

May 26, 2022

Item No. 8.7.

B-CS Habitat for Humanity Contract Change Order

Sponsor: Debbie Eller, Director of Community Services

Reviewed By CBC: City Council

Agenda Caption: Presentation, discussion, and possible action regarding a Change Order to a Community Development Block Grant Funding Agreement with Bryan-College Station Habitat for Humanity in the amount of \$200,000 for the development at 14015 Renee Lane, the extension of the contract term, and a change to the Statement of Work reducing the number of house to be developed.

Relationship to Strategic Goals:

Core Services and Infrastructure

Recommendation(s): Staff recommends approval of a Change Order to Contract # 17300511 with Bryan-College Station Habitat for Humanity in the amount of \$200,000, extension of the contract Term, and revision to the Statement of Work to reduce the number of houses to be developed to five (5).

Summary: In July of 2017, the City executed a Community Development Block Grant (CDBG) Funding agreement in the amount of \$794,000 with Bryan-College Station Habitat for Humanity (Habitat) for the acquisition, development and infrastructure costs related to the development of at least eight affordable single-family homes at 14015 Renee Lane. The City of College Station annually receives CDBG from the U. S. Department of Housing and Urban Development and utilizes the funding to address the growing need for more affordable, decent housing units, creating a suitable living environment, and expanding economic opportunities, principally for low- to moderate-income residents. The City of College Station has a long history of partnering with Habitat to build quality, affordable homes for income-eligible homebuyers.

Acquisition was completed in July of 2017 and Habitat started working with the seller's engineering firm, who had developed a preliminary site plan that indicated the ability to develop 9 lots in a cluster development. The zoning in place would support this type of development. According to the attached request for additional funding received from Habitat, "BCS Habitat misunderstood the complexity of developing this property on Renee Lane at the time of entering into the contract. We entered into the contract with the understanding that there was a development plan ready to go and the engineering had already been paid for by the previous owners. This was how the property was represented by the sellers and confirmed by their engineers."

Habitat continued to work with the first engineering firm through January 2020, when they terminated their contract with them for lack of responsiveness. COVID lockdowns began in March 2020 and a contract was executed with a second engineering firm in April 2020. The preliminary evaluation by the second firm of the working plan developed by the first engineering firm was that the planned cluster development on the plat was not feasible due to the detention needed. The second engineering firm then started a new design to meet all of the existing requirements. The proposed site plan that has now been submitted for review includes 5 lots.

A complete timeline of the development work is included in the attached letter requesting additional

funds. Additional factors that have led to this request and proposed change order include rising costs due to inflation, supply chain issues, labor demands related to COVID and increases in construction during COVID due to low interest rates. These factors are beyond the control of Habitat and unanticipated in 2017.

This Change Order will also extend the contract period through June 30, 2023 to allow sufficient time for the construction of the houses and reduce the number of housing identified in the statement of work to 5.

If this Change Order is approved, the total CDBG funds invested in this development for acquisition, engineering, and infrastructure expenses will be \$994,000, or \$198,800 per lot. This amount does not include any expenses for housing construction.

Budget & Financial Summary: CDBG funds are available in the Community Development fund through an amendment to the 2022 Annual Action plan and FY22 budget. Funds will be transferred from Economic Development as no eligible activities have been identified during this fiscal year.

Attachments:

1. Attachment 1 - Request for Additional Funding 2022
2. Attachment 2 - Change Order #1

Debbie Eller, Director of Community Services

PO Box 9960, College Station, TX 77842

4/14/2022

Dear Debbie,

Please accept this letter as my request for an additional \$200,000.00 in funding for the land development at Renee Lane (contract 17300511, \$794,000, approved by council on July 13, 2017).

BCS Habitat misunderstood the complexity of developing this property on Renee Lane at the time of entering into the contract. We entered into the contract with the understanding that there was a development plan ready to go and the engineering had already been paid for by the previous owners. This was how the property was represented by the sellers and confirmed by their engineers, and I cannot speculate on why those assertions did not bear out.

Please see the timeline of the development work below.

July 2017 - We closed on the property July 20, 2017. We worked with the seller's engineers (referred to as First Engineers) on work refining and presenting the previous submitted preliminary plan with the city. Receive reimbursement from City of College Station in the amount of \$477,307. This leaves remaining funds in contract of \$316,693.

