



Finance and Administrative Services Department
PURCHASING DIVISION

115 S. Andrews Avenue, Room 212 • Fort Lauderdale, Florida 33301 • 954-357-6066 • FAX 954-357-8535

Certified Mail No. 7006 3450 0003 8479 0882

July 18, 2018

Mark J. Stempler, Esq.
Becker & Poliakoff
625 N. Flagler Drive 7th Floor
West Palm Beach, FL 33401

Re: Request for Proposals (RFP) S2115731P1, Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility

Dear Mr. Stempler:

We are in receipt of your timely objection letter dated May 11, 2018 for Consulting Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility, RFP S2115731P1 (the "RFP"), on behalf of your client, Saltz Michelson Architects ("Saltz Michelson"). Saltz Michelson, the second-ranked proposer, is objecting to the Proposed Recommendation of Ranking by the Evaluation Committee ("EC") which was posted on May 9, 2018. Your objection states, in relevant part, as follows: "The Proposed Recommendation of Ranking, in which the Leo A. Daly Company ("Daly") is the recommended awardee, is unfair and incorrect, and there is significant new information that should be taken into consideration by the Evaluation Committee (EC)." In your letter, you seek rejection of the Proposed Recommendation of Ranking and request the County reevaluate the proposals or re-advertise the Solicitation.

Consistent with the Director of Purchasing's recommendation, the EC reviewed all six responses received under the RFP and determined that all six proposers were responsive to the requirements of the RFP. The EC also determined that all six proposers provided the required information and met the responsibility requirements of the RFP.

As a result of this review, and pursuant to the order in which the proposers' names were randomly drawn, the EC allowed each proposer to conduct a thirty-minute presentation on May 7, 2018. Each presentation was followed by a question and answer period. Individual EC members then scored each proposer and the Purchasing Division calculated the total scores for each proposer. The scores were then read aloud by Purchasing Division staff at the May 7th meeting. The EC approved the proposed ranking. Subsequently, the Proposed Recommendation of Ranking was posted on the Purchasing Division website on May 9, 2018. The order of ranking was as follows: 1 - Leo A Daly Company; 2 - Saltz Michelson Architects, Inc.; 3 - Bermello Ajamil & Partners, Inc.; 4 - Cartaya and Associates Architects, P.A.; 5 - MOBIO Architecture, Inc.; 6 - ARCADD, Inc.

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In your letter you cite to case law for the general proposition that "[t]he object of competitive procurement is: to close all avenues to favoritism and fraud in its various forms;...and to afford an equal advantage to all desiring to do business with the County, by affording an opportunity for an exact comparison of bids'....From the above quote, it is apparent that the entire scheme of bidding on public projects is to ensure the sanctity of the competitive atmosphere prior to and after the actual letting of the contract."

To clarify, this solicitation was processed as a Request for Proposals and not an Invitation to Bid (Bid). Although it is an equally competitive process, the Request For Proposals procurement method allows for other factors such as proposer qualifications, performance, and project approach to be considered since evaluation of these factors is in the best interest of the County.

The facts do not support your assertion that the Proposed Recommendation of Ranking by the EC is "unfair and incorrect" nor do the facts give credence to your statement that "this evaluation process was fatally flawed" due to "material misrepresentations during oral presentations."

The following are specific responses to the unsubstantiated assertions in your objection letter:

Assertion No. 1:

Daly's improper, material changes between its written proposal and its representations made during oral presentations. Such proposal changes are clearly prohibited by Florida law and Broward County's Code. During the EC meeting, the EC was misled by Daly regarding its experience designing medical examiner's facilities, and the statements it made materially changed its written proposal.

During the EC meeting, the EC was misled by Daly regarding its experience designing medical examiner's facilities, and the statements it made materially changed its written proposal. During Daly's oral presentation, its presenter said that Daly has designed "hundreds" of the types of facilities at issue, including medical examiner facilities. Daly is a large national firm so while that may be true of the firm, it does not accurately reflect the level of experience of the Daly personnel who would actually perform the work on this project, or that Daly represented in its written proposal.

Material misrepresentations by Daly, including its overstated experience in building medical examiner facilities, and the types of services it proposed to provide in-house on this project, misled and prejudiced the EC in its evaluation and led to its misinformed Proposed Recommendation of Ranking.

Response to Assertion No. 1:

This assertion does not specifically identify an improper, material change between Daly's written proposal and its oral presentation. The EC developed a pre-presentation questionnaire that was sent to all proposers. This questionnaire listed five detailed areas that each proposer should include and address in their presentation before the EC (see **Exhibit 1**). The proposers' responses to these questions were taken into account by the EC and were made part of their comprehensive evaluation. Moreover, the Proposed Recommendation of Ranking was not strictly limited to a proposer's experience in building medical examiner's facilities; rather, as you mentioned and acknowledged in your objection letter, the RFP documents contained other weighted criteria such as the ability of professional personnel, project approach, past performance, and specialized experience, knowledge and capabilities. The EC considered these factors as well as the pre-presentation questionnaire, to select a firm to provide consulting services for a combined medical examiner's and crime laboratory facility.

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Assertion No. 2:

Daly's written proposal indicates its sub-consultant Gartek would be the Project's exclusive MEP engineer. None of Daly's personnel listed in its proposal were proposed to provide direct MEP design work.

During oral presentations, however, Daly improperly changed this aspect of its proposal. During its presentation, it specifically told the EC that it could and would perform MEP design work "in house" for this project, "as needed." That contradicts, and thus changes, its written proposal. Such a material change from its proposal is forbidden under Florida law and should have disqualified Daly right then.

Instead, the EC relied on Daly's proposal change, ignored the express terms of its written proposal, and ranked Daly as the top firm. This is not a minor irregularity; rather this gave Daly an unfair advantage not enjoyed by other proposers such as Saltz Michelson.

Response to Assertion No. 2:

Daly has confirmed Gartek Engineering Corporation (Gartek) as its subcontractor for this project for MEP, Fire Protection Engineering and Building Codes. As such, Daly did not make a material change in its presentation in comparison to its written proposal. As with the first assertion addressed above, this assertion essentially assumes the EC did not review the written proposals, makes broad conclusions regarding the EC's evaluation process, and is not supported by any evidence. In an attempt to seek further confirmation, Daly was given an opportunity to review your claims and respond to the assertion (see **Exhibit 2**).

Assertion No. 3:

Daly's material alteration regarding its in-house performance of MEP design work represents a significant change to its CBE compliance requirement. The CBE goal for this project is 25% of the total project value. In its proposal, Daly represented that Gartek, as a CBE, would account for 22% of the total project value. If Daly performs MEP work for this project as it represented at its presentation, that would certainly cut into the percentage of work that would have been performed by its CBE Gartek. Not only would that effect the CBE goal, but it would also render Daly's proposal illusory on this issue.

Response to Assertion No. 3:

As a point of clarification, Daly has confirmed Gartek as one of its CBE subcontractors for this project. The other two CBE firms listed by Daly, include CMS-Construction Management Services, Inc. and Radise International, L.C., which when combined with Gartek, account for an overall 25% CBE participation. Daly has confirmed its commitment to an overall 25% CBE goal as required for this project. Moreover, the County's Office of Economic and Small Business Development has confirmed certification for the subcontractors offered by Daly meet the required 25% CBE goal (see **Exhibit 3**).

Assertion No. 4:

The EC was also not aware that TLC was also a Daly Sub-consultant Due to an Error in the Evaluation Matrix. Cartaya, like Daly, proposed to use TLC as a key design consultant for this project. During Cartaya's oral presentation however, it became clear that some of TLC's work on other Broward County projects was not looked upon favorably. Specifically, evaluator Dr. Craig Mallak raised several issues regarding his experience with TLC. The exchange was not pleasant, but was keenly observed by all of the EC members and directly impacted their scoring of the proposers in Category 1 which considered the makeup of the consulting team, where Daly consistently scored higher than Cartaya.

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Response to Assertion No. 4:

It is the responsibility of the EC members to review the proposers' submittals to ensure they are in compliance with the RFP solicitation and to evaluate each submittal in order to make a recommendation for ranking to the Broward County Board of County Commissioners ("Board"). The EC consists of staff members chosen for their breadth of experience, excellent judgment, and general interest in the subject matter. The Evaluation Matrix was developed as a tool summarizing the proposers' responses. However, it is the responsibility of each EC member to thoroughly review and evaluate each and every proposal independently. Daly clearly disclosed TLC in its proposal for this project. Daly's proposal was submitted to the EC for their review. Finally, the County's user agency has confirmed that the work to be performed by TLC, based on Daly's proposal, represents only 3% to 4.5% of the overall project scope.

Assertion No. 5:

The inherently biased oral presentation procedure for this procurement gave Daly, as the last presenting proposer, an unfair competitive advantage because it and its subconsultants had the benefit of knowing the EC's issues with other proposers and subconsultants, which violated Florida law as well as Saltz Michelson's right to a fair and just evaluation.

Response to Assertion No. 5:

It is standard practice in the Request For Proposal process for Purchasing Division staff, during the Initial Evaluation Committee Meeting, to select the order of presentation by randomly pulling proposers' names from a hat. The order in which presentations are held is a direct result of this random drawing without preference to any single proposer.

Section 286.0113, Florida Statutes, does not support your assertion that the May 7, 2018 EC meeting violated Florida's Sunshine Law. Because the May 7th EC meeting was open to the public, competing proposers, representatives, lobbyists, and members of the general public could attend and listen to each presentation. Although the Florida Sunshine Law does not require proposers' presentations before the EC "to be public meetings open to the public," the Board endorsed opening EC meetings to the public to promote transparency. Future policy decisions made by the Board are irrelevant to this RFP process and the objection letter received from Saltz Michelson. County staff complied with established then-current County policy for the duration of the RFP process.

Assertion No. 6:

The EC meeting lasted all day and into the night. As a result Daly, as the final proposer, benefited because the EC members, who were clearly fatigued, asked far fewer questions of Daly as compared with the other proposers. Half of the proposers did not even ask Daly a single question.

Response to Assertion No. 6:

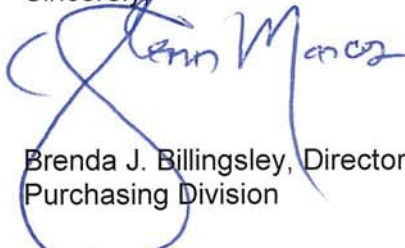
The role of an EC member is critical to the procurement process. EC members are well informed of their responsibility and are committed to thoroughly evaluate and score each proposer to the best of their ability under any circumstance. As previously noted, the order of presentation was selected via random drawing and there is no evidence of any unfair treatment towards Daly or any other proposer. Without actual evidence, your opinions do not validate your assertion that presenting last and receiving fewer questions placed Daly at a competitively advantageous position as a shorter question and answer period could have negatively affected Daly.

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In an attempt to seek further confirmation, Daly was given an opportunity to review and respond to your assertion. Daly's response is attached hereto (see **Exhibit 2**).

In summary, we have carefully reviewed your objection letter dated May 11, 2018, and have determined that your assertions have no legal merit. Upon distribution of this response to your objection, the County will post the Final Recommendation of Ranking on the Purchasing Division website for five business days.

Sincerely,

 ON BEHALF
OF BRENDA J. BILLINGSLEY

Brenda J. Billingsley, Director
Purchasing Division

Attachments

BJB/mpg/lg

- c: Glenn Marcos, Assistant Director, Purchasing Division
- Martha Perez-Garviso, Purchasing Manager, Purchasing Division
- Carolyn Messersmith, Purchasing Agent Senior, Purchasing Division
- David Hawke, Construction Project Management Supervisor, Construction Management Division
- Glenn Miller, Assistant County Attorney, Office of the County Attorney
- Fernando Amuchastegui, Assistant County Attorney, Office of the County Attorney
- Neil Sharma, Assistant County Attorney, Office of the County Attorney



**FINANCE AND ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION**

115 S. Andrews Avenue, Room 212 • Fort Lauderdale, Florida 33301 • 954-357-6065 • FAX 954-357-8535

SUBJECT: RFP Number: S2115731P1

RFP Name: Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility

Presentations/Final Evaluation/Scoring/Ranking Meeting Dear

THIS LETTER SUPERCEDES THE SUBJECT LETTER EMAILED ON APRIL 24, 2018

Proposer:

On April 20, 2018, the Evaluation Committee for Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility for the Construction Management Division determined the responsiveness and responsibility of the firms responding to the RFP.

Congratulations! Your firm is one of the firms found to be both responsive and responsible to the requirements of the RFP at the Initial Evaluation meeting. As a result, your firm has been invited to make an oral presentation before the Evaluation Committee at the Final Evaluation, scoring and ranking meeting. Presentations will be followed by a question and answer period by the Evaluation Committee. At least one member of the vendor's presentation team should have the authority to bind the company as vendor's answers may impact evaluation and scoring. The conference call number available for Vendors to participate via teleconference is (954) 357- 5485.

Listed below is the **order** of presentations to be conducted on:

Monday, May 7, 2018 starting at 1:00PM at Governmental Center Building, 115 S. Andrews Avenue, Room 430, Fort Lauderdale, FL 33301

All firms making presentations are asked to be in attendance at the beginning of the meeting at 1:00 PM. Please check in with the Purchasing Agent or Project Manager, upon arrival at the meeting and provide them with the following: Business Cards for each member present of your team, 2 CD/DVD's or Thumb Drives of your presentation, and if you are bringing Handouts, it is recommended that you provide between 7 and 10 copies.

