

## ST. PETERSBURG CITY COUNCIL

### Report

Meeting of September 19, 2019

**TO:** The Honorable Charles Gerdes, Chair, and Members of City Council

**SUBJECT:** A Resolution accepting Addendum No. 3 submitted by Ajax Building Corporation (“Ajax”) to the Guaranteed Maximum Price (“GMP”) proposal dated May 26, 2017, to increase the construction manager’s contingency in the amount of \$224,221.66 necessary for project close-out; providing that the total GMP for the new Police Facility/EOC Project shall not exceed \$62,082,595.66; authorizing the City Attorney’s office to make non-substantive changes to the Sixth Amendment; authorizing the Mayor or his designee to execute the Sixth Amendment to the Construction Manager at Risk Agreement with a GMP between the City of St. Petersburg, Florida, and Ajax dated August 21, 2015, as amended, to incorporate Addendum No. 3 to the GMP proposal into such agreement, as amended; approving a transfer in the amount of \$225,000 from the unappropriated balance of the General Fund (0001) to the General Capital Improvement Fund (3001) to provide funding for project close-out; approving a supplemental appropriation in the amount of \$225,000 from the unappropriated balance of the General Capital Improvement Fund (3001), resulting from the above transfer to the Police Facility/EOC Project (12847); and providing an effective date. (ECID Project No. 11234-018)

**EXPLANATION:** On August 20, 2015, City Council approved a Construction Manager at Risk Agreement with a Guaranteed Maximum Price (“CMAR Agreement”) with Ajax for preconstruction and construction phase services for the new St. Petersburg Police Headquarters. On April 6, 2017 City Council approved a Partial GMP Proposal – Site Work in the amount of \$3,113,851; and on June 15, 2017 City Council approved a Final GMP Proposal (which included the Partial GMP Proposal for the Site Work and the Partial GMP - Balance of the Work) in the amount of \$61,729,374. Upon acceptance of the Final GMP Proposal, City Council approved the Second Amendment to the CMAR Agreement, as amended, incorporating the Final Guaranteed Maximum Price for the complete work into the Contract.

On June 19, 2018, City Council approved the Third Amendment to the CMAR Agreement reducing the construction manager’s contingency in the amount of \$150,000 and providing for the installation of public art for an amount not to exceed \$29,000. The net result of this Addendum was a reduction in the GMP of \$121,000.

On November 15, 2018, City Council approved the Fourth Amendment to the CMAR Agreement increasing the Owner’s Contingency in the amount of \$250,000.

On January 3, 2019, City Council approved the Fifth Amendment to add special extended warranty, warranty and maintenance bond, and maintenance obligations for the roofing system as well as a approving an agreement with the Sutter Roofing Company of Florida.

Approval of the Sixth Amendment increases the construction manager’s contingency in the amount \$224,221.66 necessary for project close-out. Early in the construction, the City authorized a transfer of \$300,000 from the construction manager’s contingency to the owner’s contingency to be utilized for necessary City changes in the scope of the project with the caveat that if required at a future date, the construction manager’s contingency

would be replenished. A portion of the construction manager's contingency in the amount of \$150,000 was also transferred to the Police Training Facility to help resolve unforeseen soil conditions.

The construction manager's contingency is used to cover scope changes that the construction manager is responsible for and did not anticipate. Examples include repairs or corrections of damaged work caused by unknown sources, buy-out of work not included in previously awarded bid packages, cost to improve or accelerate the work, and other work defined as reimbursable under the contract that is not covered in a change order. Following Substantial Completion on the project, Ajax provided the City a list of construction manager contingency overages that exceeded the balance in the owner's contingency. City staff reviewed the list and validated those costs that were reimbursable resulting in a requirement to replenish the construction manager contingency in the amount of \$224,221.66.

