

THROUGH THESE DOORS WALK ONLY THE FINEST PEOPLE – THE CITIZENS OF ESCAMBIA COUNTY. DECISIONS ARE MADE IN THIS ROOM AFFECTING THE DAILY LIVES OF OUR PEOPLE. DIGNIFIED CONDUCT IS APPRECIATED.

CHAMBER RULES

1. IF YOU WISH TO SPEAK, YOU WILL BE HEARD.
2. YOU MUST SIGN UP TO SPEAK. SIGN-UP SHEETS ARE AVAILABLE AT THE BACK OF THE ROOM.
3. YOU ARE REQUESTED TO KEEP YOUR REMARKS BRIEF AND FACTUAL.
4. BOTH SIDES ON AN ISSUE WILL BE GRANTED UNIFORM/MAXIMUM TIME TO SPEAK.
5. DURING QUASI-JUDICIAL HEARINGS (I.E., REZONINGS), CONDUCT IS VERY FORMAL AND REGULATED BY SUPREME COURT DECISIONS.
6. SEE ORDERLY CONDUCT OF MEETINGS. POLICY.

**PLEASE NOTE THAT ALL BCC MEETINGS ARE RECORDED AND TELEVISED**

AGENDA

Board of County Commissioners

Special Meeting –October 12, 2017– 9:00 a.m.

Ernie Lee Magaha Government Building – First Floor

1. Call to Order.

**(PLEASE TURN YOUR CELL PHONE TO THE VIBRATE, SILENCE, OR OFF SETTING)**

2. Was the Meeting Properly Advertised?
3. Are there any items to be added to the agenda?
4. Recommendation Concerning the Ratification of August 10, 2017 Board Selection for Design-Build Services for the New Escambia County Correctional Facility - Paul Nobles, Purchasing Manager, Office of Purchasing

That the Board ratify, as recommended by the Committee of the Whole (C/W) at the August 10, 2017, C/W Workshop, the selection of Whitesell-Green/Caddell Joint Venture as the number-one-ranked firm for PD 16-17.004, Design-Build Services for the New Escambia County Correctional Facility and authorize the Negotiation Committee to begin negotiations and submit an Agreement based on those negotiations for Board approval.

5. Adjourn.



## BOARD OF COUNTY COMMISSIONERS

### Escambia County, Florida

#### Special BCC Meeting

4.

**Meeting Date:** 10/12/2017

**Issue:** Ratification of August 10, 2017, Board Selection for Design-Build Services for the New Escambia County Correctional Facility

**From:** Paul Nobles, Purchasing Manager

**Organization:** Asst County Administrator - Lovoy

**CAO Approval:**

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#### Information

##### **RECOMMENDATION:**

Recommendation Concerning the Ratification of August 10, 2017 Board Selection for Design-Build Services for the New Escambia County Correctional Facility - Paul Nobles, Purchasing Manager, Office of Purchasing

That the Board ratify, as recommended by the Committee of the Whole (C/W) at the August 10, 2017, C/W Workshop, the selection of Whitesell-Green/Caddell Joint Venture as the number-one-ranked firm for PD 16-17.004, Design-Build Services for the New Escambia County Correctional Facility and authorize the Negotiation Committee to begin negotiations and submit an Agreement based on those negotiations for Board approval.

##### **BACKGROUND:**

On November 21, 2016, Escambia County issued a Request for Qualifications seeking to identify at least three design build firms qualified to perform design-build services for the new Escambia County Correctional Facility. Three firms were qualified, and on March 20, 2017, Escambia County issued a Request for Proposals requesting that each qualified firm submit a proposal in accordance with the design criteria set forth in the design criteria documents prepared by the design criteria professional, DLR Group.

On June 23, 2017, Whitesell-Green/Caddell (WGC) and W.G. Yates and Sons Construction (Yates) company submitted written proposals, which were then evaluated extensively by DLR Group. After reviewing the proposals and meeting with Corrections staff, DLR Group prepared a report detailing its technical and functional evaluation of each proposal. The report also provided DLR's scoring of each proposal for the following five evaluation factors:

- I. Compliance with the Design Criteria Documents (50 points);
- II. Proposed Design Approach (40 points);
- III. Project Management Plan (30 points);
- IV. Design Construction Schedule (30 points); and

## V. Life Cycle Costs over 30 years (20 points).

As stated in the report, DLR concluded, “both DBE submittals were found to be complete, with only some minor omissions and inconsistencies in the overall response...” Out of a maximum of 170 points, DLR awarded WGC 130 points with Yates receiving only 106 points.

