

**Item # 38**

**ADDITIONAL MATERIAL**

**Regular Meeting**

**JANUARY 29, 2019**

**SUBMITTED AT THE REQUEST OF**

**PUBLIC WORKS DEPARTMENT**



**Construction Management Division**

115 S Andrews Avenue, Room A550 • Fort Lauderdale, Florida 33301 • 954-357-6419 • FAX 954-357-6411

**Date:** January 28, 2019

**To:** Board of County Commissioners

**From:** Ariadna Musarra, Director/County Architect

A handwritten signature in blue ink, appearing to read "A. Musarra", is written over the printed name.

**Re:** Item no. 38 - Medical Examiner's Office – Crime Laboratory New Combined Facility

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Agenda Item No. 38 seeks approval of Phase I of a comprehensive Architectural and Engineering services agreement with Leo A. Daly Company. for the Medical Examiner's Office – Crime Laboratory New Combined Facility. Due to the critical need for the new facility, staff recommends approval of that agreement with the following consideration: that staff, with the County Auditor, continue to review and confirm proper salary rates derived from an underlying Federal Acquisitions Regulation, Part 31 (F.A.R.) audit submitted by the cost estimating subconsultant, Construction Management Services Inc. (CMS), prior to finally establishing CMS as a part of the Leo A. Daly team that will undertake the project.

As the consulting agreement with Leo A. Daly Company was being finalized for the Board of County Commissioner's January 29<sup>th</sup> agenda, certain irregularities with CMS' proposed salary rates and F.A.R. audit were observed by the Construction Management Division (CMD staff) and referred to the County Auditor's Office for further investigation.

As CMS has not had the opportunity to fully address these concerns, and the project is increasingly time critical, approval of the agreement will allow the design services to start while CMS resolves the salary rate and audit issues. Once resolved, CMS will be fully incorporated into the Leo A. Daly team. If, on the other hand, the salary rate and audit issues cannot be resolved timely, Leo A. Daly Company will be afforded the opportunity to consider replacement of CMS pursuant to the County's procedures for substituting a CBE project participant.

For further background:

- CMD commenced negotiations with Leo A. Daly Company on August 31, 2018 for phase I (programming and site analysis) of a comprehensive Architectural and Engineering services agreement for the proposed Medical Examiner/Crime Lab facility.
- CMS is a CBE sub-consulting firm that will provide cost estimating services comprising 0.2% of the Leo A. Daly fee. The estimating services are limited to providing "order of magnitude" estimates to assist the County in realizing a final budget. Detailed estimates are anticipated to be obtained from a Managing General Contractor who will provide pre-construction services during the design phase.
- During the course of negotiations, CMD staff requested back up documentation from CMS, as certain items submitted by CMS were not in accordance with F.A.R. audit rules. Three versions of the F.A.R.

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audit were received and forwarded to the County Auditor for assistance in reviewing CMS' documentation.

- Preliminary examination of the CMS submittals revealed additional accounting issues that would not normally be detected by either Leo A. Daly Company or CMD staff during the negotiations process. On January 22, 2019, the County Auditor's staff met with CMS to review and discuss concerns with the CMS submittals.
- As negotiations progressed, CMD staff was advised that CMS was accepting the "safe harbor rate" which allows a multiplier of 2.31. In light of this change, negotiations ensued and culminated with the fee included in the Agreement.
- Due the County Auditor's concerns and without CMS's full opportunity to answer them, staff recommends that approval of CMS as a part of the Leo A. Daly Company team be temporarily withheld until issues with the proposed CMS salary rates and F.A.R. audits are reconciled.
- Staff further recommends that the agreement with Leo A. Daly Company be approved to allow the start of programming and site analysis work on this critical project to proceed expeditiously.
- There is time at the outset of the project to allow CMS to reconcile and correct the issues with its proposed salary rates and submitted F.A.R. audits without impact to the project.
- If issues with CMS cannot be resolved timely, Leo A. Daly Company will be tasked with finding a substitute firm that will perform the cost estimating portion of the agreement taking into consideration the already negotiated fees with CMS.

c: Bertha Henry, County Administrator  
Alphonso Jefferson, Assistant County Administrator  
Tom Hutka, Director, Public Works Department  
Steve Hammond, Assistant Director, Public Works Department  
Brenda Billingsley, Director, Purchasing Division  
Mike Kerr, Deputy County Attorney  
Bob Melton, County Auditor  
Sandy Michael McDonald, Director, Office of Economic and Small Business Development