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Title: Resolution Authorizing City Staff to Execute a Contract with Skanska Rentenbach, A Joint Venture, to Construct Phase 1 of the Steven B. Tanger Performing Arts Center for the Guaranteed Maximum Price not to exceed \$2,501,729.15

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| 4/25/2017 | 1 | City Council Special Meeting | adopt | Pass |

Resolution Authorizing City Staff to Execute a Contract with Skanska Rentenbach, A Joint Venture, to Construct Phase 1 of the Steven B. Tanger Performing Arts Center for the Guaranteed Maximum Price not to exceed \$2,501,729.15

Department: Coliseum
Council District: All

Public Hearing: N/A
Advertising Date/By: N/A

Contact 1 and Phone: Matt Brown, 373-7406
Contact 2 and Phone: Rick Lusk, 373-2077

PURPOSE:

A City Council resolution is requested to authorize staff to execute a contract with Skanska Rentenbach, A Joint Venture, (“Skanska/Rentenbach”), the City’s selected Construction Manager-at-Risk for the construction of Phase 1 of the Steven B. Tanger Performing Arts Center for a Guaranteed Maximum Price not to exceed \$2,501,729.15.

BACKGROUND:

On March 4, 2014, the City Council adopted a Resolution authorizing the Mayor and City Manager to enter into a Memorandum of Understanding (“MOU”) between the Community Foundation of Greater Greensboro (“CFGG”) and the City to design, finance, develop, construct, and manage the operations and programs of the proposed Steven B. Tanger Performing Arts Center (STPAC) for a total cost of \$65 million. The CFGG committed to raise \$35 million in private donations, and the City committed to funding \$30 million from Hotel and Motel Tax Revenues and User Fees from the VIP Parking Lot on the site of the STPAC. Pursuant to this MOU, on January 6, 2015, the City Council adopted a Resolution authorizing the execution of a contract with Skanska USA Building, Inc. and Rentenbach Constructors, Incorporated, which subsequently formed, Skanska

Rentenbach, A Joint Venture, to act as the City’s Construction Manager-at-Risk (“CMAR”) to perform Pre-Construction services for the construction of the STPAC. On December 8, 2015, the City increased its funding commitment to \$39.6 million and the CFGG increased its commitment to \$38.5 million. Skanska/Rentenbach and City staff agree that it would be advantageous for the City to break the construction of the STPAC into at least two phases. Phase 1 will consist of making the site “shovel-ready”, which includes Grading Earthwork and Storm Water Utilities, and the installation of Water, Sewer, and Electrical Utilities. Subsequent phases will consist of the construction of the building and other facilities.

North Carolina General Statute (“NCGS”) 143-128.1 requires the City’s CMAR, Skanska/Rentenbach, to act as the City’s agent during the construction process and to prequalify first-tier subcontractors in accordance with its provisions. First-Tier subcontractors in the CMAR construction method are the contractors who actually perform the work. NCGS 143-128.1 also requires the City’s CMAR to publicly advertise for the selection of these pre-qualified First-Tier subcontractors in accordance with NCGS 143-129. Prior to the solicitation of these first-tier subcontractors, NCGS 143-128.1 also requires the City to require its CMAR to submit for the City’s approval its plan for soliciting state certified Historically Underutilized Businesses (“HUB”) as first, second, and third-tier subcontractors on this project pursuant NCGS 143-128.2, the State’s Minority Business Participation Goals statute. Skanska/Rentenbach submitted their plan to the City’s M/WBE Office on February 13, 2017, six days prior to the publication of the Pre-Qualification Advertisement for First-Tier Subcontractors on February 19, 2017. Finally, NCGS 143-128.1 also requires the City’s CMAR to “make a good faith effort to comply with [NCGS] 143-128.2, [NCGS] 143-128.4, and to recruit and select small business entities.

