

**TALLAHASSEE – LEON COUNTY
BLUEPRINT 2000 INTERGOVERNMENTAL AGENCY
Meeting Minutes
May 21, 2012
1:00 pm, City Commission Chambers**

MEMBERS PRESENT

County

Commissioner Akin Akinyemi
Commissioner John Dailey
Commissioner Bryan Desloge, Chair
Commissioner Kristin Dozier
Commissioner Nick Maddox
Commissioner Bill Proctor
Commissioner Jane Sauls

City

Mayor John Marks
Commissioner Nancy Miller, Vice Chair
Commissioner Mark Mustian
Commissioner Andrew Gillum

CITY/COUNTY STAFF

Lee Daniel, Leon County Tourism Dev.	Ken Morris, Leon County
Jim English, City Attorney	Tony Park, Leon County Public Works
Beverly Horne, CRA	Harry Reed, CRTPA
Vincent S. Long, County Administrator	Jay Revell, Leon County
Matt Lutz, COT Treasure Clerk Office	Debra Schiro, Blueprint 2000
Roxanne Manning, Planning Department	Wayne Tedder, Blueprint 2000
Shelonda Meeks, Blueprint 2000	Jay Townsend, Asst. City Manager
Dave Bright, Blueprint 2000	

OTHERS PRESENT

Kevin Cory, CCO	Maribel Nicholson-Choice, Greenberg Traurig*
Paco de la Fuente	Jim Shepherd, Jacobs Engineering*
Phillip Gainer, FDOT	Dave Snyder, The LPA Group*
Henry Mayfield, M. Inc.	Mike Steine
William Mayfield, M. Inc.	Michael Wallwork, Alternate Street Design
Rob Clark, Ausley Law Firm	

* Indicates Blueprint 2000 Consultant

Commissioner Bryan Desloge called the meeting to order at 1:33 pm.

I. AGENDA MODIFICATIONS

Mr. Tedder stated that there were no agenda modifications.

II. CITIZEN'S ADVISORY COMMITTEE (CAC) CHAIRMAN'S REPORT

None

III. INFORMATION ITEMS

None

IV. CONSENT ITEMS

None

V. PRESENTATIONS/ACTIONS/DISCUSSIONS

1. Capital Circle Northwest/Southwest: South of US 90 to North of Orange Avenue – Staff Report

Wayne Tedder stated, that based on the issues identified by Staff and the responses provided by the Florida Department of Transportation, Staff is recommending that the IMC award the bid to Anderson Columbia Co., Inc., as they are the lowest responsive bidder to IFB 0041-12-ER-BC.

Mr. Tedder began by reminding commissioners of the April 16, 2012, meeting, at which FDOT had provided \$5,000,000 plus to ensure that the two lowest bids received could be accommodated with funding allocated to this project. IA members had indicated that they would want to review the bid before being awarded by the IMC.

Agenda materials show that the lowest bid reviewed was \$56,686,196.25 from Anderson Columbia Co., Inc. The difference between that and the second lowest bidder was \$174,000. Due to the narrow spread of the bid differences Staff wanted to ensure that any recommendation to the IMC could be supported should there be any challenges. The second part of the meeting is to ensure that the process is fair all the way through.

With that being said, one of the issues raised by Staff concerned DBE Participation rates. Anderson Columbia had indicated a 4.4% DBE Participation, M of Tallahassee, Inc. had indicated a 10.27% DBE participation, and C.W. Roberts Contracting, Inc. had indicated a 0% DBE participation. Before going into the issues Mr. Tedder wanted to remind the Board that Blueprint has had an exceptional DBE Participation rate in the community. For design the goal was 15.5% and for construction 21%. The front page of the agenda item shows that Blueprint has met those goals for the community.

