



SAVE Colonie

A Partnership for Planning

November 11, 2017

Supervisor Paula Mahan
Planning Board Chair Peter Stuto

Via Email

Re: British American Plaza Phase I 798 Albany Shaker Road Sketch Plan Review

Dear Supervisor Mahan and Chairman Stuto:

We are writing to express our concerns with the scheduled British American Plaza Phase I Sketch plan review which is listed on the agenda for the Planning Board's November 14, 2017 meeting. We request that this matter be removed from the November 14, 2017 meeting because the engineering consultant for this project is Clough Harbour Companies (CHA). We will not be able to make such a request at Tuesday's Planning Board meeting because public comment is prohibited during Sketch Plan Review.

British American is proposing 4 multi story office buildings and a 4 story Hotel at 798 Albany Shaker Road, within the Airport GEIS Area. CHA is the consulting engineering firm associated with this project and they will be making a formal sketch plan presentation to the Planning Board on Tuesday. As with all development projects, we assume that this project has undergone review before the Town's Development Coordination Committee; the applicant, along with CHA, probably attended this Committee meeting and CHA has been corresponding with the Department of Planning and Economic Development staff on behalf of the applicant regarding this project.

As you are well aware, in 2008, CHA was appointed by the Town to be a Designated Engineer for the Town of Colonie Planning Board. The Town recently hired CHA to oversee the Town's review of the 1991 Airport Area Generic Environmental Impact Statement. With the British American project, CHA will be now wearing 3 hats- consultant for a development project sponsor, a Town TDE, and consultant for the Albany County Airport Area GEIS review. We believe that this situation merits further Town investigation- is CHA's continued involvement as a consultant for the British American project a conflict of interest and improper?

On July 23, 2008, the Town of Colonie issued the attached request for qualifications (RFQ) for a Town Designated Engineer. This RFQ specifically provides the consultant to provide "an affirmative statement that

your firm will not represent developers on projects within the Town of Colonie and that you will avoid all conflicts of interest or appearances of impropriety.” Is this requirement still in effect?

We believe that the ongoing professional relationships between CHA and Town Departments and the Planning Board also disqualify CHA from representing developers before Town Departments and Boards. The NY Public Employees Relations Board’s April 11, 2012 decision In the Matter of United Public Service Employees Union and the Town of Colonie Case No. U-28606 found that CHA’s role as a Town Designated Engineer involved many employees of CHA in all facets of the Town of Colonie development review process. CHA representative Joseph Grasso testified about CHA’s role in the Town of Colonie development review process. The PERB administrative law judge noted that Mr. Grasso described CHA as a multidisciplinary engineering and planning firm that practices in areas such as civil engineering, transportation, engineering, landscape architecture, geotechnical engineering, facilities and energy, communications, infrastructure, surveying, planning, environmental and a host of other disciplines. Mr. Grasso specifically noted “the entire staff and resources of CHA are available to service all accounts and that through the course of a year, “we may rely on 40-50 staff to support the work at a municipality in various different capacities.” Mr. Grasso further described the work CHA performed for the Town of Colonie as a 3 stage review, which involved CHA’s detailed engineering type review. The British American project is just the type of project referenced by Mr. Grasso, involving a CHA multidisciplinary review of the sort that CHA has previously performed on behalf of the Town’s Planning Board and Town Planning and Economic Development Department. Given this longstanding professional relationship, how can the public expect that the Town will be able to conduct a full and impartial review of this project? (In 2015-2016, British American utilized Frank Palumbo of CT Male Associates as consultant for two development projects seeking Planning Board approvals, 31 British American and 33 British American).

We assume that the RFQ’s conflict of interest provision is still in effect. Therefore, we submit that CHA’s appearance before the Town Planning Board and appearances before Town Departments regarding the British American matters is in contravention of the terms and conditions of CHA’s TDE appointment. In addition, CHA has been hired to oversee the Town’s review of development within the Airport Area GEIS study area. We cannot fathom how CHA can concurrently represent developers seeking development approvals within the Airport Area GEIS study area while this study is ongoing and will also be called upon to review and make recommendations regarding future development within the Airport Area GEIS study area, without disqualifying conflicts of interest. In fact, CHA is scheduled to make a presentation at the same November 14, 2017 Planning Board meeting about the Airport Area Generic Environmental Impact Statement Lead Agency status and issuance of a positive declaration.

Finally, Section 17-12 of the Town of Colonie Ethics Code specifies that “a town official, employee or appointee of the Town of Colonie shall treat all members of the public whether a person, firm, corporation or other organization, with equal consideration and without special advantage. Every such employee shall also endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of their trust.” A Town designated engineer is only authorized to be

hired by the Town to provide professional technical assistance to any Town Board or Department. See Section 190-14.

