

"Our Business is Helping You Do Yours!"



October 1, 2009

To: Mayor Bob Walkup

From: Jim Kuliesh
ACT Executive Director

Re: Requirements for Success...City's New Hotel

It was our distinct pleasure to address the Mayor & Council during the Study Session on September 15th to discuss issues and concerns by the subcontracting community on the fast track process currently being executed by Garfield Traub & Turner/Sundt.

In response to our comments, several council members and your office projected a sincere understanding and expressed a desire to know additional details and specifics associated with our concerns.

The Board of Directors of ACT have selected and identified our major issues and delineated these concerns as follows:

1. A set of architectural drawings, specifications and a line-item proposed construction/trades budget. This will allow subcontractors an opportunity to review the project as to size and scope so that they can determine if it is their trade to bid.
2. Eliminate from Turner/Sundt's Subcontractor Prequalification Statement the requirement to submit "audited financial statement" (page 4) in order to be a qualified bidder. Costs for an audited



statement runs between \$7,000 to over \$30,000, which is not a problem for large subcontractors that need to have this done for their bonding company. But smaller companies and those in the City's SBE program should not have to go thru this expense just to see if they are qualified to bid. More detailed financials can be given when and if they are a low bidder on the project.

3. Transparency in the bidding process must occur for subcontractors that have been qualified. In order for this to be accomplished Turner/Sundt together with the City's Procurement Department will receive and over see the various trade bids at a public opening. This will also include the smaller bid packages for the SBE enrolled companies and other Tucson subcontractors. ACT is willing to assist in identifying areas of construction that could be broken into smaller bid groups.
4. No purchasing of materials directly by Turner/Sundt or labor- only bids unless prior approval is given by the City's Procurement Department.
5. Timely subcontractors' payment/draw requests have historically been a problem to subcontractors and vendors. We request a financial flow-chart (names, titles, addresses, phone and e-mail information) showing the responsibilities and authorization of how payments/draws will be processed. Procedures for all subcontractors' payment requests would follow the State of Arizona's Prompt Pay Statute.
6. Retention is the process of the owner or construction manager withholding a percentage of the subcontractors' monthly payment, typically 10%. The retention policy for this project once set should include a 50% reduction in retention once the project is 50% approved and accepted. Balance of subcontractors' retention should be released with their final payment which is based upon approval, acceptance of work performed.



7. Contracts to be used between Turner/Sundt and subcontractors will be the AIA 401-2007 with the following deletions: Article 13.4 and sections 15.1.2, 15.1.3 and all of 15.2. These Articles are completely unfair to subcontractors. The University of Arizona has standardized this with deletions for all their CM projects.
8. ACT has received notice from Turner/Sundt that they will hold a public meeting at TCC on October 22 where they will present the project in detail and provide information as to subcontractors' pre qualifying to bid and answer ACT questions from the September 15 meeting. ACT commends them for this outreach to ACT members and Tucson's construction community. Their notice to ACT does not have a time or meeting room location which is necessary for our members and the construction community to participate.
9. All Tucson's City Ordinances will be obeyed as per the development agreement with Garfield Traub.
10. There shall be no "Priority" (sole source) specifications for any building materials used in the bidding process. Priority specifications limit competitive bidding and will result in extremely expensive service/maintenance work once the hotel is complete and turned over to the City.
11. Since over 80% of the cost of the new hotel will be subcontractor 's material and labor we propose that based on the subcontractor's percentage of work performed they be included in any bonus money that is to be divided between the City, Garfield Traub, and Turner/Sundt for amounts that come under the stated construction budget.



The future of Tucson and specifically renovation of downtown is critical to the Board of Directors and membership of ACT, all taxpayers and citizens of our community. The importance of this project can't be over stated for many reasons including downtown vitality, increased convention business, jobs, and increased revenues to the City of Tucson. At the same time, how and what process is authorized should be equally important to everyone and this is specifically why the ACT subcontractor and material supplier organization has brought this matter to your attention.

In closing, ACT is a proud organization of our community with a history of participation, involvement and success on many issues with the Tucson Mayor & Council. We look forward to an opportunity to address our stated concerns and jointly finding solutions to these matters.

Respectfully,

James J. Kuliesh
ACT Executive Director

- cc.: ACT Board of Directors
City Council Members
Mike Letcher, City Manager
Mark Neihart, Director City Procurement
Linda Perez, City OEOP Department
Robert Barton, City OEOP Department
Steve Moffett, Garfield Traub Development
Gus Sestrap, Turner/Sundt Construction
Kurt Wadlinton, Turner/Sundt Construction
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