

**City of Coral Gables City Commission Meeting
Agenda Item C-2
December 16, 2014
City Commission Chambers
405 Biltmore Way, Coral Gables, FL**

City Commission

Mayor Jim Cason

Vice Mayor William H. Kerdyk, Jr.

Commissioner Pat Keon

Commissioner Vince Lago

Commissioner Frank Quesada

City Staff

City Manager, Cathy Swanson-Rivenbark

City Attorney, Craig E. Leen

City Clerk, Walter J. Foeman

Deputy City Clerk, Billy Urquia

Public Works Director, Glen Kephart

Assistant Public Works Director, Ernesto Pino

Chief Procurement Officer, Michael Pounds

Assistant City Manager, Carmen Olazabal

Public Speaker(s)

Natividad Soto, Ferguson, Glasgow, Schuster, Soto, Inc.

Michael Chickillo, President, Coral Gables Firefighters Association, Local 1210

Agenda Item C-2 [Start:09:55:48 a.m.]

A Resolution accepting the recommendation of the Chief Procurement Officer to award the Fire Station No. 3 Renovation Project to Grace & Naeem Uddin, Inc., pursuant to Section 2-828 of the Procurement Code, entitled "Contract Award" and Invitation for Bid (IFB) 2014.10.24.

Mayor Cason: All right, let's start with C-2.

City Manager Swanson-Rivenbark: Mr. Mayor, I'm going to ask our Procurement Officer, in addition to our Public Works Director, to come forward to be ready for any questions you might have.

Mayor Cason: Thank you. That's your item, Commissioner Keon.

Commissioner Keon: Item C-2. The item is on the award for the renovation of the fire station number 3. You know, when we did a tour of all of the public service facilities here in the City, I really was astounded at the disrepair of particular -- well, the structural issues and number one, and everything about fire station number 3, it seems that it was maybe not the best designed building and certainly not the best constructed building, particularly with regard to water and water intrusion and everything else. You know, I just want to make sure that the numbers that are in this item -- I'm looking at page -- it says here -- I think it's like the -- page 42 of 268. We don't have 268 of them, but that happens to be the number. It's a description of what's going to be done. And think the thing I was most concerned about was the ability, the thermal and moisture protection, a \$57,000. I'm sure that it was well vetted, but it strikes me as not a lot of money for the level of water intrusion, and whatever, in that building for as long as it has been going on. I also had some questions about can we correct those water problems without redesigning a roof system, or whatever, for that building? I mean, there's no overhang on the building, and it seems -- is there a way to be able to, you know, retrofit? I know there's a thing here for hurricane resistant windows, but I know there seem to be spaces in the windows, and they didn't fit the openings well. So in the replacement, is there enough money in what has been budgeted to really bring that station into both a livable and workplace for the firefighters that are there?

Public Works Director Kephart: Commissioner Keon, thank you, and Mayor and Commissioners. Yes, we believe that, first of all, the issues with the building, the main issues as you have identified, start with water intrusion and also the air conditioning systems, and this project was designed to address those issues primarily, and it includes replacement of the roof over the apparatus room, repairs to the other roof, which is tile, which was appropriated according to our designers and our assessment, there was an assessment done before the design,

replacement of the windows, a coating of the entire building with the elastomeric coating; elastomeric coating to completely waterproof it, and then new apparatus doors, in addition to five air conditioning units. And we believe that the specifications in the design is very sound to accomplish the purpose of, first of all, stopping that water intrusion, so then during the process, if there's any mold that needs to be abated, that's concluded in the contract too; and we've also included a very adequate, we believe, contingency on this project of \$100,000, which, if you take out the apparatus doors, is well in excess of the 10 percent. So we expect on a project like this, when they tear things out, that we're going to find some unforeseen conditions, and that money, we think, is adequate to cover that. So in short, to answer your question, we believe that -- I would add, too, that the low bid -- if you look at the range of bids to 973 and then there's a group around 1.1, and the engineer's estimate was right in between there, so it's fairly reasonable. As we see bids come in, there's usually a low bid that's a little bit less; we think it's within the range of an amount that they can complete this project. So the answer is yes, we think this project will accomplish the --

Mayor Cason: When you think it would be once awarded, when would it be completed?

