breach of this Agreement and a failure to cure said breach, any monies disbursed and unforgiven shall accrue interest at the rate of eight percent (8%) per annum.

4. COMMUNICATION. Grantee agrees to fully respond within fifteen (15) calendar days to any request for information from the City related to the Grantee's compliance with the terms of this Agreement. Grantee further agrees to inform the City of any changes in address, telephone number, or email address within three (3) business days of such change. All responses and notifications shall be in writing and provided to the City and BID at the following addresses:

City of Grand Island
Attn: Community Development Division
100 East First St.
P.O. Box 1968
Grand Island, NE 68802-1968

5. LEGAL EFFECT. Notwithstanding any other provision of this Agreement, Grantee specifically agrees to the following:

(A) Should Grantee be purchased, absorbed or merged with any other person or entity the terms of this Agreement shall continue to be in full force and effect on any such purchaser or successor entity.

(B) Should Grantee cease operations in the City Of Grand Island at any time while this Agreement is in effect, any monies disbursed by the City and not forgiven pursuant to the terms of this Agreement shall become immediately due and owing to the City, and any monies owed shall accrue interest at the rate of eight percent (8%) per annum until paid in full.

(C) Should any provision of this Agreement be declared void or illegal by a Court of law, all other unaffected provisions shall remain in full force and effect.

6. ENTIRE AGREEMENT. This Agreement, and all attachments hereto, constitutes the entire agreement between the City and Grantee notwithstanding any other oral agreements or understandings to the contrary and may be amended only in writing, approved and executed as required by law.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, this Agreement is executed by the respective parties.

CITY OF GRAND ISLAND, NEBRASKA,
A Municipal Corporation,

By: _____
Jeremy L. Jensen, Mayor


Date: _____

Attest: _____
RaNae Edwards, City Clerk

By: _____
Stacy R. Nonhof, Assistant City Attorney

Date: _____

Victory Place, LLC
By: Pioneer Investment Victory Place, LLC,
Its Managing Member

By:  _____
Ross R. Freeman, Designated Member

Date: 7/6/16

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Change Order

PROJECT (Name and address):

Victory Place, LLC
 VA Grounds
 Broadwell and Capital Avenue
 Grand Island (Hall) Nebraska 68801

CHANGE ORDER NUMBER: 002

DATE: 6/28/2016

TO CONTRACTOR (Name and address):

4Sight Group, LLC dba 4Sight
 Construction
 7920 Ward Parkway
 Kansas City, MO 64114

ARCHITECT'S PROJECT NUMBER:

CONTRACT DATE: November 10, 2015

CONTRACT FOR: General Construction

OWNER:
 ARCHITECT:
 CONTRACTOR:
 FIELD:
 OTHER:

THE CONTRACT IS CHANGED AS FOLLOWS:

(Include, where applicable, any undisputed amount attributable to previously executed Construction Change Directives)

We hereby submit specifications and estimates for: The 15' extension and riser installation of the city sewer on the corner of wheeler and capital.

Also includes 280' of 6" forced main C-900 sewer replacement

The original Contract Sum was

The net change by previously authorized Change Orders

The Contract Sum prior to this Change Order was

The Contract Sum will be increased by this Change Order in the amount of

The new Contract Sum including this Change Order will be

| | |
|----|--------------|
| \$ | 3,387,954.00 |
| \$ | 9,125.70 |
| \$ | 3,397,079.70 |
| \$ | 108,440.00 |
| \$ | 3,505,519.70 |

The Contract Time will be increased by Zero (0) days.

The date of Substantial Completion as of the date of this Change Order therefore is

NOTE: This Change Order does not include changes in the Contract Sum, Contract Time or Guaranteed Maximum-Price which have been authorized by Construction Change Directive until the cost and time have been agreed upon by both the Owner and Contractor, in which case a Change Order is executed to supersede the Construction Change Directive.

NOT VALID UNTIL SIGNED BY THE ARCHITECT, CONTRACTOR AND OWNER.

Rosemann & Associates

4Sight Group, LLC dba 4Sight
 Construction

Victory Place, LLC By: Pioneer
 Investment Victory Place, LLC Managing
 Member

ARCHITECT (Firm name)

CONTRACTOR (Firm name)

OWNER (Firm name)

1526 Grand Boulevard, Kansas City, MO
 64108

7920 Ward Parkway, Kansas City, MO
 64114

404 SW. 9th Street, Topeka, KS 66612

ADDRESS

ADDRESS

ADDRESS

BY (Signature)

BY (Signature)

BY (Signature)

(Typed name)

Ian Leftwich

(Typed name)

Ross R. Freeman

(Typed name)

DATE

DATE

DATE

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 User Notes: (1380803660)

RESOLUTION 2016-168

WHEREAS, on the Community Development Division receives income from previous Community Development Block Grant (CDBG) projects; and

WHEREAS, the Community Development Division maintains a Program Income Reuse Plan, as approved by City Council on May 28, 2013; and

WHEREAS, the housing project at Victory Village will address the needs of homeless or near homeless veterans within Grand Island; and

WHEREAS, the project presented by Pioneer Group, LLC representing Victory Place, LLC addresses and meets the criteria set out in the Program Income Reuse Plan by addressing the needs of homeless and near homeless veterans; and

WHEREAS, the Community Development Division allocates \$84,121.45 of CDBG Program Income Reuse funds to the Victory Place project; and

WHEREAS, an agreement is required for all CDBG funding projects.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA that the City of Grand Island, Nebraska is hereby approves and adopts Agreement with Victory Place, LLC ; and the Mayor is hereby authorized to sign such agreement on behalf of the City of Grand Island.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, July 12, 2016.

Jeremy L. Jensen, Mayor

Attest:

Nicki Stoltenberg, Assistant to the City Administrator

| | |
|---------------------|-----------------|
| Approved as to Form | ☐ _____ |
| July 8, 2016 | ☐ City Attorney |