MEMORANDUM

Agenda Item No. 8(F)(12)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: December 19, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution awarding, approving and authorizing the execution by the County Mayor of a contract in the amount of $10,408,760.00 between Miami-Dade County and Miami Skyline Construction Corp. for the construction of the new Northeast Branch Library, Contract No. Z00086

Resolution No. R-1114-11

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: December 19, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Edward Marquez
Deputy Mayor

Subject: Contract Award Recommendation for Construction of the new Northeast Branch Library, Project No. Z00086 GOB ESP/Contract No. Z00086, between Miami Skyline Construction Corp. and Miami-Dade County

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) award, approve and authorize the execution of the construction contract No. Z00086 (Contract) for Project No. Z00086 GOB ESP (Project) to Miami Skyline Construction Corp. (Miami Skyline), in the amount of $10,408,760 for the construction of the new Northeast Branch Library, as described in the County Deputy Mayor's Recommendation for Award dated October 13, 2011, and the Internal Services Department's (ISD) Notice of Intent to Award dated Memorandum dated November 7, 2011 (attached collectively as Exhibit A).

SCOPE

The new Northeast Branch Library is located at 2930 Aventura Blvd in Commission District 4. However, the impact of this agenda item is countywide as the future Northeast Branch Library is a communal asset, which will be utilized by residents throughout Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

The construction cost will be $10,408,760 and is being funded from Building Better Communities General Obligation Bond (BBC GOB) Program Funds, Capital Asset Series 2007 Bond Proceeds, and Miami-Dade Library Taxing District Funds, as programmed within the adopted Capital Budget for FY 2011-12, Project Number 908680.

Throughout the life of the asset, the average yearly maintenance cost is estimated at $430,435, which will be funded through the Miami-Dade Library Taxing District.

TRACK RECORD/MONITOR

Pursuant to the Firm History Report provided by the Small Business Development (SBD) division of the Sustainability, Planning and Economic Enhancement Department, Miami Skyline has been awarded five contracts with the County in the last five years for a total value of $19,632,681, which includes $171,690 in approved change orders. Based on the County's Capital Improvements Information System (CIIS) database, the County has completed eleven evaluations for Miami Skyline, which reflect the contractor's satisfactory performance with an average rating of 2.7, with 4.0 being the highest rating possible.

The ISD's Design and Construction Services Division staff members responsible for monitoring the Agreement are Eddy Etienne, Construction Manager 2, and H. Patrick Brown, Construction Manager 3.

BACKGROUND

The construction of the Northeast Branch Library was one of the more than 300 capital improvement projects eligible to be funded by the BBC GOB Program. This facility will replace the original library, which was damaged beyond repair during Hurricane Wilma. It is being built at the same location and will provide free cultural, educational, and recreational library-based programs to the local community. At the request of the Library Department, the ISD's Architecture and Engineering Section has completely designed the facility with in-house staff. ISD's Construction Management Section will provide construction oversight throughout final acceptance of the building by the Library Department.

Pursuant to Section 2-8.2.7 of the Code of Miami-Dade County, the Economic Stimulus Ordinance, the County Mayor has the authority to award the contract without prior Board approval, subject to latter ratification by the Board at the next available meeting unless a timely bid protest is filed. For the purposes of this contract, the County Mayor has delegated his authority (copy attached). On November 7, 2011, the Clerk of the Board filed both the Deputy Mayor's Recommendation for Award and ISD's Notice of Intent to Award, which were communicated to all bidders that responded to the bid solicitation. On November 10, 2011, a timely bid protest was filed with the Clerk of the Board by the second lowest bidder, Perez-Gurri Corp. d.b.a. N&J Construction (N&J), stating that "Miami Skyline's bid submission for the Project does not satisfy the responsibility requirements identified in the advertisement for bid."

On December 1, 2011, a hearing was conducted in accordance with the bid protest procedures codified in Section 2-8.4 of the Code of Miami-Dade County and Implementing Order 3-21. The County Attorney's Office opposed the protest, finding and arguing that Miami Skyline was indeed the lowest responsive, responsible bidder (see the County Attorney's memorandum in opposition as Exhibit B). In an opinion filed on December 2, 2011 (Exhibit C), the Hearing Examiner denied the protest and concurred with the Deputy Mayor's Recommendation for Award of the Contract to Miami Skyline.

Based on the foregoing, it is recommended that the Contract be awarded to Miami Skyline, and that the Deputy Mayor be authorized to execute the Contract and all termination and renewal provisions therein.

DELEGATED AUTHORITY

The authority of the Deputy Mayor to execute and implement this contract is consistent with those authorities granted under the Code of Miami-Dade County. In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond those specified in the resolution which include the County Mayor or County Mayor's designee to execute the Agreement, and to exercise the cancellation and renewal provisions.

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: December 19, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 8(F)(12)

Please note any items checked.

_____	**"3-Day Rule" for committees applicable if raised**
_____	**6 weeks required between first reading and public hearing**
_____	**4 weeks notification to municipal officials required prior to public hearing**
_____	**Decreases revenues or increases expenditures without balancing budget**
_____	**Budget required**
_____	**Statement of fiscal impact required**
✓	**Ordinance creating a new board requires detailed County Manager's report for public hearing**
_____	**No committee review**
✓	**Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**
_____	**Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(12)
12-19-11

RESOLUTION NO. R-1114-11

RESOLUTION AWARDING, APPROVING AND AUTHORIZING THE EXECUTION BY THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE OF A CONTRACT IN THE AMOUNT OF $10,408,760.00, FUNDED IN PART BY BUILDING BETTER COMMUNITIES GOB FUNDS, BETWEEN MIAMI-DADE COUNTY AND MIAMI SKYLINE CONSTRUCTION CORP. FOR THE CONSTRUCTION OF THE NEW NORTHEAST BRANCH LIBRARY, CONTRACT NO. Z00086; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY TERMINATION AND RENEWAL PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Awards and approves the Contract between Miami-Dade County and Miami Skyline Construction Corp. in the amount of $10,408,760.00 for the construction of the new Northeast Branch Library – Project No. Z00086 GOB ("Contract") ESP, in substantially the form attached hereto and made part hereof.

Section 2. Authorizes the County Mayor or the County Mayor's designee to execute the Contract after review and approval by the County Attorney's Office; and to exercise any cancellation and renewal provisions therein.

The foregoing resolution was offered by Commissioner **Audrey Edmonson**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	**aye**		
Audrey M. Edmonson, Vice Chairwoman	**aye**		
Bruno A. Barreiro	**aye**	Lynda Bell	**aye**
Esteban L. Bovo, Jr.	**aye**	Jose "Pepe" Diaz	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Rebeca Sosa	**aye**	Sen. Javier D. Souto	**aye**
Xavier L. Suarez	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of December, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: *Christopher Agrippa*
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Richard Seavey

Memorandum

MIAMI-DADE COUNTY

Date: October 31, 2011

To: Edward Marquez
Deputy Mayor

From: Mayor Carlos A. Gimenez

Subject: Project No. Z00086 GOB ESP – Northeast Branch Library

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In accordance with the letter opinion issued by Robert Meyers, Executive Director, Miami-Dade Commission on Ethics and Public Trust, dated August 31, 2011 ("Ethics Opinion"), I hereby delegate to you all delegable authority relating to the administration of Project No. Z00086 GOB ESP – Northeast Branch Library. You should exercise this authority and utilize your own judgment and should take all actions which are in the best interest of Miami-Dade County and consistent with the County Code, regulations, rules and the contract documents. Consistent with the Ethics Opinion, I will not be participating in any decisions made regarding this contract. In the event an issue arises in the exercise of delegated authority which requires action by the County Mayor and that action is not delegable under Florida law, the Miami-Dade County Home Rule Charter (e.g., waiver of competitive bidding) or the County Code (e.g., Mayoral sponsorship of an agenda item to be considered by the County Commission), please seek an opinion from the Ethics Commission regarding the appropriate course of action as recommended in the Ethics Opinion.

c: Robert A. Cuevas, Jr., County Attorney
Joe Centorino, Executive Director, Commission on Ethics and Public Trust
Lisa Martinez, Senior Advisor
Christopher Agrippa, Clerk of the Board
Lester Sola, Director, Internal Services
Raymond Santiago, Library

NORTHEAST REGIONAL LIBRARY
GSA CONTRACT NO. Z00086 / GSA PROJECT NO. Z00086 GOB ESP
SECTION 00500 - CONSTRUCTION CONTRACT

THIS CONTRACT, made and entered into on this ____ day of _____, 20____, by and between Miami-Dade County, Florida, acting by and through the Office of The Mayor, party of the first part (hereinafter sometimes called the "County"), and MIAMI SKYLINE CONSTRUCTION CORP. party of the second part (hereinafter sometimes called "Contractor");

WITNESSETH

That the parties hereto, for and in consideration of the covenants and agreements hereinafter set forth, mutually agree as follows, to wit:

1. That the Contractor shall furnish all plant, labor, materials and equipment and perform all work in the manner and form provided by the Contract Documents covering the Project of the County known and identified as **GSA NO. Z00086, NORTHEAST REGIONAL LIBRARY** for the amount reflected by the Proposal, based on the Contract prices shown in the Proposal heretofore provided by the County, a copy of said Proposal being a part of the Contract Documents, the aggregate amount of this not to exceed _____ ($_____).

2. That the Contractor shall begin the work to be performed under this Contract on a day to be specified in a written order issued by the Contracting Agent, and shall fully complete all work hereunder within the time or times stated within the Contract Documents.

3. That the County shall pay to the Contractor for the faithful performance of this Contract in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents, the total amount of the aggregate prices for work performed as set forth above at the times and in a manner stated in the General Covenants and Conditions of the Contract Documents.

4. It is further mutually agreed that if at any time after the execution of this Contract and the Performance Bond and Payment Bond, the County shall find the surety upon such bonds to be unsatisfactory, or if for any reason such bond shall become inadequate to cover the performance of the work, the Contractor shall at his own expense, within five (5) days after the receipt of notice from the County to do so, furnish an additional bond or bonds in such form and amount and with such

surety or sureties as shall be satisfactory to the County. In such event, no further payment to the Contractor shall be deemed to be due under this Contract until such new or additional surety shall have been furnished in a manner and form satisfactory to the County.

5. The "Contract Documents" are hereby defined as: (electronic check box)

☐Questionnaire	☒Proposal
☒Advertisement for Bids	☒Financial Statement
☒Instructions to Prospective Contractors	☒General Covenants and Conditions
☒Code and Ordinance Requirements	☒ Supplemental General Covenants and Conditions
☒Bid Protest Information	☐Applicable Federal Requirements
☒Special Provisions	☒Small Business Development Provisions
☒Vendor Affirmation Affidavit	☒Wages and Benefits Provisions
☒Specific Code / Affidavits Applications	☒Specifications
☐Ownership Disclosure Form	☒Standards
☒Community Workforce Program Job Order Request Form	☒Performance and Payment Bond
☒Contract	☒All Addenda Issued
☒Bid Bond	☐Other
☒Plans / Sketches	

6. The terms and conditions of said Contract Documents are incorporated herein by reference and made a part hereof as though fully set forth herein. The Contract Documents are complementary, so that a recital in one is tantamount to a recital in all, and the Contractor specifically acknowledges that he has read and understands all of said Contract Documents.

7. The various indemnities of the Contractor contained in the Contract Documents indemnifying the County from liability for damages to persons or property caused by acts, omissions, or defaults in the performance of the Contract Documents shall have a monetary limitation of $1,000,000, or the entire amount of the Contract, whichever is larger.

8. The County retains the right to audit any and all information regarding this Contract as described in Article 18, "AUDIT RIGHTS BY AUDIT AND MANAGEMENT SERVICES AND BCC AUDITOR" of the Instructions to Prospective Contractors.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

WHEN THE CONTRACTOR IS A CORPORATION

ATTEST:
Secretary: _____ Miami Skyline Construction Corp.
Signature — Legal Name of Corporation

By: Miami Skyline Construction Corp. _____
Legal Name of Corporation — Signature

_____ Claudio S. Rodriguez, President
(Corporate Seal) — Legal Name and Title

WHEN THE CONTRACTOR IS A PARTNERSHIP

ATTEST: N/A
Witness: _____ _____
Signature — Legal Name of Partnership

Witness: _____ _____
Signature — Legal Name and Title

_____ By: _____
Date Signed — Signature

(Seal) _____
Legal Name and Title

By: _____
Signature

EXHIBIT A

Contract Award Recommendation dated October 13, 2011

Notice of Intent to Award dated November 7, 2011

MEMORANDUM

MIAMI-DADE COUNTY

Date: October 13, 2011

To: Edward Marquez
Deputy Mayor

From: Lester Sola
Director
Internal Services Department

Subject: Contract Award Recommendation for the Construction of the new Northeast Branch Library Project No. Z00086 GOB ESP; Contract No. Z00086, to Miami Skyline Construction Corp.

Recommendation

This Recommendation for Award of Construction Contract No. Z00086 between Miami Skyline Construction Corp. and Miami-Dade County, in an amount not to exceed $10,408,760.00, has been prepared by the Internal Services Department (ISD) and is recommended for approval pursuant to Section 2-8.2.7 of the Code of Miami-Dade County.

Background:

BACKGROUND:

On November 2, 2004, Miami-Dade County voters overwhelmingly approved the construction of a variety of capital improvement projects through the "Building Better Communities" General Obligation Bond (GOB) Program.

