



## Agenda Memorandum

Agenda Item – {{section.number}}.B.

City Council Meeting  
May 8, 2023



### **Strategic Priority 3: Shared Sense of Community**

Foster equitable opportunities that help residents feel at home and connected in their community and empowered to live their best lives.



### **Strategic Priority 4: Quality of Life**

Ensure that Westminster offers a diverse range of amenities and activities for residents, businesses and visitors that honor the city's history and support the arts, parks, recreation, open spaces, and libraries.

**Subject:** Amendment to the Construction Management/General Contractor Agreement with Mark Young Construction, LLC, to Perform Construction Services for the Swim and Fitness Center Remodel Project

**Prepared By:** Tim Lachermeier, Recreation Services Manager  
Kira Kloser, Recreation Facilities Superintendent

## **Recommended City Council Action:**

Authorize the City Manager to amend the contract with Mark Young Construction, LLC, in the amount of \$4,354,873 for Construction Manager/General Contractor services for the Swim and Fitness Center Remodel, bringing the construction contract amount from \$29,272 for pre-construction services to \$4,384,145 for the Guaranteed Maximum Price (GMP), plus an additional 12% contingency in the amount of \$509,630, for a total authorized expenditure not to exceed \$4,893,775.

## **Summary Statement:**

- The Swim & Fitness Center Remodel includes numerous alterations to improve accessibility and the quality of services, as well as additional programming and recreational space.
- A request for proposals (RFP) for Construction Manager/General Contractor (CM/GC) services for the Swim and Fitness Center Remodel was published on BidNet Direct on February 15, 2022. Proposals from four firms were received.
- Staff evaluated the qualifications and proposals of each firm and determined that Mark Young Construction, LLC, (MYC) presented the best value.

- The City executed a contract with Mark Young Construction, LLC, to provide pre-construction services for a total of \$29,272.
- Mark Young Construction, LLC, developed the guaranteed maximum price (GMP) for construction by competitively bidding the final construction documents to a minimum of three prequalified subcontractors per trade, awarding to the lowest responsible bidders.
- The GMP for the construction of the Swim & Fitness Center Remodel Project is \$4,354,873.
- The negotiated GMP scope includes limited allowances for mitigation of unknown conditions within the 48-year-old facility in efforts to avoid an inflated project GMP. Staff identified four bid alternates so that if additional mitigation is not warranted to the extent of contingency, additional value can be added while staying within the project budget.
- Funds are budgeted and available for this work.

**Fiscal Impact:**

Not to exceed \$4,893,775, including contingency

**Source of Funds:**

- Parks, Open Space & Trails (POST) and Conservation Trust Funds: Recreation Facilities Major Capital Projects Accounts
- Adams County Grant: Swim & Fitness Center Accessibility Capital Project

**Policy Issue(s):**

Should City Council authorize the City Manager to execute an amendment with Mark Young Construction, LLC, as the CM/GC with a GMP for the construction of the Swim & Fitness Center Remodel Project as proposed?

**Alternative(s):**

1. City Council could decline to authorize the contract amendment with Mark Young Construction, LLC, and direct Staff to renegotiate the GMP with MYC for the construction phase services. Staff does not recommend this alternative because the GMP was reviewed by Staff and Essenza and was determined to be competitively priced and comprehensive in its scope.
2. City Council could direct Staff to reject MYC's GMP and to solicit bids from other contractors. This is not recommended because Staff believes MYC's GMP is competitively priced and rebidding the construction phase and selecting another qualified vendor to complete the project will add time and is unlikely to decrease costs.

**Background Information:**

The Swim & Fitness Center (SFC) is located at 3290 W. 76th Avenue. The SFC was opened in 1975 as the City's first Recreation Center and now serves 150,000 guests per year. The City offers a variety of programming within this facility, including preschool, yoga, swim lessons, aqua fitness, free

lunches for kids in the summers, and other services for lower-income individuals and families. The facility also attracts a large number of groups for rentals, including local swim teams, scuba lessons, physiotherapy, churches, birthday parties, and other special events.

The facility is approximately 30,000 square feet, arranged in a split-level layout. The main level consists of the welcome desk, main lobby, and staff workstations. The lower level consists of two racquetball courts, the swimming pool, men/women/family locker rooms, a large cardio and weight room, and a smaller free-weight room. The upper-level houses staff offices, a community room with a full kitchen, and storage space.

The split-level construction and lack of an elevator create numerous challenges for guests with mobility impairments. Currently, there is a single wheelchair lift from the main level to the lower level where most of the recreation center amenities reside. Accessing the amenities and services on the upper level requires mobility-impaired guests to exit the building and utilize an exterior ramp. These accessibility challenges do not create an equitable and welcoming environment for all the SFC guests. The split-level design also presents many other functional and safety challenges for guests and staff.

