OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

MIAMI-DADE COUNTY

Date: February 17, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 8(F)(1)(B)

From: Carlos Alvarez
Mayor

Resolution No. R-114-09

George M. Burgess
County Manager

Subject: Recommendation authorizing Rejection of all Bids; Waiving the Bid Protest Process; Waiving of Competitive Bidding; and authorizing the County Mayor or County Mayor's designee to execute a contract with the lowest responsive, responsible bidder from a best and final bidding process for the Construction of the new Arcola Lakes Branch Library – Project No: W70259; Contract No: W70259.

Recommendation

It is recommended that the Board of County Commissioners (Board) reject all Bids, authorize a Waiver of the Bid Protest Process, authorize a Waiver of Competitive Bidding pursuant to Section 5.03 of the Home Rule Charter, Section 2-8.1 of the Code of Miami-Dade County, and Section 255.20 of the Florida Statutes, and authorize the County Mayor or County Mayor's designee to execute a Construction Contract for the Construction of the new Arcola Lakes Branch Library in an amount not to exceed $3,313,933.00. The aforementioned construction contract will be awarded to the lowest responsive, responsible bidder resulting from a best and final bidding process between Zurqui Construction Service, Inc., Solution Construction, Inc., and Link Construction Group, Inc. This item has been prepared by the General Services Administration and is recommended for approval.

SCOPE:

PROJECT SITES:	LOCATION	DIST	AWARD AMOUNT	T-S-R
	8240 NW 7 AVE 33150	2	$3,313,933.00	53-11-41

PRIMARY COMMISSION DISTRICT: District 2 Dorrin D. Rolle

BACKGROUND: On July 11, 2008, staff deemed Solution Construction, Inc. (Solution) the lowest responsive, responsible bidder for this project after incorrectly determining that the apparent low bidder, Zurqui Construction Service, Inc. (Zurqui), was non-responsive. As a result, a recommendation to award the contract to Solution was presented and approved by the Board on October 21, 2008. Subsequent to this approval, Zurqui filed a bid protest disputing their disqualification. As you were advised in a memorandum dated November 17, 2008 (attached), management then discovered that the award had not been filed with the Clerk and all bidders were not properly notified of the recommended award in accordance with Sections 2-8.3 and 2-8.4 of the County Code. As a result, the item was not properly before the Board. The responsible staff members have been disciplined accordingly and new procedures, including additional reviews, have been implemented to ensure that such an error is not repeated.

Upon review of the matter, the County Attorney's Office determined that Zurqui was, in fact, responsive, and recommended that the Board reconsider the award to Solution pursuant to Rule 7.01(k) of the Rules of Procedure of the County Commission. At its November 20, 2008 meeting, the Board rescinded the Recommendation for Award to Solution and all bidders were notified of this action on November 21, 2008.

Pursuant to Florida Statutes, the governing board of a local government may waive the requirement of a competitive bidding process if, after public notice, it conducts a public meeting under s. 286.011 and finds by a two-thirds vote of the governing board that it is in the public's best interest to award the project according to the criteria and procedures established by charter, ordinance, or resolution, as stated in Section 255.20(1)(c)(10)(b)(II):

> "The time to competitively award the project will jeopardize the funding for the project, or will materially increase the cost of the project or will create an undue hardship on the public health, safety, or welfare."

Staff has evaluated and determined that Capital Asset Acquisition Bond 2007 Proceeds allocated to fund this project must be utilized entirely by May 2010. In order to meet this deadline, and given the current project schedule, it is imperative that the selected contractor be given a Notice to Proceed by mid March 2009. Consequently, awarding this project through competitive bidding for a second time could result in the County's forfeiture of the funding already in place.

In order to expedite this critical work and in the best interest of the County, it is recommended that the Board reject all bids, waive the competitive bidding process for contractor selection, waive the bid protest process, and award a contract in an amount not to exceed $3,313,933.00 to the winner of a best and final bidding process among the three lowest responsive, responsible bidders as listed in the July 11, 2008 Bid Tabulation.

The County is committed to expanding its network of libraries in order to continue to provide free cultural, educational, and recreational library-based programs. The new Arcola Lakes Branch Library will continue reflecting the implementation of the Library Capital Expansion Plan to meet the cultural and educational needs of the community.

PROJECT DESCRIPTION:

The project consists of building a new 9,670 square-foot, one-story Concrete Block System (CBS) library building. The scope of work will include, but not be limited to: demolition, earthwork, excavation, underground utility systems, asphalt paving including curbs, drainage system, stripping, landscaping and irrigation system, concrete and masonry; roofing assembly with built-up roofing system, framing, drywall and finishes, architectural finishes; Heating, Ventilation and Air Conditioning System

