



Travis County Commissioners Court Agenda Request

Meeting Date: November 4, 2014

Prepared By/Phone Number: Richard Villareal/512-854-4881, Marvin Brice, CPPB/512-854-9765, Purchasing

Elected/Appointed Official/Dept. Head: Cyd V. Grimes, C.P.M., CPPO

Commissioners Court Sponsor: Judge Biscoe

Agenda Language: Consider and take appropriate action regarding Contract No. 4400001874, Construction Manager at Risk (CMAR) for the 416 West 11th Street Office Building and Parking Structure, Flintco Constructive Solutions, LLC. (Flintco):

A. Reject Guaranteed Maximum Price (GMP) and Terminate Contract;

B. Authorize Purchasing Agent to Issue Competitive Invitation for Bid (IFB) for the 416 West 11th Street Office Building and Parking Structure.

➤ **Purchasing Recommendation and Comments:** This procurement action meets the compliance requirements as outlined by the statutes.

On May 7, 2013, the Court authorized the Construction Manager-at-Risk (CMAR) project delivery method for the development and construction of the 416 West 11th Street Office Building and Parking Structure.

Subsequently, an RFP was issued on November 27, 2013, and the Court later authorized contract award on February 25, 2014 to Flintco Constructive Solutions, LLC., (Flintco) the highest qualified respondent, for Pre-Construction and Construction Phases CMAR Services. The initial contract award funded Pre-Construction Phase Services only, in the amount of \$75,000.00, with the intent of modifying the contract for funding of Construction Phase Services upon successful negotiation and agreement of a Guaranteed Maximum Price (GMP).

Facilities Management Department (FMD), Page (Architect of record), and Flintco have been working together since March 2014 on the project design, cost estimates and extensive Value Engineering (VE) efforts. VE is a process of identifying and evaluating alternative design and

construction solutions that accomplish the same project goals at less cost.

Flintco provided an initial GMP proposal based on 50% complete Construction Documents (CD's) on August 8, 2014. Because that GMP exceeded the project construction budget by an unacceptable margin, FMD was prepared at that time to recommend that the GMP Proposal be rejected, the contract terminated, and project documents be issued as an IFB. In an effort to bring the GMP within the project budget, the Purchasing Office requested that Flintco prepare a final GMP based on the 100% CD's which were issued on September 10th.

The GMP based on 100% CDs was 0.7% lower than the GMP submitted at 50% CDs. Flintco was then requested to submit their Best and Final Offer (BAFO). The BAFO received on October 23, 2014 remained unchanged and still significantly exceeds the project budget despite extensive discussions between FMD, Purchasing, Page and Flintco on the cost estimates and VE alternatives up through October 8th.

Flintco was made aware that if their GMP substantially exceeded the construction budget, staff would likely recommend to the Commissioners Court that the contract be terminated, and the project be issued for competitive bids. FMD and Page's cost estimator believe that the County will be able to obtain bid prices substantially lower than the GMP.

Please note that the Purchasing Agent is concerned with this recommendation for three reasons: she believes the construction budget is low; by doing low bid vs. CMAR the County is now assuming the risk for any cost increases; and the County's HUB goals might not be realized.

Upon Court approval of FM's request to terminate the contract, a formal contract modification will be drafted and signed by the Purchasing Agent, and forwarded to the Contractor.

Also, an IFB will be drafted and solicited for competition.

REQUESTED ACTION:

_____ **Approved**

_____ **Disapproved**

Samuel T. Biscoe
Travis County Judge

Date

AGENDA REQUEST DEADLINE: All agenda requests and supporting materials must be submitted as a pdf to agenda@co.travis.tx.us by **Tuesdays at 5:00 p.m.** for the next week's meeting.



FACILITIES MANAGEMENT DEPARTMENT

Roger A. El Khoury, M.S., P.E., Director

1010 Lavaca St, Suite 400 • P.O. Box 1748, Austin, Texas 78767 • Phone: (512) 854-9661 • Fax: (512) 854-9226

MEMORANDUM

FM# 416-01-14C-3N

File: 502

TO: Cyd Grimes, CPM, CPPO, Purchasing Agent

FROM: Roger A. El Khoury, M.S., P.E., Director

DATE: October 22, 2014

SUBJECT: Ronald Earle Building, 416 W. 11th Street
Recommendation for Guaranteed Maximum Price (GMP) Proposal

A handwritten signature in blue ink that reads "Roger El Khoury".

The Facilities Management Department (FMD) recommends that (1) the Construction Manager at Risk (CMAR) contract with Flintco be terminated based on rejection of the GMP Proposal and (2) the 100% construction documents for the Ronald Earle Building be issued as an Invitation for Bid (IFB). Page, the County's Architectural/Engineering firm for the Ronald Earle Building, is in agreement with FMD's recommendation as evidenced by the attached letter from Page. This recommendation is being made because the GMP Proposal received from the County's Construction Manager at Risk, Flintco, significantly exceeds the construction budget for the project and should, therefore, be rejected.