August 2017 – November 2017 - In August the city insisted we include adjacent land owner to the north. After three months of avoiding, delaying and refusing to cooperate, the city allowed us to move forward without his participation.

January 2018 - In January of 2018 we were notified that the preliminary plan had expired due to inactivity. Sent First Engineers sketches of new designs for layout, requiring a new contract for services.

February 2018 - We signed a new contract with First Engineers in February of 2018 as we determined that a new design would be needed.

March 2018 – Review engineer's designs

April 2018 – Review preliminary layout

June 2018 – Review preliminary design with engineer. At the end of the month we had a preapplication conference with College Station staff.

July 2018 – Review 8 lot design with engineer based on comments received at preapplication conference. Engineer begins researching what to do about the "creek" (lowest points on the property where water flows during sheet flow from precipitation, not a channel)

September 2018 – Engineer recommends we work with environmental firm to analyze creek and use their recommendation

November 2018 – Environmental engineers report out after inspection recommending that the creek is not under restrictive jurisdiction.

January 2019 – First Engineer responds to Habitat requests for update promising updates soon.

February 2019 – Visited engineer's office in person to request updates as emails were not getting responses

March 2019 – Continue to request updates from engineer, no response

April 2019 – Continue requesting updates. Get a response on 4/24 apologizing and promising updates soon.

- Beginning in spring of 2019 and continuing through fall of 2020, staff turnover at Habitat presented challenges for giving this project full attention. Three of the four staff in our construction department left the organization, (two on site construction staff and the volunteer coordinator) and their replacements soon decided construction was not the field for them. Nathan Touchette, then our director of Property and Construction, took up the slack to keep construction moving forward as we also faced how to navigate building with volunteers and a disrupted supply chain during Covid. In fall of 2020, Aaron Shipp moved back to BCS from Midland to be our Director of Construction and in Spring of 2022 our Construction Superintendent rejoined staff.

May 2019 – Continue requesting weekly updates from engineer. Check with Anthony Armstrong at city to verify if anything has been submitted. (It has not). We begin conversations with Community Development staff about switching engineers due to lack of progress. Habitat staff meet with engineer to discuss lack of progress. We determine to complete preliminary plan phase with First Engineer and to switch to a different firm for final plat and construction phase.

June 2019 - new preliminary plan was submitted with a 9 lot design. We kept trying to maximize the number of lots yield by trying different design techniques and looking at the possibility of using variances. Comments received from submittal.

August 2019 - we switched from a cluster design to an 8 lot traditional development design.

September 2019 – 8 lot design preliminary plan & administrative adjustment submitted to the city

January 2020 - We terminated the contract with First Engineer on January 29, 2020 and requested all work documents.

February 2020 – Met with Second Engineer. Provided overview of work to that point and handed over work documents from First Engineer.

March 2020 – COVID begins. Lockdown and virtual meetings required.

April 2020 – Signed contract with Second Engineer. Their preliminary evaluation of the working plan (that had been part of the sales negotiation and the basis for the purchase) was that it was not possible given the amount of detention needed and the volume set aside for detention. The bank of the dam for the pond on the southern adjacent property had not been addressed in any way and made 2 of the proposed lots unserviceable. The proposed storm sewer connections located on the eastern edge of the property were not of sufficient depth to service the outflow and were of questionable capacity to handle the volume. At this point we realized that none of the characteristics that made the original design viable were realistic. Second Engineer begins researching where and how to tie in utilities, where to connect storm water discharge, how to work around the "creek", how to mitigate risk from the bank of the pond, etc.

July 2020 – make contact with owner of southern adjacent land where pond is located. Set up meeting.

August 2020 – Met with owner of southern adjacent land about his property, our property, co-development, and solutions to the pond bank being on our property. He agrees to let us move his pond at our expense to get the bank off our property. Habitat signed additional contract with Second Engineer for Master Development Lot Layout and combined detention for southern adjacent tract and Habitat property.

January 2021 – Signed additional contract with Second Engineer for topographic survey work

March 2021 – Signed additional contract with Second Engineer for work to acquire formal jurisdictional determination from US Army Corps of Engineers.