Firm Name	Set Up Length	Presentation Length	Question and Answer
First-presenting MOBIO Architecture, Inc.	5 Minutes	30 Minutes	Q&A follows presentation
Second-presenting Bermello Ajamil & Partners, Inc.	5 Minutes	30 Minutes	Q&A follows presentation
Third-presenting Saltz Michelson Architects, Inc.	5 Minutes	30 Minutes	Q&A follows presentation
Fourth-presenting ARCADD, Inc.	5 Minutes	30 Minutes	Q&A follows Presentation
Fifth-presenting Cartaya and Associates Architects, P.A.	5 Minutes	30 Minutes	Q&A follows Presentation
Sixth-presenting Leo A Daly Company	5 Minutes	30 Minutes	Q&A follows Presentation

Letter to Responsive – Responsible Firms

RFP No. S2115731P1, RFP Name: Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility

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The Committee requested that your presentation include/address the following:

1. EC member statement – "This is a unique facility that must meet legal and forensic requirements."
How will your consultant team design a combined Medical Examiner's office with BSO Crime Laboratories that meets Broward County requirements, legal regulations, comply with national forensic certifications and testing agencies?
2. Demonstrate the method the prime consultant will organize the team to allow requests from the County to be answered in timely fashion by the team's crime lab experts that appear to be all subconsultants to the prime especially on critical elements of facility (i.e. labs, evident integrity, chain-of-command, testing, MEP systems, & ventilation)?
3. We realized that consultant teams are made of specialized, out-of-town consultants, so;
 - a) What cost control methods do you utilize with the team, and with the Managing General Contractor?
 - b) How do you maintain quality control throughout the life of the project?
4. Provide specific examples of challenges the team has encountered on similar type projects, and how would you address them on this project?
5. Please list the past laboratories your team has worked on, and to what extent the consultant's exact role on your previous forensic & police crime laboratories?

Please feel free to clarify or address any other issues the County should consider, within the scope of your submitted proposal, as long as you limit the presentation to the time allotted.

NOTE: Presenters are responsible for bringing their own equipment for the presentation. (Laptop/Projector).

In accordance with Section 1-266 of Broward County Ordinance No. 2001-15, a Cone of Silence is now imposed on this RFP. Each firm conducting business with the County is required to comply with this ordinance. A copy of the ordinance can be found at <http://www.broward.org/Purchasing/Documents/ConeOfSilence.pdf>

If you have any questions regarding this project, you may contact David Hawke, Project Manager, at dhawke@broward.org or 954-357-5638.

Sincerely,

MARIE WILLIAMS

Digitally signed by MARIE WILLIAMS
DN: dc=cty, dc=broward, dc=bc,
ou=Organization, ou=BCC, ou=PU, ou=Users,
cn=MARIE WILLIAMS
Date: 2018.05.01 15:10:32 -04'00'

Marie Williams, Purchasing Agent, Senior, Purchasing Division

- C: David Hawke, Construction Project Management Supervisor, Construction Management Division
(Project Manager)
Martha Perez-Garviso, Purchasing Manager, Purchasing Division
Lluis Gorgoy, Purchasing Manager, Purchasing Division

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May 29, 2018

VIA OVERNIGHT AND ELECTRONIC MAIL

bbillingsley@broward.org

Brenda J. Billingsley
Broward County Purchasing Division
115 S. Andrews Avenue, Room 212
Fort Lauderdale, FL 33301

Re: **Leo A. Daly Company's Response to Saltz Michelson Architects' Protest**
Solicitation No.: S2115731P1
Project: Broward County Medical Examiner's Office and Crime Lab

Dear Ms. Billingsley:

Our office represents Leo A. Daly Company ("Daly") in connection with the above-referenced protest (the "Protest") filed by Saltz Michelson Architects ("Saltz Michelson") regarding Broward County's Solicitation #S21115731P1 (the "RFP") for Broward County's Medical Examiner's Office and BSO's Crime Lab Combined Facility (the "Project"). Saltz Michelson's Protest is nothing more than a thinly-veiled attempt to substitute Saltz Michelson's judgment for that of the Evaluation Committee. Not one of the five points raised by Saltz Michelson comes close to being proper pursuant to Broward County's Procurement Code or the existing guidelines for the RFP. Thus, Saltz Michelson's Protest should be rejected and the Final Recommendations for Ranking, ranking Daly as number one, presented to the Board for approval.

I. THE APPLICABLE LEGAL STANDARD

The law relied upon by Saltz Michelson in its Protest is inapplicable as it applies to Invitations for Bids. The solicitation at issue was presented as a Request for Proposal, which affords the awarding entity more control over evaluations. In contrast to bids, RFPs are used when the public authority is incapable of completely defining the scope of work required, when the service may be provided in several different ways, when the qualifications and quality of service are considered the primary factors instead of price, or when responses contain varying levels of service which may require subsequent negotiation and specificity. *Sys. Dev. Corp. v. Dep't of Health & Rehabilitative Servs.*, 423 So.2d 433, 434 (Fla. 1st DCA 1982).

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In addition, the consideration of a response to a request for bid is controlled by the estimated costs, whereas the response for a request for a proposal is controlled by estimated cost **and** technical excellence in the field. *Id.* Awards of contracts pursuant to an RFP are generally based not solely on price, but also on the results of an extensive evaluation which includes criteria, qualifications, experience, methodology, management, approach, and responsiveness to the RFP. *Id.* Further, at the end of the RFP process, the procurement officer will seek authorization from the governing body to begin negotiating the terms of the contract with the highest-ranking bidder. *H. Gore Enters., Inc. v. City of West Palm Beach*, 617 So.2d 1160, 1161 (Fla. 4th DCA 1993).

Section 255.20, Florida Statutes, provides:

(1) A county...seeking to construct or improve a public building...must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to have total construction project costs of more than \$200,000. . . . As used in this section, the term “competitively award” means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This subsection expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. * * * Subject to the provisions of subsection (3), the county...may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.

Section 255.20 affords counties discretion in adopting procedures for conducting the proposal process using their county or municipal ordinances. Broward County has adopted its own ordinances – the Broward County Procurement Code¹ – that govern the competitive bidding or proposal process for a public service facility such as the one involved in this dispute.

Section 21.82 of Broward County Procurement Code provides:

It is the policy of this County to publicly announce through the Purchasing Division all requirements for professional services and other selected goods or services, and to award contracts on the basis of demonstrated capability and qualifications at a fair and reasonable price with the ultimate selection based on the best interest of the County and maximum value received.

¹ The key provisions from the Broward County Procurement Code were outlined in the RFP.

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Saltz Michelson is correct that a public authority may not arbitrarily or capriciously discriminate between bidders or make the award based on personal preference. *City of Sweetwater v. Solo Constr. Corp.*, 823 So.2d 798 (Fla. 3d DCA 2002) (applying this arbitrary and capricious standard to RFPs as well as bids). However, whether the Board acted arbitrarily is generally controlled by a determination of whether the Board complied with its own proposal criteria as outlined in the RFP. *Id.* at 802 (holding that the criteria espoused in the published invitation to bidders controlled the analysis of whether the city acted in an arbitrary manner).

There is no question that the Evaluation Committee complied with its own proposal criteria in evaluating the proposals. Indeed, even in its Protest, Saltz Michelson does not allege that the Evaluation Committee failed to comply with the proposal criteria. As such, Saltz Michelson's Protest is meritless and must be denied.

II. THE REQUEST FOR PROPOSAL

The RFP sets forth the requirements for the solicitation. Daly timely submitted its proposal and was deemed both responsive and responsible by the Director of Purchasing who recommended that Daly, Saltz Michelson, and four other vendors be "short listed." The "short listed" firms were then asked to give an oral presentation to the Evaluation Committee on the "Vendor's approach to this project and the Vendor's ability to perform."²

The Evaluation Committee was charged with the task of evaluating the vendors using the established Evaluation Criteria.³ Daly was evaluated using the same criteria that were applied to Saltz Michelson and the other vendors. Daly was ranked highest by the Evaluation Committee based upon the established Evaluation Criteria. After the Proposed Recommendations for Ranking is approved by the Board, the County can begin negotiations with the highest ranked vendor, Daly.⁴

Any Vendor Protest must proceed pursuant to Section S (5) of the RFP, which states:

Protests arising from the decisions and votes of a Selection or Evaluation Committee **shall be limited to protests based upon the alleged deviations from established committee procedures** set forth in the Broward County Procurement Code and existing written guidelines. **Any allegations of misconduct or misrepresentation on the part of a competing Vendor shall not be considered a protest.**⁵

Not once in its entire Protest does Saltz Michelson claim there was any deviation from the established committee procedures. Instead, Saltz Michelson relies upon repeated, and

² Attached as Exhibit A is a true and correct copy of the Standard Instructions to Vendors Request for Proposals, Request for Qualifications, or Request for Letters of Interest, "RFP" § G.

³ See RFP § E (1).

⁴ See RFP § V.

⁵ See RFP § S (5) (emphasis added).

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unsupported, allegations of misconduct or misrepresentations by Daly and suspicions of committee fatigue, none of which are proper grounds to support a protest. Even if the County gave complete credence to each and every one of Saltz Michelson's enumerated bases for protest, the County's only viable response would be to deny Saltz Michelson's Protest as failing to assert a proper basis for protest under the County's own procurement laws. Put differently, the only way the County could grant any aspect of Saltz Michelson's Protest would be to violate the County's procurement laws and treat as a viable protest allegations that the County's procurement laws unambiguously define as not constituting a protest.

III. DALY'S RESPONSES TO SALTZ MICHELSON'S ALLEGATIONS

Saltz Michelson's Protest is improper. Not only did Saltz Michelson fail to comply with the requirements of a protest, its alleged support for the Protest does not come close to constituting sufficient grounds to challenge the evaluation and Proposed Recommendations of Ranking by the Evaluation Committee which ranked Daly as number one.

A. Saltz Michelson May Have Failed to Meet a Condition Precedent to Filing a Protest.

Pursuant to Section S (6) of the RFP:

As a condition of initiating any protest, the protestor shall present the Director of Purchasing a nonrefundable filing fee in accordance with the table below.

<u>Estimated Contract Amount</u>	<u>Filing Fee</u>
\$30,000 - \$250,000	\$ 500
\$250,001 - \$500,000	\$1,000
\$500,001 - \$5 million	\$3,000
Over \$5 million	\$5,000

Saltz Michelson's Protest did not specify that it had tendered the required nonrefundable filing fee to the Director of Purchasing. Certainly, it is within the County's knowledge whether or not such a filing fee was actually tendered. If Saltz Michelson did not timely tender the filing fee required by the RFP when this Protest was submitted, then pursuant to the plain terms of the RFP, Saltz Michelson's Protest is void and must be rejected outright for failure of a condition precedent.

B. Daly is Well-Qualified to Perform the Work Required by the RFP.

Saltz Michelson claims that Daly made misrepresentations regarding Daly's experience during the oral presentations. This allegation is completely unfounded, and indeed is contrary to the factual record. First, as noted above, challenges to Daly's experience are not proper challenges pursuant to Section S (5) of the RFP. The only challenges Saltz Michelson can raise in its Protest are allegations of deviations from the established committee procedure. Second,

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Saltz Michelson's claims are incorrect—Daly is well-qualified and more than meets the requirement for the work as set forth in the RFP, *just as the Evaluation Committee concluded*.

Saltz Michelson's challenge to Daly's experience relies entirely upon Saltz Michelson's misrepresentation of the required qualifications of the RFP as limited to "experience in medical examiner facilities" only. This is incorrect and in direct conflict with the Vendor Qualifications described in various documents and provided by the County to all competing firms for this Project, including:

- RFP Packet, SUMMARY SCOPE OF WORK, paragraphs 1 and 2: "Broward County seeks a Consultant to provide comprehensive architectural and engineering services required of a new *combined facility* for Broward County's Medical Examiner's Office *and Broward Sheriff's Office Crime Laboratory Facility*... Consultant will be tasked with the programming, site analysis and design of a highly functional, efficient structure(s) that includes(s) the latest technologies in *forensic laboratory* standards."⁶
- Audio from the Evaluation Committee Meeting: Verbal comment from the Evaluation Committee member noting that many of the shortlisted firms have a crime lab consultant, but not sure if the firms have the experience in similar project types.⁷
- Short List Letter: The letter listed five questions of interest to the Evaluation Committee. These questions acknowledged that (a) these facility types are rare and unique, and (b) the "specialized" consultant expertise is from out-of-town consultants, thereby recognizing that the expertise is not only rare, but those that do possess it are mostly present at a national platform, and (c) opened up the opportunity to include laboratories, police crime labs, and "other similar" project experiences, as relevant to the Committee's interests.
 - Question 1 "...this is a unique facility that must meet legal and forensic requirements"
 - Question 3: "We realized that the consultant teams are made of specialized, out-of-town consultants ..."
 - Question 4: "...provide examples of challenges the team has encountered on similar type projects ...?"
 - Question 5: "Please provide a list of the past laboratories your team has worked on ...the exact role on your previous forensic & police crime laboratories"⁸

Thus, the RFP documents made it clear that the County was interested in a vendor's experience in *both* medical examiner's offices *and* crime labs. Saltz Michelson's Protest proceeds from the factually incorrect assumption that *only* medical examiner's office experience was relevant.

