

Recently, a letter was circulated from a concerned citizen regarding the method used to manage construction of the new police facility project, as well as the process by which the construction manager was selected. The City of Lakeway would like to emphasize that the approved construction management method and the process used to select the construction manager were proper, transparent, and strictly adhered to statutory procurement requirements.

The city's goals were (1) to construct the facility at the lowest cost possible, (2) without compromising quality, and (3) to ensure it would be completed within the shortest period of time possible to avoid inflationary cost increases.

After a thorough review of the construction delivery systems allowed by state statute by a committee appointed by a resolution of City Council named the Lakeway Police Facility Building Committee, it was determined that the construction manager at risk (CMAR) delivery system would be the most advantageous for this specific project because any design changes or delays would be costly, particularly after construction has begun. With the CMAR delivery system, construction costs are known and fixed during the design phase. The CMAR, before bidding the project, must give the city a guaranteed maximum price (GMP) based on the plans and specifications. By giving the city the GMP prior to bidding the project, the CMAR assumes the risk of bids coming in higher because the CMAR is contractually bound to deliver the project per the plans.

Particularly when bonds are used to fund a project it is critically important that the city be able to rely on sound financial information early in the process (prior to bids being taken). The CMAR method provides protections from unanticipated and costly change orders because the selected construction manager is involved in the process during the pre-construction phase.

The letter accurately stated that both the architect and construction manager's fees are typically based on a percentage of cost of the project. It also suggested that consequently neither of these entities were motivated to arrive at a conservative cost estimate because of the structure of their firm's fees. However, the city mitigated this risk by hiring a third party architect, Croslin Design Concepts, to review the submitted plans and cost estimates. This independent architect acted as a project manager on behalf of the city during the pre-construction phase to ensure the city received accurate and uninflated information.

The process used to select the construction manager has also been questioned. Texas Government Code Section 2269.253 allows a governmental entity to select a CMAR in a one-step or a two-step process. Step one of the two-step process which is a Request for Qualifications (RFQ); and step two includes a request to a limited number of respondents for additional information, pricing and fee structure. The city chose to use a two-step process.

Section 2269.253 (e) states, "If a two-step process is used, the governmental entity may not request fees or prices in step one. In step two, the governmental entity may request that five or fewer offerors, selected solely on the basis on qualifications, provide additional information,

including the construction manager-at-risk's proposed fee and prices for fulfilling the general conditions.”

In the first step after giving notice of the time and place, the city opened and read aloud the names of the four respondents, and the Lakeway Police Facility Building Committee scored the respondents based on the criteria specifically requested in the RFQ. Based on the scoring of the respondents, only two of the four firms were selected to move to the second step based solely on their qualifications. The two remaining firm's additional information was then opened publicly and read aloud at a meeting held at Lakeway City Hall that was also properly noticed.

The final step was for the Lakeway Police Facility Building Committee to interview the two remaining firms. After the interviews, the two firms were then rescored by each committee member. Pricing and fee structure were included in this step. Upon conclusion of this step, the construction manager was selected based on the scoring matrix criteria, which was designed to determine best value.

The city takes seriously the fiduciary duty that accompanies the use of public funds. The total cost of the bonds including interest is \$34,187,496. Initial projections were higher due to conservative interest rate projections. After the city received a favorable bond rating and went to the market, interest rates actually came in lower than expected and city staff was able to recommend to Lakeway City Council a 20-year term instead of a 25-year term. This favorable interest rate environment and market timing saved the tax payers approximately \$10 million dollars compared to initial estimates.

The city used a process that served the community in a fiscally responsible manner that will ensure the citizens receive the best value for this project.