The construction of the Northeast Branch Library was one of the more than 300 capital improvement projects eligible to be funded by the GOB Program. This facility will replace the original library, which was damaged beyond repair during Hurricane Wilma. It is being built at the same location and will provide free cultural, educational, and recreational library-based programs to the local community.

At the request of the Library Department, ISD's Architecture and Engineering Section has completely designed the facility with in-house staff. The ISD's Construction Management Section will provide construction oversight throughout final acceptance of the building by the Library Department.

During the course of the bid review process, ISD received a complaint from the second lowest bidder on the project alleging that Miami Skyline Construction Corp. (MSCC), the lowest bidder, provided misleading information regarding its previous work experience. ISD contacted the references provided by MSCC, among them the School Board of Broward County and the City of Weston's Assistant City Manager, and found the allegations to be inaccurate.

After careful, deliberate review of all the documentation at our disposal, and discussions with the County Attorney's Office regarding the steps to be taken to finalize this process in a transparent, responsible manner, ISD concluded that the documentation submitted by MSCC as proof of its previous experience does comply with the responsibility requirements set forth in our bid documents.

Scope:

PROJECT NAME: Construction of the new Northeast Branch Library

PROJECT NO: Z00086 GOB ESP

CONTRACT NO: Z00086

PROJECT DESCRIPTION: The project consists of a new one-story concrete and steel building, with two (2) open, landscaped courtyards. The total footprint of the building, including the courtyards and non-air conditioned areas, will be approximately 28,000 sq. ft. Pursuant to County Implementing Order No. 8-8, this facility has been designed to achieve a minimum of "Silver" certification level under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system.

PROJECT LOCATION: 2930 Aventura Blvd., Aventura, FL 33180

PROJECT SITES:

SITE #	LOCATION	DIST	ESTIMATE	T-S-R
#70309	2930 Aventura Blvd., Miami, FL 33180	4	$10,564,891.00	51-34-42

PRIMARY COMMISSION DISTRICT: District 4 Sally A. Heyman

APPROVAL PATH: Mayor's Authority This project is included in the Economic Stimulus Plan.

USING DEPARTMENT: Library Department

MANAGING DEPARTMENT: Internal Services Department

DELEGATION OF AUTHORITY: The authority of the County Mayor or County Mayor's designee to execute and implement this contract is consistent with those authorities granted under the Code of Miami-Dade County. No additional authority is being requested within the body of this contract.

Fiscal Impact / Funding Source

FUNDING SOURCE:

SOURCE	PROJECT NUM	SITE #	AMOUNT
Building Better Communities GOB Program	908680	70309	$2,446,121.00
Miami-Dade Library Taxing District	908680	70309	$7,479,000.00
Capital Asset Series 2007 Bond Proceeds	908680	70309	$614,891.00
		Total Funding:	$10,564,891.00

OPERATIONS COST IMPACT/FUNDING:	The annual operating cost for this facility has been estimated to be $2,597,738 which will be funded through the Library Taxing District.
MAINTENANCE COST IMPACT/FUNDING:	The annual maintenance cost for this facility has been estimated to be $430,435 which will be funded through the Library Taxing District.
LIFE EXPECTANCY OF ASSET:	The life expectancy for this facility has been estimated to be 40 years, before the next building re-certification.
PTP FUNDING:	No
GOB FUNDING:	Yes
ARRA FUNDING:	No

CAPITAL BUDGET PROJECTS:

BUDGET PROJECT # - DESCRIPTION	AWARD ESTIMATE
908680- NORTHEAST BRANCH LIBRARY Book Page:116 Funding Year: Proposed as Adopted Capital Budget Book for FY 2011-12, All Years' Funding, Building Better Communities General Obligation Bond (GOB) Program	$2,471,000.00
908680- NORTHEAST BRANCH LIBRARY Book Page:116 Funding Year: Proposed as Adopted Capital Budget Book for FY 2011-12, All Years' Funding, Miami-Dade Library Taxing District	$7,479,000.00
908680- NORTHEAST BRANCH LIBRARY Book Page:116 Funding Year: Proposed as Adopted Capital Budget Book for FY 2011-12, All Years' Funding, Capital Asset Series 2007 Bond Proceeds	$614,891.00
Project Totals:	$10,564,891.00

GOB PROJECT:

GOB PROJECT # - DESCRIPTION	GOB AWARD ESTIMATE
263 - Construction of the new Northeast Branch Library	$2,471,000.00

PROJECT TECHNICAL CERTIFICATION REQUIREMENTS:	Miami-Dade County Contractor's Certification is required in one of the following categories: General Building, General Engineering, or other categories as applicable to Chapter 10 of the Miami-Dade County Code, or State of Florida General Contractor's License.
BID PACKAGES ISSUED:	332
BID RECEIVED:	12
CONTRACT PERIOD:	515 calendar days to obtain substantial completion (it excludes Warranty Administration Period).
CONTINGENCY PERIOD:	52 calendar days

IG FEE INCLUDED IN BASE CONTRACT:	Yes
ART IN PUBLIC PLACES:	Yes
BASE ESTIMATE:	$9,800,000.00
BASE CONTRACT AMOUNT:	$9,768,000.00 (*)

(*) As indicated in Section 00300, Proposal Form, the base contract amount includes the following deductive alternate item: $40,000.00 to deduct Completed Value Builders' Risk Insurance on an "all risk" basis. At the sole discretion of the County, this item may be removed from the base contract amount.

	TYPE	PERCENT (**)	AMOUNT	COMMENT
CONTINGENCY ALLOWANCE (SECTION 2-8.1 MIAMI DADE COUNTY CODE):	New Construction	5.00%	$488,400.00	County Ordinance 00-65 (5% of base contract amount for New Construction)
ALLOWANCE ACCOUNT FOR PERMITS:		2.00%	$195,360.00	Reimbursable expenses with prior authorization from the County related to permit fees.
ALTERNATE NO. 6 SHELL SPACE		(0.10%)	($10,000.00)	At the sole discretion of the County, provide a shell space for the Coffee Shop Room 137.
ALTERNATE NO. 7 DRYWALL PARTITION		(0.92%)	($90,000.00)	At the sole discretion of the County, provide drywall partition instead of glass wall in Conference Room Nos. 113, 118, and 129.
ALTERNATE NO. 8 KAWNEER CURTAIN WALL SYSTEM 1600		0.58%	$57,000.00	At the sole discretion of the County, provide Kawneer curtain wall system 1600 at covered deck area. NOA # 08-1103.08 or approved equal.
SUB-TOTAL AMOUNT:			$10,408,760.00	
ART IN PUBLIC PLACES:		1.50%	$156,131.00	Administrative Order 3-11 (based on sub-total amount)
TOTAL AMOUNT:			$10,564,891.00	

Track Record/Monitor

SBD HISTORY OF VIOLATIONS:	None
EXPLANATION:	Based on the Office of Capital Improvement's CIIS database, the County has completed ten (10) evaluations for Miami Skyline Construction Corp., which reflect the contractor's satisfactory performance with an average rating of 2.7 with 4.0 being the highest rating possible. On June 29, 2011, the County received twelve (12) proposals in response to a bid advertisement issued on April 29, 2011. Miami Skyline is considered to be the lowest responsive, responsible bidder with a bid price of $9,768,000.00, which is 0.33% lower than the original estimate.
BID OPEN DATE:	6/29/2011
BID BOND EXPIRES:	12/26/2011
BID VALID UNTIL:	12/26/2011
ESTIMATED NOTICE TO PROCEED:	10/29/2011
PRIME CONTRACTOR:	Miami Skyline Construction Corp.
COMPANY PRINCIPAL:	Claudio Rodriguez
COMPANY QUALIFIERS:	Claudio Rodriguez, CBC 057075
COMPANY EMAIL ADDRESS:	office@miamiskylineconstruction.com
COMPANY STREET ADDRESS:	609 NE 127th Street
COMPANY CITY-STATE-ZIP:	Miami, Florida 33161
YEARS IN BUSINESS:	15

PREVIOUS CONTRACTS WITH COUNTY IN THE LAST FIVE YEARS:	Pursuant to the Firm History Report provided by the Small Business Development (SBD) division, Miami Skyline Construction Corp. has been awarded five (5) contracts with the County in the last five years for a total value of $19,632,681.75 which includes $171,690.60 in approved change orders.
SUB CONTRACTORS AND SUPPLIERS (SECTION 10-34 MIAMI DADE COUNTY CODE):	Al Hill Enterprise, Corporation - Plumbing ABK Construction, Inc - Drainage, Water, and Sewer Work Thermal Flow, Inc. - HVAC Creative Terrazzo Systems, Inc. - Terrazzo flooring A C Electrical Contractor, Inc. - Electrical
MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS:	No
STANDARD PAYMENT AND PERFORMANCE BOND:	Yes. Progress Payment, Payment and Performance Bond.
REVIEW COMMITTEE:	**MEETING DATE:** 2/24/2011 **SIGNOFF DATE:** 3/4/2011
APPLICABLE WAGES: (RESOLUTION No. R-54-10)	Yes

REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:

TYPE	GOAL	ESTIMATED VALUE	COMMENT
CSBE	26.00%	$2,666,664.00	Administrative Order 3-22
CBE	0.00%	$0.00	N/A
DBE	0.00%	$0.00	N/A
CWP	0.00%	0	N/A

MANDATORY CLEARING HOUSE:	Yes		
CONTRACT MANAGER NAME/PHONE/E-MAIL:	Lillian D. Garcia	305-375-3913	garciad@miamidade.gov
PROJECT MANAGER NAME/PHONE/E-MAIL:	Eddy Etienne	786-469-2757	eetienn@miamidade.gov

BUDGET APPROVAL FUNDS AVAILABLE: _____ _____
OMB DIRECTOR **DATE**

APPROVED AS TO LEGAL SUFFICIENCY: _____ 10/24/11
COUNTY ATTORNEY **DATE**

_____ 10/4/11
~~COUNTY~~ MAYOR **DATE**
Deputy

CLERK DATE: _____
DATE

Memorandum

MIAMI-DADE COUNTY

Date: October 31, 2011

To: Edward Marquez
Deputy Mayor

From: Mayor Carlos A. Gimenez

Subject: Project No. Z00086 GOB ESP – Northeast Branch Library

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In accordance with the letter opinion issued by Robert Meyers, Executive Director, Miami-Dade Commission on Ethics and Public Trust, dated August 31, 2011 ("Ethics Opinion"), I hereby delegate to you all delegable authority relating to the administration of Project No. Z00086 GOB ESP – Northeast Branch Library. You should exercise this authority and utilize your own judgment and should take all actions which are in the best interest of Miami-Dade County and consistent with the County Code, regulations, rules and the contract documents. Consistent with the Ethics Opinion, I will not be participating in any decisions made regarding this contract. In the event an issue arises in the exercise of delegated authority which requires action by the County Mayor and that action is not delegable under Florida law, the Miami-Dade County Home Rule Charter (e.g., waiver of competitive bidding) or the County Code (e.g., Mayoral sponsorship of an agenda item to be considered by the County Commission), please seek an opinion from the Ethics Commission regarding the appropriate course of action as recommended in the Ethics Opinion.

c: Robert A. Cuevas, Jr., County Attorney
Joe Centorino, Executive Director, Commission on Ethics and Public Trust
Lisa Martinez, Senior Advisor
Christopher Agrippa, Clerk of the Board
Lester Sola, Director, Internal Services
Raymond Santiago, Library

MIAMI-DADE COUNTY

[redacted]

Project No.: Z00086 GOB ESP

Project Description: Construction of the new Northeast Regional Library

Bid Due Date: 6/28/2011 **Bid Opening Date:** 6/29/2011 **Number of Addenda Issued:** 4

Bid Ranking	Company Name	Bid Price	Alternates	Total Cost	Bid Alternates Submitted			Bid Bond Submitted (check box that applies)				Addenda Acknowledge or Submitted			DBD Form 400 Submitted		
					Yes	No	N/A	Check	Bond Form	No	N/A	Yes	No	N/A	Yes	No	N/A
1	Miami Skyline Construction Corp.	$9,768,000.00	($1,056,000.00)	$8,712,000.00	X				X			X			X		
2	Perez Gurri Corporation dba N & J Construction Corporation	$10,098,000.00	($1,162,363.00)	$8,935,637.00	X				X			X			X		
3	DiPompeo Construction Corporation	$10,377,000.00	($1,313,000.00)	$9,064,000.00	X				X			X			X		
4	Merkury Development	$10,500,000.00	($984,869.00)	$9,515,131.00													
5	KVC Constructors, Inc.	$11,251,228.00	($948,850.00)	$10,302,378.00													
6	Munilla Construction Management, LLC dba MCM	$11,325,000.00	($709,662.00)	$10,615,338.00													
7	Link Construction Group	$11,650,000.00	($1,826,213.00)	$9,823,787.00													
8	Betancourt Castellon and Associates	$11,690,000.00	($1,494,000.00)	$10,196,000.00													
9	West Construction Inc.	$11,734,000.00	$1,071,898.00	$12,805,898.00													
10	H A Contracting Corp	$11,920,000.00	($208,000.00)	$11,712,000.00													
11	ABC Construction Inc.	$11,937,000.00	($1,252,000.00)	$10,685,000.00													
12	Grace & Naeem Uddin, Inc.	$12,405,654.00	($1,136,092.00)	$11,269,562.00													

Signature of Person Opening Bids: Jillian Paige

Name of Witness:

