

**MIAMI-DADE EXPRESSWAY AUTHORITY (MDX)
OPERATIONS COMMITTEE MEETING**

WEDNESDAY, JANUARY 20, 2016

1:00 PM

**WILLIAM M. LEHMAN MDX BUILDING
3790 NW 21ST STREET
MIAMI, FLORIDA 33142**

SUMMARY MINUTES

Present Committee Members:

Maritza Gutierrez, Chair
Gus Pego, P.E., Vice Chair
Arthur J. Meyer
Rick Rodriguez Piña
Javier L. Vazquez, Esq.

Absent Committee Members:

Present MDX Board Members:

Louis V. Martinez, Esq., MDX Chair
Shelly Smith Fano, MDX Vice Chair
Jose "Pepe" Cancio
Maurice A. Ferré
Luz Weinberg

Staff:

Javier Rodriguez, P.E., Executive Director
Juan Toledo, P.E., Deputy Executive Director/ Director of Engineering
Marie T. Schafer, Deputy Executive Director/CFO
Steve Andriuk, Deputy Executive Director/Director of Toll Operations
Carlos M. Zaldivar, Esq., General Counsel
Francine Steelman, Esq., Associate General Counsel
Helen M. Cordero, Manager of Procurement and Contract Administration
Maria Luisa Navia Lobo, Board Secretary

Consultants:

Albert Sosa, HNTB (GEC-A)
Reynaldo Cortez, EAC Consulting, (GEC-B)
Richard Glass, Glass Land Acquisitions (GEC-A)

CALL TO ORDER

Ms. Gutierrez called the meeting to order. Ms. Navia Lobo called the roll and announced a quorum was present.

DECLARATIONS OF VOTING CONFLICTS

- Potential Conflict of Interest Report

Mr. Zaldivar asked if any of the Committee Members had a Conflict of Interest to declare regarding the agenda. Although not a member of the Operations Committee, Board Member Cancio declared a conflict with Agenda item IV. A - Approval to execute lease of MDX Parcel 11205-169.

[A copy of Mr. Cancio's declaration of conflict is attached to these summary minutes]

PUBLIC COMMENT

The following individuals addressed the Operations Committee.

1. Pedro Munilla, MCM – requested to address the Operations Committee at the time Agenda item V. F is addressed.
2. Ann McNeil – MCO Construction - 6600 NW 27th Ave. Miami, Florida 33147 – Re: Agenda item V. F
3. Mauricio Gonzalez – Odebrecht Construction – 201 Alhambra Circle, Coral Gables, Fl. 33134 requested to address the Operations Committee at the time Agenda item V. F is addressed.

REAL PROPERTY ACTION ITEMS

- A) Approval to execute lease of MDX Parcel 11205-169

Mr. Zaldivar read the agenda Item into the record. Mr. Greene informed Members that a recently completed market appraisal estimated the current annual rental market value of the property to be \$312,000.00. On December 9, 2015 the property was advertised for a competitive bid lease and three sealed bids were received. The winning bid was for \$330,000.00 per year from Ara Toccoa, LLC at 1320 South Dixie Hwy. # 241 Coral Gables, FL 33146 for the storage of automobiles. The other bids were received were from SF Property Investment Group, LLC at 12599 NW 107th Ave Medley, FL 33178 in the amount of \$101,000.00 for concrete-related business; and Par-N, LLC at 1100 South Miami Ave. # 1606 Miami, FL 33130 in the amount of \$60,000.00 for the storage of automobiles.

The lease term will be ten years with one (1) year renewal options and allows for annual rental rate increases based on the Revised Consumer Price Index.

Ms. Smith Fano moved to approve to execute the lease for MDX Parcel 11205-169. Mr. Pego seconded the motion. The motion was unanimously approved

OPERATIONS ACTION ITEMS

- A) Approval of Summary Minutes:

- Operations Committee Meeting of September 22, 2015

Mr. Vazquez moved to approve the Summary Minutes. Mr. Rodriguez Piña seconded the motion. The motion was unanimously approved.