The IMC had concerns that the bid was non-responsive to the bid request due to low DBE participation rates proposed by the apparent low bidder. They subsequently sent a letter to the Secretary of District 3, Mr. Tommy Barfield, requesting that they review these issues and determine whether or not the responses from the bidders could be deemed non-responsive. Stressed during the money allocation for this project to the IA was that it did have Federal money associated with it. When projects have Federal money it becomes a federalized project which makes Blueprint subject to their procurement policies. In particular they only have a “goal” of 10% for Disadvantaged Business Participation, not a “requirement”.

Mr. Tedder read verbatim, the response from Secretary Barfield dated May 9, 2012. He responded “the Department would not consider the bid to be non-responsive because the percentage is a guide, rather than a contract requirement.” From Staff’s perspective that issue has been addressed by the Florida Department of Transportation.

Commissioner Maddox questioned that even though the Federal standard is 10% that it does not matter? Mr. Tedder responded that that is correct, it is only a goal. There is however also the opportunity that once the bid has been awarded Blueprint can negotiate with the contractor to increase that percentage to some degree.

Commissioner Maddox asked once the award is completed does the ability to negotiate the MBE participation have the potential of changing their price? Mr. Tedder responded that the price does not change. The people doing the work within that price can change. The price cannot change; one cannot go back and change the numbers. Commissioner Maddox if at the beginning everyone meets that 10% goal and you factor in the numbers associated with that 10% goal potentially the bid amount would have been more than the original amount? With the understanding that after the award is completed you’ve got to stay within the price awarded. The point being could it have been different if the goal was met. Mr. Tedder stated that that was correct, the cost associated with having the additional DBE or MBE participation could change.

Mayor Marks asked whether the \$22,000,000 at issue was the Federal Department of Transportation allocating it to the Florida Department of Transportation or is it FDOT only. Mr. Tedder pointed out that page 3 of the agenda materials indicate the funding sources. Which are for construction only: \$34,790,909 is a Blueprint portion, between Florida DOT and Federal Highway Administration the portion is \$22,949,635. Of that \$22,949,000, \$9,200,000 is from FHWA.

Commissioner Desloge pointed out it might be worthwhile to allow Mr. Tedder to finish due to the likelihood for extensive questioning.

Mr. Tedder moved to the second issue that was identified by Staff. The information that was provided by the apparent low bidder Anderson Columbia did not appear to have a qualified landscape subcontractor in their bid application. Mr. Tedder has followed up with representatives from Anderson Columbia and asked them who would actually be doing the work with this project. They responded within 24 hours and listed a number of subcontractors in addition to themselves that would do various components.

Another issue Mr. Tedder raised with FDOT concerned whether or not bidders have the ability to go back and provide additional subcontractors. On May 9, 2012, Mr. Phillip Gainer of District 3 replied ...“our bidding documents do not require a contractor to submit a complete list of sub-contractors with their bid”. In other words there could be additional subcontractors included prior to the contract being signed. Mayor Marks agreed that that was standard federal contract operating procedure and as he understands they may not be the ones to do the work in the final analysis either. Mayor Marks asked whether or not it was correct that it can change during negotiations. Mr. Tedder stated that it was correct.

With that Mr. Tedder felt that it concluded the two issues that staff had identified. Staff has completed an exhaustive response to these issues. Staff feels comfortable at this point with the aforementioned issues. Mr. Tedder pointed out that under the Summary, Staff is recommending that the IMC award the bid to Anderson Columbia Co., Inc., as they are the lowest responsive bidder.

Commissioner Desloge then made a couple of statements. Due to the complexity and size of the bid there are high odds that either way this goes the bid will be appealed. The Commissioner pointed out the need to watch statements and to rely on Ms. Nicholson-Choice. From Commissioner Desloge's perspective the City and County have a pretty strict local preference and MBE requirements. Bids are won and lost every day on that type of thing. That's the way we play, unfortunately that is not the way DOT plays or the Federal Government plays. Mr. Desloge is hesitant to risk an entire project over that. He understood that someone from DOT was present and wanted to preface debate by having them discuss how much a decision would put the funding at risk. That information would play a prominent role in discussion today.

