

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: March 25, 2014		DATE SUBMITTED: February 25, 2014	
DEPARTMENT OF ORIGIN: Community Development Services		SUBMITTED BY: Eric Barton	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consideration of a development project award for construction and construction related costs of four (4) single family homes at 402, 406, 410, and 414 W. 18 th St. to RNL Homebuilders in response to RFB#14-025, in the amount of the base bid of \$387,590.00, and an amount not to exceed \$400,975.00 inclusive of construction contingency, publications, architect fees, etc.			
SUMMARY STATEMENT: On June 25, 2013, in response to RFP#13-030R, the City Council conveyed four (4) undeveloped lots (402, 406, 410 and 414 W. 18 th Street) to No Limits International Economic Development Corporation (No Limits), a nonprofit housing developer for affordable housing development through an Affordable Housing Development Agreement and Real Estate Contract. Following unsuccessful negotiations, this property was conveyed back to the City by the developer October 21, 2013. The lots were originally acquired by the City using \$50,684.00 in Community Development Block Grant Funds (CDBG) in 2009, and the remaining property was received by donation from Bryan Commerce and Development in 2012. The purpose of the acquisition was to meet the required CDBG National Objective of Low-Moderate Income Housing (LMH) by facilitating the development and sale of affordable housing to qualified, income-eligible homebuyers earning up to eighty percent (80%) of the Area Median Income through the City's Community Development Housing program.			
Following the conveyance, Community Development (CD) implemented an aggressive marketing outreach to local contractors, including meeting with representatives of the Bryan College Station Home Builders Association, website advertising, and over 65 individual contacts with local builders in the Brazos Valley to promote interest in bidding on the development. CD staff also revised the initial bid packet to provide for increased cost savings to the development.			
The recommended construction base bid of \$81.46 per square foot is a direct result of these efforts. Other City departments will collaborate in this development project by contributing labor and materials to construct sidewalks and ambulatory ramps along the 18 th Street frontage and Sterling Street to the property line as required by the development re-plat requirements of the Planning and Zoning Commission on December 6, 2012 (RP12-30).			
These homes are proposed to be two (2) 3-bedroom, 2-bath at 1,159 square feet each and two (2) 3-bedroom, 2-bath at 1,220 square foot each. The homes will be affordable, energy-efficient, utilizing partial masonry / fiber cement veneer exteriors, 2-car garages, privacy fences and slab-on-grade construction. Funding for the construction of these homes will be made available through a short term use of City General Fund, to be repaid back to the City upon closing. Sales prices are estimated in the \$100/square foot range (\$115,900 - \$122,000 each). Marketing will begin upon construction commencement, with the goal of pre-selling the homes prior to the construction completion.			
Federal funds received by the City through the Community Development Department, including Home Investment			

Partnership (HOME) program funds and/or Community Development Block grant (CDBG) funds will be used for down payment assistance, **if needed**, based on financials provided by the potential homebuyer (not to exceed \$14,000 per home). A second lien is placed on each home for a minimum of five (5) years to ensure owner occupancy, secured by a note and deed of trust. It is estimated that the City's federal funds for acquisition (\$50,684) and down payment assistance (up to \$56,000) will leverage permanent financing of approximately \$472,000, which will repay the City's cost of construction and reimburse the CDBG acquisition funds as Program Income for future affordable housing use.

In a request for bids (RFB #14-025) posted on January 16, 2014, RNL Homebuilders, LLC was the lowest responsive bidder, submitting a base bid of \$387,590.00. There were six (6) bids submitted, with the remaining five (5) base bids ranging from \$554,600 to \$784,000.

STAFF ANALYSIS AND RECOMMENDATION: Community Development Services Department staff recommends the approval and execution of the construction contract with RNL Homebuilders, LLC for the construction of four (4) new residential homes located at 402, 406, 410 and 414 W. 18th Street, project RFB #14-025, for the original base bid and including Alternate #3 (City bulk purchase of appliances and light fixtures). This alternate allows the City to potentially lower the fixtures and appliance costs by an estimated \$1,510 (or more). The first and second alternate would provide some construction cost reduction, however would reduce the aesthetic appeal of the homes to potential buyers, thereby increasing marketing time, and reducing the anticipated sales price. Funds for the construction activities and miscellaneous development costs will be a short-term use from the City's general fund special projects budget. Homebuyer down-payment assistance utilizing federal HOME and/or CDBG funds have been approved through the City's FY 2014 budget process, the City's five-year Consolidated Plan and the 2013 Consolidated Action Plan.