Public Works Director Kephart: It's a five to six month construction project, so it takes until you get the insurance documents and everything done, let's say we start construction late -- get the holidays late January, maybe early February. We should be able to complete this project by July/August time frame, which is an ideal window to do it, because if we delay it from that point on, we start to get into hurricane season, which we'd like not to have to go through another hurricane season with this building, if at all possible.

Commissioner Keon: OK, so you think that it'll be done by July? Is that -- I'm sorry; is that what you just said?

Public Works Director Kephart: July/August, based on the schedule. It's a five to six month construction window, so we need to move very quickly. If you would award this contract today, then we would move very quickly to try to execute it and get a notice to proceed to begin construction.

Commissioner Keon: OK. Would it be all right to have Mike Chickillo speak to the issue also?

Commissioner Lago: Could I get a few -- Mike, come on up, come on up, come on up. I just have a few questions. And first off, I appreciate you gentlemen being here. And I had a conversation with the City Manager yesterday at our briefing prior to the agenda, and along with Mr. Kephart, who was there also via phone conference. I have a few concerns just...having a little bit of background in regards to construction and design. My concerns are, I am learning right now that the average. The proposed estimate was around \$1.1 million, correct, for this project? OK. When you look at the numbers between first and second place, it's about a 15 percent difference. Standard general conditions are usually between 10 and 12 percent. So when you look at general conditions, which I think were about \$100,000, did we get from the first-place winner a breakdown of his or her general conditions?

Public Works Director Kephart: No, no.

Commissioner Lago: I would like for, in the future when we do this, that they provide a breakdown of general conditions, and I'll tell you why. Because a lot of what's inside general conditions refers to insurance, refers to staffing so that when we have a problem on the job site in reference to why there isn't a superintendent on the job 24 hours of the day, I didn't staff that, so we can see that in the general conditions number, which they put it as, I think, general requirements here. It's about \$100,000 number for a six-month job. I mean, it's OK, you know, in regards to that, but I'd like to see a breakdown in reference to what they're offering for \$107,000. How much is their profit on this job? And I'd like to see what the profit is for future jobs. Do we have a schedule from the contractor?

Assistant Public Works Director Pino: Not yet. It'll be issued -- it's usually issued -- or we require it in the preconstruction meeting, which would be the next step after we sign a contract with them.

Commissioner Lago: OK. Then I want to concur with my colleague, Commissioner Keon. I also went on a tour, and there was, you know, pretty significant deferred maintenance on several of -- I think it was three fire stations that we visited. It was a little bit appalling, and I know that we're moving in a direction to try to remediate that, and I want to commend everybody for, you know, moving in the right direction. But there are two final issues that, to me -- I'm going to tell you why I'm going to vote "no" today, OK. This project, to me, even though it's a million-dollar project, it's pretty significant to the City of Coral Gables because it has to do with our firefighters, and it's again, like I mentioned, has nothing to do with anybody in this room; has to do with the fact that the way that the firefighters have been living, in my opinion, in those dorms and in those offices is pretty horrific, appalling. It's appalling. I can't support this not because there was a flaw in procurement, not because of anything; because of what I see in regards to the package. When everyone turns to page 48 of the document, you will see that the individual who we're about to award this project to has 24 lawsuits in the last four years. Again, that to me is a concern. When you have 24 lawsuits with different municipalities and agencies and subcontractors, it's a concern to me. I think that we need to put that on the record, that 24 lawsuits is pretty significant, in my opinion. Again, you may have a different opinion, and I would like to hear it, but I have not been involved in a project where somebody has 24 lawsuits pending in progress. Again, we can defer to our attorney here, who can give me a little bit more information in regards to that, but I think it's something that we need to hold into account. And another thing that concerns me is there's a 15 percent difference between first and second place. That leaves a window for change orders in the near future, especially when you put that there's \$100,000 contingency on the project. So is there language in the document which stipulates that alternates are not allowed? I ask you that because if we specified -- I didn't get to see the project -- but if we specified trained HVAC (Heating, Ventilation & Air Conditioning) equipment and they provide an alternate which saves them \$30,000, \$40,000 or \$20,000, whatever the number may be, we may be getting an inferior product. So I need to make sure that what we specified in this project is really being delivered, because we're spending almost \$1.1 million on this project.

