

1. Requested Motion

Meeting Date: September 3, 2013

Approve the Construction Manager at Risk Agreement RFQ-13-08-PR *MH Restoration Phase II* between the Town and Fowler Construction and Development and Agreement Amendment #1 for Phase I Pre-Construction Services and authorize the Town Manager to execute the documents.

Why the action is necessary:

Town Council authorization is required pursuant to the Town's procurement documents to approve all purchases that exceed \$25,000.00.

What the action accomplishes:

Authorization allows the restoration of the Mound House to move forward.

2. Agenda:

- Consent
 Administrative

3. Requirement/Purpose:

- Resolution
 Ordinance
 Other

4. Submitter of Information:

- Council
 Town Staff-Public Works
 Town Attorney

5. Background:

Two responses were received resulting from the advertisement for qualifications which was advertised on April 23, 2013. Town Council provided staff direction to begin contract negotiations in June, 2013. Town staff has been working closely with the Town Attorney to develop an Agreement that provides the Town and Construction Manager (CMAR) with a clear, concise and fair agreement.

The Agreement is now finalized and the project is in a position to move forward. The CMAR Agreement as presented is the base document that provides the structure for the project. Specific work activities will be detailed by Amendment to provide a scope of services and costs associated with all project services. The Pre-Construction Services Amendment will be utilized by the CMAR to work with the Town to review the architectural design plans, offer changes and modifications to the plans, locate period materials for use in the renovations and develop a Guaranteed Maximum Price. .

Additional materials including the Agreement and Amendment #1 will be forthcoming.

6. Alternative Action:

Take no action.

7. Management Recommendations:

Approve the contract as presented

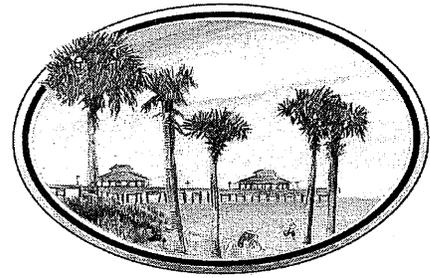
8. Recommended Approval:

Town Manager	Town Attorney	Finance Director	Public Works Director	Community Development Director	Parks & Recreation Director	Town Clerk
						

9. Council Action:

- Approved Denied Deferred Other

TOWN OF FORT MYERS BEACH



MEMORANDUM

DATE: August 26, 2013

TO: Terry Stewart, Town Manager 

FROM: Cathie Lewis, Public Works Director 

SUBJECT: Construction Manager at Risk Services for Phase II Mound House Restoration

Staff with the Town Attorney's assistance has completed the preparation of the MH Phase II Restoration Construction Manager Agreement and have been working toward completion of the Guaranteed Maximum Price (GMP) for the same. As this project moves forward to request approval from Town Council, I believe there are some program delivery aspects that Town Council may not be familiar with and will appreciate additional information regarding this.

As a reminder, this program is not the traditional design-bid-build project delivery method that the Town has customarily approved. The restoration of the Mound House requires historic professionals familiar with the principals of historic restorations and the guidelines and requirements associated with preservation projects. The Town selected the construction manager methodology whereby a contract is placed with a Construction Manager at Risk (CMAR) and another contract with a design professional. Generally, the design professional would begin preparation of the design plans at which time a CMAR is selected and both entities work together to complete the design plans. During this process, the CMAR begins selecting contractors to perform the work effort and the GMP is developed. In the case of the MH project, the construction design plans had been completed in their entirety prior to selecting the CMAR.

Moving forward now that Fowler Construction and Development has been selected as CMAR, they will (actually have been already) work with the Town's design professional, Renker, Eich, Parks, to evaluate potential changes or modifications to the project design to look for areas where there may be cost savings. Once that preliminary work "Pre-Construction Services" is completed the GMP can be developed.

A GMP can be developed when the initial contract is put in place, however it is generally in the best interest of an "Owner" to wait until design is mostly complete to enable the CMAR the ability to provide the best price without a large contingency. The contingency is used to allow for unknowns during the project. These types of "unknowns" are things like finding a structural problem, or inability to reinstall or reconstruct a fixture that is planned for. The contingency is used when unknowns are found and minor changes within work activities are needed, if the contingency is not depleted during the project, this amount will be reduced from the final project costs. Utilizing this project delivery method is found to reduce the number of change orders issued throughout a project.