If approved, construction of this development would provide two (2) 3-bedroom, 2-bath at 1,159 square feet each and two (2) 3-bedroom, 2-bath at 1,220 square foot each. The homes will be affordable, energy-efficient, utilizing partial masonry / fiber cement veneer exteriors, 2-car garages, privacy fences and slab-on-grade construction. The affordable residential housing units will be sold to income-qualified, eligible homebuyer households. These homes will increase property tax revenues to the City by the addition of improvements and conversion to private ownership from the current tax-exempt status, will recover the City's acquisition investment, and will provide a catalyst to additional private redevelopment in the neighborhood. Any additional proceeds of the developed housing sales will be utilized for the continuation of affordable housing for low-to-moderate-income eligible citizens.

If not approved, the property must still be used for affordable housing to accomplish an eligible CDBG national objective. Time is of the essence to complete this project or the federal acquisition funds and related pre-development costs must be repaid to the U.S. Department of Housing and Urban Development (HUD).

The full Request for Bid Packet and completed vendor bid packet are available upon request at the City Secretary's office.

OPTIONS (In Suggested Order of Staff Preference): (Options other than the recommended option or denial, may result in consideration at a future City Council meeting)

1. Approve the development project by accepting the base bid less Alternate #3, and execute the construction contract; or
2. Approve the development project by accepting the base bid and/or any other combination of Alternates, and execute the construction contract; or
3. Deny approval of the development project and provide additional direction to staff.

ATTACHMENTS:

1. Development Location Map

2. Development Site Plan
3. Construction Documents – Contract, Performance Bond, and Payment Bond
4. Bid Tabulation form (Separate PDF)

FUNDING SOURCE:

1. Estimated Construction Costs – General Funds: \$400,975 (these funds will be used for construction costs associated with the four homes)
2. Estimated Down Payment Assistance – HOME and/or CDBG funds: \$56,000 (these funds will be used for possible down payment assistance, if needed, for the four homes)

APPROVALS: Alsie Bond, 2/28/2014; Joey Dunn, 3-7-14; Hugh R. Walker, 03/12/2014

APPROVED FOR SUBMITTAL: Kean Register, 03-13-2014

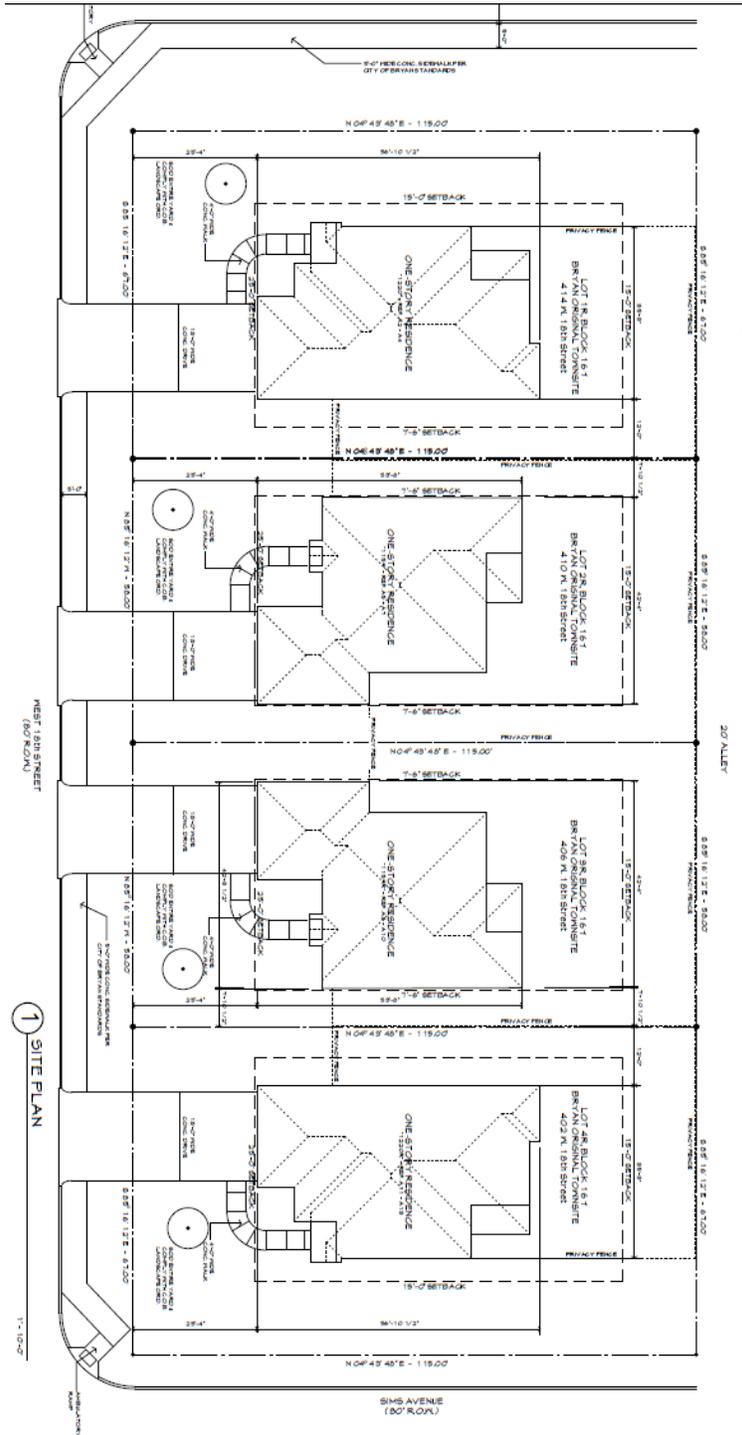
APPROVED FOR SUBMITTAL: Janis K. Hampton, 03/17/2014