April 2021 – Received 1st cost estimate from Second Engineer of \$333,982. We learned in February 2022 that this estimate was incomplete, however, that was not communicated in April of 2021. This amount was within the ability of Habitat to fund outside of remaining funds from city contract. Second Engineer submits formal request for US Army Corps of Engineers jurisdictional determination. (Determination received in October 2021 – six months later)

May 2021 – 6 lot design Master Preliminary Plan and construction drawings submitted to College Station. Addressing comments ongoing until approval. (Plans approved February 2022 – over 8 months later)

August 2021 – Requested draw #1 for engineering work from City of College Station.

September 2021 – Received \$29,883 from City. \$286,811 left in contract.

October 2021 – Received Approved Jurisdictional Determination and No Permit Required letter from US Army Corps of Engineers.

November 2021 – Habitat is requesting updates from engineer about new city reviewer and changes to detention area. Habitat forwards engineer update to CS Community Development, who disagrees with engineer's explanation. Habitat requests clarification ASAP from engineer.

December 2021 - After one week of no response from engineer Habitat staff involves owners for assistance (12/1). Update received and passed to CS Community Development and revised documents submitted to city on 12/7.

February 2022 – Master Plan approved by city 2/4. On 2/9, Habitat received updated (2nd ever) estimate from Second Engineer to begin bid document finalization. Estimate was \$802,918. This is when Habitat learned that the first estimate was incomplete. Here is the explanation from Second Engineer:

“To be honest our main focus was not the cost estimate at the time and we were not as detailed as we are able to now. A lot of items were still up in the air, and we were still coordinating service with CSU and some of those items had not been finalized.

That estimate was lacking a lot of items, and again the main cost here is the storm sewer/pond that is needed down to the creek along Victoria.”

Costs have also risen due to inflation, supply chain issues, and labor demands related to COVID and to increases in building during COVID due to low interest rates. These factors are beyond the control of Habitat and certainly unanticipated in 2017.

Habitat notified Community Development staff on the same day, 2/9, to request a meeting. Met with CS Community Development on 2/10 to develop new strategy to lower costs and meet HUD requirements.

Habitat requested meeting with owner of Second Engineer and some more experienced staff to brainstorm designs that would maximize number of lots and minimize costs. Met 2/24 and developed and refined ideas generated by Habitat staff.

March 2022 – Habitat, Second Engineer, and City of College Station staff met to review new design ideas. City staff suggested block length waiver and use of alleys to access additional parts of property from entrance on Renee Lane. Habitat and engineer work on multiple options using alleys and submit possible designs to Community Development. Parties agree on 5 lot design using T shaped alley. 3/31 cost estimate \$526,233.

April 2022 – Second Engineer submitted 5 lot preliminary plan and block length waiver on 4/8. Habitat provided new title report on 4/14. Habitat submits request for additional funds to City of College Station.

Please see below for financial estimates to complete the project.

Funds spent since last draw not yet reimbursed: \$6,613

Estimate for unbilled design work: \$12,000

Estimate to complete 5 lot, T alley infrastructure work: \$526,233

Total: \$544,846

Funds remaining in contract: \$286,811

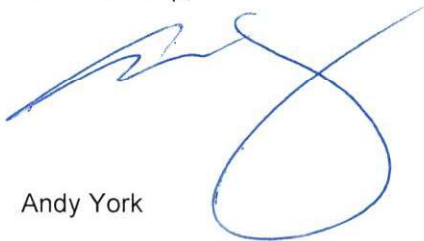
Additional funds requested: \$200,000

Balance funded by BCS Habitat: \$58,035

This amount will get the land ready to build, but cover none of the construction costs for the five homes.

We offer our sincerest thanks to you and your team and other city staff for helping us find a design that is both cost effective and yields a high number of lots.