⁶ Attached as Exhibit B is a true and correct copy of excerpts of the RFP regarding the Summary Scope of Work (emphasis added).

⁷ Attached as Exhibit C is a rough transcript of the Evaluation Committee Meeting.

⁸ Attached as Exhibit D is a true and correct copy of the Short List Letter.

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Daly's experience in relevant project types was set forth in its proposal, presentation graphics, and oral presentation, including experience in "mission critical, criminal justice, law enforcement, forensics, BSL-3, laboratories and medical examiner facilities." Daly further represented its experience regarding forensic lab and medical examiner facilities, including the experience of its subconsultant Gartek Engineering in mechanical engineering for corrective actions to "deal with humidity and cross contamination" in a forensic laboratory, and the experience of its subconsultant, McClaren, Wilson, & Lawrie, Inc. ("MWL") as a forensic and medical examiner lab consultant, including working directly with the prime and engineering team to establish the ventilation, airflows, and performance of these spaces.

Moreover, Daly outlined its own experience designing a combination Medical Examiner & Forensic Sciences facility, entitled Georgia Bureau of Investigations Headquarters Lab Annex and Morgue. Additionally, in its proposal and in the interview, Daly presented its experience in connection with the Palm Beach Sheriff's Office new Evidence building and Forensic Lab project, the Hennepin County Regional Medical Examiner's Office project (a project with subconsultant MWL), MWL's experience on similar projects (which included medical examiner and forensic facilities), and other projects, including a combination of mission critical, police, federal government, forensic, laboratory and evidence facilities that were designed by either the presenting MWL team members or by Daly.

Daly's experience was presented and accepted by the Purchasing Division and the Evaluation Committee. Saltz Michelson cannot now substitute its own evaluation of Daly's experience for that of the Evaluation Committee, and yet that is precisely what its Protest attempts to do.

C. Daly Did Not Make Any Changes to its Proposal During the Oral Presentation.

In its Protest, Saltz Michelson makes a material misrepresentation claiming that, during the oral presentation, Daly improperly substituted itself as the mechanical, plumbing, and electrical engineer ("MEP") for the Project in place of Gartek Engineering, the MEP consultant identified in Daly's written proposal. Based upon this misrepresentation, Saltz Michelson attempts to argue that Daly does not comply with the Certified Business Enterprise ("CBE") requirements, as Gartek Engineering was Daly's CBE qualifier. This argument is without merit or support. **Nothing in Daly's proposal has changed.** Gartek Engineering is still the MEP for this Project and, as a CBE, still accounts for 22% of the total Project value.

A review of the transcript of the presentation reveals Saltz Michelson's misrepresentation. During the oral presentation, Ms. Cindy McCleary of Daly was asked a question about the mechanical knowledge of the Project team. Ms. McCleary responded:

We also have [in addition to Gartek Engineering] mechanical engineers that have experience in medical examiner office and, in fact, are working on the Hennepin County Medical Examiner project, with this team. So, we do have tremendous bench capacity shall that be necessary, and we have access to a tremendous

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number of additional mechanical electrical in particular resources within LEO A. DALY.⁹

Nothing in Ms. McCleary's remarks indicates that Daly intended to replace Gartek Engineering or reduce Gartek Engineering's scope of work on the Project. Ms. McCleary simply responded directly to a question that asked about the experience of the team as a whole, by providing information about Daly's experience and capacity. As such, Saltz Michelson's claims that Daly materially changed its proposal, and that Daly's proposal does not comply with the CBE is false.

D. Daly Was Scored Higher than Saltz Michelson by the Evaluators for Both the Medical Examiner and the BSO.

Saltz Michelson's Protest claims that "the two evaluators from the two departments for which these facilities are being built, the BSO and the Medical Examiner, both ranked Saltz Michelson number one in the evaluations."¹⁰ Like much of Saltz Michelson's Protest, this is simply factually false. The scoring sheets prepared by the Evaluation Committee indicates that Dr. Craig Mallak (the Medical Examiner's Evaluator) gave Saltz Michelson 68 points and gave Daly 72 points.¹¹ Colonel Jack Dale (the BSO's Evaluator) gave Saltz Michelson 80 points and gave Daly 81 points. What Saltz Michelson appears to have done in its Protest was to add these points, given by the Evaluators, to the points given to Saltz Michelson by the County Purchasing Department staff, which are designated on the scoring sheets as "Points Entered by Purchasing." In so doing, Saltz Michelson misrepresents the cumulative scores given by the Evaluators plus the Purchasing staff as though they were the rankings assigned by the Evaluators. Such is not the case. Both Evaluators gave Daly higher scores than they gave Saltz Michelson.

E. Saltz Michelson's Claim that Daly was Afforded an Unfair Competitive Advantage is Without Merit.

Saltz Michelson attempts to argue that because, by purely random chance, Daly presented last during the oral presentation, Daly obtained some unfair advantage. Saltz Michelson's basis for this claim is based upon unfounded assumptions and illogical leaps. First, Saltz Michelson claims that Daly strategically altered its oral presentation to omit mentioning one of its sub-consultants, TLC Engineering, because TLC came under "scrutiny" during another presenter's (Cartaya) presentation;¹² and second, that the Evaluation Committee was too tired by the time Daly presented to properly evaluate Daly and score the proposals. Both claims are utterly absurd.

⁹ Attached as Exhibit E is a rough transcript of the Evaluation Selection Committee meeting.

¹⁰ This statement appears, in bold text, on the first page of the Protest.

¹¹ The scoring sheets are attached as Exhibit F.

¹² Saltz Michelson had the benefit of listening to two presenters before it made its own presentation, but apparently finds nothing unfair in the fact that it out-ranked one of those presenters, Bermello Ajamil & Partners, Inc., by a mere 5 points. Apparently, Saltz Michelson either has no objection to listening to other presenters when it benefits itself, or believes that some dividing line exists between presenting third and presenting sixth that makes presenting third okay but presenting sixth unfair.

Saltz Michelson's claim that Daly altered its presentation is unfounded. The presentation order was previously given to the presenters during the initial shortlist evaluation. Daly prides itself on its integrity and respects the open bidding laws, as well as the professionalism of the industry. Daly spent a great deal of time preparing its presentation. Daly's presentation followed the line of questioning set forth in the Short List Letter and focused on the qualifications of Daly and its key team members and subconsultants. Daly's PowerPoint presentation included photos of critical team members and presenters. To alter it "on the fly" would have been unreasoned if not impossible, particularly because *Cartaya presented immediately before Daly*. TLC Engineering was clearly identified in Daly's proposal. If Daly truly had concerns about TLC's qualifications or the selection committee's perception of those qualifications, Daly would have asked the TLC representative not to attend Daly's presentation. Instead, TLC's representative was in attendance when Daly presented. Finally, it should be noted that the selection committee apparently critiqued TLC's qualifications for *MEP engineering* (this was unknown to Daly at the time, but has become known since the presentation). In contrast, TLC's scope as part of Daly's team is completely different, and far more limited. For these reasons, it makes sense that the Evaluation Committee was not concerned with TLC's involvement as part of Daly's team.

Saltz Michelson further accuses Daly of improperly using its subconsultant MWL, who was also involved in prior presentations, to glean the Committee's concerns and then adjust Daly's responses during its presentation. As acknowledged by the Evaluation Committee, the pool of qualified consultants for this type of work is extremely limited. Indeed, the top three national consulting firms—CLD, MWL, and Smith Group—were *all* represented among the six short-listed vendors. Daly diligently maintains confidentiality and equality when working with subconsultants, including MWL. When MWL pursues marketing opportunities with other firms, the names of those firms are kept confidential, nor does MWL disclose to Daly the unique concept or approach of another firm. To suggest that Daly would interrogate a subconsultant to learn the details of a competitor's presentation suggests more about Saltz Michelson's business practices than Daly's. That Saltz Michelson feels free to make such an allegation without any factual evidence to support it further illuminates Saltz Michelson's *modus operandi*, and bolsters the Evaluation Committee's decision to rank Daly ahead of Saltz Michelson.

F. The Sunshine Law is Not Applicable.

Finally, Saltz Michelson claims that the entire evaluation process violated the Florida Sunshine Law. This is an attempt to grasp at straws. The Sunshine laws, as quoted in Saltz Michelson's Protest, require open-to-the-public meetings, except for negotiations. Saltz Michelson attempts to characterize the Evaluation Committee meeting as a "negotiation," and thus argues that it should not have been open to other presenters. This is not true.

Black's Law Dictionary defines "negotiations" as "[t]he deliberation, discussion, or conference upon the terms of a proposed agreement; the act of settling or arranging the terms and conditions of a bargain, sale, or other business transaction. Also, the transfer of, or act of putting into circulation, a negotiable instrument." (emphasis added.) No "terms" were being negotiated at the oral presentation. Indeed, pursuant to the RFP, the only things to be discussed at the presentation were "the Vendor's approach to this project and the Vendor's ability to perform." Negotiations on terms are not set to begin until "two weeks after approval of the final

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ranking as recommended by the Selection or Evaluation Committee[,]” not during the Committee meeting.¹³ Indeed, it is the County, not the Evaluation Committee, who has the right to “negotiate pricing as in its best interest.”¹⁴

The fact that the Broward County Commission has an agenda item to propose changes to the Administrative Code – changes which have not yet taken effect – has no bearing whatsoever on the “established committee procedures set forth in the [current] Broward County Procurement Code or existing written guidelines,” which govern challenges over this RFP.¹⁵ As such, Saltz Michelson’s reliance on the Sunshine Law, or on potential future changes to the law, is nothing more than a red herring.

IV. CONCLUSION

Saltz Michelson’s Protest is full of misrepresentations, irrational leaps of logic, and blatant falsehoods. The Purchasing Division, the Evaluation Committee, and Daly all properly complied with the Broward County Procurement Code as well as the RFP. At no point in Saltz Michelson’s Protest did it present any evidence of “alleged deviations from the established committee procedures,” and as such, its Protest is invalid under the RFP.

For all of these reasons, Saltz Michelson’s Protest should be rejected. The Purchasing Division should proceed with the approval of the final ranking, with Daly ranked number one.

Sincerely,
GORDON & REES SCULLY MANSUKHANI



Ben Patrick

BP/CDB:lh

Enclosures as stated

¹³ See RFP § V.

¹⁴ See RFP § E(3)(d).

¹⁵ See RFP § S (5).

EXHIBIT A

Standard Instructions to Vendors Request for Proposals, Request for Qualifications, or Request for Letters of Interest

Vendors are instructed to read and follow the instructions carefully, as any misinterpretation or failure to comply with instructions may lead to a Vendor's submittal being rejected.

Vendor MUST submit its solicitation response electronically and MUST confirm its submittal in order for the County to receive a valid response through BidSync. Refer to the Purchasing Division website or contact BidSync for submittal instructions.

A. Responsiveness Criteria:

In accordance with Broward County Procurement Code Section 21.8.b.65, a Responsive Bidder [Vendor] means a person who has submitted a proposal which conforms in all material respects to a solicitation. The solicitation submittal of a responsive Vendor must be submitted on the required forms, which contain all required information, signatures, notarizations, insurance, bonding, security, or other mandated requirements required by the solicitation documents to be submitted at the time of proposal opening.

Failure to provide the information required below at the time of submittal opening may result in a recommendation Vendor is non-responsive by the Director of Purchasing. The Selection or Evaluation Committee will determine whether the firm is responsive to the requirements specified herein. The County reserves the right to waive minor technicalities or irregularities as is in the best interest of the County in accordance with Section 21.30.f.1(c) of the Broward County Procurement Code.

Below are standard responsiveness criteria; refer to **Special Instructions to Vendors**, for Additional Responsiveness Criteria requirement(s).

1. Lobbyist Registration Requirement Certification

Refer to **Lobbyist Registration Requirement Certification** . The completed form should be submitted with the solicitation response but must be submitted within three business days of County's request. Vendor may be deemed non-responsive for failure to fully comply within stated timeframes.

2. Addenda

The County reserves the right to amend this solicitation prior to the due date. Any change(s) to this solicitation will be conveyed through the written addenda process. Only written addenda will be binding. If a "must" addendum is issued, Vendor must follow instructions and submit required information, forms, or acknowledge addendum, as instructed therein. It is the responsibility of all potential Vendors to monitor the solicitation for any changing information, prior to submitting their response.

B. Responsibility Criteria:

Definition of a Responsible Vendor: In accordance with Section 21.8.b.64 of the Broward County Procurement Code, a Responsible Vendor means a Vendor who has the capability in all respects to perform the contract requirements, and the integrity and reliability which will assure good faith performance.

The Selection or Evaluation Committee will recommend to the awarding authority a determination of a Vendor's responsibility. At any time prior to award, the awarding authority may find that a Vendor is not responsible to receive a particular award.

Failure to provide any of this required information and in the manner required may result in a recommendation by the Director of Purchasing that the Vendor is non-responsive.