Public Works Director Kephart: And I think the answer to that is as we would in normal projects, unless we have a very specialized item that we don't think an equal exist for, we do allow the contractor to propose alternatives that meet the exact same specifications, and we

would work with our designers very closely to not accept anything that we think is inferior, but if in fact, it does meet the very specific specifications that had been set forth, then normally we would accept that if we don't have a reason not to. But to your point, it's inherent on us, with help from our consultants -- and we have them here today. Matthew Soto, representing Ferguson Glasgow -- to assure that we don't accept any inferior projects so.

Commissioner Lago: Well, I mean, I don't know if I used the word "inferior." If I did, I want to strike that from the record. What I wanted to say was just an alternate, which maybe does not qualify or meet the standards.

Public Works Director Kephart: Yes. It would be an approved equal is what it would have to, it would have to meet the criteria of an approved equal, and there is a process for the contractor to submit, as you're probably very well aware, and then for us to go through a review process and determine whether we believe it's really an approved equal or not.

Commissioner Lago: And the reason why -- and the final question is, the reason why I ask about the schedules is because having been involved in similar projects, one of the requirements that they sometimes -- municipalities or agencies or private entities require from you is for you to provide a schedule. Why is that? To see what is your time frame, and they match that with your general conditions to see if you're going to be staffing the project accordingly. Because what a lot of general contractors do, you know, they look for alternates, number one; they look to under staff the project, so that's -- there's a cost savings there, and at the end of the day, you know, when a municipality 75, 80 percent through a job and there's something left out, most cases that's a major change order, and the race is to finish the project, especially something as critical as a firefighter need. So I'm just a little concerned it has nothing to do with Procurement, it has nothing to do with what staff did. At the end of the day, this is a bid, and the lowest bidder is this company. But I think that I'm not going to be supporting this today.

Commissioner Quesada: You know something, you bring up a great point, I was looking at the lawsuits and the description of the claim. Who prepares the description of the claims? Is that something we prepare? Or is that something they provide to us?

Commissioner Lago: They provide to us.

Chief Procurement Officer Pounds: They provided that information.

Commissioner Quesada: So if you look at the description and the claims -- and I'm generalizing here, but just going through it. I think it's a great point you mentioned, it seems a lot of times we're being sued by the subcontractors, is from what I'm gathering from the description of the claim. And then what bothers me also, and you bring up a great point, is the cities that they've worked for, the entities they've worked for end up suing them. And we're talking 24 cases in four years.

Commissioner Lago: And then let me --

Commissioner Quesada: That's a lot of litigations.

Commissioner Lago: If I can interject on that. I'll leave it up to the lawyers, we have two lawyers on this dais and they can speak about it. But what ends up happening is that when you don't, I'm not saying this is happening. I want to be very careful with what I say. You know, when you deal with a subcontractor and there's a problem between a contractor and a subcontractor, usually a lien results on the project, and we want to avoid liens on any projects. So what ends up happening is a municipality has to then result to a lawsuit to try to clear up that lien. So I don't know exactly, there's not enough detail in regards to what is going on in regards to each one of those lawsuits, but I think that we need to be very, very careful in regards to approving this project today.

Commissioner Quesada: Mr. Pounds, do you have any thoughts on your concerns related to the lawsuits or no?

Chief Procurement Officer Pounds: We were concerned about it, and we asked the consultant to look at that page and evaluate those cases as part of their recommendation. And you know, they gave us a recommendation to approve the contract, to submit the contract to you all.