	(HVAC), plumbing system; electrical system, fire-alarm including smoke detection and alarm monitoring systems.
PROJECT LOCATION:	8240 NW 7th Avenue, Miami, FL 33150
PROJECT NAME:	Construction of the new Arcola Lakes Branch Library
PROJECT NO:	W70259
CONTRACT NO:	W70259
APPROVAL PATH:	Board of County Commissioners
USING DEPARTMENT:	Library Department
MANAGING DEPARTMENT:	General Services Administration
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 SOURCES:	Series 2007 Capital Asset Acquisition Bond Proceeds ($3,313,933.00)
OPERATIONS COST IMPACT/FUNDING:	The annual operating cost for this facility has been estimated to be $1,000,000.00, which will be funded through Library District, operating revenue.
MAINTENANCE COST IMPACT/FUNDING:	The annual maintenance cost for this facility has been estimated to be $32,000.00, which will be funded through Library District, operating revenue.
LIFE EXPECTANCY OF ASSET:	The life expectancy of this facility has been estimated to be 40 years.
PTP FUNDING:	No
GOB FUNDING:	No

CAPITAL BUDGET PROJECTS:	BUDGET PROJECT / DESCRIPTION	AWARD AMOUNT
	9045510-ARCOLA LAKES BRANCH LIBRARY Book Page: 139 Funding Year: Adopted Capital Budget Book for FY 2008-09, Prior Years' Funding	$3,313,933.00
	Project Totals:	$3,313,933.00

CONTRACT PERIOD: 485 Days

CONTINGENCY PERIOD: 49 days

IG FEE INCLUDED IN BASE CONTRACT: Yes

ART IN PUBLIC PLACES: Yes

BASE ESTIMATE: $4,109,750.00

BASE CONTRACT AMOUNT: $3,077,000.00

The difference between the base contract amount and the base estimate is due to the fact that the cost per square foot used for this project was based on the average cost per square foot of the recent library facilities at the International Mall, Kendale Lakes, and Naranja. Since the construction of these buildings, a decrease in the amount of construction projects coupled with lower costs for labor and construction materials, the construction cost has dropped significantly, as demonstrated by the competitiveness in this bid process.

CONTINGENCY ALLOWANCE	TYPE	PERCENT (*)	AMOUNT	COMMENT
(SECTION 2-8.1 MIAMI DADE COUNTY CODE):	New Construction	5.00%	$153,850.00	County Ordinance 00-65 - 5% for New Construction.
ART IN PUBLIC PLACES:		1.50%	$48,463.00	Administrative Order 3-11
ALTERNATE NO. 1		0.13%	$3,850.00	To remove 50 LF of 12" x 30" spread concrete footer and block stem wall at a typical depth of 36" or an equivalent volume of isolated footers.

PERMIT FEES:	1.00%	$30,770.00
TOTAL DEDICATED ALLOWANCE:		$83,083.00
TOTAL AMOUNT:		$3,313,933.00

(*) Percentages are approximate, as they may not reflect the exact amount of money involved in each service.

ORIGINAL BID OPEN DATE:	7/11/2008			
BEST AND FINAL BID OPEN DATE:	3/6/2009			
BID BOND EXPIRES:	3/8/2009			
BID VALID UNTIL:	3/8/2009			
ESTIMATED NOTICE TO PROCEED:	3/16/2009			
PROJECT TECHNICAL CERTIFICATION REQUIREMENTS:	State of Florida Certified General Contractor			
MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS:	No			
STANDARD PAYMENT AND PERFORMANCE BOND:	Yes	Progress Payment, Payment and Performance Bond		
REVIEW COMMITTEE:	**MEETING DATE:**	5/16/2007	**SIGNOFF DATE:**	5/16/2007
	RESUBMIT DATE:	11/7/2007	**RESUBMIT SIGNOFF:**	11/7/2007
RESPONSIBLE WAGES:	Yes			

REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES:	TYPE	GOAL	ESTIMATED VALUE	COMMENT
	CSBE	26.00%	$840,021.00	Administrative Order 3-22
	CWP	10.00%	4 Employees	Administrative Order 3-37
MANDATORY CLEARING HOUSE:	Yes			
CONTRACT MANAGER NAME/PHONE/E-MAIL:	Fernando Ponassi		305-375-3965	FernanP@miamidade.gov
PROJECT MANAGER NAME/PHONE/E-MAIL:	Robert Stebbins, Jr.		786-469-2060	rstebb@miamidade.gov





BUDGET APPROVAL FUNDS AVAILABLE: FOR JGM ABI	**OSBM DIRECTOR**	1-22-09 **DATE**
APPROVED AS TO LEGAL SUFFICIENCY:	**COUNTY ATTORNEY**	1/27/09 **DATE**
CAPITAL IMPROVEMENTS CONCURRENCE: GN 1/29	**OCI DIRECTOR**	1-29-09 **DATE**
	DIRECTOR, GENERAL SERVICES ADMINISTRATION	1-29-09 **DATE**





CLERK DATE: _____ **DATE**

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: February 17, 2009

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

SUBJECT: Agenda Item No. 8(F)(1)(B)

Please note any items checked.