On August 8, 2017, the Board of County Commissioners, serving as the selection committee for the subject solicitation, conducted an interview with each proposer. In addition to scoring each proposer based upon the foregoing five evaluation factors, the Board was also tasked with scoring the following two evaluation factors:

VI. Best Value (50 points); and

VII. Interviews with the Board of County Commissioners (100 points).

After considering the proposals and the firms’ interviews, the Board addressed the ranking of the proposals during the Committee of the Whole Workshop conducted on August 10, 2017. DLR Group presented its evaluation of the proposals to the Board, which included an explanation of DLR’s analysis of each proposal and the resulting technical scores assigned to each. Then, each Board member scored the proposals based upon the seven evaluation factors. All five voting members scored WGC’s proposal higher than Yates proposal, and WGC was ranked first with Yates ranked as second. Upon motion, the Board then voted unanimously to approve WGC and authorized staff to begin negotiating with WGC. Thereafter, on August 11, 2017, a Notice to Short-Listed Firms was issued by the Office of Purchasing notifying each proposer of the Board’s decision, and Yates promptly submitted a written notice of protest with the Office of Purchasing.

In accordance with Sec. 46-101(c)(1), Escambia County Code of Ordinances, an informal hearing was held on August 16, 2017, before the Purchasing Manager, Paul Nobles. As grounds for the protest, Yates argued that the County improperly permitted WGC to submit a revised design during its interview with the Board, which included a second retention pond in an area that was reserved for future commercial development per the design criteria. Yates further argued, had the Board allowed Yates the same opportunity then its estimated construction cost would have been considerably less. Thus, Yates requested that the proposals be re-evaluated with each firm afforded the same option to utilize the area designated for future commercial development as part of the storm water system.

Following the hearing, Mr. Nobles issued a written statement concluding that the protest should be denied. As the basis for this decision, Mr. Nobles noted that WGC’s written proposal submitted prior to the firm’s interview did not include a retention pond in the area designated for future development, and the written proposal was the only design documentation that was considered during the technical review process by the design criteria professional, DLR Group. After receiving the determination, Yates submitted a request for a formal protest hearing along with a bid bond in the amount of \$5,000.00.

In accordance with Sec. 46-101(c)(3), Escambia County Code of Ordinances, a formal protest hearing was held on August 28, 2017, before Special Master, John Trawick. At the hearing, Yates argued that both WGC's written proposal and subsequent revised design failed to comply with the specifications of the design criteria documents. Specifically, Yates argued, the former did not provide the minimum number of required parking spaces and the latter located a second retention pond in an area reserved for future development.

In response, the County argued neither proposal met all requirements of the design criteria documents and each included a number of deficiencies or deviations, which were noted by DLR Group as part of its evaluation, but neither proposal was deemed wholly non-responsive as a result of any one deficiency. Each was equitably evaluated based upon the evaluation factors set forth in the design criteria documents, and the resulting decision was a fair and honest exercise of the Board's discretion that was not arbitrary or capricious.

After consideration of the testimony and evidence and hearing arguments of counsel, the Special Master issued an Order concluding that WGC's alternative proposals included material deviations from the design criteria documents as argued by Yates. Thus, the Special Master recommended that the bid protest should be granted and the subject award cancelled or revised where "the award to WGC is in violation of the policies and procedures of the Office of Purchasing." The Special Master further recommended that the protestor's bond be returned.

In accordance with Sec. 46-101(c)(3)d., Escambia County Code of Ordinances, the special master's decision and recommendation was presented for action by the Board at the next regularly scheduled meeting of the Board of County Commissioners together with a recommendation of the County Administrator relating to the disposition of this case. The Board rejected the decision and recommendation of the special master. The (30) days expired on October 9, 2017 for any aggrieved party to bring an action in circuit court to appeal the county's decision.

**BUDGETARY IMPACT:**

N/A

**LEGAL CONSIDERATIONS/SIGN-OFF:**

N/A

**PERSONNEL:**

N/A

**POLICY/REQUIREMENT FOR BOARD ACTION:**

This recommendation is in compliance with the Code of Ordinances of Escambia County, FL 1999, Chapter 46, Finance, Article II Purchases and Contracts and Florida Statute 287.055, Competitive Consultants Negotiation Act.

**IMPLEMENTATION/COORDINATION:**

N/A

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**Attachments**

*No file(s) attached.*

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