As you can see, this situation requires review and discussion to determine that conflicts of interest real and perceived are avoided and that the Town receives the best services from consultants on behalf of its residents. We believe that the appearance of impropriety with regard to development decisions is a major concern among Colonie residents. We hope to assist the town in flagging opportunities to rectify situations, like this one, giving rise to such concerns. We look forward to your response.

Thank you in advance for your time and attention to this important matter.

Sincerely,

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Susan Weber sweber2@nycap.rr.com
for SAVE Colonie: A Partnership for Planning

TOWN OF COLONIE PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

REQUEST FOR QUALIFICATIONS FOR PLANNING AND ENGINEERING

SERVICES - The Town of Colonie is seeking proposals from qualified planning and engineering firms to advise and consult with the Town on engineering and planning matters as assigned by the Town. Interested firms are required to respond by Thursday, August 14, 2008 at 2:00 PM with the information requested herein.

BACKGROUND

The Town of Colonie is a municipality located in the Capital Region of New York State. The Town consists of 57 square miles and provides services to over 80,000 residents. The Town also has an active commercial base.

The Town currently operates separate Planning and Economic Development, Public Works and Building Departments. The intent and purpose of the Planning and Economic Development Department is to provide accurate, timely land use information, assist the general public in matters of planning and land use regulations, and serve as ombudsman for the coordination of development plan reviews. The Department of Public Works, through its Bureau of Engineering, Division of Latham Water, Division of Pure Waters and Storm Water Management Office, reviews development plans to ensure adequacy of Town infrastructure to support proposed development, and conformance to Town standards. The Building Department's main responsibility is to assist people in our municipality in complying with the Land Use Law as it pertains to zoning and the New York State Uniform Fire Prevention and Building Code.

Due to a large volume of project applications, the Town seeks the services of a qualified engineering firm or firms with demonstrated experience as a multi-disciplinary municipal engineering and planning consultant.

SCOPE OF SERVICES REQUESTED

The selected consultants will be expected to provide a full range of engineering review services to support the Town of Colonie in its review of site plan, Subdivision, special permit and planned development district applications. The range of services may include, but is not limited to, coordination of the development review process for major site plan and subdivision applications, and review of design drawings and technical reports related to:

Site design and layout

SCOPE OF SERVICES REQUESTED Continued:

Utility design, including municipal water and sanitary sewer services plans and profiles

Drainage and storm water management design, with particular attention to Phase 2 compliance

Grading and erosion control plans

Landscape, planting and lighting plans

Geotechnical investigation and slope stability analysis

SEQR review, including compliance with SEQR procedural requirements

Compliance with other state and federal environmental laws

Compliance with the Town of Colonie Land Use Law

Compliance with Town and Generally accepted design and engineering standards

Consistency with the Town's Comprehensive Plan and generally accepted planning principles and practice.

Projects will be handled by the Town of Colonie Development Coordination Committee through the concept approval stage and then Town Designated Engineers would be assigned major projects as described in the Town of Colonie's Land Use Law on a "turn basis". The Town Designated Engineers would then take the project through to completion coordinating all facets with the Town PEDD and Building Department in a pre scheduled timeframe. The firms will estimate the cost of this process and after approval by the Town will draw on an escrow account managed by the Town and paid for by the Developer.

Any firm being selected as Town Designated Engineer would be required to refrain from representing any developer for any Town of Colonie projects.

REQUIRED SUBMITTALS

Responses to this RFQ must include, at a minimum, the following:

Demonstration of previous experience with similar municipal consulting engagements in the Capital Region..

Demonstration of the firm's knowledge of the Town of Colonie's Land Use Law and the process of bringing a project through to completion.

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REQUIRED SUBMITTALS Continued:

Identification of key personnel who are located in the Region and will be assigned to this engagement.

Description of the firm's practice areas that might be applicable to this engagement.

Description of the firm's approach and methods for providing municipal consulting services to Planning Board and municipal engineering review.

Description of similar engagements and examples of typical work products and contractual agreements.

Tabular history of municipal consulting experience in the past five years organized by engineering and/or planning discipline, and indicating order of magnitude consulting fees earned for each municipality.

Describe the structure or basis by which you would propose to develop a scope and fee estimate for each project referred by the Town and identification of the firm's billing rate schedule.

A list of municipal references for engagements undertaken in the past five years in the Capital Region.

An affirmative statement that your firm will not represent developers on projects within the Town of Colonie and that you will avoid all conflicts of interest or appearances of impropriety while your firm is a Town Designated Engineer.

PROPOSAL SUBMISSION

An original, seven (7) copies, and one electronic copy in PDF format (on disc) of the Proposal and other required documents must be submitted, sealed in an opaque envelope clearly marked with the name of the Proposal and the name and address of the Vendor. If the proposal is sent through the mail or other delivery system the sealed envelope shall be enclosed in a separate envelope with the notation "PROPOSAL ENCLOSED" on the face thereof. Vendors mailing proposals shall allow sufficient time for delivery.

