



Grand Forks Growth Fund, a JDA  
Staff Report  
Growth Fund Committee – December 9, 2019  
JDA – December 16, 2019

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**Agenda Item: Grand Forks Herald Building Renewal Project Overview and Construction Manager at Risk (CMAR) Consideration**

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**Submitted by: Todd Feland, City Administrator**

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**Staff Recommended Action: (1) Approve moving forward with CMAR project delivery approach for the Grand Forks Herald Building Renewal Project through the preconstruction phase with subsequent related project phases to be determined in the future; (2) Select PCL/Community Contractors to perform services as the CMAR of the Grand Forks Herald Building Renewal Project; and (3) Authorize Staff to negotiate a preconstruction phase agreement with PCL/Community Contractors.**

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**Committee Recommended Action:**

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**JDA Action:**

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The JDA acquired the Grand Forks Herald Building (Building) on May 1, 2019. The inspiration for this Building is to create a collaborative and innovative space for the community to utilize in a number of ways. It will house office spaces for the Grand Forks Region Economic Development Corporation (EDC), City of Grand Forks, Grand Forks-East Grand Forks Metropolitan Planning Organization (MPO), and Grand Forks Historic Preservation, an executive board room for 40 plus people, educational space for the Grand Forks School District, meeting spaces, training spaces, and a large community room that can adapt for public forums, learning spaces, and a space for students, professionals and community members to meet downtown. This space enhances the growth and development of downtown, provides a central location for people meet, and continues the positive momentum of downtown revitalization and making Grand Forks a destination for people to live, work, play, and stay.

Following a request for qualifications (RFQ) process, JLG was selected to provide master planning services for the reuse of this iconic building as a new type of public facility to support community and economic development. The master planning process included numerous stakeholders and partners, and has helped solidify desired uses of a variety of spaces within the building, as well as tenant and user commitments. Linsey Rood, Assistant Human Resources Director, along with Josh Kehrwald, JLG, reviewed the master planning process and results via a presentation to the Growth Fund Committee in October and Linsey Rood provided a project update and overview presentation at the December 2, 2019 City Council meeting (see attached presentation).

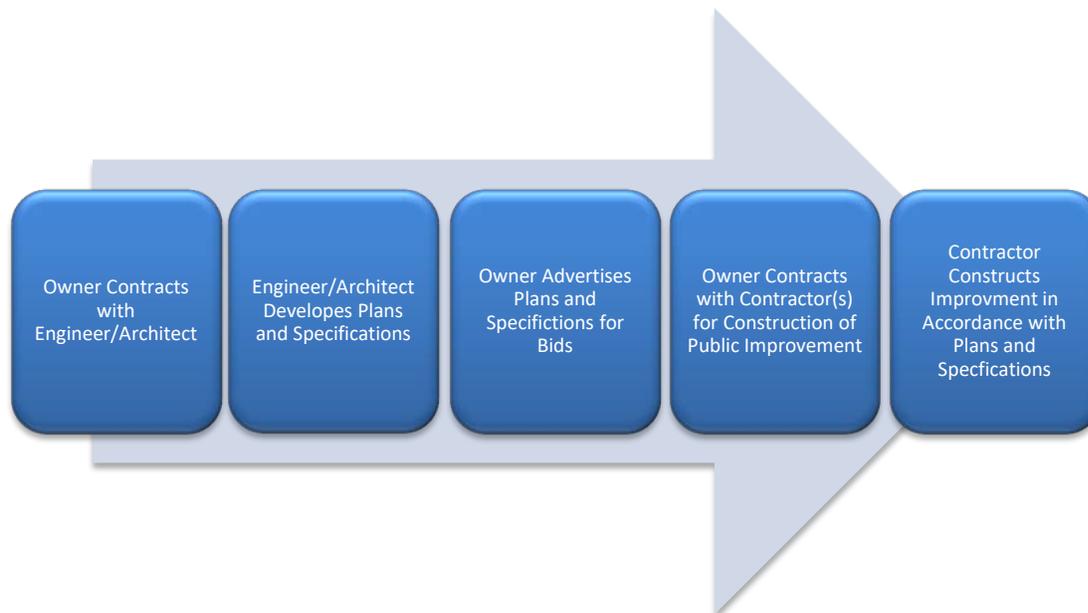
To evaluate options and determine the optimum approach to renovate the Building for its new role, an RFQ for Construction Management At-Risk (CMAR) Services was issued. The deadline for responses was November 26 and four organizations submitted proposals: Construction Engineers, McGough Construction, North Sky Construction, and PCL/Community Contractors. A committee consisting of elected official (City Council Member/JDA President Bret Weber), an architect (Josh Kerwald of JLG), engineer (Assistant City Engineer Mark Walker), contractor (Jim Bradshaw of Strata), and City staff

(Assistant City Planner Ryan Brooks) met on December 6 to review submissions on interview those who submitted proposals. The committee's findings are attached and will be presented to the Growth Fund Committee on December 9.