CMS Construction Manager: Tammye Wells Date: 7/19/11

Fernando V. Ponasol, CAS Manager: Date 7/8/11

Comments

20

Proposed FY 2011-12

STRATEGIC AREA: Recreation and Culture
DEPARTMENT: Library

******* FUNDED PROJECTS *******
(dollars in thousands)

KILLIAN BRANCH LIBRARY **PROJECT # 908050**

DESCRIPTION: Construct a 15,000 square foot branch library in the Killian area

LOCATION: 11162 SW 87 Ct
Unincorporated Miami-Dade County

DISTRICT LOCATED: 8
ESTIMATED ANNUAL OPERATING IMPACT: $1,682 DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	FUTURE	TOTAL
Miami-Dade Library Taxing District	2,000	0	0	0	0	0	0	0	2,000
BBC GOB Series 2005A	12	0	0	0	0	0	0	0	12
BBC GOB Series 2008B	2	0	0	0	0	0	0	0	2
BBC GOB Future Series	0	0	0	0	0	0	8,986	0	8,986
TOTAL REVENUE:	**2,014**	**0**	**0**	**0**	**0**	**0**	**8,986**	**0**	**11,000**

EXPENDITURE SCHEDULE:	PRIOR	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	FUTURE	TOTAL
Art Allowance	0	0	0	0	0	0	91	0	91
Land/Building Acquisition	2,000	0	0	0	0	0	0	0	2,000
Planning and Design	0	0	0	0	0	0	0	952	952
Construction	0	0	0	0	0	0	0	7,957	7,957
TOTAL EXPENDITURES:	**2,000**	**0**	**0**	**0**	**0**	**0**	**91**	**8,909**	**11,000**

NORTHEAST REGIONAL LIBRARY **PROJECT # 908680**

DESCRIPTION: Reconstruct the Northeast Regional Library

LOCATION: 2930 Aventura Blvd
Aventura

DISTRICT LOCATED: 4
ESTIMATED ANNUAL OPERATING IMPACT: $2,081 DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	FUTURE	TOTAL
Capital Asset Series 2007 Bond Proceeds	8,050	0	0	0	0	0	0	0	8,050
Miami-Dade Library Taxing District	7,479	0	0	0	0	0	0	0	7,479
BBC GOB Series 2005A	11	0	0	0	0	0	0	0	11
BBC GOB Series 2008B	8	0	0	0	0	0	0	0	8
BBC GOB Future Series	0	2,471	0	0	0	0	0	0	2,471
TOTAL REVENUE:	**15,548**	**2,471**	**0**	**0**	**0**	**0**	**0**	**0**	**18,019**

EXPENDITURE SCHEDULE:	PRIOR	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	FUTURE	TOTAL
Art Allowance	229	0	0	0	0	0	0	0	229
Planning and Design	1,676	0	0	0	0	0	0	0	1,676
Construction	693	8,029	3,071	0	0	0	0	0	11,793
Furniture, Fixtures and Equipment	0	0	3,000	0	0	0	0	0	3,000
Construction Management	60	200	100	0	0	0	0	0	360
Project Administration	175	140	120	0	0	0	0	0	435
Project Contingency	0	0	526	0	0	0	0	0	526
TOTAL EXPENDITURES:	**2,833**	**8,369**	**6,817**	**0**	**0**	**0**	**0**	**0**	**18,019**

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Adopted FY 2010-11

STRATEGIC AREA: Recreation and Culture
DEPARTMENT: Library

******* FUNDED PROJECTS *******
(dollars in thousands)

NORTHEAST REGIONAL LIBRARY **PROJECT # 908680**

DESCRIPTION: Reconstruct the Northeast Regional Library

LOCATION: 2930 Aventura Blvd
Aventura

DISTRICT LOCATED: 4
ESTIMATED ANNUAL OPERATING IMPACT: $2,081 DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Capital Asset Series 2007 Bond Proceeds	3,047	0	0	0	0	0	0	0	3,047
Miami-Dade Library Taxing District	912	6,384	2,186	0	0	0	0	0	9,482
BBC GOB Series 2005A	11	0	0	0	0	0	0	0	11
BBC GOB Series 2008B	8	0	0	0	0	0	0	0	8
BBC GOB Series 2010B	0	506	0	0	0	0	0	0	506
BBC GOB Future Series	0	0	1,965	0	0	0	0	0	1,965
TOTAL REVENUE:	**3,978**	**6,890**	**4,151**	**0**	**0**	**0**	**0**	**0**	**15,019**

EXPENDITURE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Planning and Design	19	500	16	0	0	0	0	0	535
Construction	145	7,844	5,574	811	0	0	0	0	14,374
Project Administration	0	0	110	0	0	0	0	0	110
TOTAL EXPENDITURES:	**164**	**8,344**	**5,700**	**811**	**0**	**0**	**0**	**0**	**15,019**

Library Facilities - Repairs and Renovations

ALLAPATTAH BRANCH LIBRARY **PROJECT # 904620**

DESCRIPTION: Renovate and rehabilitate the Allapattah Branch Library

LOCATION: 1799 NW 35 St
City of Miami

DISTRICT LOCATED: 3
ESTIMATED ANNUAL OPERATING IMPACT: Minimal DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
BBC GOB Future Series	0	0	0	0	0	0	0	420	420
TOTAL REVENUE:	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**420**	**420**

EXPENDITURE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Planning and Design	0	0	0	0	0	0	0	64	64
Construction	0	0	0	0	0	0	0	348	348
Project Administration	0	0	0	0	0	0	0	8	8
TOTAL EXPENDITURES:	**0**	**0**	**0**	**0**	**0**	**0**	**0**	**420**	**420**

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Memorandum

MIAMI-DADE COUNTY

Date: October 13, 2011

To: Christopher Agrippa
Acting Division Chief
Clerk of the Board

From: Lester Sola
Director
Internal Services Department

Subject: Revision to the Request to Advertise (RTA)
Project No. Z00086 GOB ESP
Project Title: Construction of the new Northeast Branch Library

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This revision to the Request to Advertise (RTA) for construction services has been prepared by the General Services Administration (GSA) and is respectfully submitted for your records.

On April 25, 2011, the attached RTA was approved and filed with the Clerk of Courts; the project was then advertised on April 29, 2011 under the project title listed in the Adopted Capital Budget Book, FY 2010-11, page 118, Northeast Regional Library (attached). Subsequently, at the request of the Library Department, it was determined that the project title be denoted as Northeast Branch Library instead. As a result, please reflect subject modifications to the RTA.

As always, we thank you for your continuous support and assistance. If you have any questions, please contact Fernando V. Ponassi, Manager, Contracts Administration, at 305-375-3965.

Attachments

cc: Wendi J. Norris, ISD
Jose R. Perez, AIA, LEED®AP, Director, DCSD, ISD
Fernando V. Ponassi, LEED®AP, Manager, CAS, ISD
Asael "Ace" Marrero, Manager, AES, ISD
Suzet Alvarez-Cleary, Assistant Director, MDPLS
Clerk of the Board
Project File

2004 BUILDING BETTER COMMUNITIES BOND PROGRAM
RECOMMENDED LIST OF PROJECTS

APPENDIX A

PROJECT NUMBER	MUNICIPAL PROJECT LOCATION	BCC DISTRICT	PROJECT NAME	PROJECT DESCRIPTION	STREET ADDRESS	ALLOCATION (000's)
261	Miami	3	**Facility Renovation and Rehabilitation of the Culmer/Overtown Branch Library**	Major interior and exterior renovations to include renovating existing bathrooms and removing architectural barriers for ADA compliance and installing motorized hurricane shutters or approved window film. Enhance electrical/data infrastrudture to support additional computers.	350 NW 13 Street	**$235**
262	Miami Beach	4	**Flagler Memorial Monument**	Restore the Flagler Memorial Monument through the Office of Historic Preservation. Built in 1920 by Carl Fisher, developer of Miami Beach, and dedicated to Henry M. Flagler, founder of the City of Miami, it stands on a small spoil island on Biscayne Bay. This 96 foot high obelisk with allegorical sculptures at its base is a familiar landmark to boaters and visitors along the shores of Miami Beach. The historic monument is in serious disrepair due to its exposure to harsh marine elements, vandalism and years of deferred maintenance.	Monument Island Biscayne Bay	**$250**
263	Aventura	4	**Facility Renovation and Rehabilitation of the Northeast Branch Library**	Major interior and exterior renovations to include replacing HVAC unit and roof; installing new energy efficient lighting and new flooring; exterior painting, redesigning of the main entrance and entrance plaza to include new landscaping; resurfacing and striping of parking lot; install new parking lot lighting; installing motorized hurricane shutters or approved window film. Enhance electrical/data infrastructure to support additional computers.	2930 Aventura Blvd.	**$2,490**
264	Miami	5	**First Miami High School**	Complete the restoration of the first Miami High School, through the Office of Historic Preservation, which will house a park and recreation office, historic exhibits and a computer learning center. Built in 1905, this building served as the first high school in Miami. In 1911, it was relocated from downtown Miami by barge to a site adjacent to the old Southside Elementary School. Recently saved from demolition by relocating it to Southside Park, it has already undergone structural stabilization and has received a new wood shingle roof.	142 SW 11 Street	**$300**

h2

Note: Allocation shown in nominal value

Memorandum

MIAMI-DADE COUNTY

Date: September 26, 2011

To: Asael Marrero
A&E Section Manager
General Service Administration

From: Julio Castro, Library Capital Development Coordinator
Miami-Dade Public Library System
101 West Flagler Street, 3rd Floor, Miami, FL 33130

Subject: WO Z00086 – Correction on the library's name

Please correct the name of the Northeast Library- instead of the Northeast Regional Library it should read the Northeast Branch Library. Thank you.

Cc: Suzet Alvarez Cleary

Ponassi, Fernando (GSA)

From: Marrero, Asael (GSA)
Sent: Monday, September 26, 2011 12:15 PM
To: Garcia, Lillian D. (GSA)
Cc: Ponassi, Fernando (GSA); Perez, Jose (GSA)
Subject: FW: Northeast Branch Library Memo
Attachments: Northeast Branch Library Memo.doc

fyi

From: Castro, Julio E. (LIB)
Sent: Monday, September 26, 2011 11:56 AM
To: Marrero, Asael (GSA)
Cc: Alvarez-Cleary, Suzet (LIB)
Subject: Northeast Branch Library Memo

Attached please find the renaming memo you requested for the Northeast Library Project. Thank you.

Julio

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MIAMI DADE COUNTY
Department of Small Business Development
Firm History Report

From: 08/04/2006 **To:** 08/04/2011

FIRM NAME: MIAMI SKYLINE CONSTRUCTION CORP.
609 NE 127th St
North Miami, FL 33161

PRIMES

PROJECT #	CONTRACT	DEPT.	MEASURES	AWARD DATE	AWARD AMOUNT
493501-02-001	1	PR	GOAL CSBE 16%	02/19/2008	$4,604,242.50
KENDALL SOCCER PARK PHASE II & IIA - ARTIFICIAL SOCCER FIELDS, RESTROOM BUILDING, LIGHTED PARKING LOT & WALKWAYS (SIC 16)					
					$4,604,242.50
W-888R	1	WS	GOAL CSBE 21%	11/20/2008	$2,164,106.25
JOHN E. PRESTON WATER TREATMENT PLANT DRINKING WATER QUALITY LABORATORY (SIC 15)					
Change Order # 1	OCT-06-09	90 days			$0.00
Change Order # 2	NOV-04-10	150 days			$171,690.60
					$2,335,796.85
W70259	1	GS	GOAL CSBE 26%	06/23/2009	$2,391,390.00
ARCOLA LIBRARY (SIC 15)					
					$2,391,390.00
Z00044-C	1	GS	GOAL CSBE 29%	02/25/2010	$6,416,842.00
NORTHSIDE POLICE STATION AT ARCOLA (SIC 15)					
					$6,416,842.00
Z00045 ESP	1	GS	GOAL CSBE 27%	09/22/2010	$4,056,101.00
CONSTRUCT ARCOLA HEADSTART CENTER FACILITY (SIC 15)					
					$4,056,101.00

* Indicates closed or expired contracts
Disclaimer: Payments shown may not reflect current information

DBD
DEPARTMENT OF BUSINESS DEVELOPMENT

MIAMI DADE COUNTY
Department of Small Business Development
Firm History Report

From: 08/04/2006 **To:** 08/04/2011

FIRM NAME: MIAMI SKYLINE CONSTRUCTION CORP.
609 NE 127th St
North Miami, FL 33161

PRIMES

PROJECT #	CONTRACT	DEPT.	MEASURES	AWARD DATE	AWARD AMOUNT
			Total Award Amount		**$19,632,681.75**
			Total Change Orders Approved by BCC		**$171,690.60**
					$19,804,372.35

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* Indicates closed or expired contracts
Disclaimer: Payments shown may not reflect current information

MIAMI-DADE COUNTY

Dept. of Small Business Development
Economic Stimulus Project

Project/Contract Title: NORTHEAST REGIONAL LIBRARY (SIC 15)
Project/Contract No: Z00086 GOB ESP
Funding Source: GOB
Department: GENERAL SERVICES ADMINISTRATION
Estimated Cost of Project/Bid: $9,800,000.00
Description of Project/Bid: TO ESTABLISH A CONTRACT THAT WILL CONSIST OF THE CONSTRUCTION OF A ONE-STORY CONCRETE AND STEEL BUILDING, WITH TWO (2) OPENED LANDSCAPED COURTYARDS. THE TOTAL FOOTPRINT OF THE BUILDING, INCLUDING THE COURTYARDS AND THE NON-CONDITIONED AREAS, WILL BE APPROXIMATELY 28,000 SQ. FT.