Below are standard responsibility criteria; refer to **Special Instructions to Vendors**, for Additional Responsibility Criteria requirement(s).

1. **Litigation History**

- a. All Vendors are required to disclose to the County all "material" cases filed, pending, or resolved during the last three (3) years prior to the solicitation response due date, whether such cases were brought by or against the Vendor, any parent or subsidiary of the Vendor, or any predecessor organization. A case is considered to be "material" if it relates, in whole or in part, to any of the following:
 - i. A similar type of work that the vendor is seeking to perform for the County under the current solicitation;
 - ii. An allegation of negligence, error or omissions, or malpractice against the vendor or any of its principals or agents who would be performing work under the current solicitation;
 - iii. A vendor's default, termination, suspension, failure to perform, or improper performance in connection with any contract;
 - iv. The financial condition of the vendor, including any bankruptcy petition (voluntary and involuntary) or receivership; or
 - v. A criminal proceeding or hearing concerning business-related offenses in which the vendor or its principals (including officers) were/are defendants.
- b. For each material case, the Vendor is required to provide all information identified on the **Litigation History Form**.
- c. The County will consider a Vendor's litigation history information in its review and determination of responsibility.
- d. If the Vendor is a joint venture, the information provided should encompass the joint venture and each of the entities forming the joint venture.
- e. A Vendor is also required to disclose to the County any and all case(s) that exist between the County and any of the Vendor's subcontractors/subconsultants proposed to work on this project.
- f. Failure to disclose any material case, or to provide all requested information in connection with each such case, may result in the Vendor being deemed non-responsive.

2. **Financial Information**

- a. All Vendors are required to provide the Vendor's financial statements at the time of submittal in order to demonstrate the Vendor's financial capabilities.
- b. Each Vendor shall submit its most recent two years of financial statements for review. The financial statements are not required to be audited financial statements. The annual financial statements will be in the form of:
 - i. Balance sheets, income statements and annual reports; or
 - ii. Tax returns; or
 - iii. SEC filings.

If tax returns are submitted, ensure it does not include any personal information (as defined

under Florida Statutes Section 501.171, Florida Statutes), such as social security numbers, bank account or credit card numbers, or any personal pin numbers. If any personal information data is part of financial statements, redact information prior to submitting a response the County.

- c. If a Vendor has been in business for less than the number of years of required financial statements, then the Vendor must disclose all years that the Vendor has been in business, including any partial year-to-date financial statements.
- d. The County may consider the unavailability of the most recent year's financial statements and whether the Vendor acted in good faith in disclosing the financial documents in its evaluation.
- e. Any claim of confidentiality on financial statements should be asserted at the time of submittal. Refer to **Standard Instructions to Vendors**, Confidential Material/ Public Records and Exemptions for instructions on submitting confidential financial statements. The Vendor's failure to provide the information as instructed may lead to the information becoming public.
- f. Although the review of a Vendor's financial information is an issue of responsibility, the failure to either provide the financial documentation or correctly assert a confidentiality claim pursuant the Florida Public Records Law and the solicitation requirements (Confidential Material/ Public Records and Exemptions section) may result in a recommendation of non-responsiveness by the Director of Purchasing.

3. Authority to Conduct Business in Florida

- a. A Vendor must have the authority to transact business in the State of Florida and be in good standing with the Florida Secretary of State. For further information, contact the Florida Department of State, Division of Corporations.
- b. The County will review the Vendor's business status based on the information provided in response to this solicitation.
- c. It is the Vendor's responsibility to comply with all state and local business requirements.
- d. Vendor should list its active Florida Department of State Division of Corporations Document Number (or Registration No. for fictitious names) in the **Vendor Questionnaire**, Question No. 10.
- e. If a Vendor is an out-of-state or foreign corporation or partnership, the Vendor must obtain the authority to transact business in the State of Florida or show evidence of application for the authority to transact business in the State of Florida, upon request of the County.
- f. A Vendor that is not in good standing with the Florida Secretary of State at the time of a submission to this solicitation may be deemed non-responsible.
- g. If successful in obtaining a contract award under this solicitation, the Vendor must remain in good standing throughout the contractual period of performance.

4. Affiliated Entities of the Principal(s)

- a. All Vendors are required to disclose the names and addresses of "affiliated entities" of the Vendor's principal(s) over the last five (5) years (from the solicitation opening deadline) that have acted as a prime Vendor with the County. The Vendor is required to provide all information required on the **Affiliated Entities of the Principal(s) Certification Form**.

- b. The County will review all affiliated entities of the Vendor's principal(s) for contract performance evaluations and the compliance history with the County's Small Business Program, including CBE, DBE and SBE goal attainment requirements. "Affiliated entities" of the principal(s) are those entities related to the Vendor by the sharing of stock or other means of control, including but not limited to a subsidiary, parent or sibling entity.
- c. The County will consider the contract performance evaluations and the compliance history of the affiliated entities of the Vendor's principals in its review and determination of responsibility.

5. Insurance Requirements

The **Insurance Requirement Form** reflects the insurance requirements deemed necessary for this project. It is not necessary to have this level of insurance in effect at the time of submittal, but it is necessary to submit certificates indicating that the Vendor currently carries the insurance or to submit a letter from the carrier indicating it can provide insurance coverages.

C. Additional Information and Certifications

The following forms and supporting information (if applicable) should be returned with Vendor's submittal. If not provided with submittal, the Vendor must submit within three business days of County's request. Failure to timely submit may affect Vendor's evaluation.

1. Vendor Questionnaire

Vendor is required to submit detailed information on their firm. Refer to the **Vendor Questionnaire** and submit as instructed.

2. Standard Certifications

Vendor is required to certify to the below requirements. Refer to the **Standard Certifications** and submit as instructed.

- a. **Cone of Silence Requirement Certification**
- b. **Drug-Free Workplace Certification**
- c. **Non-Collusion Certification**
- d. **Public Entities Crimes Certification**
- e. **Scrutinized Companies List Certification**

3. Subcontractors/Subconsultants/Suppliers Requirement

The Vendor shall submit a listing of all subcontractors, subconsultants, and major material suppliers, if any, and the portion of the contract they will perform. Vendors must follow the instructions included on the **Subcontractors/Subconsultants/Suppliers Information Form** and submit as instructed.

D. Standard Agreement Language Requirements

1. The acceptance of or any exceptions taken to the terms and conditions of the County's Agreement shall be considered a part of a Vendor's submittal and will be considered by the Selection or Evaluation Committee.
2. The applicable Agreement terms and conditions for this solicitation are indicated in the **Special Instructions to Vendors**.
3. Vendors are required to review the applicable terms and conditions and submit the **Agreement Exception Form**. If the **Agreement Exception Form** is not provided with the submittal, it shall be deemed an affirmation by the Vendor that it accepts the Agreement terms and conditions as

disclosed in the solicitation.

4. If exceptions are taken, the Vendor must specifically identify each term and condition with which it is taking an exception. Any exception not specifically listed is deemed waived. Simply identifying a section or article number is not sufficient to state an exception. Provide either a redlined version of the specific change(s) or specific proposed alternative language. Additionally, a brief justification specifically addressing each provision to which an exception is taken should be provided.
5. Submission of any exceptions to the Agreement does not denote acceptance by the County. Furthermore, taking exceptions to the County's terms and conditions may be viewed unfavorably by the Selection or Evaluation Committee and ultimately may impact the overall evaluation of a Vendor's submittal.

E. Evaluation Criteria

1. The Selection or Evaluation Committee will evaluate Vendors as per the **Evaluation Criteria**. The County reserves the right to obtain additional information from a Vendor.
2. Vendor has a continuing obligation to inform the County in writing of any material changes to the information it has previously submitted. The County reserves the right to request additional information from Vendor at any time.
3. For Request for Proposals, the following shall apply:
 - a. The Director of Purchasing may recommend to the Evaluation Committee to short list the most qualified firms prior to the Final Evaluation.
 - b. The Evaluation Criteria identifies points available; a total of 100 points is available.
 - c. If the Evaluation Criteria includes a request for pricing, the total points awarded for price is determined by applying the following formula:
$$\frac{\text{(Lowest Proposed Price/Vendor's Price)} \times \text{(Maximum Number of Points for Price)}}{\text{= Price Score}}$$
 - d. After completion of scoring, the County may negotiate pricing as in its best interest.
4. For Requests for Letters of Interest or Request for Qualifications, the following shall apply:
 - a. The Selection or Evaluation Committee will create a short list of the most qualified firms.
 - b. The Selection or Evaluation Committee will either:
 - i. Rank shortlisted firms; or
 - ii. If the solicitation is part of a two-step procurement, shortlisted firms will be requested to submit a response to the Step Two procurement.

F. Demonstrations

If applicable, as indicated in **Special Instructions to Vendors**, Vendors will be required to demonstrate the nature of their offered solution. After receipt of submittals, all Vendors will receive a description of, and arrangements for, the desired demonstration. A copy of the demonstration (hard copy, DVD, CD, flash drive or a combination of both) should be given to the Purchasing Agent at the demonstration meeting to retain in the Purchasing files.

G. Presentations

Vendors that are found to be both responsive and responsible to the requirements of the solicitation and/or shortlisted (if applicable) will have an opportunity to make an oral presentation to the Selection or Evaluation Committee on the Vendor's approach to this project and the Vendor's ability to perform. The committee may provide a list of subject matter for the discussion. All Vendor's will have equal time to present but the question-and-answer time may vary.

H. Public Art and Design Program

If indicated in **Special Instructions to Vendors**, Public Art and Design Program, Section 1-88, Broward County Code of Ordinances, applies to this project. It is the intent of the County to functionally integrate art, when applicable, into capital projects and integrate artists' design concepts into this improvement project. The Vendor may be required to collaborate with the artist(s) on design development within the scope of this request. Artist(s) shall be selected by Broward County through an independent process. For additional information, contact the Broward County Cultural Division.

I. Committee Appointment

The Cone of Silence shall be in effect for County staff at the time of the Selection or Evaluation Committee appointment and for County Commissioners and Commission staff at the time of the Shortlist Meeting of the Selection Committee or the Initial Evaluation Meeting of the Evaluation Committee. The committee members appointed for this solicitation are available on the Purchasing Division's website under Committee Appointment.

J. Committee Questions, Request for Clarifications, Additional Information

At any committee meeting, the Selection or Evaluation Committee members may ask questions, request clarification, or require additional information of any Vendor's submittal or proposal. It is highly recommended Vendors attend to answer any committee questions (if requested), including a Vendor representative that has the authority to bind.

Vendor's answers may impact evaluation (and scoring, if applicable). Upon written request to the Purchasing Agent prior to the meeting, a conference call number will be made available for Vendor participation via teleconference. Only Vendors that are found to be both responsive and responsible to the requirements of the solicitation and/or shortlisted (if applicable) are requested to participate in a final (or presentation) Selection or Evaluation committee meeting.

K. Vendor Questions

The County provides a specified time for Vendors to ask questions and seek clarification regarding solicitation requirements. All questions or clarification inquiries must be submitted through BidSync by the date and time referenced in the solicitation document (including any addenda). The County will respond to questions via Bid Sync.

L. Confidential Material/ Public Records and Exemptions

1. Broward County is a public agency subject to Chapter 119, Florida Statutes. Upon receipt, all submittals become "public records" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes. Submittals may be posted on the County's public website or included in a public records request response, unless there is a declaration of "confidentiality" pursuant to the public records law and in accordance with the procedures in this section.
2. Any confidential material(s) the Vendor asserts is exempt from public disclosure under Florida Statutes must be labeled as "Confidential", and marked with the specific statute and subsection asserting exemption from Public Records.

3. To submit confidential material, three hardcopies must be submitted in a sealed envelope, labeled with the solicitation number, title, date and the time of solicitation opening to:

Broward County Purchasing Division
115 South Andrews Avenue, Room 212
Fort Lauderdale, FL 33301

4. Material will not be treated as confidential if the Vendor does not cite the applicable Florida Statute (s) allowing the document to be treated as confidential.
5. Any materials that the Vendor claims to be confidential and exempt from public records must be marked and separated from the submittal. If the Vendor does not comply with these instructions, the Vendor's claim for confidentiality will be deemed as a waived.
6. Submitting confidential material may impact full discussion of your submittal by the Selection or Evaluation Committee because the Committee will be unable to discuss the details contained in the documents cloaked as confidential at the publicly noticed Committee meeting.

M. Copyrighted Materials

Copyrighted material is not exempt from the Public Records Law, Chapter 119, Florida Statutes. Submission of copyrighted material in response to any solicitation will constitute a license and permission for the County to make copies (including electronic copies) as reasonably necessary for the use by County staff and agents, as well as to make the materials available for inspection or production pursuant to Public Records Law, Chapter 119, Florida Statutes.

N. State and Local Preferences

If the solicitation involves a federally funded project where the fund requirements prohibit the use of state and/or local preferences, such preferences contained in the Local Preference Ordinance and Broward County Procurement Code will not be applied in the procurement process.

O. Local Preference

Except where otherwise prohibited by federal or state law or other funding source restrictions, a local Vendor whose submittal is within 5% of the highest total ranked Vendor outside of the preference area will become the Vendor with whom the County will proceed with negotiations for a final contract. Refer to **Local Vendor Certification Form (Preference and Tiebreaker)** for further information.

