DURHAM
1869
CITY OF MEDICINE

CITY OF DURHAM | NORTH CAROLINA

Date: **May 3, 2016**

To: **Thomas J. Bonfield, City Manager**

Through: **W. Bowman Ferguson, Deputy City Manager**

From: **Steven W. Hicks, Director, General Services Department**

Subject: **Construction Manager at Risk Guaranteed Maximum Price ("GMP") Amendment for Site Demolition, Abatement, and Soil Remediation with Lend Lease (US) Construction Inc. and Prequalification Procedures Resolution for the Police Headquarters Complex**

Executive Summary

On March 2, 2015, City Council approved a contract for Construction Manager at Risk ("CMAR") with Lend Lease (US) Construction Inc. ("Lend Lease") to provide preconstruction services for the Police Headquarters Complex ("Project") in the amount of $215,000. Over the past year, Lend Lease has worked in earnest providing services including constructability reviews of Schematic and Design Development documents, cost model estimates and value management to keep the project plans within the construction budget, and construction phasing strategies to ensure the project gets to market quickly. Lend Lease and the Project Team recently completed reconciliation and value management of the 100% Design Development cost estimate, and the project is within the estimated budget for construction. Lend Lease recommends the following construction phasing strategy:

- Package 1 – Site Demolition. Abatement, and Soil Remediation
- Package 2 – Structures including Earthwork, Foundations, Concrete, Structural Steel, Precast, and Site Logistics
- Package 3 – Balance of Trades

Lend Lease recently submitted the Preliminary Guaranteed Maximum Price ("PGMP") for Package 1 where the scope of work is limited to demolition of existing buildings and site conditions, abatement of hazardous materials, and remediation of environmental contamination in the soils. Costs for soil remediation and removal of hazardous materials will be reimbursed through an Escrow Agreement which was established during contract negotiations and purchase of property and executed on March 25, 2015 as authorized by City Council.

Also, at the March 2, 2015 Council Meeting, City Council adopted a resolution finding the use of Construction Manager at Risk services is in the best interest of the Project pursuant to North Carolina General Statute ("G.S.") 143-128.1(e). As required by G.S 143-128.1(c), City of Durham ("City") staff and Lend Lease have jointly developed a prequalification process in accordance with G.S. 143-135.8 which, when using CMAR, requires the governing body to adopt an objective prequalification policy prior to bidding.

Recommendation
The General Services Department recommends that the City Council:

1. Authorize the City Manager to negotiate and execute a Guaranteed Maximum Price (GMP) Amendment for Site Demolition, Abatement, and Soil Remediation to the CMAR contract for construction services with Lend Lease (US) Construction in an amount not to exceed $2,145,853.00;

2. Establish a project contingency in the amount of $107,292.00 and authorize the City Manager to negotiate and execute Change Orders to the GMP Amendment for Site Demolition, Abatement, and Soil Remediation so long as the amount does not exceed $2,253,145.00; and,

3. Adopt a Resolution approving the prequalification process for the Durham Police Department Headquarters consistent with the requirements of G.S. 143-128.1(c)

Background
Since 1991, the Police Department Headquarters has been located at 505 W. Chapel Hill Street. The building was constructed in 1959 as a life insurance building. The facility does not meet the current or future operational needs of the Durham Police Department (DPD) or Durham Emergency Communications Center (Durham 911 Center). In January 2010, Carter Goble Associates, Inc. (Carter Goble) was selected to conduct a Master Facilities Study for the Police Department and an architectural space study for Durham 911 Center. The Master Facilities Study projected the Police Department's growth and service requirements through year 2030 and determined facility needs at five year intervals. The consultant's report also included space needs projections through year 2020 for Durham 911 Center.

City Council received a presentation in December, 2012 regarding the consultant's findings, recommendations, and potential site options. Community meetings were conducted in May, 2013 regarding potential site options and additional meetings were conducted with community stakeholders regarding proposed sites in July through September of 2013. City Staff developed site specific cost estimates, schedules and validation of land cost components for sites. Site option updates were presented to City Council during a special City Council meeting in March 13, 2014. City staff presented a site selection recommendation to City Council at the October 9, 2014 Work Session recommending the Main Street site (property bordered by East Main Street, Elizabeth Street, Ramseur Street, and Hood) and small parcel at 102 Hood Street for the Police Headquarters (HQ) Complex. City Council approved land purchases contingent on further soil investigation necessary to refine anticipated costs of managing contaminated soils during construction.

In July, 2014, as part of the Planning Phase, the City advertised requests for qualifications for Professional Services for Design and Construction Manager at Risk (CMAR). After completing the RFQ process in September 2014, O'Brien Atkins Associates, P.A. (O'Brien Atkins) was determined to be the top ranked Architecture firm and Lend Lease (US) Construction Inc. (Lend Lease) was determined to be the top ranked CMAR firm. City Council approved both contracts on March 2, 2015 and design and preconstruction services began in early April 2015.