- B) MDX Work Program No. 83611; SR 836 / I-95 Interchange Improvements

- Endorsement of Eminent Domain Parcel Resolutions 16-01 through 16-12

- C) MDX Work Program No. 83628; SR 836 Operational, Capacity and Interchange Improvements
- Endorsement of Eminent Domain Parcel Resolutions 16-13 through 16-19

Mr. Zaldivar recommended taking both Agenda items. V. B and V. C together.

Mr. Toledo informed Members that MDX has identified specific parcels of real property and specific estates in those parcels, and have determined that their acquisition would serve a public purpose and is necessary for the construction of MDX Projects 83611 and 83628 along the preferred route and through a recommended configuration. MDX, through its staff and consultants, are currently negotiating with the property owners of the above listed Parcels. Should negotiations fail, and in order to ensure the construction of MDX Projects 83611 and 83628 are not delayed, MDX shall begin eminent domain proceedings on those Parcels that are not able to be acquired through a negotiated conveyance. Eminent domain parcel resolutions are required as part of the eminent domain process. Mr. Toledo informed Members that a summary progress report will be brought to Committee on a regular basis to keep the Committee informed.

Mr. Pego moved to endorse parcel resolutions 16-01 – 16-19. Mr. Meyer seconded the motion. The motion was unanimously endorsed.

D) MDX Procurement/Contract Number RFQ-16-01; Miscellaneous Materials Engineering and Testing Services (\$300,000/Contract).

- Approval to Cancel the Procurement Process.
- Approval to Re-Advertise the Services as MDX Procurement/Contract No. RFQ-16-04.

Mr. Zaldivar read the agenda item into the record. Ms. Cordero informed Members that MDX released a Request for Qualifications (RFQ) soliciting Proposals from qualified firms to provide Materials Engineering and Testing Services for a pool of a maximum of three (3) firms. Seven (7) Proposals were received in response to the RFQ from the following firms:

- Amec Foster Wheeler Environment & Infrastructure, Inc.
- CTI - Construction Testing & Inspection, Inc.
- GFA International, Inc.
- Professional Service Industries, Inc.
- Tally Engineering, Inc.
- Tierra South Florida, Inc.
- Universal Engineering Sciences, Inc.

Staff performed compliance/responsiveness review of all Proposals and found that one of the Proposals contained a minor irregularity. This review was performed prior to the approved changes to the MDX Procurement Policy; therefore, the minor irregularity was pending Committee's approval of Staff's recommendation for a waiver. Consequently, the scores provided by the evaluators at the TEC meeting were not tabulated. The individual scores were sealed in an envelope, locked in the Procurement department safe and have not been opened since.

At the TEC meeting, as part of the evaluator's discussion prior to scoring the Proposals, an evaluator

made comments about a Proposer, which were later discovered to be incorrect. The referenced comments influenced the evaluation and scores provided by the evaluator making the comment as well as those of the rest of the evaluators.

Therefore, in order to maintain a fair, transparent, open and competitive procurement process, Staff recommends canceling the procurement process and re-advertising the Services. Pending action by this Committee on Staff's recommendation, the Proposals have not been released for public review. Since the scores have not been tabulated, and the Proposals have been kept from public access, the competitive edge of the Proposers has not been compromised.

The re-advertisement of the RFQ is recommended by Staff for a pool of pre-qualified firms to be assigned work on rotational as-needed basis. There would be no limit to the number of firms that may participate in the pool, as long as they meet the Pre-Qualification Criteria established in the Solicitation Document.

Each contract of the pre-qualified pool would be for a not-to-exceed amount of \$300,000 and a term of three (3) years.

Mr. Rodriguez Piña served as the Board's oversight for this procurement. He stated after much discussion with Staff and the General Counsel, he supports Staff's recommendation to cancel the procurement and re-advertise it.

Mr. Meyer agreed with Staff's recommendation to cancel the on the procurement. He asked several questions on the subsequent process of pre-qualified pool.