The documents being put before Town Council are the Construction Manager at Risk and Amendment #1 to the same. The contract is the "bones" of the project which provides for all

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contractual requirements for the entire project. It includes sections on the work phasing from preliminary work through final completion and payment.

Amendment #1 will consist mainly of meeting with the design professional, reviewing the plans and specifications, evaluating material availability, establishing subcontractor contracts, developing the project schedule and the GMP. The GMP will be brought forward utilizing an Amendment as well.

Another project provision within this Agreement is the ability for the Town to direct purchase the goods and materials that the contractor will be using to perform construction. This provides a savings to the Town as the Town does not pay sales tax, nor will it have to pay the contractor's overhead for these purchases. It does however; require that the Town accept liability for the purchases once delivered to the project.

Attached herewith is Amendment No. 1 in the amount of \$14,656.00, for review. This is the document and cost that Town Council will be asked to approve at the September 3, 2013 meeting.

Please let me know if you have any questions or require additional information.

AMENDMENT NO. 1
CONSTRUCTION MANAGER AT RISK AGREEMENT

This AMENDMENT TO THAT CERTAIN CONSTRUCTION MANAGER AT RISK AGREEMENT, entered into on _____, 2013, is made this ___ day of _____, 2013, by and between the Town of Fort Myers Beach, 2523 Estero Boulevard, Fort Myers Beach, FL 33931, a municipal corporation of the state of Florida (hereafter "TOWN"), and Fowler Construction and Development which is legally registered in the State of Florida (hereafter FIRM), to render services, as an independent contractor, to the TOWN as follows: Mound House Restoration Phase II, Town of Fort Myers Beach.

WITNESSETH:

WHEREAS, the Town of Fort Myers Beach, is the governing board of the Fort Myers Beach and Fowler Construction and Development has been contracted to furnish efficient business administration and superintendence and use its best efforts to complete the Project in the best and soundest way, and in the most expeditious and economical manner of the Mound House Restoration, Phase II and,

WHEREAS, the TOWN and FIRM desire to amend said Agreement to include the Phase I – Preconstruction Services;

NOW THEREFORE, in consideration of the forgoing, and the mutual covenants and conditions hereinafter set forth, the TOWN and FIRM, intending to be legally bound, hereby agree to this Amendment to the Construction Manager at Risk Agreement as follows, and further detailed in Attachment Titled, "Scope of Work, Pre- Construction Phase 1"

1. Services – This phase of the work includes the services necessary to generate a Guaranteed Maximum Price for the Project and the work for this phase shall include the following:

Grant Funding Compliance - The Construction Manager shall become knowledgeable about all Federal, State and Local requirements pertinent to this project, including but not limited to:

- Historical Renovations
- Archeological Locations
- Grants
- Permitting and Inspections

Construction Manager shall develop an understanding of the Owner's "vision" and expectations for the outcome of the Project, as well as an understanding of the various aspects of the work that has been performed in advance of this project. The Owner and Architect will work closely with the Construction Manager to develop this understanding.

Project Plans and Specifications – The Construction Manager will review and comment on the project documents and work together with the Architect to develop a complete understanding of all work to be performed.

The Construction Manager shall suggest any changes or modifications to the project documents that the Construction Manager believes may benefit the Owner.

Guaranteed Maximum Price (GMP) and Contract Time - The Construction Manager shall propose and negotiate an appropriate fee as full compensation for all services, labor and materials required thereby, and for all expenditures which may be made and expenses incurred, except as otherwise expressly provided herein. This fee shall constitute a Guaranteed Maximum Price (GMP), which is the total not to exceed sum of the Construction Manager's Fee and the Cost of the Work for the Project. When the GMP has been negotiated and agreed to by Owner, the parties shall execute an Amendment to this Agreement that specifies the amount of the GMP.

Work Schedule – Construction Manager shall establish a Project Schedule that will be included as a part of the Construction Documents.

Safety and Quality Control – Construction Manager shall establish a site specific safety, quality control and work practice program for the Project.