_____	**"4-Day Rule" ("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**
_____	**Bid waiver requiring County Mayor's written recommendation**
_____	**Ordinance creating a new board requires detailed County Manager's report for public hearing**
✓	**Housekeeping item (no policy decision required)**
_____	**No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(F)(1)(B)
2-17-09

RESOLUTION NO. R-114-09

RESOLUTION AUTHORIZING REJECTION OF ALL BIDS; WAIVING THE BID PROTEST PROCESS; WAIVING OF COMPETITIVE BIDDING; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE A CONTRACT WITH THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER FROM A BEST AND FINAL BIDDING PROCESS FOR THE CONSTRUCTION OF THE NEW ARCOLA LAKES BRANCH LIBRARY, GSA CONTRACT NO. W70259, IN AN AMOUNT NOT TO EXCEED $3,313,933.00, FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY AND ALL OTHER RIGHTS 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 authorizes rejection of all bids; waiving the bid protest process; waiving of competitive bidding; and authorizing the County Mayor or County Mayor's designee to execute a contract with the lowest responsive, responsible bidder from a best and final bidding process for the construction of the new Arcola Lakes Branch Library, GSA Contract No. W70259, in an amount not to exceed $3,313,933.00, for and on behalf of Miami-Dade County and to exercise any cancellation and renewal provisions and all other rights conferred herein.

The foregoing resolution was offered by Commissioner Jose "Pepe" Diaz, who moved its adoption. The motion was seconded by Commissioner Rebeca Sosa and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Barbara J. Jordan	aye	Joe A. Martinez	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of February, 2009. 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: **Kay Sullivan**
Deputy Clerk

Approved by County Attorney as to form and legal sufficiency.

Hugo Benitez

GENERAL SERVICE ADMINISTRATION
CONSTRUCTION MANAGEMENT AND RENOVATION DIVISION
BID TABULATION

Project No W70259
Project Name: Arcola Lakes Branch Library
Contract Time: 485 calendar days
Construction Cost Estimate: $4,109,750.00

Bid Opening Date: July 11, 2008
Project Manager: Julio Navaro

Contingency Time Allowance: 49 calendar days

Company Name and Address			OAC Action Construction Corp 12450 SW 130th Street Miami, Fl 33176		Critical Path Services Inc. 14521 SW 71 Ln Miami, Fl 33183		Perez-Gurri Corporation d/b/a N & J Construction 4990 SW 72 Avenue Miami, Fl 33155		Zurqui Construction 9755 SW 40th Miami, 33165		ABC Construction, Inc. 7280 NW 8th St Miami, Fl 33126		C. G. Chase Construction Management 1566 SW 1st Street Hallandale, Fl	
Item No.	Unit	Description	Total		Total		Total		Total		Total		Total	
1	L.S.	LUMP SUM TO FURNISH AND INSTALL ALL MATERIAL, EQUIPMENT AND LABOR FOR THE CONSTRUCTION OF THE GOLDEN GLADES LIBRARY AND WIDENING OF ADJACENT ROADWAY (Total Bid)	$3,843,633.00		$3,345,798.00		$3,633,000.00		$3,077,000.00		$3,250,000.00		$3,648,831.57	
2	L.S.	CONTINGENT ALLOWANCE TO BE USED AT THE DISCRETION OF THE COUNTY FOR UNFORSEEN CONDITIONS (5% of Total Bid)	$192,181.65	*	$167,289.00	*	$181,650.00	*	$153,850.00	*	$162,500.00	*	$182,441.58	*
3	L.S.	FOR ALL COSTS ASSOCIATED WITH ART IN PUBLIC PLACES. (1.5 % of Total Bid)	$60,531.22		$50,187.00		$54,495.00		$46,155.00		$51,225.00		$57,469.10	
4	L.S.	FOR ALL COSTS ASSOCIATED WITH ALTERNATE NO. 1	$1,524.00	**	$900.00	**	$1,500.00	**	$3,850.00	**	$2,500.00	**	$2,000.00	**
		***BID PRICE	$4,097,869.87	***	$3,564,174.00	***	$3,870,645.00	***	$3,280,855.00	***	$3,466,225.00	***	$3,890,742.24	***
		Original Bid Price	$3,268,770.00		$3,345,798.00		$3,633,000.00		$3,077,000.00		$3,250,000.00		$3,648,831.57	

GENERAL SERVICE ADMINISTRATION
CONSTRUCTION MANAGEMENT AND RENOVATION DIVISION
BID TABULATION

Project No W70259
Project Name: Arcola Lakes Branch Library
Contract Time: 485 calendar days
Construction Cost Estimate: $4,109,750.00