P. Tiebreaker Criteria

In accordance with Section 21.31.d of the Broward County Procurement Code, the tiebreaker criteria shall be applied based upon the information provided in the Vendor's response to the solicitation. In order to receive credit for any tiebreaker criterion, complete and accurate information must be contained in the Vendor's submittal.

1. **Local Vendor Certification Form (Preference and Tiebreaker);**
2. **Domestic Partnership Act Certification (Requirement and Tiebreaker);**
3. **Tiebreaker Criteria Form: Volume of Work Over Five Years**

Q. Posting of Solicitation Results and Recommendations

The Broward County Purchasing Division's website is the location for the County's posting of all solicitations and contract award results. It is the obligation of each Vendor to monitor the website in

order to obtain complete and timely information.

R. Review and Evaluation of Responses

A Selection or Evaluation Committee is responsible for recommending the most qualified Vendor(s). The process for this procurement may proceed in the following manner:

1. The Purchasing Division delivers the solicitation submittals to agency staff for summarization for the committee members. Agency staff prepares a report, including a matrix of responses submitted by the Vendors. This may include a technical review, if applicable.
2. Staff identifies any incomplete responses. The Director of Purchasing reviews the information and makes a recommendation to the Selection or Evaluation Committee as to each Vendor's responsiveness to the requirements of the solicitation. The final determination of responsiveness rests solely on the decision of the committee.
3. At any time prior to award, the awarding authority may find that a Vendor is not responsible to receive a particular award. The awarding authority may consider the following factors, without limitation: debarment or removal from the authorized Vendors list or a final decree, declaration or order by a court or administrative hearing officer or tribunal of competent jurisdiction that the Vendor has breached or failed to perform a contract, claims history of the Vendor, performance history on a County contract(s), an unresolved concern, or any other cause under this code and Florida law for evaluating the responsibility of a Vendor.

S. Vendor Protest

Sections 21.118 and 21.120 of the Broward County Procurement Code set forth procedural requirements that apply if a Vendor intends to protest a solicitation or proposed award of a contract and state in part the following:

1. Any protest concerning the solicitation or other solicitation specifications or requirements must be made and received by the County within seven business days from the posting of the solicitation or addendum on the Purchasing Division's website. Such protest must be made in writing to the Director of Purchasing. Failure to timely protest solicitation specifications or requirements is a waiver of the ability to protest the specifications or requirements.
2. Any protest concerning a solicitation or proposed award above the award authority of the Director of Purchasing, after the RLI or RFP opening, shall be submitted in writing and received by the Director of Purchasing within five business days from the posting of the recommendation of award for Invitation to Bids or the final recommendation of ranking for Request for Letters of Interest and Request for Proposals on the Purchasing Division's website.
3. Any actual or prospective Vendor who has a substantial interest in and is aggrieved in connection with the proposed award of a contract which does not exceed the amount of the award authority of the Director of Purchasing, may protest to the Director of Purchasing. The protest shall be submitted in writing and received within three (3) business days from the posting of the recommendation of award for Invitation to Bids or the final recommendation of ranking for Request for Letters of Interest and Request for Proposals on the Purchasing Division's website.
4. For purposes of this section, a business day is defined as Monday through Friday between 8:30 a.m. and 5:00 p.m. Failure to timely file a protest within the time prescribed for a proposed contract award shall be a waiver of the Vendor's right to protest.

5. Protests arising from the decisions and votes of a Selection or Evaluation Committee shall be limited to protests based upon the alleged deviations from established committee procedures set forth in the Broward County Procurement Code and existing written guidelines. Any allegations of misconduct or misrepresentation on the part of a competing Vendor shall not be considered a protest.
6. As a condition of initiating any protest, the protestor shall present the Director of Purchasing a nonrefundable filing fee in accordance with the table below.

<u>Estimated Contract Amount</u>	<u>Filing Fee</u>
\$30,000 - \$250,000	\$ 500
\$250,001 - \$500,000	\$1,000
\$500,001 - \$5 million	\$3,000
Over \$5 million	\$5,000

If no contract proposal amount was submitted, the estimated contract amount shall be the County's estimated contract price for the project. The County may accept cash, money order, certified check, or cashier's check, payable to Broward County Board of Commissioners.

T. Right of Appeal

Pursuant to Section 21.83.d of the Broward County Procurement Code, any Vendor that has a substantial interest in the matter and is dissatisfied or aggrieved in connection with the Selection or Evaluation Committee's determination of responsiveness may appeal the determination pursuant to Section 21.120 of the Broward County Procurement Code.

1. The appeal must be in writing and sent to the Director of Purchasing within ten (10) calendar days of the determination by the Selection or Evaluation Committee to be deemed timely.
2. As required by Section 21.120, the appeal must be accompanied by an appeal bond by a Vendor having standing to protest and must comply with all other requirements of this section.
3. The institution and filing of an appeal is an administrative remedy to be employed prior to the institution and filing of any civil action against the County concerning the subject matter of the appeal.

U. Rejection of Responses

The Selection or Evaluation Committee may recommend rejecting all submittals as in the best interests of the County. The rejection shall be made by the Director of Purchasing, except when a solicitation was approved by the Board, in which case the rejection shall be made by the Board.

V. Negotiations

The County intends to conduct the first negotiation meeting no later than two weeks after approval of the final ranking as recommended by the Selection or Evaluation Committee. At least one of the representatives for the Vendor participating in negotiations with the County must be authorized to bind the Vendor. In the event that the negotiations are not successful within a reasonable timeframe (notification will be provided to the Vendor) an impasse will be declared and negotiations with the first-ranked Vendor will cease. Negotiations will begin with the next ranked Vendor, etc. until such time that all requirements of Broward County Procurement Code have been met.

W. Submittal Instructions:

1. Broward County does not require any personal information (as defined under Section 501.171, Florida Statutes), such as social security numbers, driver license numbers, passport, military ID, bank account or credit card numbers, or any personal pin numbers, in order to submit a response for ANY Broward County solicitation. **DO NOT INCLUDE** any personal information data in any document submitted to the County. If any personal information data is part of a submittal, this information must be redacted prior to submitting a response to the County.
2. **Vendor MUST submit its solicitation response electronically and MUST confirm its submittal in order for the County to receive a valid response through BidSync.** It is the Vendor's sole responsibility to assure its response is submitted and received through BidSync by the date and time specified in the solicitation.
3. The County will not consider solicitation responses received by other means. Vendors are encouraged to submit their responses in advance of the due date and time specified in the solicitation document. In the event that the Vendor is having difficulty submitting the solicitation document through Bid Sync, immediately notify the Purchasing Agent and then contact BidSync for technical assistance.
4. Vendor must view, submit, and/or accept each of the documents in BidSync. Web-fillable forms can be filled out and submitted through BidSync.
5. After all documents are viewed, submitted, and/or accepted in BidSync, the Vendor must upload additional information requested by the solicitation (i.e. Evaluation Criteria and Financials Statements) in the Item Response Form in BidSync, under line one (regardless if pricing requested).
6. Vendor should upload responses to Evaluation Criteria in Microsoft Word or Excel format.
7. If the Vendor is declaring any material confidential and exempt from Public Records, refer to Confidential Material/ Public Records and Exemptions for instructions on submitting confidential material.
8. After all files are uploaded, Vendor must submit and **CONFIRM** its offer (by entering password) for offer to be received through BidSync.
9. If a solicitation requires an original Proposal Bond (per Special Instructions to Vendors), Vendor must submit in a sealed envelope, labeled with the solicitation number, title, date and the time of solicitation opening to:

Broward County Purchasing Division
115 South Andrews Avenue, Room 212
Fort Lauderdale, FL 33301

A copy of the Proposal Bond should also be uploaded into Bid Sync; this does not replace the requirement to have an original proposal bond. Vendors must submit the original Proposal Bond, by the solicitation due date and time.

EXHIBIT B

Solicitation S2115731P1

Broward County's Medical Examiner's Office and BSO's Crime Lab Combined Facility

Bid Designation: Public



Broward County Board of County Commissioners

SUMMARY SCOPE OF WORK

Broward County seeks a Consultant to provide comprehensive architectural and engineering services required for the programming, design and construction of a new combined facility for Broward County's Medical Examiner's Office and Broward Sheriff's Office Crime Laboratory Facility. The project entails the programming, needs assessment, and site analysis of a new state-of-the-art combined facility, in the City of Fort Lauderdale, Florida. The project is currently intended to be constructed on a vacant parcel of approximately 7.29 acres, Broward Folio # 4942-32-22-0012.

The new combined facility is anticipated to be organized as a multi-story building or series of buildings with potential operational and functional synergies to be explored during the planning and programming phase. Consultant will be tasked with the programming, site analysis and design of highly functional, efficient structure(s) that include(s) the latest technologies in forensic laboratory standards, mechanical and ventilation systems, and other functions to support both facilities. Parking, landscaping, drainage, utilities and on and off-site improvements will be included.

The County may elect to construct either one or both facilities on alternate sites within Broward County at the sole discretion of the County. The County retains the right to either award the design services for these facilities to the Consultant selected via this solicitation or to re-advertise and select a new consultant for the project designated for that ultimate site.

The agreement between the County and Consultant will be divided into two phases, one for pre-design services (programming, site analysis and budget estimate) and one for design services (schematic through warranty and post occupancy)

The facility(ies) shall be designed under Leadership in Environmental and Engineering Design guidelines or LEED – version v4 or the most currently available version to achieve a minimum of Silver certification. All design and construction documents shall be developed and coordinated using Building Information Modeling (BIM).

EXHIBIT C

Thank you Mr. Chair. As was stated previously the initial evaluation committee meeting the RFP solicitation document requires proposers to state whether they accept Broward county standard terms and conditions or if they do not accept them to define which contract provisions they cannot accept Leo a dairy company has withdrawn its exceptions to the county standard terms and conditions.

Speaker 1: 00:10:05 OK. Thank you Mr. Messerschmidt extort businesses the presentations by the firms that the April 20th 2018 initial evaluation meeting after drawing of names from a hat selected on our presentation was determined to be number one mobile architecture Inc. Number two Ramallo Agim and Partners Inc. Number three Saltz Michael Flynn architects Inc. Number 4 our CAD Inc. Number 5 Cartaya and Associates Architects P.a. And lastly number 6 we'll hear a dairy company after the initial evaluation meeting. The committee requested that presentations include and address the following and I will read what their comments were at that time. One of the members stated this is a unique facility that must be legal and forensic requirements. How will your consultant team design a combined medical examiner's office with VSO crime laboratories that meets Broward County requirements liquor regulations and comply with national forensic certifications and testing agencies. Number two was to demonstrate the method.

Speaker 1: 00:11:20 The firm consultant will organize the team to allow requests from the county to be answered in a timely fashion by the teams crime lab experts that appeared to be all consultants to the crime especially on critical elements of facility. That is why ABS evidence integrity chain of command testing systems ventilation and so forth. Number three we realize the consultant teams are made of specialized out of town consultants. With that said what cost control methods utilized with the team and with the managing general contractor how do you maintain quality control throughout the life of the project. Number four provide specific examples of challenges. The team has encountered on similar types of projects and how you would address them on this project number five and lastly please list the past laboratories. Your team has worked on and to what extent the consultants exact role on your previous forensic and police crime laboratories.

EXHIBIT D



**FINANCE AND ADMINISTRATIVE SERVICES DEPARTMENT
PURCHASING DIVISION**

115 S. Andrews Avenue, Room 212 • Fort Lauderdale, Florida 33301 • 954-357-6065 • FAX 954-357-8535

SUBJECT: RFP Number: S2115731P1
RFP Name: Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility

Presentations/Final Evaluation/Scoring/Ranking Meeting Dear

THIS LETTER SUPERCEDES THE SUBJECT LETTER EMAILED ON APRIL 24, 2018

Proposer:

On April 20, 2018, the Evaluation Committee for Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility for the Construction Management Division determined the responsiveness and responsibility of the firms responding to the RFP.

Congratulations! Your firm is one of the firms found to be both responsive and responsible to the requirements of the RFP at the Initial Evaluation meeting. As a result, your firm has been invited to make an oral presentation before the Evaluation Committee at the Final Evaluation, scoring and ranking meeting. Presentations will be followed by a question and answer period by the Evaluation Committee. At least one member of the vendor's presentation team should have the authority to bind the company as vendor's answers may impact evaluation and scoring. The conference call number available for Vendors to participate via teleconference is (954) 357- 5485.

Listed below is the **order** of presentations to be conducted on:

Monday, May 7, 2018 starting at 1:00PM at Governmental Center Building, 115 S. Andrews Avenue, Room 430, Fort Lauderdale, FL 33301

All firms making presentations are asked to be in attendance at the beginning of the meeting at 1:00 PM. Please check in with the Purchasing Agent or Project Manager, upon arrival at the meeting and provide them with the following: Business Cards for each member present of your team, 2 CD/DVD's or Thumb Drives of your presentation, and if you are bringing Handouts, it is recommended that you provide between 7 and 10 copies.