In Partnership,



Andy York

Bryan/College Station Habitat for Humanity



CONTRACT & AGREEMENT ROUTING FORM

CONTRACT#: 17300511 PROJECT#: CD1712 BID/RFP/RFQ#: 17-058

Project Name / Contract Description: 14015 Renee Lane/Change Order in the amount of \$200,000 to increase CDBG funds for acquisition and infrastructure expenses to construct 5 single- family homes for income-eligible homebuyers, along with extending the contract period by 18 mo

Name of Contractor: Bryan-College Station Habitat for Humanity

CONTRACT TOTAL VALUE: \$ 974,000.00 Grant Funded Yes No
If yes, what is the grant number:

Debarment Check Yes No N/A Davis Bacon Wages Used Yes No N/A
Section 3 Plan Incl. Yes No N/A Buy America Required Yes No N/A
Transparency Report Yes No N/A

NEW CONTRACT RENEWAL # _____ CHANGE ORDER # 1 OTHER _____

BUDGETARY AND FINANCIAL INFORMATION (Include number of bids solicited, number of bids received, funding source, budget vs. actual cost, summary tabulation)
Funding is available in Community Development Budget through an Annual Action Plan and budget amendment to move \$200,000 in Community Development Block Grant funds from Economic Development to Acquisition as no eligible economic development activities have been identified during this fiscal year. This transfer will help meet the timely expenditure requirements of the grant.

(If required)*
CRC Approval Date*: _____ **Council Approval Date*:** _____ **Agenda Item No*:** _____

—Section to be completed by Risk, Purchasing or City Secretary's Office Only—

Insurance Certificates: _____ **Performance Bond:** _____ **Payment Bond:** _____ **Info Tech:** _____

SIGNATURES RECOMMENDING APPROVAL

DEPARTMENT DIRECTOR/ADMINISTERING CONTRACT DATE

ASST CITY MGR – CFO DATE

LEGAL DEPARTMENT DATE

APPROVED & EXECUTED

CITY MANAGER DATE

MAYOR (if applicable) DATE

CITY SECRETARY (if applicable) DATE

___Original(s) sent to CSO on___

Scanned into Laserfiche on _____

___Original(s) sent to Fiscal on___

CHANGE ORDER NO. 1 DATE: 5/26/2022 Contract No. 17300511
 PO No. 17205156 PROJECT: CD1712

OWNER:
 City of College Station
 P.O. Box 9960
 College Station, Texas 77842

CONTRACTOR: BCS Habitat for Humanity, Inc.
 119 Lake Street
 Bryan, Texas 77801 Ph: 979-823-7200
 Fax:

PURPOSE OF THIS CHANGE ORDER:
 Increase the contract amount and extend the contract time by an 18 months due to delays caused by 2 separate engineering firms procured by BCS Habitat for Humanity for platting the parcel at 14015 Renee Ln & infrastructure design, lengthy environmental issues & clearances caused by the Army Corps of Engineers, and unanticipated increases in construction materials & costs caused by COVID & supply chain issues.

ITEM NO	UNIT	DESCRIPTION	UNIT PRICE	ORIGINAL QUANTITY	REVISED QUANTITY	ADDED COST
1	200,000	Additional CDBG funding	\$1.00	794000	994000	\$200,000.00
2		Article III Term - Change date to June 30, 2023				\$0.00
3		Exhibit A - Detailed Statement of Work - Will develop five (5) new, affordable, single family residences				\$0.00
					TOTAL	\$200,000.00

THE NET AFFECT OF THIS CHANGE ORDER IS 25 % INCREASE/DECREASE.

LINE 1 (acct./work order number)	\$200,000.00	
LINE 2 (acct./work order number)	\$0.00	
LINE 3 (acct./work order number)	\$0.00	
TOTAL CHANGE ORDER	\$200,000.00	
ORIGINAL CONTRACT AMOUNT	\$794,000.00	
CHANGE ORDER NO. 1	\$200,000.00	25.00% % CHANGE
CHANGE ORDER NO. 2	\$0.00	% CHANGE
REVISED CONTRACT AMOUNT	\$994,000.00	% TOTAL CHANGE
ORIGINAL CONTRACT TIME	53	Months
Time Extension No. 1	30	Months
Revised Contract Time	83	Months
SUBSTANTIAL COMPLETION DATE	31-Dec-21	
REVISED SUBSTANTIAL COMPLETION DATE	30-Jun-23	

APPROVED

N/A

 A/E CONTRACTOR Date

 CONSTRUCTION CONTRACTOR Date

 PROJECT MANAGER Date

N/A

 CITY ENGINEER Date

 DEPARTMENT DIRECTOR Date

N/A

 ASST CITY MGR - CFO Date

N/A

 CITY ATTORNEY Date

N/A

 CITY MANAGER Date