

City Council – Action Request Form

Date: November 8, 2021

To: Mayor, Mayor Pro Tempore, and Members of the City Council

From: Aaron King, Interim Assistant City Manager

Council Action Requested:

1) Resolution Authorizing the Assignment of Construction Related Contracts for Merschel Park and the Termination of the Downtown Development Agreement

2) Ordinance Amending the Project Budget Ordinance for the Fiscal Year 2021-2022 (Northwest Ward)

Strategic Focus Area: Livable Neighborhoods

Strategic Objective: No

Strategic Plan Action Item: No

Key Work Item: Yes



Summary of Information:

In January 2019, the City entered into an agreement with Pepper Property Association, LLC (“PPA”) pursuant to N.C.G.S 160A-458.3 for construction of Merschel Park in conjunction with adjacent new construction projects. The terms of said 2019 agreement set forth a term of twenty-four (24) months to complete Merschel Park. The City’s financial commitment under the terms of this agreement totaled a not to exceed amount of \$4,630,375.00, including \$700,000 of TIF funding for sidewalk improvements adjacent to the overall project site.

In August of 2021, representatives of PPA bid the construction contract for Merschel Park under the authority granted by N.C.G.S. 160A-458.3 (Downtown Development Projects). Three bids were received for the construction of Merschel Park:

Frank L. Blum Construction	\$4,219,041
Samet Corporation	\$4,776,293
Omega Construction	\$5,884,264

Committee Action:

Committee	Finance 11/8/2021	Action	Approval
For	CM Clark, MacIntosh, and Taylor	Against	None; Abstaining: MPT Adams

Remarks:

Additional value engineering among the design team and Frank L. Blum Construction (“Blum”) commenced in an effort to reduce the gap between the cost of the park and remaining City funds (\$2,690,594). Value engineering reduced the cost of the park from \$4,219,041 to \$3,669,683. In addition to the revised park cost, \$150,000 to be set aside for contingency is included as well as a contractual agreement with Stimmel Associates, PA (“Stimmel”) (\$150,000) for related soft costs- bringing the total cost of the park to \$3,969,683. The cost of the park (\$3,969,683) minus the remaining City funds (\$2,690,594) leaves a gap of \$1,279,089. The Millennium Fund has pledged \$300,000 toward the construction cost of Merschel Park. Subtracting the Millennium Fund pledge of \$300,000 from the existing gap leaves a remaining gap of \$979,089. See attached Exhibit A for funding breakdown.

The twenty-four (24) month term originally set forth in the terms of the 2019 agreement has expired and the construction of Merschel Park remains to be completed. As such, the attached resolution would authorize: (a) the assignment of the contracts and other arrangements for the construction of Merschel Park with Blum and with Stimmel for soft costs related to construction oversight of the park to the City, and (b) termination of the Downtown Development Agreement (“DDA”) with PPA. The City Attorney has reviewed the specifics related to this matter and has opined that the contract and other arrangements with Blum and Stimmel may be assigned to the City and that the City may terminate the DDA with PPA. Blum is a local company and has committed to 13% MWBE participation in the project.

In summary, the resolution attached to this item authorizes the assignment of the existing contracts and other arrangements with Blum and Stimmel for needed services related to the construction of Merschel Park to the City and termination of the DDA. Should this resolution be approved, staff would work to execute the appropriate assignment and other contracts with the entities above by the end of calendar year 2021 in order to allow construction to commence in January 2022. The anticipated construction timeline is approximately eight months. In addition to the resolution described above, the project budget ordinance amendment attached to this item appropriates the additional expenses for the project covered by \$979,090 in previously authorized economic development general obligation bond funds and \$300,000 from the Millennium Fund.

EXHIBIT A

Current Remaining City Funds	2,690,594
Project Costs	
Value Engineered Construction Bid	3,669,683
Professional Services	150,000
Construction Contingency	150,000
<hr/> Total Remaining Project Needs	<hr/> 3,969,683
Difference Between Funding and Needs	1,279,089
Additional Funding Sources	
City Economic Development Bonds	979,089
Millennium Fund	300,000
<hr/> Total New Funding	<hr/> 1,279,089
Current Remaining City Funds	2,690,594