Proposals must be received no later than **2:00 P.M. on Thursday August 14, 2008**, at the following address:

Town of Colonie
Attn: Douglas Sippel, General Services Director
Memorial Town Hall
534 Loudon Road
P.O. Box 508
Newtonville, NY 12128

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The Proposals submitted by the individual Firm(s) is the document upon which the Town will make its initial judgment regarding the Firm's qualifications, understanding of the Town's scope and objectives, methodology, and ability to complete services.

Those submitting Proposals do so entirely at their expense. There is no express or implied obligation by the Town to reimburse any firm or individual for any costs incurred in preparing or submitting Proposals, preparing or submitting additional information requested by the Town, or for participating in any selection interviews.

Submission of any Proposal indicates acceptance of the conditions contained in the RFQ, unless clearly and specifically noted otherwise in the Proposal.

Proposals will be examined and evaluated by the Town of Colonie - Town Designated Engineer Committee. The Committee shall make a recommendation to the Town Board. The Town Board has the ultimate authority to appoint a Town Designated Engineer.

During the evaluation of Proposals, the Town may require clarification of information or may invite Firm's to an oral presentation to amplify and or validate Proposal contents.

All material submitted in response to this RFQ shall become the property of the Town.

PRE-SUBMISSION MEETING AND CONTACTS

No pre-submission meeting is planned. Questions may be directed to Joe LaCivita at 518-783-2741.

INTERVIEWS

The Town will conduct interviews of short-listed respondents as early as the week following the RFQ opening date and no later than September 1, 2008.

SCHEDULE

The schedule for the proposal solicitation and evaluation process is shown below:

<u>DATE</u>	<u>EVENT</u>
July 23, 2008	Request for Qualifications issued
August 6, 2008	Last day to submit questions.
August 14, 2008	Request for Qualifications Opened.
September 2008	Appointment of Town Designated Engineer.

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SELECTION PROCESS

Consulting engineers will be selected through the evaluation process described herein. A selection committee will be formed to review proposals and interview candidates. The evaluation of the statement of qualifications will be based primarily on the following:

1. Competency of the engineering firm to perform the required services, as indicated by the technical training, education and experience of the firm’s personnel who would be assigned to perform the services;
2. Ability in terms of workload and availability of qualified personnel to perform the required consulting services competently and expeditiously;
3. Past performance as reflected by the evaluations and references of previous or current municipal clients with respect to factors such as control of costs, quality of work, and meeting of deadlines;
4. Demonstration of the knowledge and the process required to bring a project through to completion as a Town of Colonie – Town Designated Engineer; and
5. Other similar facts.

The selection of a consulting engineering firm shall be at the sole discretion of the Town. The town shall authorize any contracts for the services specified herein and reserves the right to modify these services in accordance with changes in its requirements as they may occur.

RIGHTS AND OPTIONS OF THE TOWN

The Town reserves the following rights and options to:

- Reject any and all proposals
- Supplement, amend, or otherwise modify this Request for Qualifications (RFQ)
- Cancel this RFQ with or without the substitution of another RFQ
- Issue additional solicitations for information and proposals, and conduct investigations with respect to the qualifications of each respondent.
 - Make and award, in whole or in part, to one or more firms and individuals responding to the RFQ.

- Should the parties to the RFQ be unable to reach an agreement within 60 days of the opening date, the Town may select another proposal, reissue the RFQ, or take any other actions as deemed appropriate by the Town.

The Town shall retain the right to reject any proposed personnel and to cause the Vendor to replace any personnel during the contract period, with or without cause.

If the Vendor fails to perform the duties/responsibilities/requirements under this RFQ and subsequent agreement, the Town shall have the right to terminate the agreement within 30 days of written notice of the failure.

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Contract Term

The Town is proposing a contract term of five years from the effective date of the Agreement between the Vendor and the Town. The Town shall have the choice of one additional five-year extension (10 years total). The contract can include a reasonable escalation clause as negotiated by the parties. The Town shall have the option of issuing a new Request for Proposal for additional or replacement firms at any time the Town deems it necessary.

NON-COLLUSION STATEMENT

GENERAL MUNICIPAL LAW

CHAPTER 675 - LAWS OF 1966

Amending 103-d General Municipal Law

"a.) By submission of this proposal, each proposer and each person signing on behalf of any proposer, certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1) The fee schedule in this proposal has been arrived at independently without collusion, consultation, communications or agreement, for the purpose of restricting competition, as to any matter relating to such fees with any other proposer with any competitor;
- 2) Information specific to this proposal has not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and
- 3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition."

FIRM

BY

DATE