

**COUNCIL PROCEEDINGS
SPECIAL MEETING
PUBLISHED BY THE AUTHORITY OF THE CITY COUNCIL
OF BLOOMINGTON, ILLINOIS**

The Council convened in Special Session in the Council Chambers, City Hall Building, at 5:32 p.m., Monday, September 15, 2014.

The Meeting was called to order by the Mayor who directed the City Clerk to call the roll and the following members answered present:

Aldermen: Judy Stearns, Mboka Mwilambwe, David Sage, Joni Painter, Scott Black, Karen Schmidt, Jim Fruin and Mayor Tari Renner.

Alderman absent: Kevin Lower.

Fire Chief/Interim City Manager Mike Kimmerling, City Clerk Tracey Covert, and Corporate Counsel Jeff Jurgens were also present.

Staff absent: David Hales, City Manager.

**NOTICE OF SPECIAL MEETING
CITY OF BLOOMINGTON
CITY COUNCIL
SEPTEMBER 15, 2014**

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that there will be a Special Meeting of the City Council of the City of Bloomington, Illinois, in the Council Chambers at City Hall, 109 E. Olive Street, Bloomington, IL on MONDAY, SEPTEMBER 15, 2014 AT 5:30 P.M.

SPECIAL MEETING AGENDA

- 1. Call to Order**
- 2. Roll Call**
- 3. Public Comment**
- 4. Adjourn to Closed Session.**
 - a. Pending/Probable Litigation – Section 2(c)(11) of 5 ILCS 102.**
- 5. Return to Open Session.**

6. Approval of Memorandum of Understanding Resolving Design and Construction Claims Involving the US Cellular Coliseum and Pepsi Ice Center Garage. (Recommend that the Memorandum of Understanding be approved.)
7. Approval of a Change Order with Structural Preservation Systems, LLC for the Pepsi Ice Center Garage. (Recommend that the Change Order be approved and the Resolution adopted.)
8. Adjourn.

PUBLIC COMMENT: Mayor Renner opened the Public Comment section of the meeting. He added that there would not be a response from the City under the Public Comment portion of the meeting.

No one came forward to address the Council.

Motion by Alderman Painter, seconded by Alderman Schmidt to recess to closed session regarding Pending/Probable Litigation – Section 2(c)(11) of 5 ILCS 120. Time: 5:33 p.m.

Ayes: Aldermen Mwilambwe, Stearns, Painter, Schmidt, Black and Fruin.

Nays: None.

Motion carried.

Jeff Jurgens, Corporation Counsel, noted that the Council intended to return to open session and take action on the two (2) items listed on the agenda, (i.e. Memorandum of Understanding and Change Order).

Motion by Alderman Black, seconded by Alderman Mwilambwe to adjourn the closed session and return to open session. Time: 6:34 p.m.

Ayes: Aldermen Sage, Mwilambwe, Stearns, Painter, Schmidt, Black and Fruin.

Nays: None.

Motion carried.

The Council took a short recess and reconvened at 6:37 p.m.

The following was presented:

Approval of a Memorandum of Understanding Resolving Design and Construction Claims Involving the US Cellular Coliseum and Pepsi Ice Center Garage.

Jeff Jurgens, Corporation Counsel, introduced this item. He informed the Council that City representatives met with individuals representing seven (7) different parties as part of the mediation process which took place on September 9 and 10, 2014. All negotiated in good faith. He cited the collaboration and the goal of ensuring safe structures. The City would receive a \$795,000 payment. The mediation process resulted in a \$463,022 cost reduction.

He noted that the following item addressed a change order to the contract with Structural Preservation Systems, LLC. The cost for the contract after the change order would be \$634,978. Engineering services provided by Walker Restoration were estimated at \$104,000. The City would recover eighty-five percent (85%) of the hard cost related to the US Cellular Coliseum and Pepsi Ice Center Parking Garage. There would be no recovery of soft costs, (i.e. attorney fees, etc.) There would be a formal settlement agreement. At a future date there would be a press release and a press conference. He recommended that the Council approve the Memorandum of Understanding.

