

# Council Memorandum

**REPORT TO:** Honorable Mayor and City Council

**FROM:** Chris Kukulski, City Administrator

**SUBJECT:** Contract Revision for the Development Plan Agreement between Big Sky Economic Development (BSED) and Landmark Development Services Company, LLC

**MEETING DATE:** February 11, 2019

**AGENDA ITEM TYPE:** Action Item

**RECOMMENDATION:** The City Commission pass a motion authorizing BSED Corporation to sign the attached Contract Revision to the Development Plan Agreement with Landmark Development Services Company, LLC.

**BACKGROUND:** June 11, 2018 the City Commission authorized Big Sky Development Corporation to sign a Development Plan Agreement with Landmark Development Services Company, LLC. The services outlined in Phase I of the Agreement are complete. An accounting of these services will be provided no later than February 15, 2019 (we will work to have them available to us for our February 11 discussion). The original Agreement was approved by each of our Strategy Partners (BSED, Billings Chamber of Commerce, Billings Downtown Partnership and City of Billings). Therefore, BSED is asking each strategy partner to consider the enclosed Revision to the original agreement.

Our Strategy Partners have raised \$355,000 in additional dollars to pay the out of pocket cost for our local share of Phase 2. The city did not contribute additional cash towards this 2<sup>nd</sup> phase, however we continue providing substantial staff time to the project along with our strategy partners. The Revision describes the work to be completed in phase 2 and increases the potential reimbursement to Landmark from \$1,340,000.00 to \$2,305,000.00. The reimbursement provision eligibility remains unchanged from the original agreement and states:

*The Developer's Capital Costs are not payable: (1) if one or more Catalyst Projects does not move forward consistent with the Development Plan within five (5) years of the end of the term of this contract; or (2) if the developer is contracted to Develop a Catalyst Project (where "Develop" means to undertake a substantial, material, and significant portion of the additional services necessary to create the definitive building program, determine the design, assemble land, secure approvals, and finance such Catalyst Project and cause it to be constructed and to manage or transfer such project). The Developer's Capital Costs will be payable to the Developer if one or more Catalyst Projects moves forward and the Developer is not contracted to Develop one or more of them; ...*

Mr. Steve Arveschoug, Executive Director of BSED will attending our meeting to answer any questions.

**UNRESOLVED ISSUES:** There are no unresolved issues related to the Contract Revision.

**FISCAL EFFECTS:** The Contract Revision does not require additional cash from the city. We will continue to provide substantial resources through our staff time on this critical project. I anticipate phase 2 will primarily affect, Kevin Iffland, Andy Zoeller, Wyeth Friday and I. IF Landmark is not selected to develop at least one of the Catalyst Projects. The Strategy Partners will be responsible for reimbursing Landmark up to \$2,305,000.00. If this provision is triggered, I would tie this reimbursement to the development agreement the city sign with the a different developer.

**Attachments:** Proposed Contract Revision

**Report compiled on:** January 31, 2019