Planning for the SFC Remodel began in the fall of 2021 when an initial building study identified accessibility and other operational challenges of the facility. The SFC Remodel includes the addition of an elevator, the relocation of the front entrance with a new vestibule, a new front desk, an expanded lobby, the addition of a multipurpose room and restrooms in the newly created space over one of the racquetball courts and storage room, a dedicated licensed preschool room with attached restrooms, renovation of existing restrooms, a cardio mezzanine, an expanded weight room, exterior building improvements, landscaping, and several new window openings to significantly improve the availability of natural daylight throughout the facility. The planned improvements will greatly improve accessibility for individuals with limited mobility and will allow for more equitable access to all guests.

The Swim and Fitness Center Remodel is being completed in a coordinated, multi-phase contracting approach that includes close coordination between the City, the architect, and the contractor throughout the design and construction of the project. This type of project delivery is called the Construction Manager/General Contractor (CM/GC) method and entails commitment from the Construction Manager to deliver the project within a guaranteed maximum price (GMP).

The CM/GC Request for Proposals was released on February 15, 2022. Four proposals were received by the deadline on March 16, 2022, by the following firms: A.D. Miller Construction Services, Mark Young Construction, MW Golden Constructors, and PG Arnold Construction. A selection committee evaluated each proposal on their demonstrated understanding of the project, project goals, and schedule; the technical competence of the Contractor and proposed sub-contractors; their project approach and value engineering; the organization and completeness of their proposals; pre-construction fees and labor rates; and any additional relevant information provided. After a thorough review, the selection committee was unanimous in its decision to select Mark Young Construction, LLC (MYC). Their thorough proposal response, comprehensive renovation experience, outstanding references, and competitive rates gave them a clear leading edge over the other contractors.

On June 1, 2022, the City entered a CM/GC Contract for pre-construction services for the SFC Remodel in the amount of \$16,898, for an anticipated 20-week scope of work. Pre-construction services included pre-construction planning, design meeting attendance, design and constructability review, value engineering, preliminary testing, site investigation, preparation of the scope of work for the construction phase, and preparation of the GMP.

On August 9, 2022, the City was awarded a \$1,000,000 grant from Adams County Open Space. The

supplemental grant funding allowed for an expanded scope of work to address more of the challenges and opportunities identified in the 2021 study. The implementation of additional design extended the project schedule, adding several months to the overall timeline as solutions to the facility's needs were identified and incorporated into the project. On December 12, 2022, the City amended MYC's contract in the amount of \$12,374 for an additional 20 weeks of pre-construction services as a result of the extended design timeline. The total sum of the pre-construction service agreement with MYC is \$29,272.

Throughout the duration of the pre-construction contract, MYC has worked closely with the design team, providing valuable input on the constructability of the design, equipment and material lead times, construction material availability and costs, and providing cost estimates at different phases of the design. MYC, the design team, and City staff have worked collaboratively to value-engineer the project to the available construction budget. MYC has established a GMP of \$4,354,873, bringing the total contract to \$4,384,145 including the pre-construction services. The GMP was developed by competitively bidding the final construction documents to a minimum of three prequalified subcontractors per trade, awarding to the lowest responsible bidders.

While the contract with MYC provides a GMP, Staff recommends an additional 12% contingency for the project as the GMP is based on the best information available at the time of the design and bidding. This additional contingency is recommended due to the building's age and uncertainty with the completeness and accuracy of building drawings, potential delays or disruptions due to unforeseen issues (such as weather, supply chain, etc.), and other potential unknowns until the walls, ceilings, and floors are opened up (including a limited asbestos inspection report). Four add alternatives were included in the bidding process but not included in the GMP pricing to ensure sufficient budget is available for the base project. Should the contingency not be necessary to address unforeseen issues outside of the GMP, these alternatives would be pursued using the available contingency. These alternatives include the following: vestibule wall tile, roof screen wall, site furnishings, and pool area card readers. An additional 12% contingency, or \$509,630, creates a total authorized expenditure of \$4,893,775.

The proposed action helps achieve the City's Strategic Plan goal of a Shared Sense of Community and Quality of Life by allowing for improved access at the Swim & Fitness Center, as well as the enhancement of existing amenities and new activities.

Respectfully Submitted,

*Mark A Freitag*

Mark A. Freitag  
City Manager

**Attachments:**

- Attachment A – Second Amendment to the CMGC Services Agreement with Mark Young  
Construction for the Swim & Fitness Center Renovation
- Attachment B – Westminster Swim and Fitness GMP Proposal (Attachment #4)