Motion by Alderman Schmidt, seconded by Alderman Painter to approve the Memorandum of Understanding resolving design and construction claims involving the US Cellular Coliseum and Pepsi Ice Center Garage.

Ayes: Sage, Mwilambwe, Stearns, Painter, Schmidt, Black and Fruin.

Nays: None.

Motion carried.

The following was presented:

SUBJECT: Change Order for Contract with Structural Preservation Systems, LLC for Repair of Pepsi Ice Center Parking Structure

RECOMMENDATION/MOTION: Recommend the Change Order using the unit prices from Structural Preservation Systems, LLC's Bid, for necessary repairs to the Pepsi Ice Center Parking structure be accepted, the Change Order be approved in the base amount of \$634,978 to be paid out of General Fund Balance, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

STRATEGIC PLAN LINK: Goal 2. Upgrade City infrastructure and facilities.

STRATEGIC PLAN SIGNIFICANCE: Objective 2d. Well-designed, well-maintained City facilities emphasizing productivity and customer service.

BACKGROUND: Following mediation and extensive collaboration between the City and the mediation parties, there is now an approximate \$463,022 savings in the projected repair costs for the Pepsi Ice Center Parking structure as measured against the \$1,098,836 contract amount

awarded to Structural Preservation Systems, LLC on September 8, 2014. The mediation process allowed the original design team and expert structural engineers to coordinate their efforts and develop a plan for a more efficient way to move forward with the repairs. The proposed amended unit cost schedule is as follows:

Work Item	Description	Quantity	Unit	Unit Cost	Extension
1.0	General Requirements	1	L.S.	\$113,750	\$113,750
	Performance and Payment Bond	1	L.S.	\$11,455	\$11,455
2.1	New Double Tee	1	Ea.	\$263,741	\$263,741
3.1	New Double Tee FRP Strengthening with Protection	0	Ea.	0	
4.1	Double Tee Strengthening without protection	30	Ea.	\$5,492	\$164,7600
5.1	Spandrel Panel FRP Strengthening	0	Ea.	0	
6.1	Column FRP Strengthening	11	Ea.	\$5,374	\$59,114
8.1	Epoxy Injection	0	Ea.	0	-
9.1	Elastomeric Coating (N&S Exterior Columns)	1	L.S.	\$22,158	\$22,158
				Total	\$634,978

COMMUNITY GROUPS/INTERESTED PERSONS CONTACTED: Holland & Knight LLP.

FINANCIAL IMPACT: Since the total cost of this project is sizeable, unknown, and subject to a potential reimbursement; it is recommended by Finance staff that General Fund balance be utilized in the short term for all related costs until the design and repair of the garage is complete. Once full project costs are known the City can execute a short term debt instrument to reimburse General Fund balance and finance the project until reimbursement can be achieved. The City's General Fund balance is limited and will be further impacted by upcoming year end budget transfers related to FY 2014 and therefore, this financing approach has been recommended.

Respectfully submitted for Council consideration.

Prepared by: Alexander S. McElroy, Asst. to the City Manager

Legal review by: Jeffrey Jurgens, Corporation Counsel

Recommended by:

David A. Hales
City Manager

RESOLUTION NO. 2014 - 45

**A RESOLUTION AUTHORIZING A CHANGE ORDER
IN THE AMOUNT OF \$634,978 IN THE CONTRACT BETWEEN THE
CITY OF BLOOMINGTON AND STRUCTURAL PRESERVATION SYSTEMS, LLC**

WHEREAS, the City of Bloomington has previously entered into a contract with Structural Preservation Systems, LLC; and

WHEREAS, for the reasons set forth in a staff report dated September 15, 2014 it was necessary to reduce the contract total following mediation process; and

WHEREAS, it is the finding of the City Council that the decision to perform the work described in the September 15, 2014 memo was in the best interest of the citizens of the City of Bloomington.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BLOOMINGTON, ILLINOIS:

That a change order in the amount of \$634,978 in the contract between the City of Bloomington and Structural Preservation Systems, LLC be approved.