To kick of the Design Phase and gather community input, on April 16, 2015, General Services hosted a Community Visioning Session where the City provided a project overview

and received input from the community to identify what was important to the community and what residents wanted to see in connection with the site. On April 22, 2015, an additional Visioning Session was held specifically for Police and 911 staff to provide their input. On May 13, 2015, the City hosted a follow-up Public Input Session for residents and stakeholders to view preliminary site layout concepts for the project. Following both public meetings, a comment period was provided for the community to submit comments in writing to the City.

At the June 6, 2015 Work Session, the Project team delivered a presentation to City Council introducing four preliminary site layout concepts for the Police Headquarters Complex. The presentation included a summary of input received by the community in April and May, 2015. Council direction to staff was to further analyze the four schemes presented, gather additional feedback from the community, and return to Council with an update.

At the August 20, 2015 Work Session, the Project team presented five updated design options to Council, along with analysis of land use, building height, surface and structured parking, existing historic Carpenter building, future development opportunities, and revised budget estimates. These schemes incorporated feedback received at focus group meetings with Downtown Durham Inc, Durham Area Designers, and Preservation Durham held on June 18 and June 22. The Project Team discussed feedback not considered in the updated design options, including designing a taller building, since the programmatic requirements on the first floor dictate the building footprint of approximately 40,000 square feet, thus forming the height of the building at four to five floors. The Project team also presented cost comparisons of similar projects, cost model analysis of the proposed project, and budget comparison of current CIP funding. The cost model analysis indicated a difference of approximately $18.5 million would be required to complete the project. Staff presented program reduction options to Council that would reduce the difference by approximately $9.6 million. Council's direction to the Project team was to proceed with increasing the budget and acceptance of the program reductions.

On September 1, staff received a proposed site layout from Durham Area Designers (DADs) and Preservation Durham. The Project steering committee met with DADs and Preservation Durham on September 2 to discuss the proposed elements and offer feedback.

On September 3, staff provided Council with a supplemental memo that included attachments of the pro/con matrix developed by staff to evaluate the five updated schemes using 19 criteria considerations for the project; DADs/Preservation Durham proposed layout (DADs Scheme); DADs/Preservation Durham's pro/con matrix self-evaluation; and staff's pro/con matrix analysis of the DADs scheme. After the supplementary memo was submitted, DADs sent a revised self-evaluation pro/con matrix directly to Council that differed from DADs initial self-evaluation. In summary, the supplementary memo raised concerns that the DADs scheme missed an opportunity for the project to have a positive impact on Main Street, as well as a presence for a key public facility along this critical urban thoroughfare. The Project team asserts the interests of the community and the occupants of the building are best served if the building has some frontage and a public entrance on Main Street. Council requested receipt of additional public input prior to further discussion at the September 8 City Council meeting.

At Council direction, staff solicited feedback from interested parties. On September 8, Council received a letter directly from Downtown Durham Inc (DDI) supporting design scheme 4. At the September 8, 2015 City Council meeting, staff advised Council that due to

the timing of receipt of the DADs scheme and revised matrix materials, the Project team requested additional time to complete a detailed analysis of the layout. Council directed staff and City consultants to further evaluate, analyze, and give consideration to the proposed DADs/Preservation Durham site layout.

At the September 24, 2015 Work Session, the Project team presented a detailed analysis of the DADs diagram along with the original schemes that were further developed so a detailed "apples to apples" comparison could be presented. The project team considered parking and congestion, design considerations, program analysis, and environmental considerations as the basis for recommendation to City Council. Council's direction to the Project Team was to proceed with the preferred scheme 5.

At the February 18, 2016 Work Session, the Project team presented two schemes for Council consideration, that build upon the design objectives established through input from the community, City Council, and City staff. City Council unanimously supported Scheme A which staff recommended due to the formal modern language and appropriateness for civic architecture.