Received Date: 02/24/2011
Committee Date:
Item No:
Resubmittal Date(s):

Contract Measures Recommendation

Measure	Program	Goal Percent
Goal	CSBE	26.00%

Reasons for Recommendation

An analysis of the factors contained in Section VI C of Administrative Order 3-22 indicate that a goal is appropriate in the trades of Heating/Ventilating/Air-Conditioning, Painting, Tile, Doors and Windows.

CWP Not Applicable: Not in DTA

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
Plumbing, Heating, and Air-Conditioning Contractors	CSBE	$1,078,000.00	11.00%	800
Finish Carpentry Contractors	CSBE	$588,000.00	6.00%	17
Tile and Terrazzo Contractors	CSBE	$784,000.00	8.00%	12
Painting and Wall Covering Contractors	CSBE	$98,000.00	1.00%	67
Total		$2,548,000.00	26.00%	

Living Wages: YES [ ] NO [X] **Highway:** YES [ ] NO [X] **Heavy Construction:** YES [ ] NO [X]
Responsible Wages: YES [X] NO [ ] **Building:** YES [X] NO [ ]

Ordinance 90-143 is applicable to all construction projects over $100,000 that do not utilize Federal Funds

RECOMMENDATION

Tier 1 Set Aside _____

Set Aside _____ **Level 1** _____ **Level 2** _____ **Level 3** _____

Trade Set Aside (MCC) _____ **Goal** 26% CSBE **Bid Preference** _____

No Measure _____ **Deferred** _____ **Selection Factor** _____

_____ Director, SBD — 3/4/11 Date

_____ Chairperson — 3/4/11 Date

DBDR0092

Memorandum

MIAMI-DADE COUNTY

Date: July 27, 2011

To: Wendi Norris, Director
General Services Administration

From: Penelope Townsley, Director
Small Business Development

Subject: Compliance Review
Project No. Z00086 GOB ESP
Northeast Regional Library

RECEIVED
AUG 0 1 2011
G. S. A.
DIRECTOR'S OFFICE

The Department of Small Business Development (SBD) has completed its review of the subject project for compliance with the Community Small Business Enterprise (CSBE) Program for Construction Services. The contract measure established for this project is a 26% CSBE subcontractor goal.

The Contracts Administration Section of GSA has submitted bid documents from Miami Skyline Construction Corp. (#1), N & J Construction Corporation, (#2), and Di-Pompeo Construction Corporation (#3) for compliance review. Following is the pre-award compliance status and summary.

STATUS:

1. Miami Skyline Construction Corp. — Compliant
2. Perez Gurri Corporation dba N & J Construction Corporation — Compliant
3. DiPompeo Construction Corporation — Compliant

SUMMARY:

Miami Skyline Construction Corp. (#1) submitted the required Schedule of Intent (SOI) Affidavits committing to utilize the following CSBE certified firms to meet the CSBE subcontractor goal: Thermal Flow, Inc. to perform a HVAC work at 5.5%; ABK Construction, Inc. to perform drainage, water, and sewer work at 1.4%; Al Hill Enterprise Corporation to perform plumbing work at 3.2%; Creative Terrazzo to perform terrazzo flooring work at 3.3%; and A.C. Electrical Contractor to perform electrical work at 12.6%. Each subcontractor signed its respective SOI Affidavit in agreement with the information listed. Miami Skyline Construction Corp. has fulfilled the contract measure requirement and is in compliance with the CSBE Participation Provisions.

Perez Gurri Corporation dba N & J Construction Corporation, (#2) submitted the required SOI Affidavits committing to utilize the following CSBE certified firms to meet the CSBE subcontractor goal: Archon Air Management to perform HVAC work at 6.08%; Amerglass Engineering, Inc. to perform glass and glazing work at 3.29%; Cevacon Corp. to perform drywall, stucco, and wall panels work at 6.2%; and GPE Engineering and General Contractor to perform sitework and concrete work at 10.44%. Each subcontractor signed its respective SOI Affidavit in agreement with the information listed. Perez Gurri Corporation dba N & J Construction Corporation has fulfilled the contract measure requirement and is in compliance with the CSBE Participation Provisions.

Di-Pompeo Construction Corporation, (#3) submitted the required SOI Affidavits committing to utilize the following CSBE certified firms to meet the CSBE subcontractor goal: Pioneer Contracting to perform drywall and tile work at 2.3%; Right Way Painting to perform painting work at 1%; Thermal Flow, Inc. to perform HVAC work at 5%; Road Runner Electric to perform electrical work at 13.5%; Leza's Plumbing corp. to

perform plumbing work at 3.7%; Glass Tech Engineering to perform glass work at 3.2%; and Amion to perform rubber/wood floor work at 1%. Each subcontractor signed its respective SOI Affidavit in agreement with the information listed. Di-Pompeo Construction Corporation has fulfilled the contract measure requirement and is in compliance with the CSBE Participation Provisions.

Please note that SBD staff only reviewed and addressed compliance with the CSBE program. The Contracts & Specifications Section of the Public Works Department is responsible for any other issues that may exist.

Should you have any questions or need any additional information, please do not hesitate to call Kelly Duncombe at (305) 375-3136.

c: Fernando Ponassi, GSA
Traci Adams-Parish, SBD
File

Exit

Capital Improvements Information System

MCC Contractor Evaluations Report

Dept	Contract	Type	Contractor / Architect Name	Date	Rater	Period	Rate
PR	601806-02-003	CON	Miami Skyline Construction Corp.	2/23/2007	Eduardo de la Vega	Completion of construction	2.1
PR	422801-02-010	CON	Miami Skyline Construction Corp.	2/23/2007	Eduardo de la Vega	Interim	2.0
PR	123302-02-001	CON	Miami Skyline Construction Corp.	3/1/2007	John Gouthro	Completion of construction	2.5
PR	422801-02-010	CON	Miami Skyline Construction Corp.	9/3/2008	John Gouthro	Interim	2.5
WS	W-888R	CON	Miami Skyline Construction Corp.	8/6/2009	Jules Durand	Interim	2.1
PR	493501-02-001-1	CON	Miami Skyline Construction Corp.	9/17/2009	Joel Arango	Completion of construction	3.3
PR	422801-02-010	CON	Miami Skyline Construction Corp.	11/16/2009	Joel Arango	Completion of construction	2.4
GS	W70259	CON	Miami Skyline Construction Corp.	2/5/2010	Julio Navarro	Interim	2.9
GS	W70259	CON	Miami Skyline Construction Corp.	7/13/2010	Julio Navarro	Interim	4.0
GS	W70259	CON	Miami Skyline Construction Corp.	1/28/2011	Eddy Etienne	Interim	3.0
GS	Z00045	CON	Miami Skyline Construction Corp.	9/20/2011	Timothy F. Wright	Interim	3.5

Evaluation Count: 11 Contractors: 1 Average Evaluation: 2.8

Exit

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Find Contracts With Search String ==> Projects

Goto Bottom

Exit

OFFICE OF CAPITAL IMPROVEMENTS
CAPITAL IMPROVEMENTS INFORMATION SYSTEM
Monday, October 03, 2011

All Contracts for FEIN 650599009
Miami Skyline Construction Corp.

DST	DPT	Type	Contract	Name	Location / Contractor	Estimated Completion Date	Total Award	Last Status Date	% Complete / Status *
4	PR	CON	123302-02-001	Highland Oaks Park Recreation Center	Miami Skyline Construction Cor	6/2/2006	$692,362	6/6/2008	**100% / Complete**
7	PR	CON	422801-02-010	Crandon Park Central Restroom / Park Office / Do	Miami Skyline Construction Cor	8/23/2008	$3,507,577	5/6/2010	**95% / Behind Schedule**
10	PR	CON	493501-02-001-1	Kendall Soccer Park Phase II & IIA - Artificial	Miami Skyline Construction Cor	7/2/2009	$4,290,000	3/2/2011	100% / N/A
9	PR	CON	601806-02-003	Goulds Park Wings Addition Phase II	Miami Skyline Construction Cor	3/22/2006	$1,312,941	6/3/2008	**100% / Work Complete: Pending Change**
4	PR	CON	96031	Greynolds Park Campsite Restoration	Miami Skyline Construction Cor	11/25/2002	$1,233,162	2/11/2005	**100% / Complete**
10	PR	CON	97023	Tropical Park Field House, Press Box Elevator an	Miami Skyline Construction Cor	8/10/2003	$1,378,197	6/4/2004	**100% / Complete**
6	WS	CON	W-888R	John E. Preston Water Treatment Plant Drinking W	Miami Skyline Construction Cor	9/17/2010	$1,975,000	9/1/2011	99% / Work Complete: Pending Change
2	GS	CON	Z00044 C	Construction of the new Northside Police Station	Miami Skyline Construction Cor	12/24/2011	$6,058,107	9/22/2011	50% / Behind Schedule
2	GS	CON	Z00045	Construction of the new Regional Head Start Cent	Miami Skyline Construction Cor	10/2/2012	$3,697,000	9/20/2011	10.7% / On Schedule
					Totals:	9	$24,144,346		

* Yellow Status=Inactive Contract

Contracts Status View Exit Projects Goto Top

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MIAMI-DADE COUNTY

CARLOS A. GIMENEZ
Mayor

CLERK OF THE BOARD

2011 NOV -7 PM 3:53

CLERK, CIRCUIT & COUNTY CTS
MIAMI-DADE COUNTY, FLA.
#1

Internal Services Department
Design and Construction Services Division
Office of the Director
111 NW 1st Street, Suite 2420
Miami, Florida 33128-1909
T 305-375-1101
F 305-375-1125

November 7, 2011

SENT VIA FACSIMILE TO ALL BIDDERS

NOTICE OF INTENT TO AWARD

Re: ISD Contract No. Z00086, Construction of the new Northeast Branch Library, 2930 Aventura Blvd., Aventura, FL 33180

To Whom It May Concern:

In accordance with Section 2-8.4 of the Code of Miami-Dade County and Implementing Order No. 3-21, which govern the bid protest process for construction contracts, you are hereby notified that the County intends to award the subject contract to the lowest responsive, responsible bidder(s):

Miami Skyline Construction Corp.
705 NE 130th Street
North Miami, Florida 33161

A written intent to protest this contract award may be filed by a protester with the Clerk of the Board and mailed to each bidder or proposer in the competitive process and to the County Attorney within three (3) business days of this notice. The written intent to protest shall state with particularity the specific facts and grounds on which the protest is based, and be accompanied by the corresponding filing fee.

Should you have additional questions, please contact Lillian D. Garcia, A&E Contracts Manager, CAS, at 305-375-3913. We thank you for your interest in doing business with Miami-Dade County.

Sincerely,

Fernando V. Penaloi, MA Arch, LEED®AP
Manager, Contracts Administration Section

cc: Jose R. Perez, AIA, LEED®AP, Director, DCSD
H. Patrick Brown, Construction Manager 3, CMS, DCSD
Asael "Ace" Marrero, Manager, AES, DCSD
Eddy Etienne, CMS, DCSD
Richard J. Bechtold, Contracts Coordinator, CAS, DCSD
Ruth Castellanos, SPA1, CAS, DCSD
Clerk of the Board
All bidders
Project File

EXHIBIT B

County Attorney's Office Memorandum in Opposition dated November 29, 2011

CLERK OF THE
BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

In re: Northeast Regional Library;
ISD (f/k/a GSA) Contract No.
Z00086
Bid Protest of Perez-Gurri Corp.
doing business as N&J
Construction
_____/

MIAMI-DADE COUNTY'S MOTION TO DISMISS, OR IN THE ALTERNATIVE MEMORANDUM IN OPPOSITION TO, THE BID PROTEST OF PEREZ-GURRI CORP d/b/a N&J CONSTRUCTION

The bid protest filed by Perez-Gurri Corp. d/b/a N&J Construction, Inc. ("N&J") protesting the recommended award of Northeast Regional Library; ISD (f/k/a GSA) Contract No. Z00086 ("Contract") to Miami Skyline Construction Corp. ("Miami Skyline") should be denied because it is simply based on N&J's misinterpretation of the published responsibility requirements in the solicitation documents, and its disagreement with the exercise of County staff's discretion in interpreting its own documents and in recommending an award. In essence, the Protest asks the Hearing Examiner do what he or she, respectfully, cannot: substitute his or her judgment for that of the County Mayor and County Staff, and force the County to pay approximately $320,000 more for the Project than it would if the Contract is awarded to Miami Skyline.

Protests of this nature are beyond the authority of the hearing examiner to grant and are routinely rejected. Here, the County did not act illegally, fraudulently, capriciously or arbitrarily. Indeed, in recommending award to the lowest responsive and responsible bidder, Miami Skyline, the County acted rationally and honestly, and completely consistent with Florida law governing

competitive bidding of contracts. Accordingly, the County requested that the Protest be dismissed, or, in the alternative, denied.

BACKGROUND

The solicitation at issue was issued on April 29, 2011, and it was an invitation to bid for ISD (f/k/a GSA) Contract No. Z00086 GOB ESP ("ITB") to build one story library branch in Aventura, Florida (the "Project"). The ITB listed a Base Estimate of $9,800,000.00 to complete the Project. The Project consists of the construction of a one story Library building in Aventura Florida. *See* Protest, Tab B. On June 29, 2011, the County received twelve (12) bids on the Project. The lowest bid was by Miami Skyline with a bid price of $9,768,000.00 (the only bid under the Base Estimate in the ITB). The next lowest bid was by N&J with a bid price of $10,088,000.00, $320,000 more than the bid of Miami Skyline. *See* Bid Tabulation (attached as Exhibit 1).