Mayor Marks questioned if he was correct on the breakdown of the \$22,000,000 at stake, \$9,000,000 of which comes from the Federal Government and the remainder coming from state funds which was confirmed. The Mayor's question was who is making the determination that the \$22,000,000, is at risk? Mr. Tedder stated Blueprint has received additional funds from FDOT to complete this project and have also received additional funds from the Federal Government. Mr. Tedder pointed out that if the Federal Government funds are removed from this project Blueprint can no longer complete the project. Mayor Marks requested clarification on whether it's the determination of the Federal Government, the determination of the State Government, or both when it comes to funding the project?

DOT District 3 Director of Operations Philip Gainer was called upon to address the IA with an overview. Mr. Gainer was the individual who wrote the second letter in regards to the bid documents. He stated that the Federal bidding process in regards to MBE is a goal and not a contractual requirement. If you put restrictions on it or make selections based upon MBE you jeopardize the funding. The LAP agreement when federal funds are involved indicates that you must follow DOT and the Federal guidelines for acquisition of contractors. Blueprint is the agency in the LAP agreement. This means that MBE is a voluntary program and not a required program. With that being said it would jeopardize the \$22,000,000, based on FDOT requirements. Mayor Marks asked for clarification on if it was both Federal and State. Mr. Gainer stated that the Federal money is given to FDOT. Therefore FDOT makes the decision on whether or not the guidelines have been followed.

Commissioner Maddox asked if the Board made a decision on cost saving measures would it still put that money in jeopardy. If the Board made a decision and the project comes out to cost less is that justifiable. Mr. Gainer stated that if you're final decision on the award, and please understand DOT is not telling you that you can't award the project, we're indicating that the funding is in jeopardy if you don't follow the guidelines. But if the RFP, the document that you sent out does not indicate that there are options for you to do the savings, then you are changing the rules after the game which would jeopardize the funding.

Commissioner Desloge had one last question regarding the meaning of “jeopardize”; was it a maybe, sort of, or absolute? There are a lot of variations here. Mr. Gainer would not speak for the Secretary but he felt that it would completely jeopardize it and it was an absolute.

Commissioner Akinyemi stated that provisions are quite common where we can segregate bids. You can take part of the bid and not the entire bid. In particular if it lowers your total cost. That is still in conformance with our regulations so even if we take out the utility for instance because that’s a way to save money and then the lower bid has changed. Mr. Gainer stated that the way FDOT sets up its bidding is that they will allow alternates, but the original document has to spell out the alternates, and it has to also spell out the fact if you go to alternate B because you can’t fully fund alternate A then the document must indicate that you must re-tally and go with that particular point. Commissioner Akinyemi stated that it was understood that if an alternate is not identified up front that would be a different issue. Mr. Tedder read from the bid form the language at issue. Section 18 from the invitation to bid states: “The owner reserves the right to accept the bid or any portion or portions of the bid which in its judgment will be in the best interest of the owner.”

Mr. Gainer pointed out that FDOT has a provision where they can say that they will not do certain work but it can’t affect the bid outcome. They do not make selection prior to.

Commissioner Maddox liked the language being talked about at this point. Commissioner Maddox was just waiting to hear the rest of the conversation from the commissioners to see their willingness to go ahead and separate out the utility portion of this contract and ask the City to pursue that on their own. He personally is about at a place where he could go there. He did not want to put the money at risk, but at the same time given what Mr. Gainer has told them and what Mr. Tedder has read to them. Commissioner Maddox could see getting there.

Mr. Tedder stated Attachment A is a summary of the raw bids, you see Anderson Columbia, M. Inc., and C.W. Roberts with their totals and the differences. The second table has the COT Underground Utilities components which has three sheets 16, 17, and 18. What Mr. Tedder thinks Commissioner Maddox is discussing is pulling the COT Utilities from the bid and what does that do to this project? Essentially the COT Utilities will be refunded by the City of Tallahassee. In Mr. Tedder’s opinion you can’t take all three of the sheets out because you can’t get the project constructed. For example Bid Sheet 18 is a required component for the stormwater management facility and wetland mitigation component which has to be done at the very beginning of the project. There is a sewer pump station that has to be abandoned and relocated. Of anything that is being considered Bid Sheet 18 has to remain. If you look at the numbers it essentially reduces the cost of the roadway component. In this scenario the difference between Anderson Columbia and M. Inc. becomes about \$225,000. What this also does however is makes M. Inc. the apparent low bidder under that scenario.