Over the past 3 months, since the Project team came before City Council on February 18, 2016, the Project team completed the 50% Design Development Phase deliverables and the 100% Design Development Phase Deliverables are 95% complete. Examples of recent major activities include:

- Submission of Site Plan to City/County Planning Department ("Planning"), receipt of first round comments, and meetings with Planning to discuss requirements for receiving a Design Special Use Permit from the Board of Adjustment ("BOA"). Examples of items that will be submitted for BOA approval include request to increase the required setback of the parking deck from street to accommodate future development, to exempt from providing for the development of a future storefront on the first floor of the parking deck, to increase the Headquarters building setback from 18' to 30', to reduce the requirement for multiple building entrances on Main Street and Hood Street to one main public entrance, and to exempt the required pedestrian passageway through the building.
- Outreach planning with Equal Opportunity/ Equity Assurance ("EO/EA") Department to encourage minority and women Underutilized Business Enterprise ("UBE") participation. Date for first outreach session is May 12, 2016, at 5:30 pm at City Hall in City Council Chambers.
- Management of tenants who remained on site after City purchased property. There are currently 3 tenants remaining and all tenants are expected to vacate property by June 1, 2016.
- Early meetings with neighboring business to ensure open communications are established and needs/expectations of area business are voiced and understood. Project team is planning kick off meeting with business which will be help prior to Lend Lease mobilizing to the site.
- Review of Design Development drawings by City staff and Lend Lease.
- Preparing Design Development cost estimates, and reconciliation and value management of those estimates.
- Preparing abatement design, completion of soils management plan, and additional geotechnical testing by Terracon Consultants Inc. (Terracon).

- Issuance of site demolition, abatement, and soil remediation construction documents by design consultants, and Lend Lease issuance of PGMP 1 pricing to City for Package 1.

Issues/Analysis

Lend Lease recommends phasing construction in three phases. The multi-phase procurement will not result in a direct savings in cost, but will result in indirect cost benefits as follows:

1. Will allow major structural packages to bid quicker which will mitigate potential cost increases and maximize market competition.
2. Will remove demo/abatement from the critical path and mitigate potential cost increases from unknown conditions or delays.
3. Will allow for final design development to be accomplished in a non-critical environment.

There are also schedule benefits for multi-phase procurement. For Package 1, the scope of work is subject to risk of unforeseen conditions, so this early phase will allow more time to address these unknowns if they're encountered, ensuring that they do not delay the overall project. Also, permitting and approvals for this phase are a quicker process than what will be for the other phases.

For Package 2, since structural design is typically completed at 50% Construction Documents (CD), and design development after that point is typically focused on the building's interior, there is a schedule benefit to releasing an early structural package. Structural Steel and Precast Concrete have a 12-week duration for submittals, approvals and fabrication. Early phase release will allow this 12-week duration to occur concurrently with remaining design, resulting in over 2 months of savings in the project schedule. Foundations are subject to risk of unknown conditions. Early release of foundations will help mitigate delays if unknown conditions are encountered.

For Package 3, since design development from 50% CD to 100% CD is typically interior build-out scope, the phasing plan will allow the design team more time to complete the final stages of design.

Additional details of the recommended construction phasing strategy are as follows:

- **Package 1** (Phase 1), site demolition, abatement, and soil remediation, is based on construction documents ("CDs") provided by O'Brien Atkins on April 19, 2016, and includes environmental and abatement drawings from Terracon Consultants. The scope of work includes removal of all asbestos containing materials, demolition and removal of all existing buildings and site elements, remediation of contaminated soils, providing temporary fencing around the site with gates at construction entrances, placement of gravel for site storage, site trailer, and access to service future building construction, truck wash area, temporary toilets, and general conditions. The proposed schedule for Package 1 is:
    - Submission of Package 1 Construction Documents – April 19, 2016
    - Submit PGMP #1 into OnBase – May 3, 2016
    - EO/EA Outreach – May 12, 2016
    - City Council Approval – June 6, 2016

    - Prequalification of First Tier Subcontractors, Bidding, and Execute PGMP #1 Amendment – June 7 – July 14, 2016
    - Permits, Mobilize, and Construction – July 15 to November 15, 2016 (4 months)
- **Package 2** (Phase 2), structures, will be based on 50% CDs which are tentatively scheduled for submission from O'Brien Atkins on June 24, 2016. Final recommendation for scope of work is under development by Lend Lease, and may include long lead submittals for foundations, precast, and steel, fabrication of precast and steel, and construction activities of parking garage and the headquarters building related to earthwork, foundations, precast structure (garage), structural steel (headquarters). The proposed schedule for Package 2 is based on receipt of 50% CDs and is as follows:
    - Submission of 50% CDs – June 24, 2016
    - Submit PGMP #2 into OnBase – July 26, 2016
    - EO/EA Outreach – date to be determined
    - City Council Approval – August 30, 2016
    - Prequalification of First Tier Subcontractors, Bidding, and Execute PGMP #2 Amendment – July 26 to October 11, 2016
    - Long Lead Submittals and Fabrication of Precast and Structural Steel – October 12, 2016 to February 27, 2017
    - Permits, Mobilize, and Construction – November 23, 2016 to May 30, 2018
- **Package 3** (Phase 3), balance of trades, will be based on 99% CDs which are tentatively scheduled for submission from O'Brien Atkins on August 12, 2016. Scope of work will comprise long lead submittals including utilities and general submittals, as well as all major trades needed to complete the project including masonry, metal panels, glazing, roofing, doors, frames, and hardware, electrical, mechanical, plumbing, fire protection, security, drywall, flooring, tile, terrazzo, paint, elevators, landscaping signage, and site furnishings. The proposed schedule for Package 3 is based on receipt of 99% CDs as well as jurisdictional approvals, including Site Plan and Public Works approval.
    - Submission of 99% CDs – August 12, 2016
    - Target date for all jurisdictional approvals including Site Plan Approval and Design Special Use Permits – Late September, 2016
    - Submit PGMP # 3 in OnBase – September 27, 2016
    - EO/EA Outreach – to be determined
    - City Council Approval – November 1, 2016
    - Prequalification of First Tier Subcontractors, Bidding, and Execute PGMP #3 Amendment – September 27, 2016 to December 12, 2016
    - Permits, Mobilize, and Construction – December 13 to Summer 2018

