



ADDENDUM

BLOOMINGTON CITY COUNCIL AGENDA

APRIL 12, 2010

CORRECTION TO CONSENT:

- 6A. Council Proceedings of April 7, 2007, ~~January 8, 2008~~ and January 25, 2010. (Recommend that the reading of the minutes of the previous Council Meeting of April 7, 2007, ~~January 8, 2008~~ and January 25, 2010 be dispensed with and the minutes approved as printed.)

CORRECTION TO REGULAR:

- 8C. Analysis of Proposal for Insurance Broker and Insurance Coverage for Workman Compensation and Property Casualty. (Recommend that the Proposal be awarded to Arthur J. Gallagher in the amount of \$635,403 for one (1) year, and the Mayor and City Clerk be authorized to execute the necessary documents.)
- 8E. Amendment to Contract for Private Development between City of Bloomington and Interchange City West, LLC. (Recommend that the amendment to the Agreement for Private Development be approved and the Mayor and City Clerk be authorized to execute the necessary documents.)

Phase Two: Arthur J. Gallagher & Company and Marsh USA submitted their proposals by the March 12, 2010 deadline. NCG evaluated the proposals and recommended Arthur J. Gallagher. Staff concurs, and believes the proposed contract with Arthur J. Gallagher is in the best interest of the City. Staff respectfully recommends that Council approve a contract with Arthur J. Gallagher in the amount of \$635,403 for one (1) year, and the Mayor and City Clerk be authorized to execute necessary documents.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: The citizens of the City.

FINANCIAL IMPACT: The cost for the one (1) year contract to provide insurance broker services is ~~\$73,500~~ \$37,500. This fee does not include the projected cost for insurance premiums of \$597,903.

Prepared by:

Barbara J. Adkins
Deputy City Manager

Reviewed as to legal sufficiency:

J. Todd Greenburg
Corporation Counsel

Attachment: Attachment 1. Agreement
Attachment 2. Letter Nugent Consulting Group dated March 25, 2010
Attachment 3. Letter Nugent Consulting dated March 29, 2010
Attachment 4. List of vendors

Reviewed by:

Kim Nicholson
Purchasing Agent

Recommended by:

David A. Hales
City Manager

Motion: That the proposal be awarded to Arthur J. Gallagher in the amount of \$635,403 for one (1) year, and the Mayor and City Clerk be authorized to execute necessary documents.

Motion: _____ Seconded by: _____

	Aye	Nay	Other		Aye	Nay	Other
Alderman Stearns				Alderman McDade			
Alderman Huette				Alderman Anderson			
Alderman Hanson				Alderman Schmidt			
Alderman Sage				Alderman Fruin			
Alderman Purcell							
				Mayor Stockton			

Costs incurred by the developer (ICW) for the project's public infrastructure were to be reimbursed by payment to ICW of the one percent (1%) City sales tax received from retail sales in the developed area. Since the development is in the Metro Zone, and an intergovernmental agreement between the City and Town requires all revenues and expenses to be shared equally between the two (2) cities, the Town needed to agree to the Development Agreement.

The Agreement has accomplished its goal, which was the building of infrastructure to facilitate the location of the west side Wal-Mart. However, in the implementation of the agreement, some problems have arisen which, in the staff's opinion, require Council action.

Unforeseen Delay in Designs because of Route 9 Widening

After the Agreement was executed by all parties, IDOT announced that it intended to widen Route 9 at this location. If engineering plans were finalized prior to the widening, those plans would have to be redone after the Route 9 improvements by the State. This would needlessly add to the expense of the project. Everyone agreed to wait until the State's plans were finalized. However, the parties did not *formally* extend the life of the Agreement, which is still scheduled to expire in 2010. In effect, ICW would be forced to absorb the expense of public infrastructure because the source of repayment would no longer be available.