Commissioner Dozier had two questions. First, would it be possible to separate out which utility components remain in the bid and which do not. Mr. Tedder stated technically yes. Commissioner Dozier felt like she heard a discrepancy between what Mr. Tedder just read and what Mr. Gainer said about the RFP language and the Board’s options here. If the Board sets things aside and looked at getting the lowest possible cost for Blueprint it seems that there is a logical path to go to

and keep some of the City utilities separate. But what Mr. Gainer said the Board could remove something if it was not possible to fully fund the project but that did not sound like that was actually in the RFP. It sounded like if it was in the best interest of Blueprint then we could remove one of those components. Commissioner Dozier asked if she heard that correctly.

Ms. Nicholson-Choice thought Commissioner Dozier heard that correctly but emphasized the need to be cautious to the extent that the Board delves into the interpretation of this bid language and what it means. From a logical perspective just because it says that you can separate some of the items, and you have to use judgment that it can quantifiably benefit you as a project owner. It can't just be arbitrarily decided to be taken out. FDOT says their needs to be a specific reason why it went unfunded if the Board wants to separate it out because at the end of the day it's going to save money. It has to be a real savings. Ms. Nicholson-Choice cautioned again not engage any type of discussion that is going to require the Board to interpret the bid package language, because she feels that it starts a second forum for a bid protest. Commissioner Dozier agreed completely with that and was part of her concern, because it seems like this is a very delicate situation. We may not like some of the rules that the Federal and State government have but they are the rules that we have to follow if we want to have the money. If there is a cost savings to us in a very tight budget time Commissioner Dozier is willing to entertain that discussion but she thinks it is difficult to get into some of these more aspirational discussions at this point. The bottom line is if it's best for Blueprint and the 12 member board it's their fiduciary responsibility to look at that bottom line at least from her part that's where she would be most comfortable in having the conversation.

Commissioner Maddox asked if there is a savings to Blueprint by separating the utilities out. Mr. Tedder stated that yes there is. Once subtracted out the difference is about \$50,000 if he could recall correctly.

Commissioner Mustian stated that if he was hearing this correctly it would mean that there will be a net increase to COT Electric of a half million dollars. Mr. Tedder's first response is you can't really know because you will have to go out and rebid that piece. What would be a result is that those contractors who are not a part of this project would tack on a coordination fee to ensure complete coordination between the electric work and the roadway work with the other contractor.

Commissioner Mustian questioned what would happen if the Board pulled the utilities out would they then say go rebid this piece of the project. Mr. Tedder stated that was correct. Commissioner Mustian asked if it could come in substantially higher than the current numbers. With the theory that the City will pick up whatever it is. Mr. Tedder stated that would be correct the City will pick up the underground utility costs.

Mr. Tedder discussed the bid appeal process. The IMC will award the bid within 72 hours, if someone disagrees with that they will have to file an appeal. At that point the City Manager and County Administrator will have to appoint a committee. There would be a representative from both the City and County. They would also like to have someone from FDOT to ensure that if there are any issues raised with their procurement process there will at least be FDOT representation in the room. Mr. Tedder did not know if FDOT would agree to that. Mr. Gainer responded that they could be there as an advisory role but not as a voting member. Mr. Gainer requested to make a clarification to a previous statement. When he previously spoke of funding shortfalls FDOT