It was determined to move forward with interviews on December 6 prior to getting approval to gain a better understanding of the CMAR process and what the organizations that submitted proposals could bring to the project with this method. Below is an explanation of difference between the traditional Design-Bid-Build (DBB) method more frequently used on past projects and the Construction Management At Risk (CMAR) method, which was used at the Grand Forks Region Water Treatment Plant. The RFQ for the CMAR is attached, along with a recommendation for the project delivery method for the Building. While integrated, the renovation of City Hall is a separate project.

### ANALYSIS AND FINDINGS OF FACT:

- **Design-Bid-Build Project Delivery Method** is the more traditional method for public improvement projects. DBB has three roles typically involving the Owner, Engineer/Architect (E/A), and the Contractor in a linear sequence as shown in Figure 1 below.



*Figure 1: Design-Bid-Build Project Delivery Method Sequence*

Currently, JLG Architects is under contract for master planning and preliminary design services. With this method, the JDA would be required to advertise for competitive bids from contractors and select the lowest responsive bidder(s), unless unique circumstances arise where the low bidder is deemed to be unresponsive. After the bidding process is completed, the JDA would enter into a contract(s) with the selected contractor(s) for construction of the project. Figure 2 below shows an example contract structure with a DBB project delivery method.

One additional requirement for the DBB process is multiple prime bids, which are required for the General, Mechanical, and Electrical portions of the project when any individual prime bid exceeds the threshold of \$200,000 established under NDCC 48-01.2-02.1.

In a typical DBB project, the Owner takes on the “risk” of the design (along with the E/A) and also the project costs. The Contractor in a DBB project only assumes the risk in the schedule and delivery (subcontracts and construction methods) of the project.

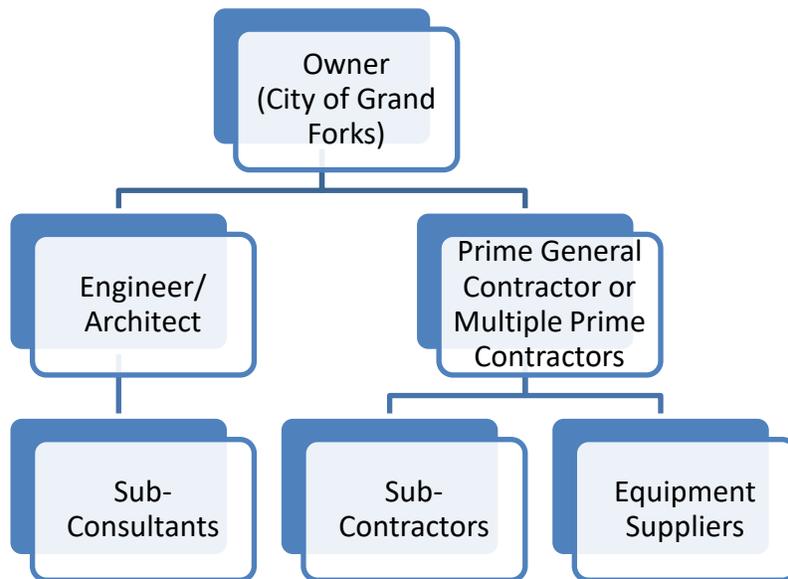


Figure 1: DBB Project Delivery Contract Structure

**Advantages of DBB Project Delivery Method:** There are notable advantages to the DBB project delivery method with respect to the renovation of the Building which include:

- Well known method of project delivery locally, regionally, and nationally
- Allows competitive bidding process for prime contractors
- Clearly defined roles between Owner, E/A, and Contractor
- Large body of case law
- Contractor(s) selected based on low bid

**Disadvantages of DBB Project Delivery Method:** There are also clear disadvantages of the DBB project delivery method with respect to the renovation of the Building which include:

- No assurance of obtaining a high quality contractor due to low-bid requirement
- Potential for limited bidders, which could result in increased construction costs
- E/A has incomplete knowledge of contractor's construction methods, which could lead to higher bids
- Limited local contractors with experience to meet the scope and magnitude of this project
- Project costs will require high bonding limit, which may limit capability of local contractors
- No "team" atmosphere between Owner and Contractor, each has separate goals during construction
  - Owner's goal is to achieve high quality while minimizing cost of project
  - Contractor's goal is to achieve maximum cost savings, without incentive to optimize quality of project for Owner
- Potential for longest construction schedule because of bidding process and lack of incentives for contractor to optimize costs and schedule
- Potential for change orders during construction, which are the responsibility of the Owner
- Reduced opportunity for savings as potential cost savings are secured by the Prime Contractor(s) with no open book accounting
- Owner has no or limited input into subcontractor selection
- NDCC requirement of multiple prime contracts can result in contractor coordination issues

**Construction Management At-Risk (CMAR) Project Delivery Method** is another project delivery option for consideration for the Building. This method has been widely used in the US for a number of years and was approved within the State of North Dakota in 2007. Several projects have utilized CMAR locally/regionally with success (e.g. Grand Forks Regional Water Treatment Plant, University of North Dakota and Sanford Fargo Medical Center among others).