Bid Opening Date: July 11, 2008
Project Manager: Julio Navaro

Contingency Time Allowance: 49 calendar days

Company Name and Address			Grace & Naeem Uddin, Inc 833 Shotgun Rd Sunrise, Fl 33326		NAC Construction, Inc; 9065 SW 87 Ave Ste 112 Miami, Fl 33176		Link Construction Group, Inc. 7003 North Waterway Dr Miami, Fl 33155		Miami Skyline construction Corp. 705 NE 130 St N. Miami, Fl 33161		Solution Construction, Inc 7955 NW 12 St, Ste 425 Doral, Fl 33126			
Item No.	Unit	Description	Total		Total		Total		Total		Total			
1	L.S.	LUMP SUM TO FURNISH AND INSTALL ALL MATERIAL, EQUIPMENT AND LABOR FOR THE CONSTRUCTION OF THE GOLDEN GLADES LIBRARY AND WIDENING OF ADJACENT ROADWAY (Total Bid)	$3,943,676.00		$3,268,770.00		$3,170,000.00		$3,175,000.00		$3,100,000.00			
2	L.S.	CONTINGENT ALLOWANCE TO BE USED AT THE DISCRETION OF THE COUNTY FOR UNFORSEEN CONDITIONS (5% of Total Bid)	$197,184.00	*	$163,439.00	*	$158,500.00	*	$158,750.00	*	$155,000.00	*		*
3	L.S.	FOR ALL COSTS ASSOCIATED WITH ART IN PUBLIC PLACES. (1.5 % of Total Bid)	$59,156.00		$49,032.00		$47,550.00		$47,625.00		$46,500.00			
4	L.S.	FOR ALL COSTS ASSOCIATED WITH ALTERNATE NO. 1	$10,000.00	**	$1,000.00	**	$1,700.00	**	$15,000.00	**	$5,000.00	**		**
		***BID PRICE	$4,210,016.00	***	$3,482,241.00	***	$3,377,750.00	***	$3,396,375.00	***	$3,306,500.00	***		***
		Original Bid Price	$3,943,676.00		$3,268,770.00		$3,170,000.00		$3,175,000.00		$3,100,000.00			

GENERAL SERVICE ADMINISTRATION
CONSTRUCTION MANAGEMENT AND RENOVATION DIVISION
BID TABULATION

Project No W70259
Project Name: Arcola Lakes Branch Library
Contract Time: 485 calendar days
Construction Cost Estimate: $4,109,750.00

Bid Opening Date: July 11, 2008
Project Manager: Julio Navaro

Contingency Time Allowance: 49 calendar days

Company Name and Address			Chelle Construction, Inc 19151 SW 108th Ave, Ste23 Miami, Fl 33157		BazanJ Construction Corporation 1114 Lisbon Street Coral Gables, Fl 33134		JCI International Inc. General Contractors 12315 SW 132 Court Miami, Fl 33186		TGSV Enterprises, Inc. 1301 W 68 St Hialeah, Fl 33014		Caviron Construction Company 12171 SW 131 Ave Miami, Fl		Dooley Mack Constructors of South Florida, LLc 11971 NW 37 Street Coral Springs, Fl 33065	
Item No.	Unit	Description	Total		Total		Total		Total		Total		Total	
1	L.S.	LUMP SUM TO FURNISH AND INSTALL ALL MATERIAL, EQUIPMENT AND LABOR FOR THE CONSTRUCTION OF THE GOLDEN GLADES LIBRARY AND WIDENING OF ADJACENT ROADWAY (Total Bid)	$3,688,179.00		$3,650,000.00		$3,690,000.00		$3,703,000.00		$3,769,406.00		$3,809,139.00	
2	L.S.	CONTINGENT ALLOWANCE TO BE USED AT THE DISCRETION OF THE COUNTY FOR UNFORSEEN CONDITIONS (5% of Total Bid)	$184,408.97	*	$182,500.00	*	$184,500.00	*	$185,100.00	*	$188,470.00	*	$190,457.00	*
3	L.S.	FOR ALL COSTS ASSOCIATED WITH ART IN PUBLIC PLACES. (1.5 % of Total Bid)	$55,322.68		$57,487.00		$55,350.00		$55,545.00		$59,368.00		$57,137.00	
4	L.S.	FOR ALL COSTS ASSOCIATED WITH ALTERNATE NO. 1	$4,500.00	**	$5,000.00	**	$2,700.00	**	$6,000.00	**	$3,000.00	**	$1,500.00	**
		***BID PRICE	$3,932,410.34	***	$3,894,987.00	***	$3,932,550.00	***	$3,949,645.00	***	$4,020,244.00	***	$4,058,233.00	***
		Original Bid Price	$3,688,179.00		$3,650,000.00		$3,690,000.00		$3,703,000.00		$3,769,406.00		$3,809,139.00	

