



PUBLIC WORKS DEPARTMENT

115 S. Andrews Avenue, Annex Room 600 • Fort Lauderdale, Florida 33301 • 954-357-6410 • FAX 954-357-6340

MEMORANDUM

DATE: July 25, 2019

TO: Brenda J. Billingsley, Director
Purchasing Division

FROM: Steve Hammond, Assistant Director 
Public Works Department

SUBJECT: **EMERGENCY PROCUREMENT OF REPLACEMENT CONTRACTOR
BCJC EAST WING ELEVATOR LOBBIES**

Project Title: New Broward County Courthouse
Project No: 5211-2010-00

This memo serves as my request for your approval to move forward with an emergency procurement of a replacement contractor to undertake the completion of the elevators and lobbies in the East Wing of the Broward County Judicial Complex (BCJC). Our recommended replacement contractor is a joint venture comprised of Stiles Construction and Pirtle Construction Company (Stiles/Pirtle). The basis of the emergency and the methodology used to identify Stiles/Pirtle as a replacement contractor follows below.

James A. Cummings, Inc's (Cummings) contract for the New Broward County Courthouse, in addition to the West tower and pedestrian walkway, included the construction of an elevator core and integral lobby spaces on the east face of the BCJC East Wing. Cummings did not finish that East Wing elevator core and allowed the building permit to be closed by the City of Fort Lauderdale. Cummings subsequently refused to complete that elevator work and took no action to resolve the closed permit. Cummings' inaction left the elevators and lobbies unfinished with no ability to call for the inspections required to gain the elevator licenses and proper municipal Certificate of Occupancy allowing use of the new elevators and their associated lobby spaces.

On December 12, 2018, County staff, along with representatives of the Spillis Candela & Partners/Heery/Cartaya Joint Venture (Joint Venture---the project's designers) and the Weitz Company (Weitz---the Owner's Construction Project Manager) met with Cummings and mutually agreed to pursue an expedited completion of the East Wing elevators and lobbies. The parties agreed to conduct a walkthrough of the East Wing from which the scope of work required to complete the elevators and lobbies would be derived. That walkthrough took place on January 9, 2019 along with Fort Lauderdale's Chief Building Official and members of his staff. During that walkthrough, the Building Official determined that the unfinished elevator lobby spaces, as they are an unfinished component of the building's emergency egress paths, were a code violation and presented a life safety hazard in their unfinished state.

In March 2019, the Chief Building Official, working with the Construction Management Division, re-opened the Master Permit for the project and modified the previously issued Certificate of Occupancy for the West Tower to allow for a 90-day period during which Cummings could complete its East Wing elevator core and lobbies. A management plan (as attached herewith) approved by the Building Official established a minimum amount of work necessary to obtain a Certificate of Occupancy for the East Wing elevator core and lobbies. That management plan and the directive to proceed with the work was issued by the County's project manager on 4/18/2019. Cummings again refused to complete that work. The 90-day period allowed for completion of the work by the Building Official expired in June with no action on the part of Cummings.

On July 3, 2019, the County issued Unilateral Change Order No. 41 (attached) removing completion of the elevators and lobbies from Cummings scope of work. As the unfinished elevator and lobby work present a continuing life safety hazard, it is imperative to complete that work as soon as possible to avoid potential Building Department action to restrict use of the East Wing and to avoid any public or stakeholder issues arising from that unfinished construction.

Our recommendation is to declare an emergency due to the life safety issues reiterated by the Building Official at a follow-up meeting held on July 22, 2019 allowing for the appointment of a reasonable source contractor to complete Cummings' unfinished elevator and lobby work as defined by the Building Official-approved management plan.

In preparation for this potential emergency procurement, we have evaluated the ability of the County to complete the work via its own forces. As the work is outside the capability and capacity of the County, we also considered several potential contractors as replacements for Cummings including Moss Construction, D. Stephenson Construction, Stiles Construction and Pirtle Construction. The criteria we considered included:

- Familiarity with the BCJC complex (building systems, security protocols, stakeholder relations);
- Familiarity with County contracts, construction practices and administrative requirements;
- Past performance on County projects (including adherence to schedules, change order and claims history, closeout issues and work quality);
- Ability to mobilize quickly, obtain necessary bonding and insurance, and respond to the project conditions as left by Cummings.