1. What are the expected costs for material testing to be distributed to pool over the course of three years?
2. What is the process for contracting with pre-qualified firms?
3. How many firms will be pre-qualified?

Mr. Toledo informed Members that the budgeted amount is approximately under \$1 million for the Materials Testing Services contract. The workload can be distributes among a larger pool.

Ms. Cordero informed Members that the selection process would be done through the procurement department. A compliance responsiveness review will be conducted as with every process. If the minimum pre-qualifications criteria are met, the firm would be part of the pool.

Mr. Meyer recommended capping the pre-qualification pool. Ms. Cordero informed Members that if the pre-qualified pool is capped, there will be an evaluation process rather than a pre-qualification process.

Mr. Pego moved to approve the cancellation of the procurement for project No. RFQ 16-01 Materials Engineering and Testing Services. Mr. Vazquez seconded the motion. The Motion was unanimously approved.

Mr. Rodriguez Piña moved to approve Staff's recommendation to Re-Advertise the Services as MDX Procurement/Contract No. RFQ-16-04. Mr. Meyer opposed the motion. The Motion was approved.

E) MDX Procurement/Contract Number ITB-16-02: Expansion of the MDX Access Control System.

- Approval to deem Non-Responsive all Bid Packages and Cancel the Procurement Process.

Mr. Pego moved to approve to deem Non-Responsive all Bid Packages and Cancel the Procurement Process. Mr. Vazquez seconded the motion. The motion was unanimously approved.

- F) MDX Procurement/Contract Number ITB-16-01; MDX Work Program No. 83629.060; Construction Services for SR 836 Interchange Modifications at 87th Avenue (\$65,759,276).
- Approval to deem Non-Responsive the Bid Packages submitted by three (3) Bidders; and
 - Endorsement for Board approval of Contract Award to the lowest Responsive and Responsible Bidder.

Mr. Zaldivar read the agenda item into the record. Ms. Cordero briefed Members on the procurement process and Staff's recommendation. She informed Members that MDX released an Invitation to Bid (ITB) seeking bids from qualified contractors to provide construction services for SR 836 Interchange Modifications at 87th Avenue.

On November 13, 2015, eight (8) Bid Packages were received in response to the ITB from the following Bidders:

- Astaldi Construction Corporation
- Community Asphalt Corp.
- Condotte America Inc.
- Facchina Construction Company, Inc.
- Halley Engineering Contractors, Inc.
- Munilla Construction Management, LLC d/b/a MCM
- Odebrecht Construction, Inc.
- Prince Contracting, LLC

Ms. Cordero explained the formula to obtain the overall best value to MDX, the Project was advertised as a cost-plus-time bidding, referred to as an A+B Bidding. The following definitions will explain the formula used:

Formula: Standard Bid (A) + Time Bid (B) = Total Bid
(PCT*RUC)

- Maximum Contract Time (MCT) - the maximum number of calendar days in which the contractor may complete the Project. MDX assigned a MCT of 1,500 calendar days.
- Proposed Contract Time (PCT) - the number of calendar days in which the contractor proposes to complete the Project which cannot exceed the MCT.
- Road User Cost (RUC) - the estimated cost to MDX for each calendar day that the project improvements are not in used. MDX estimated a RUC of \$25,000.00.
- Standard Bid (A) - the total dollar amount proposed by the contractor for the completion of the Project.
- Time Bid (B) - the dollar value assigned to the contract time as the product of the PCT and the RUC.
- Total Bid – the total dollar amount used for selection purposes only.

The Total Bid is used to determine the overall best value and therefore used for selection purposes. The Standard Bid becomes the not-to-exceed contract amount that MDX would pay for the completion of the Project.

The Preliminary Bid Opening result, based on the above described formula, pending Compliance/Responsiveness review was attached as Exhibit A as part of the Agenda Item Report.