FMD, Page, and Flintco have been working together since March 2014 on the project design, cost estimates, and extensive value engineering (VE) efforts. Value engineering is a process of identifying and evaluating alternative design and construction solutions that accomplish the same project goals at less cost. From March until the final GMP was submitted on October 10, over \$4.2 million of VE savings have been accepted and incorporated into the design documents. During the same time period, despite the VE efforts, Flintco's construction cost estimates have increased \$7.8 million.

Flintco provided an initial GMP Proposal, based on 50% complete Construction Documents (CD's), on August 8, 2014. Because that GMP exceeded the project construction budget by an unacceptable margin, FMD was prepared at that time to recommend that the project documents be issued as an IFB. At the request of the Purchasing Office, Flintco prepared a final GMP based on the 100% CD's which were issued on September 10. This final GMP is 0.7% lower than the previous GMP. Although the revised final GMP is slightly lower, it still significantly exceeds the project budget despite extensive discussions between FMD, Purchasing, Page, and Flintco on the cost estimates and VE alternatives up through October 8.

Page's cost estimating consultant, Sunland, provided a cost estimate for the 50% CD's on August 6, 2014. Sunland's 50% CD estimate is within the project construction budget and significantly less than Flintco's GMP. Sunland is estimating other projects within the greater Austin area and is aware of the current construction market conditions.

Flintco was made aware that, if their GMP substantially exceeded the construction budget, FMD would likely recommend to the Commissioners Court that the project be issued for competitive bids.

FMD believes that, by putting the project out for competitive bids, a more accurate market value for the project can be obtained. FMD and Page's cost estimator believe that the County will be able to obtain bid prices substantially lower than the GMP.

According to discussions with the County Attorney's Office, paragraph 6.10 of the CMAR Agreement allows the County to terminate the Agreement if "Owner rejects the GMP Proposal or the parties are unable or unwilling to agree on a GMP". The current contract with Flintco is only for Preconstruction Services and would require a contract modification for Flintco to proceed forward into Construction Phase Services.

The Facilities Management Department requests that this recommendation be posted to the Commissioners Court November 4, 2012 Voting Session agenda. Because local construction costs are rising due to the current market conditions, FMD recommends issuing an IFB as soon as possible.

If you have any questions or need additional information, please call Ken Gaede at extension 49894. Your assistance in obtaining Commissioners Court approval of this recommendation is appreciated.

ATTACHMENT:

1) Letter of Recommendation from Page

COPY TO:

Leroy Nellis, Acting Executive Manager, PBO

John Hille, County Attorney's Office

Tenley Aldredge, Assistant County Attorney, County Attorney's Office

Ken Gaede, AIA, Senior Project Manager, FMD

Marvin Brice, Assistant Purchasing Agent, Purchasing Office

Richard Villareal, Purchasing Agent Assistant, Purchasing Office

October 20, 2014

Ken Gaede, AIA
Senior Project Manager
Travis County Facilities Management
1010 Lavaca St, 4th Floor
Austin, Texas 78701

Regarding: *Travis County Ronald Earle Building | GMP Proposal – Page opinion*

Dear Ken,

Page has reviewed the overall cost structure of Flintco's revised Guaranteed Maximum Price Proposal for the above referenced project, dated October 10, 2014. We also previously had our consultant, Sunland Group, perform an independent estimate based upon the 50% Construction Document set of documents, issued July 14, 2014, which was what Flintco's first GMP proposal was based upon.

Flintco's revised GMP cost proposal is approximately 10% higher than the estimate they performed dated June 4, 2014 based upon the 100% Design Development documents, and very close to what their initial GMP proposal was. Considering the fact that we performed an extensive value engineering effort after the 100% DD stage that removed roughly \$2.3M of accepted Value Engineering scope, this escalation is actually higher than the 10% would suggest. This amount of escalation is greater than we are seeing in other comparable projects in the Austin market. The GMP cost proposal is also greater than our independent cost estimator's estimate. We understand that the local and regional market is hot right now, and most subcontractors and vendors are very busy. We expect to see escalation, but this amount over such a short time frame is excessive for a project where we have not added scope and have incorporated significant value engineering options, and is not in line with what other industry sources have indicated is reasonable for escalation in our region.

It is our opinion that Travis County will receive more competitive proposals through a competitive bidding process involving multiple General Contractors. There is some additional risk to the County that a competitively bid project can see a higher level of change orders, but this risk can be managed through a larger contingency. This competitive process should allow the County to have more confidence that the price really reflects the current market conditions. Ken, please call me if you have any questions about this letter.

Sincerely,



Daniel H. Brooks, AIA, LEED AP
Principal

Cc: Smith, Lampert, Burke, Johnson