When the final PGMP (Package 3) is brought to City Council for approval, which is targeted for September 27, 2016 OnBase submission, City staff will also bring forth the budget amendment for additional funding required to complete the balance of the project.

As part of this Agenda Item, City Council is being asked to approve the prequalification policy that was jointly developed by Lend Lease and City staff. Once adopted, Lend Lease will use the adopted policy for all three construction phase packages. The prequalification policy meets requirements of G.S. 143-128.1 (c) "Construction management at risk contracts" and G.S.143-135.8 "Prequalification", which requires the City and Lend Lease to jointly develop an objective assessment tool and criteria, which must include prequalification scoring values and minimum required score for prequalification. The prequalification policy must meet an

established criteria, including being uniform, consistent, and transparent for all bidders, must clearly state the assessment process, and must establishing a process for a denied bidder to protest denial of prequalification.

The Construction Manager at Risk is also required to adhere to G.S 143-128.2 “Minority business participation goals”, which Lend Lease submitted a Small Disadvantaged Strategic Plan with contract approval by City Council on March 2, 2015. Lend Lease is also coordinating with the City of Durham’s Office of Economic and Workforce Development, preparation and execution of a workforce development plan that will serve as a plan for engagement with the City’s workforce.

Alternatives
Lend Lease recommends phasing construction in 3 phases with 3 PGMP contract amendments. An alternative would be to not phase construction and come back to City Council with one PGMP when the Designers are 100% complete with Construction Documents. This will add at least 6 months to the anticipated completion date in Summer 2018, and is not recommended.

Financial Impact

Project Funding		
	TOTAL PROJECT FUNDING – CURRENT	**$62,434,057**
	ADDITIONAL PROJECT FUNDING REQUIRED	**$8,918,194**
	FUTURE PROJECT FUNDING TOTAL	**$71,352,251**
Funding Uses Prior and Budgeted		
Land Acquisition Phase:		
Land Acquisition Costs		$5,726,089
Design Phase:		
Environmental/Geotechnical/ Asbestos Services (Terracon – Contract, Amendment 1 and 2)		$206,133
Architecture Services Contract (O'Brien/Atkins Associates, P.A.)		$5,205,642
CMAR Preconstruction Contract (Lend Lease (US) Construction Inc.)		$215,000
Asbestos Design, Air Monitoring Services, and Geotechnical Borings for Structural Design (Terracon Contract)		$23,000
Special Inspections/CMT Budget		$600,000
Design Contingency (O’Brien Atkins)		$163,855
Design Contingency (Terracon)		$11,784
Construction Phase:		
Construction Costs Budget		$49,374,432
Minus Amount for PGMP #1		($2,145,853)

Soft Costs Budget (FFE, IT, Low Voltage, Computers, Software, Connections)		$6,232,393
Construction Contingency Budget		$3,128,009
Minus Amount for Contingency for PGMP #1		($107,292)
Owners Other Expenses:		
Other Owner Expenses		$465,914
	TOTAL	**$69,099,106**
Funding Uses Current		
PGMP #1 - Guaranteed Maximum Price ("GMP") Amendment for Site Demolition, Abatement, and Soil Remediation (Lend Lease (US) Construction Inc.)	3505K002-731003-CK002	$2,145,853
PGMP # 1 - Guaranteed Maximum Price Contract Contingency	3505K002-731900-CK002	$107,292
	TOTAL	**$2,253,145**
	FUNDING USES TOTAL	**$71,352,251**

UBE Summary

This is the submission of pricing related to the Durham Police Headquarters and was not reviewed by the Department of EOEA for compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting. The project does have a plan in place to promote minority and women underutilized business enterprise (UBE) participation when construction begins.