Assistant City Manager Olazabal: The consultant's here, and she can talk a little bit more about the review of those lawsuits and...

Commissioner Quesada: How are you?

Ms. Soto: Good morning. Nati Soto for Ferguson Glasgow Schuster Soto. I was also concerned when I saw the list of litigation. Most of the list is related to a couple of projects that I inquired about. Unfortunately, there is a lot of litigation in the construction industry, as you all know, especially in the last few years that projects have been very lean; budgets have been very tight. We did call the references that the contractor provided. They were from a school board. They were all government entities. They were all public projects that were for remodeling, renovation type of projects. They were all from clients that had worked with this contractor for more than 10 years. All of the references gave very positive reviews, they said they would not hesitate to hire them again, that they were very conscience of the situations at hand. One of them, particularly, had gone into a situation where a consultant had made a serious structural mistake on their documents, because they are engineers, both (UNINTELLIGIBLE) are engineers. They saw the mistake, and they were able to work with the municipality to correct that and keep the project on tract; and they felt they were not abusive in way in the change orders, etcetera. I also contacted another client of ours that I know had done business with them many years ago, and they told me the same thing; that they had worked with them; they had completed a project successfully, and they did not have problems with the contractor.

Commissioner Lago: Thank you very much.

Mayor Cason: Thank you very much. Any more discussion? We have a motion on --

Commissioner Keon: Could we ask Mike to just comment on --

Mayor Cason: Mike, did you want to --?

Commissioner Keon: I just want to make sure that --

Mike Chickillo: I just want to say thank you again to all of you for coming to the stations, along with Carmen. We had the same concerns that Commissioner Lago has with some of the bids. I spoke with our Chief and we went through them yesterday and, you know, all we really want as firefighters is to have it done and done right.

Commissioner Quesada: Yeah.

Mr. Chickillo: We've been living there for 22 years. It's been wrong for 22 years. We went with a low bid 22 years ago, and this is where we're at, and I'm not saying that's a bad bid. You can go with a low bid. We just want to make sure that all our concerns are addressed. And we thank you all for, you know, taking the time to care about our conditions. This is the first time --

Commissioner Lago: So let me, I'm sorry to interject; one second. Just to make sure that the Commissioner understands. You waited 22 years; you're willing to wait two more months.

Mr. Chickillo: Absolutely. We'll wait longer if need be. We want it done right. The bottom line is we don't want to come back here in five years. We've put a roof on this building before. We've had it gutted twice. I don't know if the bid entails gutting the exterior, the interior/exterior walls where the moisture is literally being sucked through the mortar. You can see holes when they had the dry wall before coming through the mortar between the CBS (Concrete Block and Stucco) block. So we want it done right. And, you know, yeah, if it takes another month to start it you know, you're the experts. You guys are the experts and we trust you to get it right, so that's all we really care about. We want to, we don't want to come back here in 5 years or 10 years and say, "Hey, our building's falling apart again" so.

Commissioner Quesada: So, Mr. Mayor, I'm going to make a motion to defer the item to the next meeting, and I'm going to ask staff, through the Manager, to take a look into the second bidder, and also our City Attorney to look into these lawsuits a little bit more to get a little bit better idea, because I don't want to stop this process.

Commissioner Keon: Right.

Commissioner Quesada: I think we all agree with that. We all agree with what Commissioner Lago's saying. It's abysmal, the situation. You guys, we were all shocked when we came and saw the facilities, but we don't want to stop either. But at the same time, we don't want to walk into a quagmire with this company. And again, we could be casting aspersions for no reason whatsoever. Hey, you're allowed to file a lawsuit. Maybe they were wrong; that's fine. So I just want to get additional information on the lawsuits and, at the same time, get additional information on who you guys consider to be second in line, so that we can make a better informed decision at the next meeting.

Commissioner Keon: Right.

