

Executive Committee

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May 28, 2024

Mr. Kirk Blouin Town of Palm Beach 360 South County Road Post Office Box 2029 Palm Beach, FL 33480

Dear Kirk,

The Preservation Foundation of Palm Beach Executive Committee convened last week to discuss the Capital Grant and Operating Agreement, and the proposed Burkhardt Guaranteed Maximum Price (GMP). As of now, the Foundation, in its fiduciary capacity, regrets to inform you that it is unable to execute the Capital Grant and Operating Agreement with the Town of Palm Beach.

The Foundation views the last-minute alterations presented to us just before the Town Council meeting on May 14, 2024 as inadequate in their current state. The amended agreement lacks the necessary clarity to mitigate the Foundation's liability and risk exposure. More specifically, the revised language introduced to the agreement does not match the explanation given at the meeting to justify the changes. We welcome the opportunity to engage in discussions on how best to proceed with modifications to the Capital Grant agreement in an efficient and collaborative manner in the coming weeks.

Currently, the Foundation is unable to agree to fund the proposed Guaranteed Maximum Price (GMP) as our team has found that it is not fair, competitive, or reasonable. Requests for information necessary to fulfill the Foundation's fiduciary responsibilities have been made since the GMP was first issued at the end of February:

1. A six-page memorandum was provided to the Town of Palm Beach by Kimley Horn, as the project manager on behalf of the Foundation, during the GMP negotiations on February 27, 2024. The memo requested information about lump sum costs, the GMP bidding process, and the project scope.

- 2. On April 16, 2024, a meeting was held with the Town of Palm Beach, Kimley Horn, Burkhardt, and the Foundation's design team to discuss the significant number of outstanding items listed in the memo.
- 3. Much of the requested information was not made available to the Foundation until later meetings held on May 15, 2024 and May 22, 2024 when the Foundation's owner representative Zubatkin met with the Town of Palm Beach and Burkhardt.

During these previous exchanges with the Town, the Foundation and its advisors have expressed reservations regarding the following concerns:

- Limited subcontractor participation in the bidding process, notably with only one or two bidders for many packages, including the crucial vertical construction to a General Contractor.
- 2. A recent assessment on May 22, 2024, revealed more than \$2 million in unforeseen additional costs, exceeding initial estimates.
- 3. The exclusion of Addendum 2 drawings from February 2024 in the proposed GMP may potentially result in unknown supplementary costs.

In light of the above considerations, and as stewards of donor funds, the Preservation Foundation finds itself unable to endorse the current GMP proposal. The Foundation respectfully asks that the Town of Palm Beach, in coordination with the current Construction Manager, formulate a proposed corrective action plan by June 10, 2024 to address these issues and devise a GMP that is fair, competitive, and reasonable. Our Owners Representative, Zubatkin, is available to elaborate specific requirements as needed.

We are eager to collaborate with you closely to navigate these concerns and bring this project to successful realization as expediently as possible.

Sincerely,

Betsy Shive<del>ric</del>k

Chair of the Executive Committee