Among other things, The ITB required that the bidders demonstrate they are responsible by listing projects they have completed in the past ten (10) years with a "Project Cost" of at least $5,000,000. Specifically, the ITB required:

> RESPONSIBILITY REQUIREMENTS: The selected General Contractor must 1) have been in the business of constructing general cultural and/or educational-type facilities for a minimum of ten (10) years; 2) must demonstrate having built a facility of a similar size and complexity with a project cost of $5,000,000 with the past ten (10) years; and 3) must be a LEED AP BD+C, or have a LEED AP BD+C Consultant on staff during the entire construction phase, who can demonstrate having participated in the design of at least one (1) completed, Silver LEED certified facility, or one (1) facility under construction, which is registered with the United States Green Building Council (USGBC) to pursue Silver LEED Certification.

See Protest Tab B, *see also* Protest Tab C (setting forth the same requirements in the Special Provisions of the ITB).

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The core of N&J's protest is its contention that the term "project cost" in the paragraph above should be interpreted to mean "construction cost" paid to the bidder, and, that based on this interpretation, the recommended award to Miami Skyline is arbitrary and capricious because Miami Skyline was not paid $5,000,000 or more for the construction of any project in the past ten years. This interpretation is incorrect.

The County intended and interprets the term "project cost" to mean the entire cost of project, not just the construction cost paid to the bidder. Notably, the Responsibility Requirements Form Provided by the County for use by bidders on the Project differentiates between its use of the term "project cost" and "project construction cost." Specifically, the top of the form provides:

> The complexity and size of this project warrants that specific requirements be added to the standard bidders' qualifications. Section 00130, Special Provisions, Article 1.B, requires that the selected contractor demonstrates the following: a) have been in the business of constructing general cultural and/or educational-type facilities for a minimum of ten (10) years; b) Having built a facility of a similar size and complexity with a project cost of $5,000,000 with the past ten (10) years; and c) As a condition of award, the selected contractor must be a LEED AP BD+C, or have a LEED AP BD+C Consultant on staff during the entire construction phase, who can demonstrate having participated in the design of at least one (1) completed, Silver LEED certified facility, or one (1) facility under construction, which is registered with the United States Green Building Council (USGBC) to pursue Silver LEED Certification (please use additional sheets to address this particular requirement). Any and all documentation submitted to support these requirements will be subject to verification by County staff.

See Responsibility Requirements Forms submitted by Miami Skyline for Weston Public Works Building/City of Weston and South Plantation High School/SBBC (attached collectively as Tab 1). Notably, while the term "project cost" is used at the top of the form (as well as in the ITB's responsibility requirements), the body of the form to be completed by the bidder, the form breaks out the "project cost" into two different elements: "Professional Fees" and "Project

Construction Cost," indicating that the terms "project cost" and "Project Construction Cost" do not mean the same thing.

Consistent with that interpretation of the term "project cost," County staff proceeded to evaluate the top three bidder's responsibility by examining whether each had completed a project with a "project cost" of $5,000,000 or more. During this process, N&J wrote a letter to County staff dated August 31, 2011 stating its contention that Miami Skyline did not meet the ITB's responsibility requirements because Miami Skyline did not demonstrate it had completed a project within the past ten years with a "Construction Cost of at least $5,000,000." *See* Protest Tab E. The letter proceeded to accuse Miami Skyline of providing misleading information.

Keeping in mind the fact that the ITB did not require that the project have a "construction cost" of $5,000,000, but rather a "project cost" of $5,000,000, County staff proceeded to diligently investigate the allegations. *See* Memorandum from Fernando V. Ponassi to Jose R. Perez dated September 19, 2011 attached hereto at Tab 3. During the investigation, County staff determined that only two projects completed by Miami Skyline would be considered for qualification: the Weston Publics Works Building (listed by Miami Skyline to have a completion cost of $5,400,000) and the South Plantation High School Project (listed by Miami Skyline to have a completion cost of $5,100,000). *Id., see also* Tab 2 attached hereto. During that investigation, County staff requested documents from the Broward County School Board and the City of Weston, and County staff had phone conversations with the cited references. As a result of that investigation, County staff concluded that the information provided by Miami Skyline on the two projects was accurate. *Id.*

Significantly, as noted in the September 19, 2011 memorandum, and as reflected in e-mail correspondence between County staff and the City of Weston and the Broward County

School Board, County staff was seeking information on the total "project cost," including fees for professional services rendered as well as construction costs. County staff did not ask for documentation only reflecting payments to Miami Skyline itself. *See id.*, *see also* E-Mail correspondence dated September 12 and 13, 2011 between Fernando Ponassi and Jeffrey Skidmore seeking verification of information. Attached as Tab 4. While the initial response from the City of Weston led County staff to believe that the information submitted by Miami Skyline with respect to the Weston Public Works project could not be verified, subsequent e-mail correspondence from Mr. Skidmore confirmed that the information provided was accurate and that the total project cost was approximately $5,400,000. *See* E-Mail from Jeffrey Skidmore to Fernando Ponassi dated September 19, 2011 attached as Protest Tab O. Similarly, the Broward County School Board reference confirmed the accuracy of the information provided by Miami Skyline. *See* E-mails dated July 14 & 15 and September 7, 2011 between Lillian Garcia and Manuel Synalovski attached collectively as Tab 5; *see also* E-mail correspondence between Fernando Ponassi and Charles Ricks dated September 8, 2011 attached as Tab 6.

In short, County staff diligently verified the information provided by Miami Skyline and confirmed that the "project cost" was at least $5,000,000 for the City of Weston Public Works and South Plantation high school projects. The actions of County staff in determining that "project cost" includes all costs on a project, not just construction costs, and then confirming that the project cost figures submitted by Miami Skyline were accurate were not arbitrary or capricious.

DISCUSSION

It is well settled law that a public body has wide discretion in awarding a contract for a public service and that discretion cannot be overturned absent a finding of "illegality, fraud,

oppression or misconduct." *Liberty County v. Baxter's Asphalt & Concrete, Inc.*, 421 So. 2d 505, 507 (Fla. 1982). As such, "the hearing officer's sole responsibility [in reviewing a protest] is to ascertain whether the agency acted fraudulently, arbitrarily, illegally or dishonestly." *Dep't of Transp. v. Groves-Watkins Constructors*, 530 So. 2d 912, 914 (Fla. 1988); *Miami-Dade County v. Church & Tower, Inc.*, 715 So. 2d 1084, 1089-90 (Fla. 3rd DCA 1998). "Even where a public entity makes an erroneous decision over which reasonable persons may disagree, the exercise of its discretion in soliciting and accepting bids should not be interfered with absent a showing of dishonesty, illegality, fraud, oppression or misconduct." *City of Cape Coral v. Water Services of America, Inc.*, 567 So. 2d 510, 513 (Fla. 2d DCA 1990); *see also Miami-Dade County v. Church and Tower, Inc.*, 715 So. 2d 1084, 1089 (Fla. 3rd DCA 1998) ("So long as such a public agency acts in good faith, even though they may reach a conclusion on facts upon which reasonable men may differ, the courts will not generally interfere with their judgment, even though the decision reached may appear to some persons to be erroneous.")..

Further, the burden of proof in a bid protest proceeding rests with the protester, N&J, not the County or Miami Skyline. *See GTech Corp. v. State Dept. of the Lottery*, 737 So. 2d 615, 619 (Fla. 1st DCA 1999) ("The burden is on the party protesting the award of the bid to establish a ground for invalidating the award.").

Moreover, "**there is a strong public policy in favor of awarding contracts to the low bidder, and an equally strong public policy against disqualifying the low bidder for technical deficiencies which do not confer an economic advantage on one bidder over another.**" *Intercontinental Props., Inc. v. State Dep't of Health & Rehabilitative Servs.*, 606 So. 2d 380, 387 (Fla. 3d DCA 1992) (emphasis added). Stated another way, there is a "very strong public interest in favor of saving tax dollars in awarding public contracts." *Id.* at 386.

N&J's protest does not allege "illegality, fraud, oppression, or misconduct," rather it asserts that the County's recommended award is "arbitrary and capricious" by arguing that the County's interpretation of its own bid documents, and the County's determination of responsibility was wrong. Such an allegation is an improper invitation for the hearing examiner to replace his or her judgment for that of the County Mayor and County staff in this purely discretionary function.

Moreover, N&J waived any argument challenging the County's interpretation of the terms used in the solicitation by failing to raise these issues before submitting its proposal. Implementing Order 3-21 provides:

> Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a bid protest, unless it was brought by that bidder or proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person of the County department that issued the solicitation document, at least two work days (not less than 48 hours) prior to the hour of bid opening or proposal submission.

Similarly, the ITB itself requires bidders to raise questions regarding the interpretation of contracts and the bid documents in writing prior to bid opening. *See* Special Instructions to Bidders, Section 3 at pages 5 and 6 of 12 (attached at Tab 7).

The requirement of raising these issues prior to bid submission rather than after is just another way of saying that N&J may not bid on a solicitation and then challenge the solicitation on alleged errors in the documents only if it loses the bid. Notably, N&J never questioned the bid responsibility form's differentiation between "project cost" and then its use of a blank for "Professional Fees" and then "Project Construction Cost" prior to bid opening.

To attack this proper exercise of discretion by County staff in interpreting the County's own documents, N&J does what it cannot, it asks the hearing examiner to step into the shoes of

the County Mayor and Board and become a contracting authority. *See, e.g., Miami-Dade County v. Church and Tower, Inc.,* 715 So. 2d at 1089 (Fla. 3rd DCA 1998) ("So long as such a public agency acts in good faith, even though they may reach a conclusion on facts upon which reasonable men may differ, the courts will not generally interfere with their judgment, even though the decision reached may appear to some persons to be erroneous.").

Although couched in terms of "arbitrary and capricious" action by the County, the substance of N&J's protest is that County staff and the County Mayor and simply got it wrong in interpreting the County's own wording in the ITB, and in evaluating whether Miami Skyline met the ITB's responsibility requirements. That is not the test. To attack a contracting entity's decision on that ground, "the test is 'whether the contracting agency provided a coherent and reasonable explanation of its exercise of discretion, and the disappointed bidder bears a 'heavy burden' or showing that the award decision had **no rational basis.**'" *Banknote Corporation of America, Inc. v. United States*, 365 F.3d 1345, 1351 (Fed. Cir. 2004) (citing *Impresa Construzioni Geom. Domenico Garufi v. United States*, 238 F.3d 1324, 1332 (Fed. Cir. 2001)).

As it is clear from the investigation conducted by the County and the memoranda describing that investigation and its conclusion, the County conducted a rationale review of Miami Skyline's ability and capacity to construct the Project. N&J has presented no evidence to show such a review was improper other than to say it was wrong because the County interprets the term "Project Cost" differently than N&J and some other contractors[1] purport to do.

[1] Notably, the Affidavits submitted by N&J to argue that contractors interpret the term "project cost" to be synonymous with "construction cost" are form affidavits signed by the other bidders on this Project who have a vested interest in having Miami Skyline's award disqualified, creating the possibility that all bids will be rejected by the Board of County Commissioners and that each of these contractors would have a second chance to bid on the Project and possibly be awarded the Contract.

N&J also attempts to argue that Miami Skyline should be found not responsible because, even if the County is correct in its interpretation of the ITB's use of the term "project cost," Miami Skyline was deceptive in listing the entire project cost of the Weston Public Works Project and the South Plantation High School Project as having a "project construction cost" of $5.4 and $5.1 million respectively. County staff, however, is free under the terms of the ITB to determine that this error was a minor irregularity which can be waived in the best interest of the County. *See* Special Instructions to Bidders, Section 13 at page 9 of 12 (attached at Tab 8).

N&J also attempts to argue that the County "got it wrong" by asserting that the Project to construct the Northeast Library is not similar in size and scope to the Weston Public Works project or the South Plantation High School Project. Determining whether a project was similar enough to find Miami Skyline responsible was squarely within the discretion of County staff. The County staff making this determination is experienced in the construction of many types of projects and is qualified to make the determination of responsibility. This argument by N&J, like the one regarding the interpretation of the term "project cost" is nothing more than an argument that County staff made an erroneous determination. Reasonable people may disagree with this determination, but, again, that is not enough to find the determination to be arbitrary and capricious.

In sum, County staff has a rationale basis to differentiate between the terms "project cost" and "project construction cost," and County staff conducted a thorough and diligent investigation of the responsibility of Miami Skyline. While N&J, and possibly even the Hearing Examiner, may disagree with the conclusions of County staff, that disagreement is not enough to demonstrate arbitrary or capricious conduct. Accordingly, N&J's protest should be dismissed or denied.

CONCLUSION

WHEREFORE, for the reasons described above, the County respectfully requests the Hearing Examiner dismiss or deny the bid protest.

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

By: _____
Richard C. Seavey
Assistant County Attorney
Florida Bar No. 529206
Telephone: (305) 375-3325
Facsimile: (305) 375-5634
E-mail: Seavey@miamidade.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was hand delivered to the Clerk of the Board and sent by U.S. Mail and Electronic Mail, PDF Format, on this day of 29th day of November, 2011, to:

Alan G. Geffin
Hermelee Geffin
101 N.E. 3rd Avenue
Suite 1110
Fort Lauderdale, Florida 33301
ageffin@hermeleegeffin.com
Attorneys for Protestor N&J Construction

David Joseph Vandini
David J. Vandini & Associates, P.A.
5353 N Federal Hwy Ste 303
Fort Lauderdale, FL 33308
dvandini@vplawfirm.com
Attorneys for Intervenor Miami Skyline Construction Corp.