Upon contacting Pirtle Construction and explaining the project issues at hand, Pirtle inquired if the County would entertain a joint venture between Pirtle and Stiles Construction---a team that is already mobilized on the Terminal 4 parking garage project at Port Everglades. Exploring this option further, this office has determined that:

- The Stiles/Pirtle team has collectively completed the extensive BCJC Midrise Building renovations and the 1,000-Car South Garage facility giving them extensive experience with the technical infrastructure of both the existing and new buildings at BCJC, a very good work history with the constituent stakeholder groups, and direct working experience with BCJC security and site logistics requirements.
- Stiles/Pirtle have collective experience with the complete range of County project delivery methods gained through their experiences with the successful delivery of the projects listed above and with the new Animal Care facility, the Young-At-Art Library and Children's Museum, African American Research Library and Cultural Center and other Library Bond Program projects;

- The Stiles/Pirtle performance on their past County projects were efficiently and economically delivered with a minimum amount of change orders and no major disputes or claims;
- Upon discussion of the proposed scope of work, the collective resources of the Stiles/Pirtle team are prepared to mobilize immediately while meeting the County's contractually mandated administrative requirements.

In coordination with the Office of the County Attorney, we are developing an abbreviated CM@Risk agreement for the limited scope of work required for assuming the unfinished Cummings work. The CM@Risk agreement will provide for a short initial investigative (pre-construction) period required to fully ascertain the site conditions left by Cummings and the work requirements specified in the Building Official's approved management plan. It is hoped that subcontractors that provided initial work on the elevators and lobbies can be brought back to complete their previous work (except for subcontractors who are, like Cummings, common subsidiaries of the parent Tutor Perini Corporation). Work assigned under this proposed agreement will be limited to that necessary to complete the East Wing elevators, the associated lobby space and minor incidental work as may be necessary to alleviate the immediate life safety issues identified by the Building Official. It is our understanding that the Building Official will provide a new permit for the elevator and lobby work. Other remaining work left unfinished by Cummings will remain as part of the Cummings contract and the original Master Permit as issued by the City of Fort Lauderdale.

We are, therefore, asking for your approval and assistance in declaring an emergency to alleviate the on-going life safety issue at the East Wing and directly procuring the services of the Stiles/Pirtle joint venture to complete the work identified in the attached management plan.

Please let me know if you need any additional information.

Thank you for your consideration and assistance.

Attachments:

7/3/2019 Ltr to James A Cummings, Inc re East Wing Elevators/Unilateral CO 41
2019-3-21 Approved EW Management Plan Narrative
2019-3-21 Area of Work EW Elevator Lobbies

Copies:

Bertha Henry, County Administrator
Alphonso Jefferson, Assistant County Administrator
Mike Kerr, Deputy County Attorney
Jordan Nadal, Assistant County Attorney
Tom Hutka, P.E., Director, Public Works Department
Ariadna Musarra, Director/County Architect Construction Management Division
Dory Khater, Expansion Project Administrator, Construction Management Division
Jennifer Schiappa, Construction Management Specialist, Construction Management Division
Derek Bixby, The Weitz Company
Diego Lopez Medina, The Weitz Company
Doug McKenzie, Spillis Candela & Partners/Heery/Cartaya Joint Venture
Tony Herrero, Spillis Candela & Partners/Heery/Cartaya Joint Venture
Project File

Reviewed by: **CONSTANCE S. MANGAN** Digitally signed by CONSTANCE S. MANGAN
Date: 2019.08.06 12:24:39 -04'00'
Purchasing Manager

Approved by: **BRENDA BILLINGSLEY** Digitally signed by BRENDA BILLINGSLEY
Date: 2019.09.11 12:38:16 -04'00'
Director of Purchasing

A Note for the Record will be processed once an agreement is reached for emergency procurement.