Firm Name	Set Up Length	Presentation Length	Question and Answer
First-presenting MOBIO Architecture, Inc.	5 Minutes	30 Minutes	Q&A follows presentation
Second-presenting Bermello Ajamil & Partners, Inc.	5 Minutes	30 Minutes	Q&A follows presentation
Third-presenting Saltz Michelson Architects, Inc.	5 Minutes	30 Minutes	Q&A follows presentation
Fourth-presenting ARCADD, Inc.	5 Minutes	30 Minutes	Q&A follows Presentation
Fifth-presenting Cartaya and Associates Architects, P.A.	5 Minutes	30 Minutes	Q&A follows Presentation
Sixth-presenting Leo A Daly Company	5 Minutes	30 Minutes	Q&A follows Presentation

Letter to Responsive – Responsible Firms

RFP No. S2115731P1, RFP Name: Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined Facility
Page 28 of 37
Page 2 of 2

The Committee requested that your presentation include/address the following:

1. EC member statement – “This is a unique facility that must meet legal and forensic requirements.”
How will your consultant team design a combined Medical Examiner's office with BSO Crime Laboratories that meets Broward County requirements, legal regulations, comply with national forensic certifications and testing agencies?
2. Demonstrate the method the prime consultant will organize the team to allow requests from the County to be answered in timely fashion by the team's crime lab experts that appear to be all subconsultants to the prime especially on critical elements of facility (i.e. labs, evident integrity, chain-of-command, testing, MEP systems, & ventilation)?
3. We realized that consultant teams are made of specialized, out-of-town consultants, so;
 - a) What cost control methods do you utilize with the team, and with the Managing General Contractor?
 - b) How do you maintain quality control throughout the life of the project?
4. Provide specific examples of challenges the team has encountered on similar type projects, and how would you address them on this project?
5. Please list the past laboratories your team has worked on, and to what extent the consultant's exact role on your previous forensic & police crime laboratories?

Please feel free to clarify or address any other issues the County should consider, within the scope of your submitted proposal, as long as you limit the presentation to the time allotted.

NOTE: Presenters are responsible for bringing their own equipment for the presentation. (Laptop/Projector).

In accordance with Section 1-266 of Broward County Ordinance No. 2001-15, a Cone of Silence is now imposed on this RFP. Each firm conducting business with the County is required to comply with this ordinance. A copy of the ordinance can be found at <http://www.broward.org/Purchasing/Documents/ConeOfSilence.pdf>

If you have any questions regarding this project, you may contact David Hawke, Project Manager, at dhawke@broward.org or 954-357-5638.

Sincerely,

MARIE WILLIAMS

Digitally signed by MARIE WILLIAMS
DN: dc=cty, dc=broward, dc=bc,
ou=Organization, ou=BCC, ou=PU, ou=Users,
cn=MARIE WILLIAMS
Date: 2018.05.01 15:10:32 -04'00'

Marie Williams, Purchasing Agent, Senior, Purchasing Division

C: David Hawke, Construction Project Management Supervisor, Construction Management Division
(Project Manager)
Martha Perez-Garviso, Purchasing Manager, Purchasing Division
Lluis Gorgoy, Purchasing Manager, Purchasing Division

EXHIBIT E

Speaker 120: CM 06:44:56 What I wanted to share. We're very excited to have our take on this team as a representative of Broward County, the firm resides in Broward County and he brings extensive experience and we appreciate that. We LEO A DALY, also have mechanical electrical structural civil industrial engineering and interior design in-house

Mallak I know how huge your company is.

CM and our folks, thank you, we are working in Omaha in fact currently with the Omaha PD on a new police headquarters facility. We also have mechanical engineers that have experience in medical examiner offices and in fact are working on the Hennepin County Medical Examiner project with this team. So we do have tremendous bench capacity shall that be necessary and we have access to a tremendous number of additional mechanical electrical in particular resources within LEO A DALY.

Speaker 124: RB 06:45:50 If I may add, I want to work with you to the end user and find out what mistakes were made in the past to make sure that we don't repeat it. And also with our consultants and the architects. We have been in the business for over 25 years. Basically if you live long enough in this business you use see all kinds of designs and I am the principal in charge of the mechanical department in my office. So I feel confident that whatever issue you may have had in the past, we can make it better, avoid any possible maintenance is important , any possible humidity issues and keep the minimal level of contamination possible in the background of any labs.

Speaker 44: 06:46:42 Thank you.

EXHIBIT F

**Scoring Sheet
Final Evaluation Meeting
RFP No. S2115731P1**

**Consultant Services for Broward County's Medical Examiner's and Broward Sheriff's Office Crime Laboratory Combined
Facility
May 7, 2018**

**Broward County Governmental Center
115 S. Andrews Avenue, Room GC430, Fort Lauderdale, FL 33301**

Firm Name	Alan Cohen	Dr. Craig Malliak	Ariadna Musarra	Leonard Vialpando	Colonel John D. "Jack" Dale	Total	Ranking
ARCADD, Inc.	63	38	49	36	20	206	6
Bermello Ajamil & Partners, Inc.	89	74	93	92	77	425	3
Cartaya and Associates Architects, P.A.	92	73	83	80	74	402	4
Leo A Daly Company	95	77	90	87	86	435	1
MOBIO Architecture, Inc.	84	65	78	82	73	382	5
Saltz Michelson Architects, Inc.	94	78	86	82	90	430	2

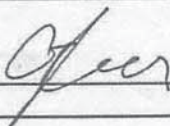
Scoring Sheet
Final Evaluation Meeting
RFP No. S2115731P1
Consultant Services for Broward County's Medical Examiner's and
Broward Sheriff's Office Crime Laboratory Combined Facility
May 7, 2018
115 S. Andrews Avenue, Room GC430, Fort Lauderdale, FL 33301

Evaluation Criteria - Project Specific Criteria (Complete text of questions provided separately)	Maximum Points	ARCADD, Inc.	Bermello Ajamil & Partners, Inc.	Cartaya and Associates Architects, P.A.	Leo A Daly Company	MOBIO Architecture, Inc.	Saltz Michelson Architects, Inc.
ABILITY OF PROFESSIONAL PERSONNEL (Total Maximum 25 Points)							
See Evaluation Criteria - question 1.a	10	6	9	9	10	8	9
bSee Evaluation Criteria - question 1.b	5	3	5	5	5	5	5
See Evaluation Criteria - question 1.c	5	5	5	5	5	5	5
See Evaluation Criteria - question 1.d	5	4	5	5	5	5	5
PROJECT APPROACH (Total Maximum 20 Points)							
See Evaluation Criteria - question 2.a	10	6	9	9	10	7	9
See Evaluation Criteria - question 2.b	10	8	9	9	10	8	9
PAST PERFORMANCE (Total Maximum 30 Points)							
See Evaluation Criteria - question 3.a	15	9	15	12	15	13	13
See Evaluation Criteria - question 3.b	15	10	15	15	15	15	15
SPECIALIZED EXPERIENCE, KNOWLEDGE AND CAPABILITIES (Total Maximum 10 Points)							
See Evaluation Criteria - question 4.a	5	4	5	5	5	4	5
See Evaluation Criteria - question 4.b	5	3	5	5	5	5	5
WORKLOAD OF FIRM							
See Evaluation Criteria - question 5	5	0	4	4	5	4	4
LOCATION		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 6	5	0	0	5	0	0	5
WILLINGNESS TO MEET TIME AND BUDGET REQUIREMENTS		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 7	2	2	2	2	2	2	2
VOLUME OF PREVIOUS WORK		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 8	3	3	1	2	3	3	3
		TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING
TOTAL SCORE WILL BE ENTERED BY PURCHASING	Max 100 One Hundred						

Alan Cohen

Name

Signature

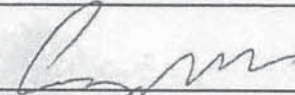


By signing this document I certify that I have abided by the Code of Silence Ordinance and have not been influenced or coerced by anyone in the assignment of the points by me for this procurement.

Scoring Sheet
Final Evaluation Meeting
RFP No. S2115731P1
Consultant Services for Broward County's Medical Examiner's and
Broward Sheriff's Office Crime Laboratory Combined Facility
May 7, 2018
115 S. Andrews Avenue, Room GC430, Fort Lauderdale, FL 33301

Evaluation Criteria - Project Specific Criteria (Complete text of questions provided separately)	Maximum Points	ARCADD, Inc.	Bermello Ajamil & Partners, Inc.	Cartaya and Associates Architects, P.A.	Leo A Daly Company	MOBIO Architecture, Inc.	Saltz Michelson Architects, Inc.
ABILITY OF PROFESSIONAL PERSONNEL (Total Maximum 25 Points)							
See Evaluation Criteria - question 1.a	10	4	9	7	9	8	8
bSee Evaluation Criteria - question 1.b	5	3	4	4	5	4	5
See Evaluation Criteria - question 1.c	5	4	5	4	4	4	4
See Evaluation Criteria - question 1.d	5	2	4	4	5	4	5
PROJECT APPROACH (Total Maximum 20 Points)							
See Evaluation Criteria - question 2.a	10	4	7	8	9	6	8
See Evaluation Criteria - question 2.b	10	4	8	6	9	8	9
PAST PERFORMANCE (Total Maximum 30 Points)							
See Evaluation Criteria - question 3.a	15	5	10	10	10	8	10
See Evaluation Criteria - question 3.b	15	2	10	10	10	8	8
SPECIALIZED EXPERIENCE, KNOWLEDGE AND CAPABILITIES (Total Maximum 10 Points)							
See Evaluation Criteria - question 4.a	5	3	4	4	4	3	3
See Evaluation Criteria - question 4.b	5	2	5	4	4	3	4
WORKLOAD OF FIRM							
See Evaluation Criteria - question 5	5	1	5	3	3	4	4
LOCATION							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 6	5	0	0	5	0	0	5
WILLINGNESS TO MEET TIME AND BUDGET REQUIREMENTS							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 7	2	2	2	2	2	2	2
VOLUME OF PREVIOUS WORK							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 8	3	3	1	2	3	3	3
		TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING
TOTAL SCORE WILL BE ENTERED BY PURCHASING	Max 100 One Hundred						

Dr. Craig Mallak

Name _____

 Signature _____

By signing this document I certify that I have abided by the Code of Silence Ordinance and have not been influenced or coerced by anyone in the assignment of the points by me for this procurement.

Scoring Sheet
Final Evaluation Meeting
RFP No. S2115731P1
Consultant Services for Broward County's Medical Examiner's and
Broward Sheriff's Office Crime Laboratory Combined Facility
May 7, 2018
115 S. Andrews Avenue, Room GC430, Fort Lauderdale, FL 33301

Evaluation Criteria - Project Specific Criteria (Complete text of questions provided separately)	Maximum Points	ARCADD, Inc.	Bermello Ajamil & Partners, Inc.	Cartaya and Associates Architects, P.A.	Leo A Daly Company	MOBIO Architecture, Inc.	Saltz Michelson Architects, Inc.
ABILITY OF PROFESSIONAL PERSONNEL (Total Maximum 25 Points)							
See Evaluation Criteria - question 1.a	10	5	10	7	10	6	8
See Evaluation Criteria - question 1.b	5	2	5	4	4	4	4
See Evaluation Criteria - question 1.c	5	2	5	4	5	4	4
See Evaluation Criteria - question 1.d	5	1	5	4	5	4	4
PROJECT APPROACH (Total Maximum 20 Points)							
See Evaluation Criteria - question 2.a	10	5	10	8	10	7	7
See Evaluation Criteria - question 2.b	10	5	10	8	9	8	7
PAST PERFORMANCE (Total Maximum 30 Points)							
See Evaluation Criteria - question 3.a	15	9	15	13	14	13	14
See Evaluation Criteria - question 3.b	15	9	15	14	14	13	13
SPECIALIZED EXPERIENCE, KNOWLEDGE AND CAPABILITIES (Total Maximum 10 Points)							
See Evaluation Criteria - question 4.a	5	3	5	4	5	5	5
See Evaluation Criteria - question 4.b	5	1	5	4	5	5	5
WORKLOAD OF FIRM							
See Evaluation Criteria - question 5	5	2	5	4	4	4	5
LOCATION		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 6	5	0	0	5	0	0	5
WILLINGNESS TO MEET TIME AND BUDGET REQUIREMENTS		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 7	2	2	2	2	2	2	2
VOLUME OF PREVIOUS WORK		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 8	3	3	1	2	3	3	3
		TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING
TOTAL SCORE WILL BE ENTERED BY PURCHASING	Max 100 One Hundred						

Ariadna Musarra

Name

Ariadna Musarra

5.7.18

Signature

By signing this document I certify that I have abided by the Code of Silence Ordinance and have not been influenced or coerced by anyone in the assignment of the points by me for this procurement.