Assistant County Attorney

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MIAMI-DADE COUNTY

GENERAL SERVICES ADMINISTRATION
CONTRACT ADMINISTRATION SECTION
BID TABULATION SHEET

Project No.: Z00086 GOB ESP

Project Description: Construction of the new Northeast Regional Library

Bid Due Date: 6/28/2011 **Bid Opening Date:** 6/28/2011 **Number of Addenda Issued:** 4

Bid Ranking	Company Name	Bid Price	Alternates	Total Cost	Bid Alternates Submitted			Bid Bond Submitted (check box that applies)				Addenda Acknowledge or Submitted			DBD Form 400 Submitted		
					Yes	No	N/A	Check	Bond Form	No	N/A	Yes	No	N/A	Yes	No	N/A
1	Miami Skyline Construction Corp.	$9,768,000.00	($1,056,000.00)	$8,712,000.00	X				X			X			X		
2	Perez Gurri Corporation dba N & J Construction Corporation	$10,068,000.00	($1,162,363.00)	$8,935,637.00	X				X			X			X		
3	DiPompeo Construction Corporation	$10,377,000.00	($1,313,000.00)	$9,064,000.00	X				X			X			X		
4	Merkury Development	$10,500,000.00	($984,869.00)	$9,515,131.00													
5	KVC Constructors, Inc.	$11,251,228.00	($948,850.00)	$10,302,378.00													
6	Murilla Construction Management, LLC dba MCM	$11,325,000.00	($709,662.00)	$10,615,338.00													
7	Link Construction Group	$11,650,000.00	($1,826,213.00)	$9,823,787.00													
8	Betancourt Castellon and Associates	$11,690,000.00	($1,494,000.00)	$10,196,000.00													
9	West Construction Inc.	$11,734,000.00	$1,071,698.00	$12,805,698.00													
10	H A Contracting Corp.	$11,920,000.00	($208,000.00)	$11,712,000.00													
11	ABC Construction Inc.	$11,937,000.00	($1,252,000.00)	$10,685,000.00													
12	Grace & Naeem Uddin, Inc.	$12,405,654.00	($1,136,092.00)	$11,269,562.00													

Signature of Person Opening Bids: Gillian Paige Name of Witness:

CMS Construction Manager: Date: 7/7/11 Fernando V. Penagal, CAS Manager: Date: 7/8/11

Comments:

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MIAMI-DADE COUNTY

MIAMI-DADE COUNTY – GENERAL SERVICES ADMINISTRATION (GSA)
GSA Z00086 PRIME-CONTRACTOR RESPONSIBILITY REQUIREMENTS FORM

The complexity and size of this project warrants that specific requirements be added to the standard bidders' qualifications. Section 00130, Special Provisions, Article 1.B, requires that the selected contractor demonstrates the following: a) Having been in the business of constructing general cultural and/or educational-type facilities for a minimum of ten (10) years; b) Having built a facility of similar size and complexity with a project cost of $5,000,000 within the past ten (10) years; and c) As a condition of award, the selected contractor must be a LEED AP BD+C, or have a LEED AP BD+C consultant on staff during the entire construction phase, who can demonstrate having participated in the design of at least one (1) completed, Silver LEED certified facility, or one (1) facility under construction, which is registered with the United States Green Building Council (USGBC) to pursue Silver LEED Certification (please use additional sheets to address this particular requirement). Any and all documentation submitted to support these requirements will be subject to verification by County staff.

Reference Project Name/Address: WESTON PUBLIC WORKS BUILDING / CITY OF WESTON
2500 Weston Road
Weston, FL 33331

Name(s) and role(s) of Prime Contractor personnel working on this reference project: Claudio Rodriguez-President, Sandy Urrea-Project Manager, Daniel Rodriguez-Superintendent.

Reference Project Description: Public Works Facility, Administrative offices, Fuel Station, Site Development.

Scope of Services Provided: See below.

Professional Fees: $ 0.00 Project Start Date: 04/2006 Project Completion Date: 03/2007

Project Construction Cost: $ 5,400,000.00 Construction Start Date: 04/2006 Construction Completion Date: 03/2007

Reference Company Name: Cubillis SGR Reference Name: Manuel Synalovski

Reference Phone Number: 954-961-6806 Fax Number: 954-961-6807 E-mail: msynalovski@synalovski.com

Prime Contractor may use the space below to expand on the scope of services provided for this project:

Scope of services provided, but not limited to:
Site Development: Water, sewer and drainage.
Structural Concrete Work
Masonry
Structural Steel
Precast Concrete Joist / steel joist
Wood and Plastic
Thermal Moisture Protection, Roofing
Doors and Window: Impact
Finishes
Specialties
Equipment
Furnishing
Special Construction
Conveying Systems
Mechanical
Electrical
Irrigation and Landscaping

Note: New 15,000 Sq. Ft. Public Works building concurrently built Fuel Station. Facility consisted of Administrative offices.

MIAMI-DADE COUNTY

MIAMI-DADE COUNTY – GENERAL SERVICES ADMINISTRATION (GSA)
GSA Z00086 PRIME-CONTRACTOR RESPONSIBILITY REQUIREMENTS FORM

The complexity and size of this project warrants that specific requirements be added to the standard bidders' qualifications. Section 00130, Special Provisions, Article 1.B, requires that the selected contractor demonstrates the following: a) Having been in the business of constructing general cultural and/or educational-type facilities for a minimum of ten (10) years; b) Having built a facility of similar size and complexity with a project cost of $5,000,000 within the past ten (10) years; and c) As a condition of award, the selected contractor must be a LEED AP BD+C, or have a LEED AP BD+C consultant on staff during the entire construction phase, who can demonstrate having participated in the design of at least one (1) completed, Silver LEED certified facility, or one (1) facility under construction, which is registered with the United States Green Building Council (USGBC) to pursue Silver LEED Certification (please use additional sheets to address this particular requirement). Any and all documentation submitted to support these requirements will be subject to verification by County staff.

Reference Project Name/Address: SOUTH PLANTATION HIGH SCHOOL / SBBC
1300 Paladin Way
Plantation, FL 33317

Name(s) and role(s) of Prime Contractor personnel working on this reference project:
Claudio Rodriguez-President, Adriel Pena-Project Manager, Daniel Rodriguez- Superintendent

Reference Project Description: New Construction of concession building, restrooms, storage building football field and trade

Scope of Services Provided: See below.

Professional Fees: $ 0.00 Project Start Date: 03/2004 Project Completion Date: 05/2005

Project Construction Cost: $ 5,100,000.00 Construction Start Date: 03/2004 Construction Completion Date: 10/2006

Reference Company Name: School Board of Broward County Reference Name: Charles Ricks

Reference Phone Number: 754-321-1602 Fax Number: 754-321-1683 E-mail: charles.ricks@browardschools.com

Prime Contractor may use the space below to expand on the scope of services provided for this project:

Scope of services provided, but not limited to:
Site Development: Water, sewer and drainage.
Structural Concrete Work
Masonry
Structural Steel
Wood and Plastic
Thermal Moisture Protection, Roofing
Doors and Windows: Impact
Finishes
Specialties
Equipment
Furnishing
Special Construction
Conveying Systems
Mechanical
Electrical
Landcaping and Irrigation

↑ 7/15/11 - Confirmed the info. w/ Mr. Ricks verbally.

* Facilities & Construction Mgmt. Division

Note: New Concession building, storage building, new athletic field, parking lot, Press Box, sports lighting, bleachers, landscaping, and irrigation. Athletic Field and storage building was shifted, addition to number of bleachers, re-routed water lines, add fire hydrants, additions and upgrades to landscaping, new electrical for future score board, modified press box, new lighting protection system laser grading, fence and gates around Athletic Facilty, additions to fixtures of Athletic Field.

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Memorandum

MIAMI-DADE COUNTY

Date: September 19, 2011

To: Jose R. Perez, AIA, LEED®AP
Director, Design and Construction Services Division
General Services Administration

From: Fernando V. Ponassi, MA Arch, LEED®AP
Manager, Contracts Administration Section, DCSD
General Services Administration

Subject: GSA Contract No. Z00086, Northeast Regional Library
Letter from N&J Construction dated 8/31/11

Upon my return to work on 9/6/11, I had the opportunity to review the subject letter from N&J Construction (N&J) dated 8/31/11 in reference to the subject project.

The letter raises serious allegations in regards to documentation submitted by the lowest bidder on this contract, Miami Skyline Construction Corp. (MSC). N&J alleges that MSC provided this office with misleading information regarding the following projects: 1) Komatsu Latin America; 2) City of Weston Public Works Facility; 3) South Plantation High School; and 4) the Josh Trail Development-Cashiers, North Carolina. These projects are part of the sixteen (16) projects submitted by MSC as an example of its previous experience as general contractor in both, private and public contracts. Our office has relied upon said documentation in order to issue its recommendation for award of this contract to MSC.

GSA's Contracts Administration Section (CAS), however, focused its review of the aforementioned documentation on those projects that were found to be within the criteria set forth in the bid documents, which require bidders to demonstrate to have built one facility of similar size and complexity with a total project cost of $5,000,000 within the past 10 years. Please note, total project cost may include fees for professional services as well as construction cost; the Prime Contractor Responsibility Requirements Form available to bidders (please see sample attached) provides the possibility to identify the cost involved on these two main types of expenditures. In addition, CAS further narrowed its review to only two projects, which were within the time and cost guidelines specified in the bid documents, the South Plantation High School in Broward County, FL, and the City of Weston's Public Works Facility, in order to determine MSC's responsibility as the lowest bidder on the subject contract.

Subsequently, GSA/CAS contacted the individuals listed by MSC as references for both projects Mr. Charles Ricks, with the Facilities and Construction Management Division of the School of Broward County, and Mr. Jeffrey L. Skidmore, Assistant City Manager/Chief Operating Officer with the City of Weston, FL. GSA/CAS sent Messrs. Ricks and Skidmore a formal request via e-mail in order to concur or comment on the information presented by MSC regarding the total cost of these particular projects.

You have asked us to research N&J's allegations, and seek opinion from the County Attorney's Office (CAO) as necessary. The CAO has opined in the past, and most recently during the bidding and award process for the new Children's Courthouse, that *"The bid terms requiring (the bidder) to provide forms detailing prior prime contractor experience and sample subcontracts are issues that pertain to (the bidder's) ability to perform the work it bid on and are, consequently, issues of bidder responsibility, not responsiveness"*. The opinion, dated 6/21/10, further indicates that *"The Board of County Commissioners or in those instances of delegated authority, the County Mayor or the Mayor's designee*

ultimately determines the issue of bidder responsibility." It also indicated that "*...the issue of bidder responsibility is not determined by the County Attorney's Office."*

GSA/CAS conducted the review of these documents to the fullest extent of its capabilities, and did not have a reason to believe that the information contained in the form submitted by MSC regarding the South Plantation High School and the City of Weston's Public Works Facility, which was confirmed by the aforementioned individuals, was in any way tainted or misleading. We are, however, ready to request counsel from the CAO regarding the steps to be taken to finalize this process in a transparent, responsible manner as it is required and expected within our organization.

cc: Wendi J. Norris, Director, GSA
Hugo Benitez, ACA, County Attorney's Office
Asael "Ace" Marrero, Manager, AES, GSA
Contracts Administration Section, GSA
Project File

4

From: Ponassi, Fernando (GSA)
To: "msynalovski@synalovski.com"
Cc: Garcia, Lillian D. (GSA); Perez, Jose (GSA); Clerk of the Board (COC)
Subject: GSA No. Z00086, Northeast Regional Library - MSC participation at the City of Weston Public Works facility
Date: Friday, September 16, 2011 4:34:28 PM

Mr. Synalovski,

Thank you very much for your call; I appreciate that you understand the limitations I have to expand myself over the phone in regards to our inquiry. Being that said, please see below e-mail that I received from the City of Weston as a result of our research in order to verify the previous experience of Miami Skyline on the subject project.

We thank you once again for following up with us. We look forward to hearing from you later today or Monday morning. Thank you.

Sincerely,

Fernando V. Ponassi, MA Arch, LEED®AP BD+C
Manager, Contracts Administration Section
Coordinator, General Obligation Bond Program
Miami-Dade County General Services Administration
111 NW 1st Street, 24th Floor, Suite 2420, Miami, FL 33128
Phone: (305) 375-3965 Fax: (305) 375-1125
E-mail: FernanP@miamidade.gov
Web: http://www.miamidade.gov/gsa/
"Delivering Excellence Every Day"

From: Jeffrey L. Skidmore [mailto:JSkidmore@westonfl.org]
Sent: Tuesday, September 13, 2011 9:47 AM
To: Ponassi, Fernando (GSA)
Subject: RE: Weston Public Works facility

Please see listed below all the costs associated with the construction of the Weston Public Works Services Center.