**RECOMMENDATION:** Administration recommends City Council approve a Resolution accepting Addendum No. 3 submitted by Ajax Building Corporation ("Ajax") to the Guaranteed Maximum Price ("GMP") proposal dated May 26, 2017, to increase the construction manager's contingency in the amount of \$224,221.66 necessary for project close-out; providing that the total GMP for the new Police Facility/EOC Project shall not exceed \$62,082,595.66; authorizing the City Attorney's office to make non-substantive changes to the Sixth Amendment; authorizing the Mayor or his designee to execute the Sixth Amendment to the Construction Manager at Risk Agreement with a GMP between the City of St. Petersburg, Florida, and Ajax dated August 21, 2015, as amended, to incorporate Addendum No. 3 to the GMP proposal into such agreement, as amended; approving a transfer in the amount of \$225,000 from the unappropriated balance of the General Fund (0001) to the General Capital Improvement Fund (3001) to provide funding for project close-out; approving a supplemental appropriation in the amount of \$225,000 from the unappropriated balance of the General Capital Improvement Fund (3001), resulting from the above transfer, to the Police Facility/EOC Project (12847); and providing an effective date. (ECID Project No. 11234-018)

**COST / FUNDING / ASSESSMENT INFORMATION:** Funds have been previously appropriated in the General Fund (0001), Police Department, Administrative Services (140-1485). In order to spend these funds on the project, the approval of a transfer in the amount of \$225,000 from the unappropriated balance of the General Fund (0001) to the General Capital Improvement Fund (3001) and a supplemental appropriation in the amount of \$225,000 from the unappropriated balance of the General Capital Improvement Fund (3001), resulting from the above transfer, to the Police Facility/EOC Project (12847) is required.

**ATTACHMENTS:** Resolution  
Sixth Amendment  
Addendum No. 3

**APPROVALS:**



Administrative



Budget

**RESOLUTION NO. 2019- \_\_\_\_\_**

**A RESOLUTION ACCEPTING ADDENDUM NO. 3 SUBMITTED BY AJAX BUILDING CORPORATION (“AJAX”) TO THE GUARANTEED MAXIMUM PRICE (“GMP”) PROPOSAL DATED MAY 26, 2017, TO INCREASE THE CONSTRUCTION MANAGER’S CONTINGENCY IN THE AMOUNT OF \$224,221.66 NECESSARY FOR PROJECT CLOSE-OUT; PROVIDING THAT THE TOTAL GMP FOR THE NEW POLICE FACILITY/EOC PROJECT SHALL NOT EXCEED \$62,082,595.66; AUTHORIZING THE CITY ATTORNEY’S OFFICE TO MAKE NON-SUBSTANTIVE CHANGES TO THE SIXTH AMENDMENT; AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE THE SIXTH AMENDMENT TO THE CONSTRUCTION MANAGER AT RISK AGREEMENT WITH A GMP BETWEEN THE CITY OF ST. PETERSBURG, FLORIDA, AND AJAX DATED AUGUST 21, 2015, AS AMENDED, TO INCORPORATE ADDENDUM NO. 3 TO THE GMP PROPOSAL INTO SUCH AGREEMENT, AS AMENDED; APPROVING A TRANSFER IN THE AMOUNT OF \$225,000 FROM THE UNAPPROPRIATED BALANCE OF THE GENERAL FUND (0001) TO THE GENERAL CAPITAL IMPROVEMENT FUND (3001) TO PROVIDE FUNDING FOR PROJECT CLOSE-OUT; APPROVING A SUPPLEMENTAL APPROPRIATION IN THE AMOUNT OF \$225,000 FROM THE UNAPPROPRIATED BALANCE OF THE GENERAL CAPITAL IMPROVEMENT FUND (3001), RESULTING FROM THE ABOVE TRANSFER, TO THE POLICE FACILITY/EOC PROJECT (12847); AND PROVIDING AN EFFECTIVE DATE. (ECID PROJECT NO. 11234-018)**

**WHEREAS**, the City of St. Petersburg, Florida (“City”) and Ajax Building Corporation (“Ajax”) entered into a Construction Manager at Risk Agreement with a Guaranteed Maximum Price on August 21, 2015, for Ajax to provide preconstruction and construction phase services for the new Police Facility/EOC Project; and

**WHEREAS**, following execution of the agreement, the City authorized Ajax to provide the preconstruction phase services in an amount not to exceed \$300,000; and