Compliance/Responsiveness review was performed for the top five (5) ranked Bid Packages based on the Preliminary Bid Opening, as follows:

1. Munilla Construction Management, LLC d/b/a MCM
2. Odebrecht Construction, Inc.
3. Astaldi Construction Corporation
4. Halley Engineering Contractors, Inc.
5. Condotte America Inc.

The remaining three (3) Bid Packages submitted by Community Asphalt, Corp. (\$94,444,728.68); Facchina Construction Company, Inc. (\$75,912,030.91); and Prince Contracting, LLC (\$91,940,872.09) were not considered for Compliance/Responsiveness review as the Standard Bids were in excess of 10% higher than the Engineer's Estimate of \$65,759,276.

During the Compliance/Responsiveness Review; one of the Pre-Qualification Criteria of the ITB required that the Bidder and/or its Subcontractor(s) be pre-qualified in accordance with Rule 14-22 of the Florida Administrative Code under the Work Class for Intelligent Transportation Systems (ITS). This requirement was needed at the time of Bid Package submittal. Staff found that the Bid Packages submitted by Astaldi, Condotte, and MCM did not include documentation demonstrating compliance with the ITS requirement. The ITB does allow MDX to rely on information readily available online to verify pre-qualification, certifications, or licenses in order to deem a Bidder Responsive. Therefore, Staff checked the FDOT website for ITS Pre-qualified Contractors and was unable to verify that any of the 3 Bidders or any of the Subcontractors proposed in their respective Bid Packages met this requirement.

In addition, the ITB required that Bidders meet a 15% Small Business Participation. In order to demonstrate compliance with this requirement, the Bidders were required to submit a list of the proposed certified Small Businesses, the anticipated work to be performed, and proof of their respective certifications. The ITB, in compliance with the MDX Small Business Participation Policy, required that the proposed Small Businesses are certified for the category of work they are being proposed to perform in the Project under either one of the following Miami Dade County Small Business Enterprise Programs: SBE/Construction; SBE/A&E; and SBE/Goods & Services. The Bid Package submitted by MCM includes the utilization of a Small Business to provide services for which they are not certified for under the MDX accepted Miami-Dade County Small Business Enterprise Programs.

Mr. Cordero indicated that for the reasons stated the Bid Packages submitted by Astaldi, Condotte, and MCM are Non-Responsive to the requirements of the ITB. These non-compliance matters are substantial in that they are pre-qualification requirements and allowing a remedy for these omissions would provide the Bidders a competitive advantage that is impermissible under either the MDX Procurement Policy or the law.

The remaining two Bid Packages from Odebrecht and Halley are Responsive to the requirements of the ITB.

An independent analysis of the Bids, the Proposed Contract Time and related preliminary schedules was performed by each of the General Engineering Consultants (GEC's) of the top three (3) ranked Bidders based on the Preliminary Bid Opening result. Both analyses are attached as Exhibits B and C as part of the Agenda item Report.

Both analyses concluded that the bids were within an acceptable variance from the Engineer's Estimate and each other. The analyses also concluded that the Proposed Contract Times and related schedules were very aggressive, but with the adequate resources the Project could be built in their respective proposed time frames. The analyses further demonstrate that the Bidders will allocate adequate resources by having multiple crews working simultaneously to complete the Project within their Proposed Contract Time.

Ms. Cordero informed Members of Staff's recommendations are as follows:

- Approval to deem Non-Responsive to the requirements of the Invitation to Bid (ITB) and therefore reject the Bid Packages submitted by Astaldi, Condotte, and MCM; and
- Endorsement of Contract Award to the lowest Responsive and Responsible Bidder, Odebrecht Construction, Inc. in the amount of \$65,993,466.17 and a contract time of 806 calendar days.

Ms. Cordero stated that for disclosure purposes, at the same time the agenda packages were distributed to Board Members, the bidders were notified of staff's recommendation. MCM submitted a letter regarding staff's recommendation and asked the letter be distributed to the Committee members.

For discussion purposes Mr. Pego moved the item and Mr. Vazquez seconded the motion.