ADOPTED this 15th day of September, 2014.

APPROVED this 16th day of September, 2014.

APPROVED:

Tari Renner
Mayor

ATTEST:

Tracey Covert
City Clerk

**CITY OF BLOOMINGTON
CONTRACT FOR THE CONSTRUCTION OF
PEPSI ICE CENTER PARKING STRUCTURE REPAIRS
BID # 2015-25**

CHANGE ORDER NO. 1

I. CHANGE IN DESCRIPTION OF WORK AND CONTRACT PRICE

- A. DESCRIPTION OF CHANGES INVOLVED: The Work described in the Contract Drawings is modified from that shown on the original Contract Drawings to that shown on the revised Contract Drawings identified as "Revised Scope September 12, 2014." The List of Drawings in Attachment C is hereby revised in full to read as follows:

LIST OF DRAWINGS

Prepared By Walker Restoration Consultants		
<u>SHEET NO.</u>	<u>SHEET TITLE</u>	<u>DATE LAST REVISED</u>
	Cover Sheet	9/12/14
R-001	General Notes and Work Item Schedule	9/12/14
R-002	Phasing Plans	9/12/14
R-101	Level 2 Plan	9/12/14
R-102	Level 3 Plan	9/12/14
R-201	North and South Elevations	9/12/14
R-501	Repair Details	9/12/14
R-502	Repair Details	9/12/14

- B. REASON FOR CHANGE: Based on the results of the mediation process for design and construction claims relating to the original construction of the Pepsi Ice Center Parking Structure and extensive mediation collaboration between the City, its consultants, and the original architects, contractors and engineers who constructed the Pepsi Ice Center Parking Structure, it has been determined that certain elements of the Work that were included in the original bidding can be deleted from the Work through value engineering without compromising the safety of the parking structure.
- C. REVISION IN PRICE: The Contract Price is hereby adjusted to reflect the changes in the Work by replacing the Schedule of Prices in Section 7 of Attachment A of the Contract to read as follows:

SCHEDULE OF PRICES

A. LUMP SUM CONTRACT

For providing, performing, and completing all Work, the total Contract Price of: Six Hundred Thirty Four Thousand Nine Hundred Seventy Eight Dollars and Zero Cents, (in writing); \$634,978 Dollars and 0 Cents, (in figures)

B. BREAKDOWN SCHEDULE

To inform Owner of the basis for its Lump Sum Bid, Bidders shall provide the values assigned to each of the following components of the Work that are included in Bidder's Lump Sum Price. Such values shall be subject to review and revision as part of the Breakdown Schedule process under the Contract:

COMPLETE TABLE AS INDICATED

<u>Item Description</u>	<u>Unit</u>	<u>Quantity</u>	<u>Price Per Unit</u>
1.0 General Conditions	L.S.	1	\$113,750.00
Performance Bond and Payment Bond	L.S.	1	\$11,455.00
2.1 New Double Tee	Ea.	1	\$263,741.00
3.1 Double Tee FRP Strengthening with Protection	Ea.	0	\$0.00
4.1 Double Tee FRP Strengthening without Protection	Ea.	30	\$5,492.00
5.1 Spandrel Panel FRP Strengthening	Ea.	0	\$0.00
6.1 Column FRP Strengthening	Ea.	11	\$5,374.00
8.1.1 Epoxy Injection—Tee Stem Crack	Loc.	0	\$0.00
8.1.2 Epoxy Injection—Spandrel Panel Crack	Loc.	0	\$0.00
9.1 Elastomeric Coating (N&S Exterior Columns)	L.S.	1	\$22,158.00

C. BASIS FOR DETERMINING PRICES

It is expressly understood and agreed that:

1. The approximate quantities set forth in this Schedule of Prices for each Unit Price Item are Owner's estimate only, that Owner reserves the right to increase or decrease such quantities, and that payment for each Unit Price Item shall be made only on the actual number of acceptable units of such Unit Price Item installed complete in place, measured on the basis defined in the Contract;
2. Owner is not subject to state or local sales, use and excise taxes and no such taxes are included in this Schedule of Prices;
3. All other applicable federal, state, and local taxes of every kind and nature applicable to the Work as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or other similar benefits are included in this Schedule of Prices; and
4. All costs, royalties, and fees arising from the use on, or the incorporation into, the Work of patented equipment, materials,

supplies, tools, appliances, devices, processes, or inventions are included in this Schedule of Prices.