**WHEREAS**, on April 13, 2017, the City and Ajax entered into the First Amendment to incorporate the Partial GMP Proposal for the Sitework into the agreement, modify certain provisions including a reduction in the amount of liquidated damages, and add additional provisions; and

**WHEREAS**, on June 21, 2017, the City and Ajax entered into the Second Amendment to incorporate the Final GMP Proposal in an amount not to exceed \$61,729,374 (which included the Partial GMP Proposal- Sitework approved on April 6, 2017 and the Partial GMP Proposal – Balance of the Work) submitted by Ajax on May 26, 2017, into the agreement, as amended, and to modify other necessary sections of the agreement, as amended; and

**WHEREAS**, on July 19, 2018, the City and Ajax entered into the Third Amendment to incorporate Addendum No. 1 submitted by Ajax to the GMP Proposal dated May 26, 2017 into the agreement, as amended, to reduce construction manager’s contingency in the amount of \$150,000 and to provide for the installation of public art for an amount not to exceed \$29,000; and

**WHEREAS**, on November 15, 2018, the City and Ajax entered into the Fourth Amendment to incorporate Addendum No. 2 to the GMP Proposal dated May 26, 2017 into the agreement, as amended, to increase the Owner’s contingency in the amount of \$250,000; and

**WHEREAS**, on January 3, 2019, the City and Ajax entered into the Fifth Amendment to add a new article 12 to the Standard Form of Agreement between Owner and the Construction Manager (i.e., Document A133-2009)

providing for a special extended warranty, warranty and maintenance bond, and maintenance obligations for the roofing system; and

**WHEREAS**, the City and Ajax desire to execute the Sixth Amendment to incorporate Addendum No. 3 submitted by Ajax to the GMP Proposal dated May 26, 2017 into the agreement, as amended, for to increase the construction manager's contingency in the amount of \$224,221.66 necessary for project close-out.

**NOW THEREFORE BE IT RESOLVED** by the City Council of the City of St. Petersburg, Florida, that Addendum No. 3 submitted by Ajax Building Corporation ("Ajax") to the Guaranteed Maximum Price ("GMP") proposal dated May 26, 2017, to increase the construction manager's contingency in the amount of \$224,221.66 necessary for project close-out is hereby accepted.

**BE IT FURTHER RESOLVED** that the total GMP for the new Police Facility/EOC Project shall not exceed \$62,082,595.66.

**BE IT FURTHER RESOLVED** that the City Attorney's Office is authorized to make non-substantive changes to the Sixth Amendment.

**BE IT FURTHER RESOLVED** that the Mayor or his designee is authorized to execute the Sixth Amendment to the Construction Manager at Risk Agreement with a GMP between the City of St. Petersburg, Florida, and Ajax dated August 21, 2015, as amended, to incorporate Addendum No. 3 to the GMP Proposal into such agreement, as amended.

**BE IT FURTHER RESOLVED** that there is hereby approved the following transfer for FY19:

<u>General Fund (0001)</u>	
Transfer to: General Capital Improvement Fund (3001)	\$225,000

**BE IT FURTHER RESOLVED** that there is hereby approved from the increase in the unappropriated balance of the General Capital Improvement Fund (3001), resulting from the above transfer, the following supplemental appropriation for FY19:

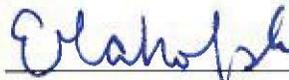
<u>General Capital Improvement Fund (3001)</u>	
Police Facility/EOC Project (12847)	\$225,000

This resolution shall become effective immediately upon its adoption.

APPROVALS:

  
\_\_\_\_\_  
City Attorney (designee)

  
\_\_\_\_\_  
Administration

  
\_\_\_\_\_  
Budget 00467863 FINAL

## **SIXTH AMENDMENT**

**THIS SIXTH AMENDMENT** (“Sixth Amendment”) is made and entered into on this \_\_\_\_\_ day of September, 2019 by and between the City of St. Petersburg, Florida (“City” or “Owner”) and Ajax Building Corporation (“Construction Manager” or “Contractor”).