GENERAL SERVICES ADMINISTRATION
CONSTRUCTION MANAGEMENT AND RENOVATION SERVICES
BID TALLY SHEET

PROJECT NO./
RPQ NO. W70259

BID TITLE: Arcola Lakes Branch Library
8240 NW 7th Avenue, Miami 33150

DATE BIDS ARE OPENED:	7/11/2008	**DATE DBD FORM ARE OPENED:**		7/9/2008	
Bidder's Name	**Bid Price**	**Alternate**	**All Addendum/ Submitted (Yes/No)**	**Received Form 400 (Yes/No)**	**COMPLIANT WITH DBD FORM 400 (Yes/No)**
Carivon Construction Company	3,769,406.00		5/ no	yes	yes
Solution Constrution, Inc.	3,100,000.00	(1)	5/ yes	yes	yes
JCI International Inc	3,690,000.00		5/ no	yes	yes
Chelle Construction	3,688,179.00		5/ yes	yes	yes
C.G.Chase Construction Management	3,648,881.57		5/ no	yes	yes
Dooley Mack Construction Inc.	3,809,139.00		5/ yes	yes	yes
ABC Construction	3,250,000.00		5/ yes	yes	yes
Critical Path Services, Inc.	3,345,798.00		5/ yes	yes	yes
Miami Skyline Construction	3,175,000.00	(3)	5/ yes	yes	yes
TGSV Enterprises Inc.	3,703,000.00		5/ yes	yes	yes
Zurqui Construction Services, Inc.	3,077,000.00		5/ ND	yes	yes
OAC Action Construction, Corp.	3,843,633.00		5/ yes	yes	yes

Print Name of Person Openings Bids: Ruth Castellanos — **Signature of Person Opening Bids:** 7/11/08

Print Name of Witness: Maria Gonzalez — **Signature of Witnesses:** EDDY ETIENNE

Print Name of Project Manager: Julio Navarro — **Signature of Project Manager:**

41

GENERAL SERVICES ADMINISTRATION
CONSTRUCTION MANAGEMENT AND RENOVATION SERVICES
BID TALLY SHEET

PROJECT NO./
RPQ NO. W70259

BID TITLE: Arcola Lakes Branch Library
8240 NW 7th Avenue, Miami 33150

DATE BIDS ARE OPENED:	7/11/2008	**DATE DBD FORM ARE OPENED:**		7/9/2008		
Bidder's Name	**Bid Price**	**Alternate**	**All Addendum/ Submitted (Yes/No)**	**Received Form 400 (Yes/No)**	**COMPLIANT WITH DBD FORM 400 (Yes/No)**	
Link Construction Group Inc.	3,170,000.00	(2)	5/ yes	yes	yes	
Bazanj Construction Corporation	3,650,000.00		5/ yes	yes	yes	
Grace & Naeem Uddin, Inc.	3,943,676.00		5/ yes	yes	yes	
NAC Construction, Inc.	3,268,770.00		5/ no	yes	yes	
Perez-Gurri Corp. D.B.A. N & J Construction	3,633,000.00		5/ yes	yes	yes	

Print Name of Person Openings Bids: Ruth Castellanos — **Signature of Person Opening Bids:** 7/11/08

Print Name of Witness: Maria Gonzalez — **Signature of Witnesses:** for EDDY ETIENNE

Print Name of Project Manager: Julio Navarro — **Signature of Project Manager:**

Dept. of Business Development
Project Worksheet

Project/Contract Title: ARCOLA LIBRARY (SIC 15)
Project/Contract No: W70259
Department: GENERAL SERVICES ADMINISTRATION
Funding Source: C.I.C. CPE311LB02NW
Estimated Cost of Project/Bid: $4,109,750.00
Description of Project/Bid: TO ESTABLISH A CONTRACT TO CONSTRUCT A NEW 9,670 SF BRANCH LIBRARY.

RC Date: 11/07/2007
Item No: 3-01
Resubmittal Date(s): 05/16/2007, 05/21/2007

Contract Measure Recommendation

Measure	Program	Goal Percent
Goal	CSBE	25.50%
Workforce Goal	CWP	10.00%

Reasons for Recommendation

This project is resubmitted for the following reasons:
To change the project number from W60234 to W70259 as requested by the user department.
Because it was not advertised within the required 180 days.

An analysis of the factors contained in Section VI C of Administrative Order 3-22 as amended indicates that a 26% CSBE goal is appropriate in the following trades: concrete, masonry, wood/plastic, framing/drywall/finishes and painting.

A further analysis of the factors contained in Section II A of Administrative Order 3-37 indicates that a 10% Community Workforce Program (CWP) goal is appropriate.

CWP Estimated Workforce: 38
CWP Workforce Recommendation: 4

CWP Designated Target Areas: Target Urban Areas, Focus Areas, CDBG Eligible Block Groups

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
Drywall, Plastering, Acoustical, and Insulation Contractors	CSBE	$164,390.00	4.00%	23
Concrete Contractors	CSBE	$616,462.50	15.00%	29
Masonry and Stone Contractors	CSBE	$164,390.00	4.00%	13
Painting and Wall Covering Contractors	CSBE	$20,548.75	0.50%	37
All Other Special Trade Contractors	CSBE	$82,195.00	2.00%	39
	Total	$1,047,986.25	25.50%	

Living Wages: YES [ ] NO [ ] **Highways:** 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

REVIEW COMMITTEE RECOMMENDATION

Tier 1 Set Aside _____

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

Trade Set Aside (MCC) _____ Goal CSBE = 26% CWP = 10% Bid Preference _____

No Measure _____ Deferred _____ Selection Factor _____

11/7/07
Chairperson, Review Committee — Date

County Manager — Date

DBDR0060 v 2005101

O.P

Dept. of Business Development
Project Worksheet

Project/Contract Title:	ARCOLA LIBRARY (SIC 15)		**RC Date:** 05/21/2007
Project/Contract No:	W60234	**Funding Source:**	**Item No:** 3-61
Department:	GENERAL SERVICES ADMINISTRATION	C.I.C. CPE311L802NW	
Estimated Cost of Project/Bid:	$4,109,750.00		**Resubmittal Date(s):**
Description of Project/Bid:	TO ESTABLISH A CONTRACT TO CONSTRUCT A NEW 9,670 SF BRANCH LIBRARY.		