Revised 05/2013

402-414 W. 18th



DEVELOPMENT SITE PLAN 402-414 W. 18TH ST.



**CONTRACT
FOR
W. 18th Street Housing Development
RFB #14-025**

This Contract, dated _____, 2014, is between the **City of Bryan**, a Texas home-rule municipal corporation (the City) and **RNL Homebuilders, LLC** (the Service Provider), whereby the Service Provider agrees to provide the City with certain services as described herein and the City agrees to pay the Service Provider for those services.

1. Scope of Services

In consideration of the compensation stated in **paragraph 2**, the Service Provider agrees to provide the City with the services as described in Exhibit A, RFB # 14-025, which is incorporated herein by reference for all purposes, and which services may be more generally described as follows:

RFB #14-025 W. 18th Street Housing Development

2. Payment

In consideration of the Service Providers provision of the services in compliance with all terms and conditions of this Contract, the City shall pay the Service Provider according to the terms set forth in Exhibit B, Bid Forms. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all services provided under this Contract may not exceed \$387,590.00.

3. Time of Performance

A. All work and services provided under this Contract must be completed according to the Scope of Services described in Exhibit A, RFB #14-025 W. 18th Street Housing Development.

B. **Time is of the essence of this Contract.** The Service Provider shall be prepared to provide the services in the most expedient and efficient manner possible in order to complete the work by the times specified and described in Exhibit A, RFB #14-025 W. 18th Street Housing Development.

4. Warranty, Indemnification, Release & Insurance

A. As an experienced and qualified Service Provider, the Service Provider agrees that the services provided by the Service Provider reflect the professional and industry standards, procedures, and performances. The Service Provider agrees the selection and supervision of personnel, and the performance of services under this Contract, will be pursuant to the standard of performance in the profession. The Service Provider agrees that the Service Provider will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the Service Provider, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy, competency and quality of the services provided, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid services provided by the Service Provider, its employees, associates, agents, or subcontractors.

B. The Service Provider shall promptly correct any defective work furnished by the Service Provider at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the services hereunder itself shall in no way alter the Service Providers obligations or the City's rights hereunder.

C. In all activities or services performed hereunder, the Service Provider is an independent contractor and not an agent or employee of the City. The Service Provider and its employees are not the agents, servants, or employees of the City. As an independent contractor, the Service Provider shall be responsible for the services and the final work product contemplated under this Contract. Except for materials furnished by the City, the Service Provider shall supply all materials, equipment, and labor required for the services to be provided under this Contract. The Service Provider shall have ultimate control over the execution of the services. The Service Provider shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the Service Provider or any of the Service Providers subcontractors.