Commissioner Lago: Commissioner, I agree with you wholeheartedly. I don't think we're casting aspersions on anyone. I think we have one shot at, you know, to do this right. And as everyone here in this Commission has said -- because everybody went. Everybody saw the current state of not just that fire station; I think it's three or four.

Mayor Cason: About three of them.

Commissioner Keon: That one in particular, the living conditions in there --

Commissioner Lago: No. It's horrific, it's horrific. But I mean we're not casting aspersions on anyone. On the documents provided by the contractor who came in first place due to the fact that their qualification were in order, due to the fact that their price is the lowest -- I'm not sure exactly how the breakdown went -- there are some concerns, and we just want further

information to be assured that they're not falling and securing the fact that they're going to get this done because it's a \$100,000 contingency on the project. That's my biggest concern. Your price is 973. Your price is 973. You should be able to do what is required as per the scope that was put forth by Procurement. I don't want to come back here and say in a year, "Oh, they did the project for 1.3 million." Then that defeats the purpose. That defeats the purpose. If the scope changes when the walls are skinned, and we find that there's excess mold or there's electrical wires are fried, or whatever the scope maybe that's not included as per the original bid set, then we will honor that; because that's the right thing to do, because you can't see through what's behind those walls in every capacity. But I think that also, a problem there is, we want to put a contingency on projects, but I think that when they knew that there was a \$100,000 contingency, some people get a little bit more aggressive in regards to their pricing. Do you disagree with that?

Ms. Soto: Well, the reason for the high contingency on this project is what you just said.

Commissioner Lago: No, I agree.

Ms. Soto: And we're very confident that what it was seen and what is evident is covered by the documents, but again, when we take things apart, especially where the major leaks are --

Commissioner Lago: Yep.

Ms. Soto: The major fix on this project is going to...the major impact is going to be from the air conditioning system, because that'll pressurize this building, it'll dry it out, it'll take care of the humidity. So that's going to be the number-one solution to this --

Commissioner Lago: But then you got to understand, like what the Public Works Director stated, this is about delamination of stucco, this is about paint, elastomeric paint. This is about windows. This is about doing everything properly and cocking those windows, so the contractor -- don't forget; again, I haven't read all the documents. Only gives you a one-year warranty.

Ms. Soto: Yes.

Commissioner Lago: We're living with this building for life. So I appreciate everyone's efforts in regards to this.

Mayor Cason: Glenn, when would you be able to come back and what kind of information provide us by the next meeting in response to the questions?

Public Works Director Kephart: Yeah. If I understood the motion that was made, it's more information on the specifics of the lawsuits with the other contractors so we don't --

Commissioner Quesada: And that request is for the City Attorney's Office, that portion of the request. But the second, the request as it pertains to the City Manager or through the City Manager, is information related to the second and third bidders, if they can really perform.

Commissioner Lago: And also I'd like to see, through the City Manager, is to make sure that we have more information in regards to general conditions, and I want to know what profits are. I want to know where you stand. What are you offering me on this project? Because they give you a lump-sum number, but you don't know if you're getting a project manager, a superintendent, assistant superintendent, how many bathrooms. It's standard. They know how to do this. This is really, really simple. I'm not asking anything out of the norm.

Public Works Director Kephart: And the contractor could give us that information voluntarily, but I guess I would defer to our Procurement Officer or our City Attorney as to whether we can require the contractor to give us that at this time. I am not really sure.

Commissioner Quesada: Yeah, can that be required at this point?

City Attorney Leen: Which specific information?

Public Works Director Kephart: The general conditions that they...

Commissioner Lago: The breakdown.

Public Works Director Kephart:...they've got money in that line item. Do they have to tell us how they broke that down?

City Attorney Leen: Yes. You can ask them that.

Commissioner Lago: Do you want to know why I'm asking?

City Attorney Leen: If it's germane to the issue, it would in the end, you're not really requiring anything additional that wasn't in the original specs. You're requiring more information. My opinion, you can do that.

Public Works Director Kephart: OK.