Permitting & Inspections – Construction Manager shall make application for any and all permits required during the Pre-Construction Phase in a timely manner so that issuance of permits corresponds with the commencement of the Construction Phase of the project.

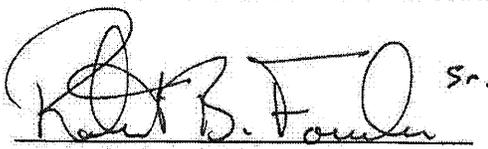
Direct Purchases – The Construction Manager shall prepare a materials and products listing to the Owner and shall work with the Owner to identify those materials and products that will be purchased using the Direct Purchase provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement as set forth below.

TOWN OF FORT MYERS BEACH

FOWLER CONSTRUCTION AND DEVELOPMENT

Terry Stewart, Town Manager

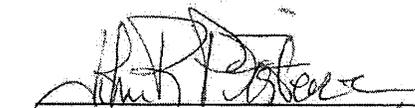


Robert B. Fowler, Sr.

ATTEST:

WITNESS:

Michelle Mayher, Town Clerk



John R. Posters / Project Coordinator
Print Name & Title

LEGAL REVIEW

Fowler, White Boggs, Town Attorney



**SCOPE OF WORK
PRECONSTRUCTION PHASE 1
F M BEACH MOUND HOUSE RESTORATION**

The mission of Phase 1 of the Mound House Agreement is to develop a GMP that satisfies the Town's budgetary requirements, provides a scope of work sufficient to meet the requirements set forth in the grant(s) and insures a completed structure which meets the Town's needs for planned historical tours.

Following is the "Pre-Construction Phase Project Scope and Approach" as written by Fowler in Form "G-1" of the Request for Qualifications:

- Review and Comment on Construction Documents (plans and spec's)
- Evaluate and Comment on selection of materials and systems
- Evaluate availability of materials and/or services for Work Task Schedules
- Schedule is evaluated, established and agreed to with Client
- Review, recommend and select appropriate subcontractors and vendors for the project
- Provide a cost estimate for CMAR services based up the collection of proposals (bids) from vendors and subcontractors per the approved Construction Documents
- Subcontracts and vendor agreements are administered and authorized
- Establish site specific Safety, Work Practice and Quality Control policies with Client

In addition

- Meeting with Town and Lead Abatement contractor to review precise condition of the project as it relates to the work to be performed where breaches of encapsulated lead may become airborne.
- Review of CFR 1926, OSHA Standard of working around lead paint
- Review of CFR 745.80 through CFR 745.88, EPA Lead standards
- Based on meeting with the Town's Lead Abatement contractors, AMRC and Greenfield Environmental and the review of the EPA and OSHA regulations, if it is found necessary, prepare a safety plan for working conditions.

Breakdown and Costs

Project Manager

Project Superintendent

Meetings

- Architect
- Town
- Lead Abatement
- Material Suppliers
- Subcontractors
- Specialty Providers (advance search)

Bidding Campaign (where applicable)

Final selection of trades and suppliers

Direct Purchase Program

Assist Architect in preparing final plans and specs reflecting any chosen alternatives / options

Preparation of:

- Preliminary Line Item Cost Breakdown
- Schedule of Alternatives / Options and Costs
- Critical Path Schedule
- Project Safety Program
- Subcontracts
- GMP

It is estimated the Pre-Construction Phase will be completed within 4 weeks. The CM's lump sum fee for providing the above services is \$14,656 Fourteen Thousand Six Hundred-Fifty-Six Dollars and is calculated as follows:

Project Manager			
Base	\$1,442 wk		
Burden 40%	<u>577</u>		
	\$2,019 wk @ 4 wks		\$ 8076
Project Superintendent			
Base	\$1,154		
Burden 40%	<u>462</u>		
	\$1,616 wk @ 2 wks		\$3,232
Administrative			
Base	\$ 769		
Burden 40%	<u>308</u>		
	\$ 1,077 wk @1.5 wks		\$1,616
CM OH @ 8%			\$1,034
CM PROFIT @ 5%			<u>\$ 698</u>
Total Fee			<u>\$14,656</u>