**WHEREAS**, the Owner and Construction Manager entered into a Construction Manager at Risk Agreement with a Guaranteed Maximum Price (“GMP”) on August 21, 2015, for Construction Manager to provide preconstruction and construction phase services for the new Police Headquarters Project; and

**WHEREAS**, following execution of the agreement, the Owner authorized Construction Manager to provide the preconstruction phase services in an amount not to exceed \$300,000; and

**WHEREAS**, on April 13, 2017, the Owner and Construction Manager entered into the First Amendment to (i) incorporate the Partial GMP Proposal for the Sitework into the Contract, (ii) modify provisions including a reduction in the amount of liquidated damages, and (iii) add additional provisions; and

**WHEREAS**, on June 21, 2017, the Owner and Construction Manager entered into the Second Amendment to (i) incorporate the Final GMP Proposal in an amount not to exceed \$61,729,374 (which included the Partial GMP Proposal- Sitework approved on April 6, 2017 and the Partial GMP Proposal – Balance of the Work) submitted by Ajax on May 26, 2017, into the Contract, and (ii) modify other necessary sections; and

**WHEREAS**, on July 19, 2018, the Owner and Construction Manager entered into the Third Amendment to incorporate Addendum No. 1 to the GMP Proposal dated May 26, 2017 to reduce Construction Manager’s contingency in the amount of \$150,000 and to provide for the installation of public art for an amount not to exceed \$29,000 into the Contract;

**WHEREAS**, on November 15, 2018, the Owner and Construction Manager entered into the Fourth Amendment to incorporate Addendum No. 2 to the GMP Proposal dated May 26, 2017 to increase the Owner’s contingency in the amount of \$250,000 into the Contract; and

**WHEREAS**, on January 3, 2019, the Owner and Construction Manager entered into the Fifth Amendment to add a new article 12 to the Standard Form of Agreement between Owner and the Construction Manager (i.e., Document A133-2009) providing for a special extended warranty, warranty and maintenance bond, and maintenance obligations for the roofing system; and

**WHEREAS**, the Owner and Construction Manager desire to execute the Sixth Amendment to incorporate Addendum No. 3 submitted by Ajax to the GMP Proposal dated May 26, 2017 to increase the construction manager’s contingency in the amount of \$224,221.66 necessary for Project close-out into the Contract.

**NOW, THEREFORE**, in consideration of the foregoing recitals (which are an integral part of this Sixth Amendment and are incorporated herein by reference) and the promises and covenants contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Owner and Construction Manager hereby agree as follows:

1. All capitalized terms in this Sixth Amendment shall have the same meaning specified in the Contract unless otherwise set forth herein.

2. Addendum No. 3 to the GMP Proposal dated May 26, 2017 for the Police Facility/EOC Project to increase the Construction Manager's contingency in the amount of \$224,221.66, which is attached hereto, is hereby accepted and incorporated in the Contract as Attachment 3 to Amended Exhibit F. The total GMP shall not exceed \$62,082,595.66.

3. The Contract Time has been extended for a revised Substantial Completion date of May 3, 2019

4. Construction Manager acknowledges and agrees that there will be no additional increases to the GMP and Contract Time for the Project. Additionally, Construction Manager shall be responsible for and is at risk for any costs and expenses beyond the GMP and hereby releases, waives, discharges and covenants not to sue the Owner from any Claims that Construction Manager has or may have related to Claims for additional cost and Claims for additional time as set forth in the Contract.

5. Any and all provisions of the Contract not specifically amended by this Sixth Amendment shall remain in full force and effect.

**IN WITNESS WHEREOF**, the City and Construction Manager have caused this Sixth Amendment to be executed by their duly authorized representatives on the date first above written.

CITY OF ST. PETERSBURG, FLORIDA

ATTEST

By: \_\_\_\_\_

\_\_\_\_\_  
City Clerk

Print: \_\_\_\_\_

(SEAL)

Title: \_\_\_\_\_

Approved as to Form and Content:

\_\_\_\_\_  
City Attorney (Designee)

AJAX BUILDING CORPORATION:

WITNESSES

By: \_\_\_\_\_

By: \_\_\_\_\_

Print: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

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Print: \_\_\_\_\_