The foundation behind the CMAR process is that the Owner hires a Construction Management Firm (CM) that takes on the risk of building the project. Unlike the DBB method, the CM is actually selected and hired by the Owner during the early stages of the design (typically around the 30 percent design phase). The contract structure for CMAR is essentially the same as DBB except the CM is under contract during project design to provide construction efficiency, constructability, and material selection input through open lines of communication with the Owner and E/A. The typical contractual structure for the CMAR project delivery method is presented in Figure 3.

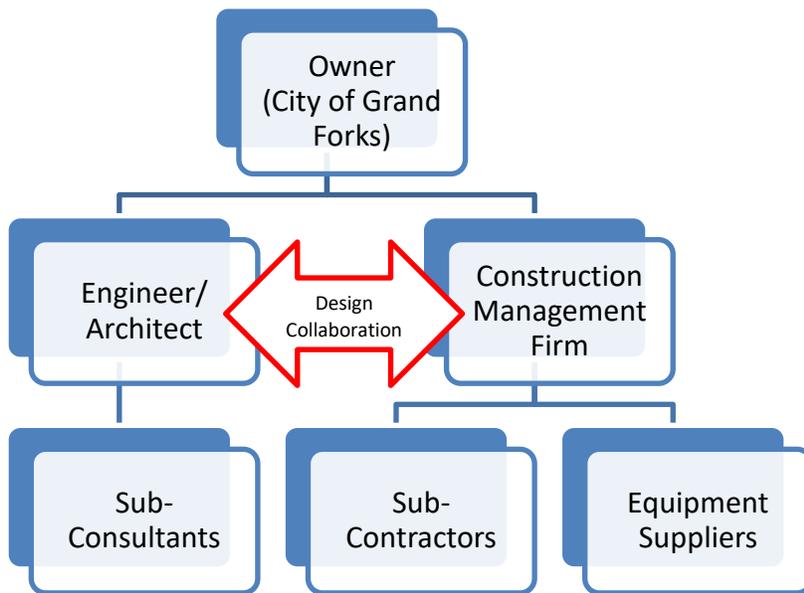


Figure 3: CMAR Project Delivery Contract Structure

### **Process of Selecting the Construction Management Firm**

The selection of a CM is typically done by issuing a request for qualifications (RFQ). Within the RFQ, the Owner defines eligibility and experience requirements, selection criteria, and required background information to be submitted for evaluation. To complete the review and evaluation of RFQ submittals, the Owner will define a selection committee, which will generally include representatives from the Owner, the E/A, and an impartial contractor. Upon completion of the submittal evaluations, the selection committee will rank them according to the selection criteria outlined in the RFQ. Once the ranking is complete, the selection process will typically involve an interview process after which the Owner identifies a preferred CM and works to negotiate a specific scope of services and fee and enter into an agreement for 'pre-construction' services for the project.

### **"Pre-Construction" Services**

One of the essential functions within a CMAR project delivery method is the inclusion of the CM during the design phase of the project, which allows the CM to become a key member of the design team. The CM's pre-construction contract with the Owner does not include any construction services, but can include services such as offering input in design details based on past projects and industry construction methods, constructability review, material review, alternative material selection, cost estimating and cost modeling, project scheduling, and assisting in long lead-time equipment procurement (if required). Typical CM costs for "preconstruction" services range from 0.5 to 1.0 percent of the estimated construction cost.

### **Guaranteed Maximum Price (GMP) Development**

As a member of the project team, the CM assists in identifying construction costs using a contractor's perspective, which ultimately leads to development of a GMP prior to the start of construction. At specific stages of the design development (typically at 30, 60 and 90 percent), the CM will develop a GMP for the project. At each of these stages, a GMP is prepared using an "open book" process where the CM shares detailed information related to GMP development with the Owner and E/A. This also includes identifying subcontractors and equipment vendors utilized in developing GMP estimates.