The Current Expiration Date Will Not Reimburse the Developer

At this point, if the Agreement were permitted to expire in November of 2010, the expense of engineering plans for the southward extension of J.C. Parkway would not be fully repaid. The parties have calculated that the Agreement would need to be extended to April 2014 2016 to repay those engineering expenses along with accrued interest. The original expense of those engineering plans was \$888,801.47. Of course, the longer the City takes to pay back those expenses, the greater the interest amount on the notes taken out by ICW to pay those expenses will be. In the past, interest on the note to Stark, (the primary owner of ICW), has been as high as six percent (6 %). The Agreement explicitly states that the plans for the southern extension of J.C. Parkway will become the property of the City with thirty (30) days after the execution of the Agreement. The City is therefore, in effect, buying the plans from ICW.

Since the southerly extension of J.C. Parkway is outside the Metro Zone, the Town is not required to continue to forego its half of the sales tax generated by the Metro Zone after 2010 (in any event, the City is contractually obligated to reimburse the Town for the Town's portion of Metro Zone revenues used to pay for the south extension of J.C. Parkway so the Town's actions do not increase the City's reimbursement obligation). For this reason, the extension of the contract is longer than the original delay in beginning the project, to take into account the fact that under the original contract both the City and Town would be paying ICW for the costs of the J.C. Parkway extension, but under this extension, the source of reimbursement funds is reduced by half; therefore a longer period of reimbursement is required to put ICW in the same situation it would have been in had the project not been delayed.

Extension of the Agreement to 2016 is a Fair Resolution

The deal made by the parties was to use the sales tax generated by the development to pay for the public infrastructure costs fronted by the developer. Although there was always some risk to the developer that the Wal-Mart and adjacent strip mall might not generate enough revenue to pay for all expenses, it was not anticipated that the development would be delayed by mutual agreement of all parties. The developer's position is that it has lived up to its side of the bargain; it put the project on hold with the full awareness and agreement of all parties to the contract, and the fair thing to do is to extend the repayment provisions. The staff agrees. The amendment would extend the repayment portions of the agreement to 2016, using as revenue the City's portion of the 1.5% City sales tax generated by the west side Wal-Mart and adjacent strip mall. The amendment clearly states that the City's obligation to make payments expires on April 30, 2016. The parties agree that the unreimbursed expenses which have been incurred by ICW up to the date of March 31, 2010 are \$1,405,790.22 (which is entirely to be paid by the City). Interest will continue to accrue on that amount until it is paid off or until April 30, 2016, whichever comes first. After April 30, 2016, the City will have no further obligation to reimburse ICW for the expenses incurred under the 2000 and 2002 Development Agreement. The City will become the owner of the design documents for the southern extension of J.C. Parkway thirty (30) days after the execution of this Amendment. The developer has expressed a concern that the General Assembly may place limitations on the ability of the City to impose Municipal Retailers' Occupation Taxes during the term of this Agreement. The staff believes this is an extremely remote possibility. If, and only if, the State of Illinois imposes limitations on the ability of the City to impose municipal sales taxes, the developer may ask to renegotiate the expiration date of this Agreement.

The Agreement Also Resolves an Underpayment of Sales Taxes by the City to the Developer

In reviewing the transactions regarding this development, the parties confirmed that sales taxes from stores other than Wal-Mart in the development had not been paid to the developer as required by the Agreement. The totals set forth in the previous paragraph include the sum of \$332,899.52 in sales taxes from the project area which was erroneously not paid to ICW. One half of the ~~\$322,899.52~~ \$332,899.52 will be paid by the City within thirty (30) days from the date of the signing of this Amendment. The remaining half will be paid by the City no later than August 1, 2010. Interest will not accrue on the ~~\$322,899.52~~ \$332,899.52.

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Not applicable.

FINANCIAL IMPACT:



ADDENDUM II

BLOOMINGTON CITY COUNCIL AGENDA

APRIL 12, 2010

CORRECTION TO CONSENT:

- 6J. Analysis of Quotations - General Obligation Funds Projects – O’Neil Pool Roof. (Recommend that the Expenditure of the Excess General Obligation Bond Series 2004, in the Amount of ~~\$34,821~~ \$23,513 be approved for the O’Neil Pool Roof, and the Purchasing Agent be authorized to issue Purchase Orders for same.)