Planning and design (Calvin, Giordano & Associates)
$238,000

Facility Construction (Miami Skyline)
$1,587,980 original bid
$2,116,756.90 Change Order No. 1 (due to City generated delays and major changes to site plan and building design)
$55,816.45 Change Order No. 2 (due to additional building modifications)
$240,201.62 Change Order No. 3 (due to changes in scope of storm drainage improvements and building changes)
$106,364.92 Change Order No. 4 (due to changes in site security and access features)

$183,858.30 Change Order No. 5 (due to additional changes site security and access features, relocation of unforeseen utilities)
Total facility cost 4,290,978.19

Jeffrey L. Skidmore
Assistant City Manager/Chief Operating Officer
JSkidmore@westonfl.org

THE CITY OF WESTON
20200 Saddle Club Road
Weston, Florida 33327
P: (954) 389-4321
F: (954) 389-5430
http://www.westonfl.org

Think before you print

From: Ponassi, Fernando (GSA) [mailto:FERNANP@miamidade.gov]
Sent: Monday, September 12, 2011 5:13 PM
To: Jeffrey L. Skidmore
Cc: Garcia, Lillian D. (GSA); Clerk of the Board (COC)
Subject: Weston Public Works facility

Dear Mr. Skidmore,

Miami Skyline Construction Corporation (MSCC) has proposed the Weston Public Works Facility as proof of previous experience, and our office is in the process of verifying this information.

During said verification we came across a change order in favor of MSCC in the amount of $183,858.30. The aforementioned document, Change Order No. 5-Final is dated October 22, 2008.

We would like to request information as to the total cost of the project, including planning and design services, construction cost, and change orders. Please kindly advised the contact information of the

individual we should get in touch with in order to obtain this information. We thank you in advance for your assistance.

Best regards,

Fernando V. Ponassi, MA Arch, LEED®AP BD+C

Manager, Contracts Administration Section

Coordinator, General Obligation Bond Program
Miami-Dade County General Services Administration
111 NW 1st Street, 24th Floor, Suite 2420, Miami, FL 33128
Phone: (305) 375-3965 Fax: (305) 375-1125
E-mail: FernanP@miamidade.gov
Web: http://www.miamidade.gov/gsa/
"Delivering Excellence Every Day"

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From: Garcia, Lillian D. (GSA)
To: Ponassi, Fernando (GSA)
Subject: FW: Weston Public Works Building
Date: Friday, July 15, 2011 8:51:40 AM

FYI.

From: msynalovski@synalovski.com [mailto:msynalovski@synalovski.com]
Sent: Thursday, July 14, 2011 6:46 PM
To: Garcia, Lillian D. (GSA)
Cc: Clerk of the Board (COC)
Subject: Re: Weston Public Works Building

Confirmed..... The information is correct.

Manuel Synalovski, AIA, LEED AP

Manuel Synalovski Associates
1800 Eller Drive, Suite 500
Fort Lauderdale, FL 33316

T 954.961.6806
F 954.961.6807
M 954.804.3515

Think Synalovski... Think Success

From: "Garcia, Lillian D. (GSA)" <GARCIAD@miamidade.gov>
Date: Tue, 12 Jul 2011 14:21:20 -0400
To: <msynalovski@synalovski.com>
Cc: Clerk of the Board (COC)<CLERKBCC@miamidade.gov>
Subject: Weston Public Works Building

Good Afternoon Mr. Synalovski:

Your contact information was given to Miami-Dade County by Miami Skyline Construction Corp. as a reference for their participation as a Prime Contractor responsible for the subject project.

At this time, we are in the process of verifying the information provided by Miami Skyline Construction Corp. on your behalf, and it would be much appreciated if you could confirm the information listed in the grid below:

Name of the Project:	Weston Public Works Building
Project Location:	Weston, FL
Building Type (i.e.: office blg., retail, hotel, school, etc.)	New 15,000 SF Public Works building consisting of administrative offices and concurrently built fuel station.
Prime/General Contractor's Name:	Miami Skyline Construction Corp.
Project Construction Cost:	5,400,000.00

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Project Completion Date:	3/2007

Should you have any questions, please do not hesitate to contact me directly. Since time is of the essence, we would appreciate receiving your confirmation, via e-mail, as soon as possible.

We thank you in advance for your prompt response.

Regards,

Lillian D. Garcia
A&E Contracts Manager, Contracts Administration Section
Miami-Dade County General Services Administration
111 NW 1st Street, Suite 2420
Miami, FL 33128
Phone: (305) 375-3913 Fax: (305) 375-1125
www.miamidade.gov/gsa
"Delivering Excellence Every Day"

From: Garcia, Lillian D. (GSA)
To: "charles.ricks@browardschools.com"
Cc: Clerk of the Board (COC); Perez, Jose (GSA); Ponassi, Fernando (GSA)
Subject: South Plantation High School
Date: Wednesday, September 07, 2011 3:45:46 PM

Good Afternoon Mr. Ricks:

Thank you for taking time out of your busy schedule to discuss this matter with me once again today. This e-mail will serve as a confirmation of the phone conversation that we had on July 15, 2011 regarding the subject project in which you concurred with the information provided by the contractor, Miami Skyline Construction Corp. (see original e-mail below).

We thank you for your continued cooperation.

Regards,

Lillian D. Garcia
A&E Contracts Manager, Contracts Administration Section
Miami-Dade County General Services Administration
111 NW 1st Street, Suite 2420
Miami, FL 33128
Phone: (305) 375-3913 Fax: (305) 375-1125
www.miamidade.gov/gsa
"Delivering Excellence Every Day"

From: Garcia, Lillian D. (GSA)
Sent: Thursday, July 14, 2011 2:45 PM
To: 'charles.ricks@browardschools.com'
Cc: Clerk of the Board (COC)
Subject: South Plantation High School

Good Afternoon Mr. Ricks:

Your contact information was given to Miami-Dade County by Miami Skyline Construction Corp. as a reference for their participation as a Prime Contractor responsible for the subject project.

At this time, we are in the process of verifying the information provided by Miami Skyline Construction Corp. on your behalf, and it would be much appreciated if you could confirm the information listed in the grid below:

Name of the Project:	South Plantation High School
Project Location:	Plantation, FL
Building Type (i.e.: office bldg., retail, hotel, school, etc.)	New concession and storage buildings, as well as athletic fields, parking lot, press box, sports

	lighting, bleachers, landscaping, and irrigation.
Prime/General Contractor's Name:	Miami Skyline Construction Corp.
Project Construction Cost:	$5,100,000.00
Project Completion Date:	5/2005

Should you have any questions, please do not hesitate to contact me directly. Since time is of the essence, we would appreciate receiving your confirmation, via e-mail, as soon as possible.

We thank you in advance for your prompt response.

Regards,

Lillian D. Garcia
A&E Contracts Manager, Contracts Administration Section
Miami-Dade County General Services Administration
111 NW 1st Street, Suite 2420
Miami, FL 33128
Phone: (305) 375-3913 Fax: (305) 375-1125
www.miamidade.gov/gsa
"Delivering Excellence Every Day"

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From: Charles P. Ricks
To: Ponassi, Fernando (GSA)
Subject: Re: South Plantation High School
Date: Thursday, September 08, 2011 3:14:03 PM

What I come up with is $5,216,153.00.

CR

Charles P. Ricks, Project Manager III
(754) 321-1602
Charles.Ricks@BrowardSchools.com

"Ponassi, Fernando (GSA)" <FERNANP@miamidade.gov> on Thursday, September 08, 2011 at 11:38 AM -0400 wrote:

Mr. Ricks,
Although it would be ideal for us to have your feedback by the end of the day tomorrow, we also would like to have as accurate figures as possible. Please take the time you need. Thanks again.

Fernando V. Ponassi MArch, LEED® AP BD+C
Manager, Contracts Administration Section
Coordinator, General Obligation Bond Program
Miami-Dade County Internal Services Administration
Phone: (305) 375-4986
"Delivering Excellence Every Day"

From: Charles P. Ricks [mailto:Charles.Ricks@browardschools.com]
Sent: Thursday, September 08, 2011 10:32 AM
To: Ponassi, Fernando (GSA)
Cc: Clerk of the Board (GOB); Carolina Illari D. (GSA)
Subject: Re: South Plantation High School

I will be glad to provide that information to you.
Is it ok if I take a couple of days to get back to you?
CR

Charles P. Ricks, Project Manager III
(754) 321-1602

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Charles.Ricks@BrowardSchools.com

"Ponassi, Fernando (GBA)" <FERNANP@miamidade.gov> on Thursday, September 08, 2011 at 11:23 AM -0400 wrote:

Good morning Mr. Ricks.

I would like to personally thank you for your time you have taken to address our questions and concerns. We at Miami-Dade County strive to deliver excellent service every day, and sometimes we rely on the cooperation from other counties representatives, such as yourself.

There is one more piece of information that I would like to request from you, and that is the total cost for this project including professional services, construction cost, and change orders that Broward County may have incurred during the execution of this contract. If we should contact someone else other than you, please let us know as soon as possible.

We thank you once again for your assistance. Have a great day.

Best regards,

Fernando V. Ponassi, MA Arch., LEED® AP, BD+C

Manager, Contracts Administration Section

Coordinator, General Obligation Bond Program
Miami-Dade County Internal Services Department
111 NW 1st Street, 24th Floor, Suite 2420, Miami, FL 33128
Phone: (305) 375-1985 Fax: (305) 375-5625
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Web: http://www.miamidade.gov/isd
"Delivering Excellence Every Day"

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31. "Project" shall mean and include all design and construction work necessary to fulfill the specific goals of the County and is inclusive of this Contract.

32. "Prospective Contractor" means "Respondent"

33. "Respondent", "Bidder", "Prospective Contractor", shall mean any person responding to this Contract offering and providing a price quotation to perform the work in accordance with these Contract Documents for construction of the proposed Project.

34. "Solicitation" means "Contract Offering"

35. "Subcontractor" shall mean any business entity engaged by the Contractor to supply labor, materials or equipment for use in the fulfillment of the Project.

36. "Substantial Completion" of the work, or designated portion thereof, is the date certified by the A/E and approved by Miami-Dade County (if different from the A/E) when construction is sufficiently complete, in accordance with the Contract Documents, so the county may occupy the project or designated portion thereof or place into full productive and continued service, for the use which it was intended, including ingress and egress and all supportive appurtenances for the use of the project.

37. "Surety" shall mean the corporate bond company or individual which is bound by Performance and Payment Bonds with and for the Contractor, who is primarily liable, and which by virtue of the bond, is jointly responsible for the Contractor's acceptable performance of the work of which this contract has been made and for his payment of all debts pertaining thereto;

38. "Working Days", as used in the Instructions to Prospective Contractor, shall mean weekdays Monday through Friday with the exception of County holidays. The definition of Working Days as related to contract performance may differ from this definition.

2. SCOPE OF THE PROJECT

The scope of each division of the Contract is stated in the Technical Specifications and exhibited within the Plans/Sketches and/or the Miami-Dade County Standards.

3. INTERPRETATION OF CONTRACT DOCUMENTS

A. Each Prospective Contractor must thoroughly examine all Contract Documents and judge for himself/herself all matters relating to the character of the proposed Contract. If the Prospective Contractor should be in doubt as to the meaning of any of the Contract Documents, or is of the opinion that the Plans and Specifications contain errors or contradictions, or reflect omissions, he shall submit a written request to the Contract Coordinator for interpretation or clarification. No interpretation of the meaning of the Plans, Specifications, or other Contract Documents will be made to any Prospective Contractor orally. Each such request must be in the hands of the Contract Coordinator at least fourteen (14) calendar days before the submittal date, or within the deadline established in the Contract advertisement or as formally amended, in order that interpretation or clarification may be issued by the Contract Coordinator in the form of written addenda, mailed or delivered to all Prospective Contractors. The issuance of a written addendum shall be the only official method whereby such an interpretation or clarification will be made. Failure of any Prospective Contractor to receive any such addendum or interpretation shall not relieve any Prospective Contractor from any obligation under the terms of the Contract, including all addenda properly issued. Each Prospective Contractor should verify the number of addenda issued prior to execution of the Contract.

B. Items shown on the Plans but not noted in the Specifications, and items noted in the Specifications but not shown on the Plans, are to be considered as both shown on the Plans and noted in the Specifications. Any errors or omissions in the Specifications or on the Plans, as to the standard of the work, shall not relieve the Contractor of the obligation to furnish a satisfactory first class job in strict conformity with the best practice found in work of a similar type. The failure of the Prospective Contractor to direct the attention of the Contract Coordinator to errors or discrepancies will not relieve the Prospective Contractor of the responsibility of performing the work to the satisfaction of the County, should he/she be awarded the Contract.

4. RESPONSIBILITY OF PROSPECTIVE CONTRACTORS REGARDING CONDITIONS OF THE PROJECT

A. The Contractor shall familiarize himself with all current codes, regulations and standards applicable to the specific work involved in the Contract. He shall fully comply with all requirements of applicable codes, regulations and standards whether indicated in the Contract Documents or not, including any modifications made by the authorities having jurisdiction over the contract work during the lifetime of the Contract. Appendix A is bound to these Instructions for the Contractor to review as an outline of these requirements. It should be noted that in accordance with Appendix A, that the provisions in this Appendix shall apply to the Contractor, its officers, agents and employees. The Contractor shall incorporate the provisions in this Appendix A in all applicable subcontracts and other agreements executed by the Contractor in connection with the performance of the Contract. Section 18 of Appendix A, "CODE AND ORDINANCE REQUIREMENTS" provides information regarding the use of the County's Clearinghouse including Contracts funded in part or in whole by the General Obligation Bond's funded program.