At this time Ms. Gutierrez asked if there was Public Comment regarding the item.

The following individuals addressed the Committee.

1. Pedro Munilla – MCM - 7277 Sunset Drive, Miami, Fl
2. Bob Murphy – Director of Civil Operations for MCM – 6201 SW 70th Street Miami, Fl
3. Bruce McDonald - Civil Operations Manager for MCM – 6201 SW 70th Street Miami, Fl
4. Danny Munilla – General Counsel for MCM – 6201 SW 70th Street Miami, Fl.
5. Juan Munilla - MCM – 6013 SW 114 Street, Miami, Fl
6. Mauricio Gonzalez - Odebrecht Construction - 201 Alhambra Circle, Coral Gables, Fl 33134
7. Jim Moye – Moye, O'Brien, - 4075 Scarlet Iris, Winter Park, Fl
8. Alexis Leal – MCM - 6201 SW 70 Street, Miami Fl
9. Ignacio Halley – Halley Engineering Contractors
10. James Moye, - Odebrecht Construction - in-house Counsel. 201 Alhambra Circle, Coral Gables, Fl

Ms. Cordero entertained questions from Members and clarified the difference between minor irregularities vs. a substantial non-compliant issue. She further clarified the pre-qualification criteria.

The item was thoroughly discussed.

Mr. Pego moved to deem non-responsive to the requirements of the ITB the bid package submitted by three bidders. Mr. Vazquez seconded the motion. The motion was unanimously approved.

Mr. Pego moved to endorse the contract award to the lowest responsive and responsible bidder - Odebrecht Construction. Mr. Vazquez seconded the motion. The motion was unanimously endorsed.

G) MDX Procurement/Contract Number RFQ-16-02: General Engineering Consulting Services – Work Program Production (GEC-A)

- Endorsement of Technical Evaluation Committee (TEC) recommendation.

Mr. Zaldivar read the agenda item into the record. Ms. Cordero informed Members that Staff performed compliance/responsiveness review of the Proposal and found it to be compliant and responsive to the RFQ requirements.

Although only one Proposal was received, the established evaluation process must be followed to determine if the Proposer meets the minimum required score to be deemed qualified for selection under this Procurement Process. Therefore, the Proposal was forwarded to the Technical Evaluation Committee for evaluation and the Oral Presentation/Interview has been scheduled for January 20, 2016 following the Operations Committee meeting.

Ms. Cordero further indicated that prior to the release of the RFQ, Staff reviewed the Procurement Process, the Solicitation Documents, and all other relevant factors to evaluate potential flaws or required changes in the Process that would engage more competition. After a thorough analysis and internal discussion, Staff is confident that there were no flaws in the Process followed. In addition, Staff is confident that all changes made to the Process, as recommended by this Committee, were sufficient to attract interest from qualified and appropriately resourced firms.

At this time Ms. Gutierrez recessed the Operations Committee in order for the Technical Evaluation Committee to conduct the Oral Interviews for RFQ 16-02.

The Operations Committee reconvened after the TEC. Mr. Pego, Vice Chair of the Operations Committee chaired the meeting.

Ms. Cordero informed Members the TEC just conducted the oral interviews and made the recommendation to award the contract with a score of 958 point to HNTB Corp.

Mr. Meyer moved to endorse the TEC Recommendation. Mr. Vazquez seconded the motion. The motion was unanimously endorsed.

INFORMATIONAL ITEMS:

- A) MDX Work Program Monthly Status Report – December 2015
- B) HNTB SBE/LB Utilization Report
- C) EAC SBE/LB Utilization Report
- D) MDX Contingency Release History Report
- E) Procurement Report

The Informational Items were not addressed

ANNOUNCEMENTS

- Board Meeting 1/26/16 at 4:00 p.m., William M. Lehman MDX Building – Board Room

ADJOURNMENT

The meeting was adjourned by Mr. Pego
Minutes prepared by Maria Luisa Navia Lobo, Board Secretary