

**RESOLUTION NO. 12 , 2013**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO CONTRACT WITH DUKE CONSTRUCTION LIMITED PARTNERSHIP TO CONSTRUCT CERTAIN PUBLIC IMPROVEMENTS AT THE VINTAGE CLUB / BRANDICORP / CHRIST HOSPITAL PROJECT SITE WITHOUT FURTHER BIDDING**

**WHEREAS**, the Planning Commission has approved a project within the City of Montgomery Vintage Club Incentive District (“District”), which project consists of an integrated public parking garage and medical office building; and

**WHEREAS**, in anticipation of construction of the public improvements within the District including the parking garage, the City did publish a Request for Qualifications to construct the project under a Construction Manager At Risk delivery model authorized by R.C. §§ 9.33 *et seq.*; and

**WHEREAS**, in response to the Request for Qualifications, the Evaluation Committee appointed by City Council determined that there were three qualified candidates and requested Proposals from each of the candidates for the construction of such improvements; and

**WHEREAS**, Duke Construction Limited Partnership (“Duke”) is the only qualified candidate to have submitted a Proposal to the City, all other candidates having withdrawn from the project because of the tight timelines necessary to coordinate construction with the medical office building improvements; and

**WHEREAS**, during negotiations with Duke, it has been determined that it is in the best interest of the City, and more feasible and economical, to construct the improvements under a Design Build construction delivery model; and

**WHEREAS**, R.C. § 9.334(G)(3) authorizes the City as the contracting authority if it cannot negotiate a construction management contract with a Construction Manager At Risk to select an alternative delivery method for the project; and

**WHEREAS**, Section 9.03 of the City Charter, *Contracts and Expenditures*, recognizes that all contracts in excess of the statutory limits established by the State of Ohio must be publicly bid and awarded to the lowest and best bidder unless City Council dispenses with advertising and bidding because of a real or present emergency need; and

**WHEREAS**, City Council recognizes that advertising and bidding this project, and awarding such contract to the lowest and best bidder, is inconsistent with the new Construction Reform statutes implemented within the State of Ohio and re-advertising and rebidding this project to create a Design Build model would unreasonably delay the private project and will, in fact, cause the project to be terminated which would cause a significant economic loss to the community which may not be readily replaced; and

**WHEREAS**, the Administration, working in cooperation with the Evaluation Committee, believes that a Design Build contract with Duke, as proposed, is in the best interest of the City, is fair and competitive pricing, and can be completed in a timely manner at a cost which will not exceed \$11,813,734.00, which cost is consistent with the public financing the City is separately authorizing.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The City Manager is authorized to enter into a contract with Duke Construction Limited Partnership consistent with the Estimate of Construction Cost attached hereto under a Design Build contract, which design services, construction services and Design Build fees shall not exceed \$11,813,734.00.

**SECTION 2.** Council recognizes the urgent need to complete the contracting process with Duke so as not to derail and potentially terminate the private economic development on site. Council also recognizes that rebidding the contract as a Design Build contract, or rebidding the project under the traditional model to select the lowest and best bidder, would be impossible to meet the integrated project timelines and would cause the City a substantial loss. Council therefore determines that there is a real and present emergency need to dispense with the requirement for further advertising and bidding, and authorizes the City Manager to proceed to a contract with Duke under a Design Build model which is in the City's best interest.

**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: March 20, 2013

ATTEST: Susan J. Hamm  
Susan J. Hamm, Clerk of Council

Ken Suer  
Ken Suer, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon  
Terrence M. Donnellon, Law Director