B. All information given on the Plans or in the Contract Documents relating to geotechnical information should not be considered by the Contractor to conclude that the subsurface conditions will be consistent between test information locations. All such information was prepared for the information of the Department's Engineers only, and permission to examine the same is extended to prospective Contractors for their convenience. In no event is such information, including any shown on the Contract Plans, to be considered a part of this Contract.

C. The Contractor shall consider all costs and expenses associated with the submittals, including re-submittals (if any), including shop drawings, as being included within the prices contained in the Proposal. The cost of any fees such as the direct cost of required permits shall be paid by the Department, if specifically provided for in a dedicated allowance, unless otherwise stated.

5. PRE-BID CONFERENCE

A Pre-bid Conference will be held at 2:00 PM on Tuesday, May 10, 2011, at the Stephen P. Clark Center, 111 NW 1st Street, 18th Floor, Conference Room 18-4, in order to discuss this solicitation. Since space is limited, it is recommended that one representative of each firm attend in order to become familiar with the Solicitation and conditions of usage. Attendees are encouraged to bring this Solicitation Package to the conference, since copies will not be available for distribution at the Pre-bid Meeting. While attendance is not mandatory, prospective bidders are encouraged to attend, in order to become familiar with the requirements for this project.

6. SIGNATURE OF CONTRACTOR

A. Division 0 contains the contract agreement, contract forms and documentation that must be

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provision of the required Payment and Performance Bond(s) with good and sufficient surety and the necessary Certificates of Insurance as may be required, all within ten (10) business days after the prescribed forms are presented to him for signature, the bid guarantee, and the monies payable thereon, shall become the property of and be retained and used by Miami-Dade-County as liquidated damages, and not as a penalty; otherwise, the bid guarantee shall be returned by Miami-Dade-County to the undersigned.

12. WITHDRAWAL OF SUBMITTAL PACKAGES

Any submittal package may be withdrawn prior to the time scheduled in the advertisement for the submittals to be opened, provided the prospective Contractor makes a written and signed request to the County for the withdrawal of submittal. A submittal package may also be withdrawn, provided the prospective Contractor makes a written and signed request to the County for the withdrawal of the submittal no sooner than ten (10) business days after the opening. The County shall review such requests when received and may accept the withdrawal of the submittal and release of the bid bond once the County has determined that the specific submittal is no longer being reasonably considered for award due to having sufficient lower bids for consideration. The decision to allow withdrawal of the bid and release of bid bond, prior to the days established in this Article, shall be at the sole discretion of the County.

13. COUNTY RIGHT TO ACCEPT, REJECT, AND CANCEL BIDS

A. The County reserves the right to reject any or all submittal packages, to waive any informality in any submittal packages, to cancel bids, or to reassign all or any part of the work contemplated, whenever it is deemed in the best interest of the County. The County shall be the sole judge of what is in its "best interest". The County may reject any submittal packages if prices are not fair and reasonable, as determined by the County, and/or exceed the County's estimated budget for this Contract. Grounds for rejection include but are not limited to solicitations that result in too few submittal packages for Contracts when a pool of qualified Contractors is sought, submittal packages from any person, firm or Corporation in default on other contracts or agreements with the County, submittal packages on contracts from any person or entity that has failed to properly perform similar work for the County, failure by the Contractor to satisfy claims on previous contracts with the County, submittal packages which are incomplete, conditional, obscure, or which contain additions not requested, or irregularities of any kind, or which do not comply in every respect with the Instructions to Prospective Contractors. The prospective contractors shall be aware that performance as a prime contractor or subcontractor on previous County contracts shall be taken into account in evaluating proposals received for this contract.

B. The County reserves the right to reject any or all submittal packages whose individual bid items appear to be un-balanced regardless of the total base bid for the Proposal. The bidder recognizes and acknowledges that the County's determination of whether a bid is unbalanced is within the sole discretion of the County, to be made following consideration of factors which may include, but are not limited to, a comparison of the bid item(s) in question with the estimated values established prior to the bid date, a comparison with the other respondents' bid(s) on the same proposal and/or a comparison with the industry standard cost for such item(s) in current industry publications. If the County determines a respondents' proposal is an un-balanced bid proposal, the respondent will be determined non-responsive and will not be awarded the Contract regardless of the total of the base bid.

C. By incorporation into these instructions, the prospective contractor is made aware, if awarded the contract, the contractor shall be formally evaluated in writing at least one time during and /or at the end of the completed contract depending on the length of Contract duration. This evaluation will be available to all Miami-Dade County departments for use when evaluating the same contractor for future contract awards.

14. AWARD OF CONTRACT

A. The Recommendation for Contract Award, if any, will be made to the Contractor whose submittal is found to be responsive to the solicitation, offered by a responsible contractor, is the lowest such responsive and responsible bid and is found to be in the best interest of the County. This award recommendation is subject to protest for a period of three (3) days immediately following the filing of the Mayor's/Manager's recommendation with the Clerk of the Board. The actual award of the contract is not final until the Mayor or the Mayor's designee, pursuant to the authority vested in him by the Board of County Commissioners, executes the contract documents.

B. For the purpose of determining the lowest value response received from a responsive and responsible bidder, the department shall use the total of all base proposal items (the Base Bid). Contingency Allowance and Dedicated Allowance items will not be considered in the determination of the lowest bid. The County reserves the right, however, to recommend a bidder other than the lowest responsive bidder if it is determined that the latter does not meet the responsibility requirements set forth in the advertisement of this contract. The County also reserves the right to adjust the Contingency Allowance and Dedicated Allowances prior to the approval of the award if deemed in the best interest of the County. The contract shall be only for the base bid however; the approval of contract funding by the Board of County Commissioners shall contain the total of the base bid plus the Contingency Allowance and all Dedicated Allowances. If a payment and performance bond is required, the payment and performance bond shall be provided for the full value of the Contract, to include the value of all Contingency and Dedicated accounts approved by the Board of County Commissioners.

C. In determining the lowest responsive and responsible bidder, the County in its sole discretion, may elect to include any options or alternatives which it deems advisable to include in the Contract.

D. Notice of Award, as described in Article 9, "NOTICE OF AWARD", of the General Covenants and Conditions, will be given to the successful Contractor by a registered/certified letter to the address stated in the submittal package by the Prospective Contractor, or via facsimile.

15. EXECUTION OF CONTRACT

Upon receipt of Notice of Award, the Contractor to whom a Contract is awarded will be required to execute, in six (6) counterparts, each of which shall be deemed an original, the prescribed Contract Document and if applicable, Performance and Payment Bonds within ten (10) business days from the date of Notice of Award. The required Certificates of Insurance and Policies, as stated in the General Covenants and Conditions, shall also be delivered within this ten (10) business day-period.

16. REQUIRED CONTRACTOR'S CERTIFICATION

A. The Contractor must hold at the time his proposal is submitted:

1. An active, current valid certificate, as listed below, qualifying the Contractor to perform the work contemplated by these Contract Documents. Failure to hold the appropriate certificate at the time of this award shall render the submittal package non-responsive.

2. License, in the appropriate category, provided by the State of Florida Construction Industry Licensing Board, pursuant to the provisions of Section 489.115 of the Florida Statutes; or

EXHIBIT C

Findings and Recommendation of Hearing Examiner dated December 7, 2011

CLERK OF THE
BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

In re: Northeast Regional Library;
ISD (f/k/a GSA) Contract No.
Z00086
Bid Protest of Perez-Gurri Corp.
doing business as N&J
Construction
_____/

FINDINGS AND RECOMMENDATIONS OF HEARING EXAMINER

Pursuant to Section 2-8.4 Miami-Dade County Code and Administrative Order 3-21

This matter was heard before the undersigned Hearing Examiner on December 1, 2011 at 12:00 p.m. at the Stephen P. Clark Center, 111 N.W. 1st Street, 10th Floor, Miami, Florida (the "Hearing"), upon the bid protest filed by Perez-Gurri Corp. d/b/a N&J Construction ("N&J"), protesting the recommended award of Northeast Regional Library; ISD (f/k/a GSA) Contract No. Z00086 ("Contract") to Miami Skyline Construction Corp. ("Miami Skyline") for the construction of a one story library building in Aventura, Florida ("Project).

Having reviewed the bid protest, the motion to dismiss, the memorandum in opposition to the bid protest, and the exhibits admitted at the Hearing; having heard the testimony and arguments of Miami-Dade County ("County"), N&J and Miami Skyline; and being otherwise fully advised, I find that protest of N&J should be denied. I find that the County's determination Miami Skyline was the lowest responsive and responsible bidder was not arbitrary or capricious.

BACKGROUND

The solicitation for the Project ("ITB") was issued on April 29, 2011. On June 29, 2011, the County received twelve (12) bids on the Project. It is not disputed that the lowest bid was by Miami Skyline, or that the next lowest bid was by N&J. It also is not disputed that both the bids of Miami Skyline and N&J were responsive.

N&J's protest is based on the contention that Miami Skyline was not a responsible bidder based on the terms of the ITB. Specifically, the ITB provides in several places:

> RESPONSIBILITY REQUIREMENTS: The selected General Contractor must 1) have been in the business of constructing general cultural and/or educational-type facilities for a minimum of ten (10) years; 2) must demonstrate having built a facility of a similar size and complexity with a project cost of $5,000,000 with the past ten (10) years; and 3) must be a LEED AP BD+C, or have a LEED AP BD+C Consultant on staff during the entire construction phase, who can demonstrate having participated in the design of at least one (1) completed, Silver LEED certified facility, or one (1) facility under construction, which is registered with the United States Green Building Council (USGBC) to pursue Silver LEED Certification.

See, e.g, Protest Tab B & Protest Tab C (setting forth the same requirements in the Special Provisions of the ITB).

In its protest, N&J contends that Miami Skyline did not meet the responsibility provisions of the ITB set forth above, and that the County acted arbitrarily and capriciously in finding Miami Skyline to be responsible. The County submits that through its staff it conducted a sufficient investigation into Miami Skyline's responsibility to have a rational and reasonable basis to find Miami Skyline responsible, and that it did not act arbitrarily or capriciously in finding Miami Skyline to be responsible.

FINDINGS AND RECOMMENDATION

It is well settled law that a public body has wide discretion in awarding a contract for a public service and that discretion cannot be overturned absent a finding of "illegality, fraud, oppression or misconduct." *Liberty County v. Baxter's Asphalt & Concrete, Inc.*, 421 So. 2d 505, 507 (Fla. 1982). As such, "the hearing officer's sole responsibility [in reviewing a protest] is to ascertain whether the agency acted fraudulently, arbitrarily, illegally or dishonestly." *Dep't of Transp. v. Groves-Watkins Constructors*, 530 So. 2d 912, 914 (Fla. 1988); *Miami-Dade County v. Church & Tower, Inc.*, 715 So. 2d 1084, 1089-90 (Fla. 3rd DCA 1998); *see also Intercontinental Props., Inc. v. State Dep't of Health & Rehabilitative Servs.*, 606 So. 2d 380, 387 (Fla. 3d DCA 1992) ("there is a strong public policy in favor

of awarding contracts to the low bidder, and an equally strong public policy against disqualifying the low bidder for technical deficiencies which do not confer an economic advantage on one bidder over another.").

Based upon all the evidence presented, all of the exhibits that were submitted, and all the testimony that was taken in front of me at the Hearing, I find that the Protestor has not met its burden to show that the County acted arbitrarily or capriciously in awarding the bid to the lowest responsive, responsible bidder, as determined by the County, in its sole discretion. *See GTech Corp. v. State Dept. of the Lottery*, 737 So. 2d 615, 619 (Fla. 1st DCA 1999) ("The burden is on the party protesting the award of the bid to establish a ground for invalidating the award."). The County, through Mr. Ponassi, reviewed records from Miami Skyline, and from previous projects completed by Miami Skyline, and spoke to agencies involved in those projects (the City of Weston and the Broward County School Board), and the County determined, in its sole discretion, that Miami Skyline was the lowest bidder capable of completing the project and having met the requirements.

There was no evidence that the exercise of the County's discretion was unreasonable, or that the analysis by Mr. Ponassi of the bid requirements of a project of similar size and complexity, with a cost of $5 million was capricious or arbitrary. The interpretation of the County's bid requirement by the County is not devoid of fact of a rational basis. *See Banknote Corporation of America, Inc. v. United States*, 365 F.3d 1345, 1351 (Fed. Cir. 2004) ("the test is 'whether the contracting agency provided a coherent and reasonable explanation of its exercise of discretion, and the disappointed bidder bears a 'heavy burden' of showing that the award decision had no rational basis.'") (citing *Impresa Construzioni Geom. Domenico Garufi v. United States*, 238 F.3d 1324, 1332 (Fed. Cir. 2001)). I, as a Hearing Officer, cannot substitute my judgment for that of the County, nor can I substitute my analysis of the bid requirements for the analysis made by the County. *See Groves-Watkins Constructors*, 530 So. 2d at 914;

Church & Tower, Inc., 715 So. 2d at 1089-90 (Fla. 3rd DCA 1998) ("So long as such a public agency acts in good faith, even though they may reach a conclusion on facts upon which reasonable men may differ, the courts will not generally interfere with their judgment, even though the decision reached may appear to some persons to be erroneous.").

The size and complexity requirements were based upon Mr. Ponassi's comparison and analysis of a project of $5 million. Under existing law, I cannot find that this is capricious or arbitrary. I am, therefore, finding that there was no evidence of dishonesty, oppression or misconduct, and I am recommending that the Bid Protest be dismissed at this time by the County Commission.

The Honorable Mercedes Bach

December 7th, 2011

Dec 07, 2011

Miami-Dade County, Florida

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