Contract Measures Recommendation

Measure	Program	Goal Percent
Goal	CSBE	25.50%
Workforce Goal	CWP	10.00%

Reasons for Recommendation

Resubmittal from 5/15/2007 to change the CWP goal from 9% to 10%.
An analysis of the factors contained in Section VI C. of Administrative Order 3-22 as amended indicates a 26% CSBE goal is appropriate in the following trades: concrete, masonry, wood/plastics, framing/drywall/ finishes, and painting.

A further analysis of the factors contained in Section II A of Administrative Order3-37 indicates a 10% Community Workforce Program (CWP) goal is appropriate.

CWP Estimated Workforce: 38
CWP Workforce Recommendation: 3

CWP Designated Target Areas: Target Urban Areas, Focus Areas, CDBG Eligible Block Groups

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
Drywall, Plastering, Acoustical, and Insulation Contractors	CSBE	$164,390.00	4.00%	19
Concrete Contractors	CSBE	$616,462.50	15.00%	16
All Other Special Trade Contractors	CSBE	$82,195.00	2.00%	35
Painting and Wall Covering Contractors	CSBE	$20,548.75	0.50%	35
Masonry and Stone Contractors	CSBE	$164,390.00	4.00%	11
	Total:	$1,047,986.25	25.50%	

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

Ordinance 98-143 is applicable to all construction projects over $100,000 that do not utilize Federal Funds

REVIEW COMMITTEE RECOMMENDATION

Tier I Set Aside _____

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

Trade Set Aside (MCC) _____ **Goal** ✓ CSBE = 26% CWP = 10% **Bid Preference** _____

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

5/21/07
Chairperson, Review Committee — Date

County Manager — Date

Library Facilities - New

ARCOLA LAKES BRANCH LIBRARY **PROJECT # 9045510**

DESCRIPTION: Construct a 9,670 square foot branch library in County Commission District 2 (formerly County Commission District Branch Library B)

LOCATION: 799 NW 81 St
Unincorporated Miami-Dade County

DISTRICT LOCATED: 2
ESTIMATED ANNUAL OPERATING IMPACT: $1,000
DISTRICT(s) SERVED: Countywide

REVENUE SCHEDULE:	PRIOR	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	FUTURE	TOTAL
Miami-Dade Library Taxing District	1,822	0	419	0	0	0	0	0	2,241
Capital Asset Acquisition Bond 2007 Proceeds	4,525	0	0	0	0	0	0	0	4,525
TOTAL REVENUE:	**6,347**	**0**	**419**	**0**	**0**	**0**	**0**	**0**	**6,766**

EXPENDITURE SCHEDULE:	PRIOR	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	FUTURE	TOTAL
Land/Bldg. Acquisition	1,484	0	0	0	0	0	0	0	1,484
Planning and Design	500	0	0	0	0	0	0	0	500
Construction	1,195	2,867	720	0	0	0	0	0	4,782
TOTAL EXPENDITURES:	**3,179**	**2,867**	**720**	**0**	**0**	**0**	**0**	**0**	**6,766**

CARFOUR/VILLA AURORA BRANCH LIBRARY **PROJECT # 908880**

DESCRIPTION: Construct a 12,000 square foot branch library in the Little Havana area (see also Project #2068290)

LOCATION: 1398 SW 1 St
City of Miami

DISTRICT LOCATED: 5
ESTIMATED ANNUAL OPERATING IMPACT: $1,294
DISTRICT(s) SERVED: Countywide

REVENUE SCHEDULE:	PRIOR	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	FUTURE	TOTAL
Miami-Dade Library Taxing District	1	1,024	0	0	0	0	0	0	1,025
Capital Asset Acquisition Bond 2007 Proceeds	1,925	0	0	0	0	0	0	0	1,925
TOTAL REVENUE:	**1,926**	**1,024**	**0**	**0**	**0**	**0**	**0**	**0**	**2,950**

EXPENDITURE SCHEDULE:	PRIOR	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	FUTURE	TOTAL
Planning and Design	1	0	0	0	0	0	0	0	1
Construction	0	2,949	0	0	0	0	0	0	2,949
TOTAL EXPENDITURES:	**1**	**2,949**	**0**	**0**	**0**	**0**	**0**	**0**	**2,950**

BUDGET PROJECT 9045510

Project Title: 9045510-ARCOLA LAKES BRANCH LIBRARY

Project Desc: Construct a 9,670 square foot branch library in County Commission District 2 (formerly County Commission District Branch Library B)