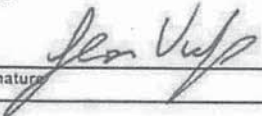
Scoring Sheet
Final Evaluation Meeting
RFP No. S2115731P1
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Broward Sheriff's Office Crime Laboratory Combined Facility
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Evaluation Criteria - Project Specific Criteria (Complete text of questions provided separately)	Maximum Points	ARCADD, Inc.	Bermello Ajamil & Partners, Inc.	Cartaya and Associates Architects, P.A.	Leo A Daly Company	MOBIO Architecture, Inc.	Saltz Michelson Architects, Inc.
ABILITY OF PROFESSIONAL PERSONNEL (Total Maximum 25 Points)							
See Evaluation Criteria - question 1.a	10	5	9	7	9	8	7
See Evaluation Criteria - question 1.b	5	2	5	4	4	4	4
See Evaluation Criteria - question 1.c	5	2	5	4	5	4	4
See Evaluation Criteria - question 1.d	5	1	5	5	5	5	5
PROJECT APPROACH (Total Maximum 20 Points)							
See Evaluation Criteria - question 2.a	10	2	10	8	8	8	7
See Evaluation Criteria - question 2.b	10	2	10	7	10	10	8
PAST PERFORMANCE (Total Maximum 30 Points)							
See Evaluation Criteria - question 3.a	15	5	15	12	13	12	12
See Evaluation Criteria - question 3.b	15	5	15	12	13	12	12
SPECIALIZED EXPERIENCE, KNOWLEDGE AND CAPABILITIES (Total Maximum 10 Points)							
See Evaluation Criteria - question 4.a	5	1	5	4	5	4	4
See Evaluation Criteria - question 4.b	5	1	5	3	5	5	4
WORKLOAD OF FIRM							
See Evaluation Criteria - question 5	5	5	5	5	5	5	5
LOCATION							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 6	5	0	0	5	0	0	5
WILLINGNESS TO MEET TIME AND BUDGET REQUIREMENTS							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 7	2	2	2	2	2	2	2
VOLUME OF PREVIOUS WORK							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 8	3	3	1	2	3	3	3
		TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING
TOTAL SCORE WILL BE ENTERED BY PURCHASING	Max 100 One Hundred						

Leonard Vialpando

Name

Signature



By signing this document I certify that I have abided by the Code of Silence Ordinance and have not been influenced or coerced by anyone in the assignment of the points by me for this procurement.

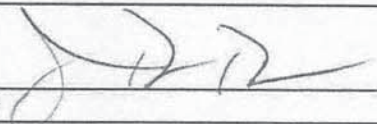
Scoring Sheet
Final Evaluation Meeting
RFP No. S2115731P1
Consultant Services for Broward County's Medical Examiner's and
Broward Sheriff's Office Crime Laboratory Combined Facility
May 7, 2018
115 S. Andrews Avenue, Room GC430, Fort Lauderdale, FL 33301

Evaluation Criteria - Project Specific Criteria (Complete text of questions provided separately)	Maximum Points	ARCADD, Inc.	Bermello Ajamil & Partners, Inc.	Cartaya and Associates Architects, P.A.	Leo A Daly Company	MOBIO Architecture, Inc.	Saltz Michelson Architects, Inc.
ABILITY OF PROFESSIONAL PERSONNEL (Total Maximum 25 Points)							
See Evaluation Criteria - question 1.a	10	2	8	7	9	6	8
bSee Evaluation Criteria - question 1.b	5	1	4	4	4	4	5
See Evaluation Criteria - question 1.c	5	1	4	4	4	4	5
See Evaluation Criteria - question 1.d	5	1	5	5	3	3	3
PROJECT APPROACH (Total Maximum 20 Points)							
See Evaluation Criteria - question 2.a	10	1	8	6	8	7	9
See Evaluation Criteria - question 2.b	10	2	8	6	8	7	8
PAST PERFORMANCE (Total Maximum 30 Points)							
See Evaluation Criteria - question 3.a	15	3	12	10	14	12	14
See Evaluation Criteria - question 3.b	15	2	13	11	14	11	14
SPECIALIZED EXPERIENCE, KNOWLEDGE AND CAPABILITIES (Total Maximum 10 Points)							
See Evaluation Criteria - question 4.a	5	1	4	4	4	4	4
See Evaluation Criteria - question 4.b	5	0	4	4	5	4	4
WORKLOAD OF FIRM							
See Evaluation Criteria - question 5	5	1	4	4	5	4	4
LOCATION							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 5	5	0	0	5	0	0	5
WILLINGNESS TO MEET TIME AND BUDGET REQUIREMENTS							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 7	2	2	2	2	2	2	2
VOLUME OF PREVIOUS WORK							
		POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING	POINTS ENTERED BY PURCHASING
See Evaluation Criteria - question 8	3	3	1	2	3	3	3
		TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING	TOTAL SCORE CALCULATED BY PURCHASING
TOTAL SCORE WILL BE ENTERED BY PURCHASING	Max 100 One Hundred						

Colonel John D. "Jack" Dale

Name

Signature



By signing this document I certify that I have abided by the Cone of Silence Ordinance and have not been influenced or coerced by anyone in the assignment of the points by me for this procurement.



OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT

Governmental Center Annex

115 S. Andrews Avenue, Room A680 • Fort Lauderdale, Florida 33301 • 954-357-6400 • FAX 954-357-5674

MEMORANDUM

DATE: March 29, 2018

TO: Marie Williams, Senior Purchasing Agent
Purchasing Division

THRU: Sandy-Michael McDonald, Director *SM*
Office of Economic and Small Business Development

FROM: Freddy Castillo, Small Business Development Manager *FC*
Office of Economic and Small Business Development

SUBJECT: RFP No. S2115731P1 - Broward County's Medical Examiner's Office and
BSO's Crime Lab Combined Facility
County Business Enterprise (CBE) Evaluation

The Office of Economic and Small Business Development (OESBD) conducted a review of the respondents' compliance with CBE Program requirements for the above referenced project. An overview is provided as follows:

The CBE goal for this project: 25%

Met the CBE Requirements:

<u>Firms</u>	<u>Category</u>	<u>Percentage</u>
ARCADD, Inc. a/k/a Cold Spring Green, Inc. (Prime)		
Kyle Sawchuk Architect, P.A., d/b/a The Office of Architecture	CBE	12.5%
Stuart Architecture	CBE	12.5%
Total		<u>25.0%</u>
Bermello Ajamil & Partners, Inc. (Prime)		
MUEngineers, Inc.	CBE	10.500%
GMS-Construction Management Services, Inc.	CBE	0.250%
Radise International, L.C.	CBE	0.125%
Stoner & Associates, Inc.	CBE	0.125%
Delta G Consulting Engineers, Inc.	CBE	14.500%
Total		<u>25.500%</u>

RFP No. S2115731P1 - Broward County's Medical Examiner's Office and BSO's Crime Lab Combined Facility
County Business Enterprise (CBE) Evaluation

Met the CBE Requirements Continued:

<u>Firms</u>	<u>Category</u>	<u>Percentage</u>
Cartaya and Associates Architects, P.A. (Prime)	CBE	30.0%
AlrQuest Environmental, Inc.	CBE	1.0%
CMS-Construction Management Services, Inc.	CBE	1.0%
Total		<hr/> 32.0%
Leo A Daly Company (Prime)		
Gartek Engineering Corporation	CBE	22.0%
CMS-Construction Management Services, Inc.	CBE	2.0%
Radise International, L.C.	CBE	1.0%
Total		<hr/> 25.0%
MOBIO Architecture, Inc. (Prime)		
Premiere Design Solutions, Inc.	CBE	6.5%
S & F Engineers, Inc.	CBE	8.0%
Delta G Consulting Engineers, Inc.	CBE	10.0%
Atlas Safety & Security Design Inc.	CBE	0.5%
Total		<hr/> 25.0%
Saltz Michelson Architects, Inc. (Prime)	CBE	27.0%
Total		<hr/> 27.0%

CBE Compliance Comments:

Bermello Ajamil & Partners, Inc., Cartaya and Associates Architects, P.A., MOBIO Architecture, Inc. and Saltz Michelson Architects, Inc. submitted the required documentation in accordance with the solicitation's requirements and are compliant with the CBE program requirements.

ARCADD, Inc. a/k/a Cold Spring Green, Inc. and Leo A Daly Company were given three (3) business days to provide corrected Letters of Intent (LOIs) and/or any Good Faith Efforts made toward meeting the CBE goal established for this project. After the allotted three (3) business days, both firms provided corrected LOIs and are thereby in compliance with the CBE requirements for this solicitation.

CBE Compliance History:

The following is a report of the respondents' CBE compliance history for projects completed within the last five (5) years of the RFP's opening date:

OESBD found that no completed projects with CBE goals exist within the last five (5) years of the RFP's opening date for any of the respondents.

cc: Nichole Francis, Small Business Development Specialist, OESBD

Mark J. Stempler, Esq.
Shareholder
Board Certified Construction Lawyer
LEED Green Associate
Phone: (561) 820-2884 Fax: (561) 832-8987
mstempler@beckerlawyers.com

Becker

Becker & Poliakoff
625 N. Flagler Drive
7th Floor
West Palm Beach, Florida 33401

May 11, 2018

**By Hand Delivery and
Via Email to bbillingslev@broward.org**

Ms. Brenda J. Billingsley, Director
Broward County Purchasing Division
115 S. Andrews Avenue, Room 212
Fort Lauderdale, FL 33301

**Re: Solicitation # S2115731P1 - Broward County's Medical Examiner's Office
and BSO's Crime Lab Combined Facility – Three-Day Objection Letter**

Dear Ms. Billingsley:

The undersigned law firm represents Saltz Michelson Architects (“Saltz Michelson”). Saltz Michelson submitted a proposal in response to Broward County’s Solicitation #S2115731P1 - Broward County’s Medical Examiner’s Office and BSO’s Crime Lab Combined Facility (“RFP”). Pursuant to Section 21.84(f) of the County’s Procurement Code (“Code”), Saltz Michelson, the second ranked proposer, submits this Objection to the Evaluation Committee’s Proposed Recommendation of Ranking posted on May 9, 2018. The Proposed Recommendation of Ranking, in which the Leo A. Daly Company (“Daly”) is the recommended awardee, is unfair and incorrect, and there is significant new information that should be taken into consideration by the Evaluation Committee (“EC”).

This project is too large and too important not to have the best design consultant in place. **The two evaluators from the two departments for which these facilities are being built, the BSO and the Medical Examiner, both ranked Saltz Michelson number one in their evaluations.** The County’s Proposed Recommendation of Ranking for this multi-million dollar design services project is fatally flawed for several reasons, including:

- Daly’s improper, material changes between its written proposal and its representations made during oral presentations. **Such proposal changes are clearly prohibited by Florida law and Broward County’s Code;**
- Material misrepresentations by Daly, **including its overstated experience in building**

Brenda Billingsley, Director
May 11, 2018
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medical examiner facilities, and the types of services it proposed to provide in-house on this project, misled and prejudiced the EC in its evaluation and led to its misinformed Proposed Recommendation of Ranking;

- According to its proposal **no Daly personnel proposed for this project has ever completed a design of a medical examiner facility, or designed such a facility that has actually been built;**
- The inherently biased oral presentation procedure for this procurement gave Daly, as the last presenting proposer, an unfair competitive advantage because it and its sub-consultants had the benefit of knowing the EC's issues with other proposers and sub-consultants, **which violated Florida law as well as Saltz Michelson's right to a fair and just evaluation;** and
- The EC meeting lasted all day and into the night. As a result Daly, as the final proposer, benefited because the EC members, who were clearly fatigued, asked far fewer questions of Daly as compared with the other proposers. Half of the proposers did not even ask Daly a single question.

For these reasons, the County must reject the Proposed Recommendation of Ranking, in accordance with its Purchasing Code and Florida law, and reevaluate the proposals or re-advertise the Solicitation. It is in the public's best interest to do so.

I. BACKGROUND

The County issued the RFP on December 27, 2017. It sought proposers for consultant services for the construction of Broward County's new medical examiner's office and crime laboratory combined facility (the "Project"). The RFP states, "Consultant will be tasked with the programming, site analysis and design of highly functional, efficient structure(s)..." This procurement was pursuant to Florida Statutes, Chapter 287.055, Consultants' Competitive Negotiation Act ("CCNA"). **The design services at issue were estimated between \$6 - \$11 million, and the estimated cost of the ultimate construction project was anticipated between \$95 - \$125 million.** All six proposers which submitted proposals were shortlisted and permitted to present during the final evaluation.

Proposers were evaluated on several different criteria, as follows:

- | | | |
|----|-----------------------------------|---------------|
| 1. | Ability of Professional Personnel | Max.25 points |
| 2. | Project Approach | Max 20 points |

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May 11, 2018
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3.	Past Performance	Max 30 points
4.	Specialized Experience, knowledge and capabilities	Max 10 points
5.	Workload of the Firm	5 points
6.	Location	5 points
7.	Willingness to meet time and budget requirements	2 points
8.	<u>Volume of previous work</u>	<u>3 points</u>
	Total	100 points

The proposers each proposed using sub-consultants for this Project. Some of the proposers' sub-consultants overlapped, meaning multiple proposers used the same sub-consultant(s), a nuance that ultimately was exploited to the unfair benefit of Daly.

II. THE EVALUATION

The final evaluation was conducted on May 7, 2018. The Evaluation Committee ("EC") meeting lasted all day and into the night, and was more than seven (7) hours long. During the later stages of the EC meeting, it was clear that the evaluators were worn out by the time they were able to score the proposals. In fact, at least one EC member joked or commented that she was losing coherence toward the end of this marathon session, but prior to scoring. This alone calls into question the legitimacy of the evaluation.