typically, and they have several with the City of Tallahassee in which they have a JPA, they will allow the contractor to do some of the utility work for the City or the JPA and they will reimburse FDOT. At the point in which the Bid comes in on those items, if the city or whomever the JPA is decides that it is more than the JPA language indicates that entity has the right to withdraw that work. In FDOT's typical bid process it will not change the amount of the bid. When Mr. Gainer says it won't change the award amount that does not include if the contractor is not going to perform that work those pay items would come out, and they know that when they bid. The FDOT can't change the bid based on the work being withdrawn. Mayor Marks stated that you need to find someone to do the work at the same price. Mr. Gainer replied that typically what would happen is the city would come do something with their forces which is an option under the JPA. When they do that they become a utility owner who has a utility schedule in there and indicates how much time of disruption to the contract is going to be.

Commissioner Gillum asked based on the language that went out with this bid that we want to pull the utility piece out. You're saying that in the practice of the FDOT even if we pulled this out that wouldn't change who the bid winner is. Mr. Gainer replied that if at the point at which the award occurs we take all the items that were in the ad, if you take something out it reduces the bid but it does not change the order only if an alternate is shown in there that indicates that we will go with alternate A if all things line up or alternate B. To be quite honest with you I don't know the language here that indicates alternate language. Otherwise the department wouldn't do that. Commissioner Gillum said they haven't awarded a bid so they are not there yet. Mr. Gainer stated after award FDOT can remove portions of the work in the language of the specs, it is after the successful bid has occurred and awarded. Commissioner Gillum asked if the department does not necessarily frown upon the owner who decides prior to award that they want to take a piece out which reduces their financial obligations on the bid and may in fact change who the winner of that bid is by creating a new lowest responsive bidder. Mr. Gainer stated no, the Department does frown upon that.

Mayor Marks stated there are pieces and parts of the bid that the general contractor have put in there, and there are subcontractors that do that work. Once the total amount of the bid is awarded we know what the dollar amount is. The general contractor can change the subcontractors but it will not impact the total amount of the award. Mr. Gainer stated that was correct. If the contractor changes, according to the package, they must be qualified in that area. Mayor Marks stated the price of the subcontractor may change it may be lower. Mr. Gainer stated that is correct. Mayor Marks stated it may be higher but that means someone will have to lose the difference.

Commissioner Miller asked if someone can lay a bid on the table and tell you that they are going to use X people to do the work. Could they then toss those people and use whoever they want? They have that much flexibility? Commissioner Miller asked if there is anything in the RFP that they have to be licensed. Mr. Tedder stated that they have to be prequalified. Commissioner Miller stated that Mr. Tedder said in the case of the landscaper there was no state approved landscaper listed. Mr. Tedder pointed out in the original bid materials there is no prequalified landscaper for Anderson Columbia. Blueprint followed back up and requested that they provide information on who would be doing the work, which they subsequently did. They provided a name that is on FDOT's prequalification list. Commissioner Miller asked if after the bid is awarded they could hire whoever they wanted. Mr. Tedder agreed as long as they are prequalified.

Commissioner Sauls had one question for Mr. Gainer. In Mr. Gainer's opinion if this utility piece is pulled out do we jeopardize the \$22,000,000? Mr. Gainer responded that if it is pulled prior to award and changes the apparent low bid then yes it does.

Commissioner Mustian stated that they should get public comments then continue the debate.

Commissioner Akinyemi has some serious concerns from his short period of three years on the commission and that they have faced this issue before. Those issues are that companies are not attempting to reach the City's goals and are still being awarded contracts. He knows for at least Leon County they have awarded contracts to the second low bidder based on this issue before. The second thing the Commissioner is looking to is for his colleagues to help him out, he sees a couple of conflicts here between the Board's own bid requirements and between their ability to segregate. Is there no industry standard where the owner can award the whole or a portion of the bid as they deem fit their best interests? Does the Board just fold and give up their own requirements or do they have that discussion with them prior to today or after today? Where does the Board go from here? Mr. Tedder reiterated that first of all the most important part to this is that Blueprint is receiving Federal funds. This means Blueprint has been subjected to FDOT's process. In other words Blueprint cannot circumvent their rules, we can't change them, it is what it is. Blueprint knowingly accepts that when they take their money. If it was a sales tax project then they could have all the flexibility necessary to meet local preference. Blueprint could have rejected all of this on face. So with that Blueprint is subject to Federal guidelines and FDOT guidelines for the bid process. Commissioner Akinyemi stated that the majority of local money is still coming from Blueprint. Mr. Tedder would not say that is completely true. This is just the construction piece; the federal government has also supplied \$40,000,000 for ROW for this project. There may be additional issues to go back to if the Board overrides their process and uses local preference. Commissioner Akinyemi would be interested to hear from the vendors on why they did not attempt to meet these requirements.