D. The Service Provider must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the Service Provider, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

E. Responsibility for damage claims (indemnification): Service Provider shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the Service Provider's negligent performance of the work, or by or on account of any claims or amounts recovered under the Workmen's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. Service Provider shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by Service Provider's negligence.

F. **Release.** The Service Provider releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the Service Provider or its employees and any loss of or damage to any property of the Service Provider or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the Service Provider's negligent performance of the work. Both the City and the Service Provider expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

5. Termination

A. The City may terminate this Contract at any time upon **thirty (30)-calendar** days written notice. Upon the Service Provider's receipt of such notice, the Service Provider shall cease work immediately. The Service Provider shall be compensated for the services satisfactorily performed prior to the termination date.

B. If, through any cause, the Service Provider fails to fulfill its obligations under this Contract, or if the Service Provider violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the Service Provider **five (5)** calendar days written notice. The Service Provider will be compensated for the services satisfactorily performed before the termination date.

C. No term or provision of this Contract shall be construed to relieve the Service Provider of liability to the City for damages sustained by the City because of any breach of contract by the Service Provider. The City may withhold payments to the Service Provider for the purpose of setoff until the exact amount of damages due the City from the Service Provider is determined and paid.

6. Miscellaneous Terms

A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan

Attn: Eric Barton, Project Specialist
P.O. Box 1000
Bryan, Texas 77805

RNL Homebuilders, LLC

Attn: Ricardo Reyna
2016 Mountain Wind Loop
Bryan, Texas 77807

C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

D. This Contract represents the entire and integrated agreement between the City and the Service provider and supersedes all prior negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

E. This Contract and all rights and obligations contained herein may not be assigned by the Service Provider without the prior written approval of the City.

F. The Service Provider, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The Service Provider must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

CITY OF BRYAN, TEXAS

Jason P. Bienski, Mayor

ATTEST:

Mary L. Stratta, City Secretary

APPROVED AS TO FORM:

Janis Hampton, City Attorney

SERVICE PROVIDER:

By: _____

Printed Name: _____

Title: _____

Date: _____

(Service Provider - Corporate Seal)

STATE OF TEXAS

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ACKNOWLEDGEMENT

§

COUNTY OF _____

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This instrument was acknowledged before me on the _____ day of _____, 2014, by
_____ on behalf of _____.

Notary Public in and for
The State of Texas

PERFORMANCE BOND

Bond No. _____

STATE OF TEXAS
COUNTY OF

KNOW ALL MEN BY THESE PRESENTS That _____

of the City of _____, County of _____, and State of _____, as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Bryan of Brazos County, Texas (Owner), in the penal sum of _____ (\$ _____) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the day _____ of _____, 20____, to furnish all labor, materials and equipment necessary for completing _____

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Contract and the Plans and the Specifications hereto annexed, then this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253, Government Code, Vernon’s Texas Civil Statues and all liabilities on this bond shall be determined in accordance with the provisions of said Code to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. Performable and enforceable in Brazos County, Texas.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 20 ____ .

Principal

Surety

By _____

Title _____

Title _____

Title _____

Address _____

Address _____

The name and address of the Resident Agent of Surety is:

Corporation Seal if Corporation.

Bonding Company Seal if Bonding Company.

PAYMENT BOND

Bond No. _____

STATE OF TEXAS
COUNTY OF

KNOW ALL MEN BY THESE PRESENTS That _____ of the City of _____, County of _____, and State of _____, as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Bryan of Brazos County, Texas (Owner), in the penal sum of _____ (\$ _____) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 20____, to furnish all labor, materials and equipment necessary for completing _____

_____ which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copied at length herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and materials to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be void; otherwise to remain in full force and effect;

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253, Government Code, Vernon's Texas Civil Statutes and all liabilities on this bond shall be determined in accordance with the provisions of said Code to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. Performable and enforceable in Brazos County, Texas.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 20_____.

Principal

Surety

By _____

Title _____

Title _____

Title _____

Address _____

Address _____

The name and address of the Resident Agent of Surety is:

Corporation Seal if Corporation.

Bonding Company Seal if Bonding Company.