

September 15, 2009

To: Garfield Traub Development
Turner Construction
Sundt Construction

From: Jim Kuliesh
ACT Executive Director

Re: Tucson's New Hotel Project

The Alliance of Construction Trades (ACT) and its members, Tucson subcontractors and material suppliers have formally endorsed to the success of the downtown hotel. We look forward in bidding and building this exciting project. Our goals for the project are the same as yours: to build the hotel and deliver it on-time, within budget, with quality construction, public acceptability, transparency throughout the process, and no lawsuits at the end of the project. These simple goals and objectives in mind there is no better time than now, early in the process, to clarify questions that Tucson's construction community needs to know in order to have a successful project.

After reviewing the Turner/Sundt Construction 10 page "Subcontractor/Vendor Prequalification Form" that you require by all parties to submit prior to bidding, (to be qualified to bid), we request you to supply in writing the answers to our questions about your business policies.

#1. **City Ordinances:** Do you plan to follow all Tucson City's Ordinances as per your development agreement?

There has been a long and rich relationship between the City of Tucson and ACT. We continue to expect every project to follow all existing City of Tucson ordinances, rules and procedures. This criteria is expected on this project.

#2. **Qualifying:** How and when do you plan to inform our construction community as to the requirements and procedures to qualify to submit bids? If you reject a subcontractor/vendor will you give your reasons in writing?

#3. **Materials:** Do you plan to purchase construction materials direct from manufacturers/wholesalers and ask for labor only prices from subcontractors?

#4. **Contracts:**

- a. As a member of the national Associated General Contractors Association (AGC) do you plan to use the Consensus Docs 750 document (GC/Subcontractor) that have been endorsed by AGC and nine national trades associations including our National Subcontractors Alliance (NSA) for the successful subcontractors and vendors? If not...why not?
- b. Do you plan on using Contractor Controlled Insurance Program (CCIP)? If yes, then what benefits are there to subcontractors who have to still carry their own liability insurance? Is the owner/taxpayers paying twice?

- c. Will subcontractors have to submit a performance bond? Who is your surety company (contact name, address, phone number)?
- d. Will you insist on a "pay-if-paid clause"? And why?
- e. What are your policies on such contract clauses as: (1) Indemnity/Additional insured. (2) Delay Damages, (3) Change Orders, and (4) Overtime Requirements.

#5. **Payment Procedures:** Construction projects here and throughout the U.S. have a history of timely payment problems for subcontractors and material suppliers.

- a. What will the procedures be for subcontractors' monthly draws? Will you follow the State of Arizona's Prompt Pay Statue?
- b. Who (names, addresses, phone numbers) will be responsible for approving and processing payment requests?
- c. Will retention be required? If yes, will retention be the standard 10% then reduced to 5% upon 50% completion of the subcontractors' approved work?
- d. Will "line-item retention release" be used when the individual subcontractors' work has been approved by you and accepted by the owner?

- e. Who in the company is authorized to approve change orders, monthly draws, extras, and other pertinent information regarding payment request?
- f. Will the City's Procurement Department receive all qualified trade bids for a public bid opening and review?

#6. **Other Information & Questions:**

- a. Please fill out pages 2, 3,& 4 of your "Subcontractor Vendor prequalification Questionnaire" because these are questions that qualified subcontractors and material suppliers need to know. Your company's main contact information, banking, legal history, etc.
- b. Public transparency is critical, therefore will there be an accounting on a monthly basis to the City Rio Nuevo Board and any other review agency established for reporting purposes?
- c. Is there a mandatory requirement to immediately and publicly announce any cost overruns?

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Thank you for your attention in these matters, and we look forward to your written responses within the next 30 days to our questions. Again, the success of the hotel is our mutual goal ...delivered on-time, within budget, with quality construction and without legal problems...and that will be achieved with communications, documentations and best business practices.

Respectfully,

James J. Kuliesh
ACT Executive Director

cc.: ACT Board of Directors
Tucson Mayor & Council
Tucson City Manager
Tucson Procurement Department