Commissioner Desloge moved to speakers.

After one speaker debate resumed.

Commissioner Maddox asked whether or not the \$50,000 that was stated as savings to Blueprint was a solid \$50,000, or are there unintended consequences that may make that go away. Mr. Tedder stated that it was very possible. Commissioner Maddox asked how possible. Mr. Tedder mentioned having been in consultation with the City attorney's office in which they know of several situations where there were competing contractors on the job filling claims against each other because they are delaying each other's work. It could end up costing more. Commissioner Maddox asked if that \$50,000 could go away. Mr. Tedder stated yes.

Commissioner Proctor asked was the lowest bidder the only criteria one can go by. Mr. Tedder stated that it is the predominant reason to award the bid. Commissioner Proctor asked if the Board has any latitude to extend it beyond merely low bid. Mr. Tedder stated no. Commissioner Proctor enquired as to whether or not Anderson has any complaints against their labor practices or do they use illegal workers? Have labor abuses been looked at? Mr. Tedder responded no that he had not

done any research on illegal workers. Commissioner Proctor then inquired as to if they can hire both companies and split the work in half to get it done in half the time, is that possible? Mr. Tedder replied that if that occurred it would be necessary to break the project up into two separate projects, but he could tell you that the common denominator is that they both require using the same infrastructure. The most important part is the stormwater component which is the first part that has to be built. What struck Commissioner Proctor was that there was no qualified landscaper. Was it possible to go back after the bid is submitted and do other people get a chance for a do over or a recheck? Why were they given a second chance to be responsive if they did not answer the original questions? Mr. Tedder wanted to point out that the overall difference between the two lowest bids as far as the quality and layout was that M. Inc. made it very clear. Anderson Columbia and C.W. Roberts were both very generic. In his discussion with FDOT officials there is nothing wrong with either one of those approaches. By the time you sign the contract you have those sub-consultants in place and they are prequalified. From a FDOT perspective it can be as general as possible up until the day you sign the contract. That is when the specifics are put in place and you cannot deviate from that process. Commissioner Proctor is still troubled that Mr. Tedder went back out and talked to Anderson Columbia and Commissioner Proctor could not understand why they got a second chance. As Mr. Tedder indicated before the quality of the proposals was night and day concerning being able to decipher the information. In order to have an appropriate question for FDOT he needed to know the subcontractor information. Mr. Tedder specifically identified that as an issue. He simply asked the bidder who is doing the work in the bid? They provided the information which Mr. Tedder subsequently reviewed and forwarded the issues and discrepancies with the changes to FDOT. Commissioner Proctor asked if that element alone could have been a game changer in the outcome. Mr. Tedder stated following FDOT's procedures no.

Commissioner Akinyemi wanted to hear more about the role of local preference because he didn't know to what degree that it applies to this project? Secondly, it seems to him that no matter what we do here both firms can protest the bid. He felt that no matter what occurred here we need to move on and do what's best by keeping jobs locally, and to tell people that it's important to use minorities in their contract. Mr. Tedder asked for confirmation from Mr. Gainer that if the utilities were separated out that it jeopardizes the \$22,000,000. Mr. Gainer confirmed making that statement.