In preparation for the evaluation, the EC was provided a Vendor Evaluation Criteria Response Matrix ("Matrix") regarding information about the proposers' responses to the evaluation criteria in the RFP. The Matrix, however, was incomplete as discussed further below. It had been predetermined that the proposers would be allowed to make their presentations up to a maximum of thirty minutes. Additional time immediately following each presentation was reserved for questions and answers.

Through a random drawing, Daly was chosen to present last. Following oral presentations, the EC members ranked the proposals. The scoring sheets listed the evaluation categories, but did not list the greater detail found in the evaluation criteria listed in the RFP. The scoring sheets are attached hereto as composite Exhibit "A" for convenience. The proposers were all subjected to numerous questions from the EC members following their respective presentations. The glaring exception was Daly who was asked far fewer questions than the other proposers.

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Following deliberation, the evaluators ranked Daly as number 1, with **435** points. Saltz Michelson was ranked as number 2 with **430** points.

III. OBJECTION

The Evaluation of this RFP was unfair and incorrect. The purpose of the public procurement process is to, “ensure fair and equitable treatment of all persons who deal with County procurement; and provide for increased public confidence and trust in the procedures of public procurement.” Broward County Code §26-80; Procurement Code §21.3(b).

Public authorities have wide discretion in awarding a public contract through the competitive procurement process. That discretion, however, “must be exercised based upon clearly defined criteria, and may not be exercised arbitrarily or capriciously.” Liberty County v. Baxter’s Asphalt & Concrete, Inc., 421 So. 2d 505 (Fla. 1982). An agency’s wide discretion in evaluating bids will not be interfered with unless exercised arbitrarily or capriciously, or unless based upon misconception of law, or upon ignorance through lack of inquiry, or in violation of the law, or was the result of improper influence. William A. Berbusse, Jr., Inc. v. North Broward Hospital District, 117 So. 2d 550, 551 (Fla. 2nd DCA 1960). Further, it is wholly improper for an agency to fail to follow the terms of its evaluation process, and doing so is arbitrary and capricious. State Dep’t of Lottery v. Gtech Corp., 816 So. 2d 648, 652-53 (Fla. 1st DCA 2001).

The object of competitive procurement is:

“to close all avenues to favoritism and fraud in its various forms;... and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids'....

From the above quote, it is apparent that the entire scheme of bidding on public projects is **to ensure the sanctity of the competitive atmosphere** prior to and after the actual letting of the contract.” (**Emphasis added**).

Harry Pepper & Associates, Inc. v. City of Cape Coral, 352 So. 2d 1190, 1192 (Fla. 2d DCA 1190; quoting, in part, Wester v. Belote, 138 So. 721, 723-23 (Fla. 1931).

Moreover, the irregularities in applying the evaluation criteria cannot provide one proposer with an unfair competitive advantage, and cannot be deemed minor technicalities. See Robinson Electrical Co., Inc. v. Dade County, 417 So.2d 1032 (Fla. 3rd DCA 1032).

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A. Daly Improperly Changed its Proposal during Oral Presentation

1. Experience

During the EC meeting, the EC was misled by Daly regarding its experience designing medical examiner's facilities, and the statements it made materially changed its written proposal. During Daly's oral presentation, **its presenter said that Daly has designed "hundreds" of the types of facilities at issue, including medical examiner facilities.** Daly is a large national firm so while that may be true of the firm, **it does not accurately reflect the level of experience of the Daly personnel who would actually perform the work on this project, or that Daly represented in its written proposal.** Audio of the oral presentation can be found on the County's electronic repository.

Of the 10 project design personnel from Daly listed in Daly's written proposal, not one of them has completed work on a medical examiner's facility. Not one of them has worked on a medical examiner's facility that has actually been constructed. The only medical examiner project listed by Daly personnel in its proposal is a Minnesota project where design professional services are expected to be completed in 2019. Thus, the actual people working on this project for Daly have no track records of actually designing a medical facility, much less one that has actually been constructed.

Thus, the EC's evaluation of Daly on this most critical section of the evaluation was based on false and/or misleading information. Daly's misrepresentations about the experience of its "in-house" personnel proposed in designing medical examiner facilities caused the EC to ranking Daly as the top proposer. Daly's proposal is attached as Exhibit "B."

Further, the proposal and the presentation by Daly also misled the EC as to its sub-consultant's experience with medical examiner facilities. In the written proposal, Daly's MEP engineer Gartek claimed it had experience designing a "Medical Examiner Facility" in Barbados. *See, pg. 656 of Daly's proposal from BidSync.* Yet, elsewhere in the proposal Gartek reveals its experience was with a "forensic lab," and that its experience was limited to upgrades at an existing forensic lab facility, not a new design. *See pgs. 594 and 643 of Daly's proposal.* During the presentation, Gartek ultimately revealed its lack of experience designing new medical examiner facilities, and this otherwise hidden disparity in Daly's written proposal.

2. Sub-consultant Performance

Further, Daly's written proposal indicates its sub-consultant Gartek would be the Project's exclusive MEP engineer. None of Daly's personnel listed in its proposal were proposed to provide direct MEP design work. *See, pg. 581 of Daly's proposal.* In fact, the only Daly employee who has a mechanical engineering degree was proposed to provide quality assurance/quality control

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services only and does not have completed specific medical examiner's facility experience. *Id.*; *See also* pg. 590.

During oral presentations, however, Daly improperly changed this aspect of its proposal. During its presentation, it specifically told the EC that it could and would perform MEP design work "in house" for this project, "as needed." That contradicts, and thus changes, its written proposal. Such a material change from its proposal is forbidden under Florida law and should have disqualified Daly right then. *See, Harry Pepper & Associates, Inc. v. City of Cape Coral* ("In order to insure this desired competitiveness, a bidder cannot be permitted to change his bid after the bids have been opened, except to cure minor irregularities."). Instead, the EC relied on Daly's proposal change, ignored the express terms of its written proposal, and ranked Daly as the top firm. This is not a minor irregularity; rather this gave Daly an unfair advantage not enjoyed by other proposers such as Saltz Michelson.

3. CBE Change

Similarly, Daly's material alteration regarding its in-house performance of MEP design work represents a significant change to its CBE compliance requirement. The CBE goal for this project is 25% of the total project value. In its proposal, Daly represented that Gartek, as a CBE, would account for 22% of the total project value. If Daly performs MEP work for this project as it represented at its presentation, that would certainly cut into the percentage of work that would have been performed by its CBE Gartek. Not only would that effect the CBE goal, but it would also render Daly's proposal illusory on this issue. *See, Harry Pepper & Associates, Inc. v. City of Cape Coral*.

B. The Evaluation Committee Meeting was Unfair because it provided Daly with an Unfair Competitive Advantage and Violated Florida Law

1. Presenting Last Gave Daly an Unfair Competitive Advantage

First, Daly received an unfair advantage by presenting last at the EC meeting. By presenting last, Daly was able to listen to and analyze all other proposers' presentations before it, and then better tailor its presentation accordingly.

For example, Daly's proposal, on page 581 from the BidSync document and in SF330 Part I, states that Daly will use the engineering firm TLC Engineering for four aspects of this project. TLC was to be involved with, "Geotechnical Engineering," "Subsurface Investigation," "Sustainability Consulting," and "Energy Modeling." Daly, however, did not make a single mention of TLC during its oral presentation. The most obvious explanation for this is the fact that TLC came under great scrutiny by the EC during the presentation of Cartaya and Associates Architects, P.A., another proposer which presented well before Daly.

Brenda Billingsley, Director
May 11, 2018
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Cartaya, like Daly, proposed to use TLC as a key design consultant for this project. During Cartaya's oral presentation however, it became clear that some of TLC's work on other Broward County projects was not looked upon favorably. Specifically, evaluator Dr. Craig Mallak raised several issues regarding his experience with TLC. The exchange was not pleasant, but was keenly observed by all of the EC members and directly impacted their scoring of the proposers in Category 1 which considered the makeup of the consulting team, where Daly consistently scored higher than Cartaya.

Importantly, some of Daly's other sub-consultants were involved in presentations from other prior proposers. By participating in those presentations those sub-consultants, such as McClaren, Wilson & Lawrie, Inc. ("MWL") witnessed first-hand the questions posed by EC members, and were able to change or manipulate their responses knowing what issues the EC was concerned with. By utilizing sub-consultants who had already been through the evaluation process, Daly received an unfair competitive advantage, which was evidenced by its top ranking.

2. The Evaluation Committee Meeting Violated Florida's Sunshine Law

In addition, by allowing sub-consultants and other proposers to participate in or listen to the prior proposals, the EC meeting violated Florida law. Specifically, Florida's Government in the Sunshine law generally provides that all meetings of county government committees are to be held open to the public. However, Section 286.0113, Florida Statutes, states:

Any portion of a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

The EC meeting at issue clearly falls into the exemption under 286.0113. Notably, when the Florida Legislature passed this law, it declared that exempting oral presentations being open to the public is a, "**public necessity**":

The Legislature also finds that it is a **public necessity** that a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, **at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation be made exempt from public meetings requirements.** In addition, it is a public necessity that any records presented at such meetings be made temporarily exempt from public records requirements. The recording of the meeting and any such records shall be made available when the agency provides notice of an

Brenda Billingsley, Director
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Page 8

intended decision, or when the agency rejects all bids, proposals, or replies and ultimately withdraws a reissued competitive solicitation. (Emphasis added).

The reason it is a “**public necessity**” to keep such meetings private initially is to avoid this very situation, where one proposer can gain a competitive advantage over others by virtue of the order in which oral presentations are presented. Had Daly not been able to listen to the other proposers, it would not have gained the competitive advantage that propelled it to the top ranking.

Notably, the Purchasing Division agrees with this position. In its agenda item for the May 22, 2018 Board of County Commissioners meeting, the County recommends changing the procurement code to require:

“Closing the meetings for committee-based procurements to both the public and competitors during the vendor presentation and the subsequent question and answer period, consistent with Section 286.0113, Florida Statutes. The presentations will be video-recorded and posted on the Purchasing Division's website, along with the recommended final ranking, within three business days after the final ranking meeting, and the time period for any protest shall not commence until such posting of the final ranking.”

See, Draft Agenda Requested Action Item, attached at Exhibit “C.” While this would change the County’s Code, it does not change the fact that this has been the law and proper procedure in Florida since 2011.

C. **The EC was also not aware that TLC was also a Daly Sub-consultant Due to an Error in the Evaluation Matrix**

In addition to Daly intentionally hiding its use of TLC as a sub-consultant during the oral presentation, the Purchasing Division also shielded that relationship from the EC. The Purchasing Division’s Vendor Evaluation Criteria Response Matrix incorrectly omitted mention of TLC from Daly’s team of consultants for this project. There is no mention on the face of the Matrix that TLC is affiliated with Daly on this project. While there is a reference to Daly’s proposal in the Matrix regarding sub-consultants, the EC members would have had to dig through Daly’s proposal to locate the information. In stark contrast, the sub-consultants for the other proposers (with the exception of Bermello Ajamil & Partners, Inc.) were disclosed on the Matrix and readily available for review. Therefore, the EC was not aware that Daly and TLC were paired on this project. Had the EC been aware of this issue, their evaluation and scoring of Daly may have changed based on the issued raised regarding TLC, and the subsequent scoring of Cartaya regarding Category 1.

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IV. CONCLUSION

The EC's Proposed Recommendation of Ranking is unfair and incorrect, and there is significant new information that should be taken into consideration. Daly's changes to its written proposal during oral presentations in expressly forbidden by Florida law and Broward County's Code. That, coupled with Daly's material misrepresentations during oral presentations makes this evaluation process fatally flawed. In addition, Daly was allowed to gain an unfair competitive advantage by presenting last, largely due to the County's violation of Florida's Sunshine Law in allowing Daly, and all proposers and sub-consultants, to listen to and analyze prior proposals. This allowed Daly to unfairly reshape and more specifically tailor its presentation as the last proposer.

The Proposed Recommendation of Ranking should be withdrawn, and Saltz Michelson should be ranked number one. In the alternative, the proposals should be reevaluated, or the solicitation should be re-advertised.

On May 11, 2018, Saltz Michelson submitted a public records request to Broward County. However, to date the County has not provided all the information sought. The County may have records that may lead to additional objections and additional new information. Saltz Michelson reserves the right to supplement this objection when it receives all the information sought, and requests the County defer posting any Final Recommendation of Ranking until Lamar is able to submit any supplemental objections.

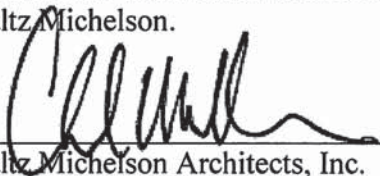
Very truly yours,



Mark J. Stempler
For the Firm

Brenda Billingsley
May 11, 2018
Page 10

All statements made in support of this submission are accurate, true, and correct. Saltz Michelson acknowledges that the determination of inaccurate, untruthful, or incorrect statements in support of this submission may serve as a basis for debarment of the vendor regardless of whether the submission is directly provided by Saltz Michelson or a representative on behalf of Saltz Michelson.



Saltz Michelson Architects, Inc.

MJS2/bam

Enclosures

cc: Glenn Miller, Esq. (via email)
Andrew Meyers, Esq. (via email)
Constance Mangan (via email)
Marie Williams (via email)
Client (via email)

ACTIVE: 10902964_1