All claim or right to dispute or complain of any such estimated quantity, or to assert that there was any misunderstanding in regard to the nature or amount of any Unit Price Item to be provided or performed, or to claim any additional compensation by reason of the payment of any such tax, contribution, or premium or any such cost, royalty or fee is hereby waived and released.

II. ADJUSTMENTS IN AMOUNT OF CONTRACT:

1.Amount of Original Contract Price	\$1,098,836.00
2.Net (addition) (reduction) due to all previous Change Orders Nos. _____ to _____	Not applicable
3.Amount of Contract Price, not including this Change Order	\$1,098,836.00
4.Reduction to Contract Price due to this Change Order	\$463,858.00
5.Amount of Contract Price including this Change Order	\$634,978.00

III. FINDINGS.

Pursuant to the requirements of Section 33E-9 of the Illinois Criminal Code of 1961, the undersigned do hereby find that the Change Order: [check all that are appropriate]

 X is necessary due to circumstances that were not foreseeable at the time the Owner entered into the Contract;

 X is germane to the Contract in its original form as signed; and/or

 X is in the best interest of the Owner and authorized by law.

RECOMMENDED FOR ACCEPTANCE:

Walker Restoration Consultants

Date: September 18, 2014

By: Kyle Standish, Project Manager

ACCEPTED: By my authorized signature below, being first duly sworn on oath, I certify on behalf of Contractor that in the event this Change Order authorizes or necessitates an increase in the price of any Subcontract under the Contract that is 50% or more of the original

Subcontract price, such change to the Subcontract has been resubmitted for bidding in the same manner for which the original Subcontract was bid.

Structural Preservation Systems, LLC

Date:

By: Joconde Gaubert, Secretary

APPROVED:

City of Bloomington, Illinois

Date: September 25, 2014

By: Tari Renner, Mayor

Mayor Renner introduced this item. He noted the cost savings achieved through the mediation process.

Jeff Jurgens, Corporation Counsel, addressed the Council. This change order was for a cost reduction. This was achieved through the mediation process. He cited the collaboration between the parties. The project scope was modified but the safety of the structure was not compromised. Walker Restoration, the City's engineer, confirmed the change order. The cost was lowered and the repair would be completed in less time.

Mayor Renner described this item as a win win. Safety came first but the cost had also been lowered.

Alderman Sage questioned the time line and anticipated events. Tonight's actions addressed logistics.

Mr. Jurgens noted the approved Memorandum of Understanding would be a public document. In the future, there would be a formal settlement agreement. Payment should be received within thirty (30) days. The contract and change order needed to be signed prior to any work commencing. There would be a joint press release and a joint press conference involving all parties.

Mayor Renner restated that it was important to note that safety came first. He noted the team collaboration and cost savings achieved. This was a win for the City.

Motion by Alderman Black, seconded by Alderman Stearns that the Change Order using the unit prices from Structural Preservation Systems, LLC's Bid, for necessary repairs to the Pepsi Ice Center Parking structure be accepted, the Change Order be approved in the base amount of \$634,978 to be paid out of General Fund Balance, the Mayor and City Clerk be authorized to execute the necessary documents, and the Resolution adopted.

Ayes: Aldermen Sage, Mwilambwe, Stearns, Painter, Schmidt, Black and Fruin.

Nays: None.

Motion carried.

Motion by Alderman Mwilambwe, seconded by Alderman Painter, that the meeting be adjourned. Time: 6:44 p.m.

Motion carried.

**Tracey Covert
City Clerk**