Commissioner Akinyemi inquired that because Mr. Gainer was not a lawyer for FDOT if these were his opinions or if he knows for a fact that it will jeopardize the funding. Mr. Gainer stated that all he could tell the Board is that on FDOT projects they could not award based on those criteria. FDOT has tried to help this process and he will leave to allow them to make their decision.

Commissioner Maddox pointed out that what is being danced around here is if the motion is made who is going to support it. The motions being either separating out some of the utility work or just accepting the report.

Commissioner Maddox moved to have the IMC award the bid to M. Inc., and ask the City to separate out the electric portion of the bid. Mayor Marks seconded the motion.

Commissioner Dailey clarified that the motion should state that the Board removes the City of Tallahassee Utilities portion first and instructs staff to rebid that portion and to award the remaining bid to M. Inc.

Mr. Tedder reiterated that if the Board recalled from earlier that he mentioned bid sheets 16, 17, and 18. He requested that the Board includes bid sheet 18 which is required for the completion of the stormwater component. That amendment was accepted and seconded.

Commissioner Miller is concerned with the appearance that there were two sets of criteria upon which the bids were based. In her view one had a higher bar than the other and that resulted in a slightly higher cost. In the future she requested that knowing federal money is involved bid requirements need to be clearly laid out so everyone is bidding on the same thing. It's obvious here that Blueprint has received bids on two different sets of demands. Secondly she didn't understand what the point of separating the electricity component out was. It was supposed to be a money saver but that might not end up being the case. The Board is getting ready to vote on a motion to separate something out to allow one of our other bidders to now become the low bidder. Commissioner Miller is all for them getting the contract but the fact is she is not sure of the math or whether it jeopardizes the \$22,000,000 from FDOT. If she does not know the answers to that then that means a no from her.

Commissioner Gillum expressed similar concerns with the bids as Commissioner Miller. This involved the bid process and timing. Commissioner Gillum requested to see in writing FDOT's policy for allowing bidders to go back and fix a problem. He was not at the point to vote for or against the motion. Commissioner Gillum requested that a letter be sent stating that the Board did not feel like they received a responsive bid. He also made a statement about the MBE piece and reiterated sending a letter of the Board's concerns. **Commissioner Gillum proposed a substitute motion in which the body expresses in writing its concerns around non responsiveness and receive back from whomever the appropriate person may be a response to the Board on their belief that this is a nonresponsive bid. Mayor Marks seconded the motion.**

Mr. Tedder followed up on Commissioner Gillum's concerns on the "in writing" portion. The attachment to the agenda is the written response from FDOT based on the issues raised. **Commissioner Gillum refused to remove his motion**, and felt that there was not a full airing of grievances.

Commissioner Dozier could not support the substitute motion. She agreed with Commissioner Miller that the issue here is that there are two different grading scales. However, despite any disappointment in the quality of the bids they both are responsive based on Federal and FDOT standards. Commissioner Dozier wants to lobby to bypass Federal and FDOT standards with the notion of supporting local firms. The Commissioner repeated their responsibility to save Blueprint money. The Commissioner questioned Mr. Tedder about the possibility of saving Blueprint \$50,000. Mr. Tedder said that based on the information provided in the agenda if you delete portions of the utility you will save Blueprint money. Commissioner Dozier felt that money saving was the key issue to focus on and vote on today. The other issues will need to be addressed later.

Commissioner Miller questioned how Blueprint is saving any money. How does that save Blueprint money if COT Utilities is going to refund the funds anyways?

Mayor Marks recapped his concerns that were similar to other commissioners based upon MBE and Anderson Columbia correcting their bid. Mayor Marks also felt that this bid would be appealed. He asked Ms. Nicholson-Choice what level of court this would head to on an appeal and how binding it is. She pointed out that there is a JPA between Blueprint and FDOT where Blueprint agreed to be subject to the Federal guidelines and policies as well as the State's. Mayor Marks wished to make clear the Board's position when the bid has to go to court. This would allow the judge to understand the issues that the board is concerned with. Therefore, Mayor Marks supports Commissioner Gillum's motion.