Project($$ in 000's)	Start:	End:	Prior:	08-09:	09-10:	10-11:	11-12:	Total:
Expenditures	4/1/2006	9/30/2009	2,054	1,687	2,838	0	0	6,579
Revenue			14	1,799	685	0	0	2,498

Project Type: Capital Update Type

CDPWeb Project Milestones ($ IN 000'S)

Milestone:	Start:	End:	Prior:	08-09:	09-10:	10-11:	11-12:	Total:
Land/Bldg. Acquisitio	N/A	N/A	1,454	0	0	0	0	1,454
Planning/Design	N/A	N/A	600	0	0	0	0	600
Construction	N/A	N/A	0	1,687	2,838	0	0	4,525

CDPWeb Project Revenue ($ IN 000'S)

Revenue:	Start:	End:	Prior:	08-09:	09-10:	10-11:	11-12:	Total:
Miami-Dade Library Ta	N/A	N/A	1,822	0	419	0	0	2,241

CIIS Site Info

SITE / Location:	Start:	End:	Prior:	08-09:	09-10:	10-11:	11-12:	Total:
69338-Various Locations			0	0	0	110	1,150	2,745
73058-799 NW 81ST ST 33150			0	0	0	0	0	0
73063-8240 NW 7 AVE 33150			0	0	0	0	0	0

Add GEO Coded Site PROJECT SITES

EXIT

Current Contracts for Project 9045510

Dept	ContractNo	Contract Name	RTA Budget Allocation	Award Budget Allocation	CIIS Award
LB	W70259	Construction of the new Arcola	$2,054,000.00	$0.00	$3,100,000.00
LB	W70259	Construction of the new Arcola	$1,687,000.00	$0.00	$3,100,000.00
LB	W70259	Construction of the new Arcola	$680,063.00	$0.00	$3,100,000.00
LB	W70259	Construction of the new Arcola	$0.00	$2,614,825.00	$3,100,000.00
LB	W70259	Construction of the new Arcola	$0.00	$720,000.00	$3,100,000.00
LB	Z00044/Z00045/W60234	Arcola Site-Construction of a	Cancelled	Cancelled	Cancelled
		Total Allocated:	$4,421,063.00	$3,334,825.00	

Current Sites for Project 9045510

Site	Location
69338	Various Locations
73058	799 NW 81ST ST 33150
73063	8240 NW 7 AVE 33150

Memorandum

MIAMI-DADE COUNTY

Date: November 17, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Arcola Lakes Branch Library

On October 21, 2008, the Board approved a contract in an amount not to exceed $3,334,825 with Solution Construction, Inc. for the construction of the new Arcola Lakes Branch Library. Subsequent to this approval, Zurqui Construction filed a protest disputing their disqualification, and staff requested the attached opinion from the County Attorney's Office (CAO) regarding the merits of the protest. It was then that GSA Director Wendi J. Norris discovered that the award was not properly before you, since the recommendation had not been filed with the Clerk and all bidders were not properly notified of the recommended award in accordance with Sections 2-8.3 and 2-8.4 of the County Code. Although those steps are clearly part of departmental procedures, assigned staff neglected to follow them.

This egregious staff oversight is unacceptable, and the responsible staff members have been disciplined accordingly. New procedures, including additional reviews, have been implemented to ensure that such an error is not repeated.

Fortunately, there is an opportunity to rectify the situation. The CAO has opined that, "the irregularities were discovered with sufficient time to make the recourse of reconsideration available...prior to the finality of the Commission award." Under Commission Rule 7.01(k), the matter may be reconsidered by the Board at the next regularly scheduled meeting following the adoption of the resolution, which is November 20, 2008. The reconsideration would void the prior resolution awarding the contract to Solution, allowing the Board to consider a new recommendation that is consistent with the CAO's opinion and the processes outlined in the Code.

Upon reconsideration, a new recommendation would be filed with the Clerk and notices would be sent to all bidders, affording an opportunity to protest. If no protests are filed, staff anticipates presenting an item to the Recreation and Cultural Affairs Committee in January.

If you have any questions, please contact General Services Administration Director Wendi J. Norris at (305) 375-4513.

Attachment

c: Honorable Carlos Alvarez, Mayor, Miami-Dade County
Robert A. Cuevas, County Attorney
Denis Morales, Chief of Staff, Office of the Mayor
Hugo Benitez, Assistant County Attorney
Wendi J. Norris, Director, General Services Administration
Charles Anderson, Commission Auditor

Memorandum

MIAMI-DADE COUNTY

Date: November 13, 2008

To: Wendi Norris
Director, GSA

From: Hugo Benitez
Assistant County Attorney

Subject: Arcola Lakes Branch Library - GSA Project No. W70259 - Zurqui Construction

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The County Manager submitted a written recommendation to the County Commission to award the above contract to Solution Construction. The Commission approved the recommendation at the October 21, 2008 Commission meeting. Zurqui Construction subsequently filed a bid protest. You have asked for a written opinion addressing what action should be taken in light of this development. Because of the irregularities cited below, it is my advice that the Manager should request the Commission at the November 20th Commission meeting to reconsider the award to Solution, so that a new recommendation can be issued consistent with this opinion.