Near the completion of the final design phase (typically at 90 to 95 percent design), the CM and the Owner negotiate a final GMP that is contractually agreed upon for construction of the project. Other components that are typically included in the GMP agreement include a CM contingency or an Owner contingency, as well as definition of shared cost savings practices if any are realized during construction. Early users of the CMAR project delivery method experienced larger than necessary contingencies, but as contractors became more familiar with the delivery method, the contingency amounts have been more appropriate. Cost savings below the GMP can be negotiated and contractually agreed upon such that the Owner retains all cost savings, or that cost savings will be split at predetermined percentages between the Owner and CM to offer an incentive to achieve high quality but also seek maximum cost savings during construction.

Once the GMP agreement is established between the Owner and CM, the CM will transition into the General Contractor (GC) role for the project and take on the risk of building the project within the GMP and also the time limits established during the negotiations with the Owner.

**Advantages of CMAR Project Delivery Method:** There are notable advantages to the CMAR project delivery method with respect to the renovation of the Building which include:

- Contractor has input into the design process
- Constructability and value engineering reviews during design help with construction savings and performed well the CMAR should pay for itself
- Contractor evaluates and assists in mitigating project risk factors
- Contractor involvement during design allows expeditious mobilization and construction start-up period, resulting in project time savings
- Higher assurance of contracting with knowledgeable and experienced Contractor
- Owner has input into subcontractor and supplier selection – allowing different requirements such as percentage of work done by local contractors
- Singular point of responsibility for construction vs. potential multiple prime system under DBB
- Potential for reduced number of change orders during construction because of GMP
- Open book CMAR accounting methods aid in assurance of competitive pricing to the Owner
- Contractor held to design intent, not just the contract documents
- Ability to approach construction in a phased manner with multiple bid packages (similar to design build) to speed completion and allow involvement of smaller, local contractors
- Ability to competitively bid equipment early, avoiding long lead time on certain items
- Owner can reject GMP and proceed with DBB without causing significant delays in project

**Disadvantages of CMAR Project Delivery Method:** There are also disadvantages associated with the CMAR project delivery method with respect to the renovation of the Building which include:

- Potential for CM to develop large contingency or profit within GMP
- Retaining CM for "preconstruction" services may increase total project cost
- Newer construction model in North Dakota, especially on public sector projects
- Owner remains responsible for design errors and omissions

### **Other Considerations**

Should the CMAR project delivery method be implemented, engineering dollars will be required to assist with the following:

- coordinating CM “preconstruction” scope of work and contract development;
- coordinating CM efforts during collaboration with the E/A design team; and
- development of the CMAR construction contract negotiations and preparations.

### **RECOMMENDATION**

Based on its review, the noted committee recommends the following.

An important decision for implementation of the project is the method of project delivery. The CMAR project delivery method will enable the JDA to select a well-qualified and experienced contractor that can help manage the risks associated with the magnitude, complexity, and importance of this project. In addition, the CMAR project delivery method will aid in controlling renovation costs during the design phase and potentially expedite the project’s phased completion. As such, the CMAR project delivery method is recommended for implementation for the renovation of the Grand Forks Herald Building.

Further, it is recommended that PCL/Community Contractors be awarded the project based on the selection process (criteria listed in RFQ) and interviews that were held on December 6 (scoring matrix attached).

The following table shows a suggested schedule for adopting and implementing the CMAR project delivery method.

<b>Task</b>	<b>Proposed Completion</b>
<b>Request Approval from to use CMAR Project Delivery</b>	December 16
<b>Select CMAR</b>	December 16
<b>Pre-Construction Services, Schematic Design &amp; Cost Estimate/Funding Allocation</b>	January-February 2020
<b>Potential CMAR Bidding</b>	March-April 2020
<b>Selected CMAR Potentially Starts “Construction” Phased Services</b>	May-October 2020
<b>Final Completion</b>	November-December 2020

### **SUPPORT MATERIALS:**

- CMAR Scoring Matrix
- The RFQ can be accessed at [www.GrandForksgov.com/Home/Components/RFP/RFP/3144/28](http://www.GrandForksgov.com/Home/Components/RFP/RFP/3144/28)
- Grand Forks Herald Building and City Hall Renovation Projects PowerPoint presentation from City Council Meeting on December 2, 2019: [City Council Presentation 12.2.2019](#)

## CMAR Review Committee Scores & Rankings

	Construction Engineers	McGough Construction	North Sky Construction	PCL/Community Contractors
Cmte Member A	8.5	8.325	7.675	8.55
Cmte Member B	9.375	9.275	7.125	9.375
Cmte Member C	8.95	8.875	8.475	9.125
Cmte Member D	8.3	7.95	6.6	8.425
Cmte Member E	7	6.775	5.75	7.575
<b>TOTAL SCORE</b>	42.125	41.2	35.625	43.05
 <b>Ranking</b>	 <b>2</b>	 <b>3</b>	 <b>4</b>	 <b>1</b>