Commissioner Gillum's issues did not involve the MBE portion but instead the prequalification portion and the ability to go back and change. Ms. Nicholson-Choice requested Mr. Tedder clarify this issue. Mr. Tedder pointed out Attachment G, a letter from Mr. Gainer, was in fact a response to the prequalification issue. The letter was dated May 9, 2012.

Commissioner Proctor expressed support of Commissioner Maddox's motion. He also expressed his thoughts on MBE policy across the nation.

Commissioner Dailey called to question the second motion which was seconded. Commissioner Dailey withdrew the motion until quorum was once again met.

Commissioner Sauls recapped what Mr. Gainer said about jeopardizing the \$22,000,000 if the utility portion was removed. She expressed support for Mr. Gainer's advice due to previous positive experiences with him. Mr. Tedder stated that the loss of the money would mean that the roadway project could no longer be constructed or it would have to be significantly reduced.

Commissioner Gillum's substitute motion was withdrawn.

Commissioner Dailey inquired as to if the state withdraws the money what protest options are there? Ms. Nicholson-Choice replied that though out of the scope of legal analysis at this point it would probably be quickly dismissed due to the JPA agreement to follow Federal and State policies.

Commissioner Akinyemi asked if FDOT would listen to the Board's concerns before pulling the money.

Commissioner (unintelligible) asked if there is any precedent for Blueprint removing utility portions from a construction project. Mr. Tedder replied that they cannot find an instance of Blueprint doing that. Ms. Nicholson-Choice stated that it would affect a decision based on it being arbitrary and capricious and that it had to be an actual effort to save money.

Commissioner Desloge felt that this would end up in the courts regardless and a decision needs to be made.

Commissioner Maddox's motion was called to question.

Roll call vote

Yay: Commissioners Dailey, Maddox, Dozier, Gillum, Akinyemi, Proctor, and Desloge

Nay: Commissioners Sauls, Miller, Mustian, and Mayor Marks

Commissioner Miller requested that the next time it be clearer with what is to be required in the bids.

Mayor Marks reiterated that this will go to court regardless.

The decision is Yay, with the weighted score of 37 to 26.

RECOMMENDED ACTION:

Option 1: Accept Staff report.

VI. CITIZENS TO BE HEARD

Rob Clark wished to make a couple of points on behalf of M. Inc. First of all nobody wants to jeopardize the FDOT funding. There is a solution here that can be fashioned that not only accommodates the FDOT requirements but also some of the policies that have been implemented by the Commission. These are unquestionably important and have been shown through Blueprint's documentation. Mr. Clark requested going back to some of the first things said by Mr. Tedder in regards to the bid of the lowest bidder. The difference between the two bids in terms of MBE participation is over 3.3 million dollars which is significant. The IFB that was issued by Blueprint 2000 indicates that if you don't attain the minimum MBE participation goal of 10% then you may be disqualified. M. Inc. played by the rules they submitted 10.4% MBE which has met and is consistent with this group's policy. On the prequalification issue, the IFB says that you have to identify in 14 classes of work in which you are FDOT prequalified. M. Inc. is the only bidder that included in its proposal and covered every single one of the 14 classes of work. The difference between M. Inc. complying with the MBE goal set by this group, and the difference of complying with the requirement for identifying the FDOT qualified individuals made all the difference in the award of this contract. The unique opportunity of a solution is to pull out the City's portion so that this Commission can set out to complete its mission. Then you can go out and rebid it, and we believe it will be less because it's a smaller job with more competition. Despite what the FDOT representative has said he believes it's still possible accomplish this.

VII. ITEMS FROM MEMBERS OF THE COMMITTEE

None

VIII. ADJOURNMENT

There being no further business, Chairman Desloge adjourned the meeting at 1:50 pm.

APPROVED:

ATTEST:

Nancy S. Miller
Chair of Blueprint 2000 IA

Shelonda Meeks
Secretary to Blueprint 2000 IA