FACTS

The below facts have been derived from the Project Chronology prepared by your department, discussions with your staff, and review of the documents.

1. The project was advertised for bid on April 15, 2008.

2. Bids were opened on July 11, 2008. Advertisement for bids. The bid tally sheet (dated July 11, 2008) listed seventeen bids that were received. The low base bid was from Zurqui Construction Services, Inc. ("Zurqui") in the amount of 3.07 million. The next low bid was from Solution Construction Inc ("Solution") in the amount of 3.1 million.

3. For reasons which do not appear in the contemporaneous record, the Department disqualified Zurqui's bid and prepared an award recommendation to Solution. The Manager's written recommendation to award makes no mention of the disqualification, and simply recommends award to Solution. The Department did not request an opinion from this office regarding the responsiveness of the apparent low bidder Zurqui.

4. Section 2-8.3 of the Code requires the Manager's written recommendation be filed with the Clerk and copies be sent all bidders prior to the matter being submitted to the Commission for action. It does not appear that the recommendation was filed in the Clerk's Office or that notice was sent to the bidders as required under the Code.

5. No mention was made before committee or the Commission that the apparent low bidder had been disqualified and that award was being recommended to the second low bidder.

6. Three days after the Board meeting, on October 24, 2008, the Department sent a letter to all bidders, including Zurqui and Solution, informing them that the County Manager "in accordance with Sections 2-8.3 and Section 2-8.4" had executed a "tentative award of this contract" to the "lowest responsive bidder," Solution. The letter further advised that the award would become final three business days from the date of the notice "or the filing date of the County Manager's award with the Clerk of the Board whichever is the latest date." The mention of three days appears to be a reference to the period for filing a protest provided in Section 2-8.4.

7. On October 29, 2008, Zurqui filed a bid protest. The protest challenges the Department's determination to disqualify Zurqui based on Zurqui's failure to sign and return with the bid the addenda received during the bid period. The protest does not identify how the protester came to believe that this was the basis of the Department's disqualification of Zurqui, but my subsequent conversations with Department personnel confirm that this indeed was the basis for the disqualification.

8. Following consultation with my office, I requested that a letter be addressed to Solution informing them of the filing of the protest and that further action on the matter would be held in abeyance pending legal review. The letter was sent on November 4, 2008.

ANALYSIS

Based on the facts set forth above, I offer the following opinion and recommendations:

1. The irregularity in Zurqui's bid was immaterial and waivable under the law.

Not every deviation from the requirement of a specification is material. The courts have established two tests to determine whether a deviation is material to warrant disqualification of a bidder: (1)whether the government would be deprived of the assurance that the contract would be entered into and performed in accordance with its material terms and (2) whether the deviation would place the bidder in a competitive advantage over other bidders. *Robinson Electrical Co. v. Dade County*, 417 So. 2d. 1032, 1034 (Fla. 3d DCA 1982). In the application of these tests, the Courts have warned that there is a strong public interest in awarding contracts to the low bidder and conversely "no public interest ... in disqualifying low bidders for technical deficiencies in form, where the low bidder did not derive any unfair competitive advantage by reason of the technical omission." *Intercontinental Properties, Inc. v. State*, 606 So.2d 380 (Fla. 3d DCA 19992).

Judged by these standards, Zurqui's omission, the failure to return receipts of the executed addenda, is immaterial. Central to our opinion is that Zurqui, in its bid submittal, expressly agreed to be bound by all five addenda, by completing by hand the number 5 in its bid submittal form the statement that its bid was "all in full compliance with all terms and conditions set forth in and covered by the Contract Documents including all addenda through number 5". Also immaterial is Zurqui's failure to complete a price breakdown for flooring, identified by Department personnel as an additional irregularity. The specifications fail to address when the item must be submitted, the price is already included in the base bid, and the specification fails to require the submittal at any

time or the consequences of failing to submit the breakdown with the bid. Properly interpreted, the breakdown is a detail required within the schedule of values, a post bid submittal.

2. The matter may be reconsidered by the Commission.

The matter may be reconsidered by the Commission to address the identified procedural irregularities under Commission Rule 7.01(k) at the next regularly scheduled meeting following the adoption of the resolution. The effect of the reconsideration would be to rescind the award of the contract and allow the Commission to consider a new recommendation consistent with this opinion and the processes provided by the Code. The irregularities were discovered with sufficient time to make the recourse of reconsideration available, in our opinion, prior to the finality of the Commission award. *Barry v Okaloosa County,* 334 So. 2d 349 (Fla. 1st DCA 1976); *Schloesser* v. *Dill*, 383 So.2d 1129 (Fla. 3d DCA 1980). In any event, the Commission's action resolution was based on the mistake of fact that all proper procedures set forth in the Code had been followed. Finally, we note that given the early detection and notification of the problem, any claim by Solution for damages in the event it does not receive an award would be minimal.

Hugo Benitez

HB/es