City Attorney Leen: We can't compel it like a subpoena. But you don't have to approve the project if they don't do it.

Commissioner Lago: Again, the reason why I'm asking is because like what Commissioner Quesada requested, is further information in regards to the second and third place bidder, I would also like to know what their general requirements are. Because with one contractor that's giving me general clients for \$100,000 and the other two bidders are in the 175 range, 200 range, there's something, we're missing here something. We may not be getting the quality that we're hoping we paid for that would -- in the scope -- within the scope. I'm just thinking of different options.

Mayor Cason: OK.

Commissioner Keon: I wasn't sure too. I don't think we saw the full assessment on the building. Did we? Did we ever get that? I know there was an assessment done on each of the buildings, that I don't know we ever saw. What I wanted to know is if in assessing the buildings, whether

there was any deconstruction. Did you open up one of the walls? Did you look behind there? Do we know if there's mildew or mold? Do we know what kind it is? Do we know those things?

Ms. Soto: There was a full assessment; that we had a building and closure expert take samples, go in the addict; basically, look anywhere that he could that he (UNINTELLIGIBLE) the whole operation to the place and determine where the moisture was coming in.

Commissioner Keon: OK.

Ms. Soto: Which is where you would find any problem.

Commissioner Keon: OK. But we know from just looking at the building and from the people that are living and using the building is we're going to assume because of the moisture that is absorbed through the building and the moisture within the building that there is a high probability that there is mold in that building. What I'm asking is did you do any deconstruction when you opened up a wall and looked to see what was behind that wall?

Ms. Soto: Yes.

Commissioner Keon: In the assessment?

Ms. Soto: Yes.

Public Works Director Kephart: And what I would add, we had our environmental consultant, PSI, do that assessment, of the mold in the building and make some recommendations. That report was completed in July of 2013, so I'm not sure if you saw it or not, but we can certainly make it available.

Commissioner Keon: You know, because even in looking at this, I don't know where there is -- you know, that remediation is included on here either, unless that's just -- that's the contingency.

Public Works Director Kephart: No. It's included in the general work, and there's a note in the plans and specifications as to their requirements to clean off any mold that they find. And then to Commissioner Lago's point, in some cases, they may remove something and find out it's not just a cleaning of the mold, but the material has to be replaced, and then that would get into the contingency because they didn't know about that.

Commissioner Keon: It seems, in those instances, lately is that you end up stripping the walls all the way to the -- you know, to the strips or whatever it is in there, so with that being the case, you probably would need more money. So I think my concern is that projects do run over when we're not as clear in the scope of work as maybe we really need to be with regard to the actual conditions of these buildings. So all I would ask is that you would just work maybe with the Manager and to make sure that the scope of work is well defined, so that it's not a project that will be subject to a lot of change orders that will take us over what is budgeted, because I'd rather know going in that we have the money here to cover the costs of what needs to be done.

Public Works Director Kephart: Certainly, and we will do that. Just want to place some assurances that we had a really good professional team, Ferguson Glasgow and Matthew Soto has been doing this kind of work for the City for a long time with great success, and some of their subconsultants, like PSI, had been very responsive and provided really good work, so the attempt has been there. I think we believe that the design and the specifications are appropriate for what this building needs. Now, it's the execution of that to get the right contractor to make that happen, and I understand the concerns that you've raised.

Commissioner Keon: I mean, I want you to go with whichever contractor you believe will provide the best quality of service at the best price, but that the scope is defined in such a way it's not subject to change orders, not likely to be subject to change orders because of the conditions of the buildings so that we have the scope that can clearly identify it as possible. I would just ask...did you make a motion?

Mayor Cason: Yes, we have a motion to defer from --

Commissioner Keon: Second that motion.

Mayor Cason: All right, Commissioner Quesada makes the motion to defer and Commissioner Keon seconds. City Clerk.

Commissioner Quesada: Yes.

Commissioner Keon: Yes.

Commissioner Lago: Yes.

Mayor Cason: Yes.

[End: 10:24:40 a.m.]