The MOU established a 20% MWBE subcontracting goal for the eligible construction and supplier contracts. This 20% goal on the eligible construction and supplier contracts was also approved by the City’s Goal Setting Committee September 26, 2014. Additionally, the City’s Request for Proposal (“RFP”) for the selection of the City’s CMAR for this project required all of the firms submitting proposals to select a certified M/WBE subcontractor within the City’s ten county Metropolitan Statistical Area to serve as a protégé during the Pre-Construction Phase of the work and to receive at least 2% of the total value of the Pre-Construction Management Fee. The RFP also required all of the firms submitting proposals to select another and separate certified M/WBE subcontractor within the City’s ten county Metropolitan Statistical Area to serve as a protégé during the Construction Phase of the work and to receive at least 5% of the total value of the Construction Management fee. Skanska/Rentenbach selected the following MWBE protégés in its Proposal:

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| 1) Pre-Construction Phase Protégé | RFI, LLC, Rupert Burrows | Guilford | MBE 5% |
| 2) Construction Management Phase Protégé | Sterling Construction, Inc. Lee Addo | Forsyth | MBE 6% |

In order to equitably meet the 20% MWBE subcontracting goal, Skanska/Rentenbach, with the permission of City staff, instructed all of its First-Tier Subcontractors to make Good Faith Efforts to obtain 10% MBE and 10% WBE participation on their contracts to meet the City’s 20% MWBE subcontracting goal. First-Tier Subcontractors were Pre-Qualified pursuant to NCGS 143-128.1 on March 20, 2017. The Phase 1 Scope of Work was advertised on March 27, 2017, and bids were received on April 13, 2017. Muter Construction, LLC, (“Muter Construction”) a certified WBE on the State’s Historically Underutilized Business list, but located in Wake County, was the lowest, responsive, responsible bidder for the Earthwork and Storm Water Utilities Scope of Work with a bid of \$1,040,544. Muter Construction also committed to meet its 20% MWBE subcontracting goal on this scope of work by committing to subcontract with the following MWBE firms, all of which are within the City’s ten county Metropolitan Statistical Area and meet the requirements of the City’s MWBE Program Plan:

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|----------------------------------------------------|-----------------|----------|-----|-----|
| 1) F-T Trucking, LLC, | Carole Oduyoye | Forsyth | MBE | 10% |
| 2) Carolina Disposal Service, Inc. | Robyn Hogan | Davidson | WBE | 5% |
| 3) Jessie Lane’s Landscaping & Trucking, Inc. | Jessica Friddle | Guilford | WBE | 2% |
| 4) David Trickey, Inc. d/b/a State Construction | Karen Trickey | Alamance | WBE | 3% |

Finally, Muter Construction was the lowest, responsible, responsive bidder for the Water and Sewer Utilities Scope of Work, with a bid of \$470,589. Muter Construction, however, proposed to self-perform all of this scope of work pursuant to NCGS 143-128.2(c). This statute states that a First-Tier subcontractor that performs all of the work under a contract with its own workforce may submit an affidavit to that effect and be exempt from making Good Faith Efforts to meet an MWBE subcontracting goal.

Bryant-Durham Electric, Inc. was the lowest, responsible, responsive bidder for the Site Electrical Scope of Work, with a bid of \$56,709. Bryant-Durham Electric, Inc. committed to subcontract with following two certified MWBE firms, both of which are located within the City’s ten county Metropolitan Statistical Area:

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|------------------------------------|---------------------|----------|-----|-------|
| 1) C2 Contractors, LLC | Cornelious Lamberth | Guilford | MBE | 16.5% |
| 2) Mayer Electrical Supply Company | Nancy Goedecke | Guilford | WBE | 21.0% |

BUDGET IMPACT:

The project cost of the Phase 1 GMP is not to exceed \$2,501,729.15. Please note that the itemized bid amounts listed in the memo do not include other line items such as general conditions, insurance, bonds, etc. These project costs will be funded from accounts established in the Performing Arts Center Capital Project Fund. A budget adjustment is required to move funding into the correct accounts.

RECOMMENDATION / ACTION REQUESTED:

Adopt a Resolution authorizing City staff to execute a contract with the City’s Construction Manager-at-Risk, Skanska Rentenbach, A Joint Venture, for the construction of Phase 1 of the Steven B. Tanger Performing Arts Center for a Guaranteed Maximum Price not to exceed \$2,501,729.15.