115 S. Andrews Avenue • Suite A-600 • Fort Lauderdale, Florida 33301 • 954-357-6410 • FAX 954-357-6340

July 3, 2019

Annie Rossi
James A Cummings, Inc.
One East Broward Blvd., Suite 1300
Fort Lauderdale, FL 33301

Danny Hoisman
Senior Vice President
Tutor Perini Building Corp
One East Broward Blvd., Suite 1300
Fort Lauderdale, FL 33301

Sandra C. Lopes
c/o Alliant Insurance Services, Inc.
131 Oliver Street
Boston, MA 02110

Re: East Wing Elevator Lobbies

Project Title: New Broward County Courthouse
Project Number: 5211-2010-00

James A. Cummings, Inc. (JAC) has failed to proceed with the completion of the East Wing elevator lobbies, a contract requirement for Phase 1A of subject project. Your expeditious completion of this Work was initially discussed at our 12/12/18 meeting. The scope of that Work was subsequently developed by means of our mutual walkthrough with the Building Officials, the Building Officials' approval of the East Wing Management Plan and the re-opening of the master permit for the purposes of completing the elevator lobby Work. That Management Plan and direction for JAC to proceed was provided to JAC via the County's 4/18/2019 email to Robert Lees.

During our walkthrough and in subsequent meetings with the Building Officials, the incomplete elevator lobby Work was identified as a life safety issue requiring immediate correction. To date, JAC has not made any progress towards the resolution of this critical building issue.

Therefore, pursuant to Articles 35 of your agreement with Broward County, this office is engaging the services of a separate contractor for the limited purposes of completing the work described in the attached Management Plan to rectify the critical life safety issues your inaction has allowed to continue unabated. The County will undertake the City of Fort Lauderdale's change of contractor protocols for the elevator lobby Work identified in the Management Plan.

I have attached Unilateral Change Order No. 41 (Delegated Estimated) removing the completion of the East Wing elevator cores and lobbies from your agreement.

Rossi/East Wing Elevator Lobbies
July 3, 2019
Page 2

The County will continue to hold JAC responsible for the other incomplete and/or deficient Work (including all open NCN's, punch list and warranty items) previously identified for Phase 1A of the Courthouse project.

If you need additional information, please contact me at (954) 357-7762 or via e-mail at shammond@broward.org.

Thank you for your assistance.

Sincerely

A handwritten signature in blue ink that reads "STEVE HAMMOND". The signature is written in a cursive style with a large, stylized "S" and "H".

Steve Hammond, AIA, Assistant Director
Contract Administrator

Attachments:

Unilateral Change Order No. 41
Khater 4/18/2019 Email to Lees
Building Official Approved Management Plan
Area of Work Diagrams

[Note - six "Area of Work Diagrams" have been removed for publishing purposes]

Copies:

Bertha Henry, County Administrator
Alphonso Jefferson, Assistant County Administrator
Mike Kerr, Deputy County Attorney
Tom Hutka, P.E., Director, Public Works Department
Ariadna Musarra, Director/County Architect Construction Management Division
Dory Khater, Expansion Project Administrator, Construction Management Division
Jennifer Schiappa, Construction Management Specialist, Construction Management Division
Derek Bixby, The Weitz Company
Diego Lopez Medina, The Weitz Company
Doug McKenzie, Spillis Candela & Partners/Heery/Cartaya Joint Venture
Project File

BOARD OF COUNTY COMMISSIONERS, BROWARD COUNTY, FLORIDA

UNILATERAL CHANGE ORDER NO: 41

DELEGATED ESTIMATED

Project: 100729 CMD-5211-20 - Broward County Courthouse Justice Center

Contract: H0891902C1 Vend: JAMES A CUMMINGS INC

Description of Changes, Reasons Therefore, and Cost and/or Time Changes For Each:
Cost Basis: Estimated - Resolve at Later Date

Line Nbr.1	OTHER - OTHER	(\$779,645.61)	-90
Description : Deduct incomplete work at the East Wing pertaining to the elevator core and elevator lobbies.			
Reason : Contractor failed to proceed with the subject work and adhere to the progress schedule during various disputes and disagreements with the County as required by Article 35 of the Contract's General Conditions. The County issued multiple directives to continue work and to finish the incomplete scope for this portion of the Project, which includes open life safety items as acknowledged by City of Fort Lauderdale Building Department.			
Cause : Contractor's non-responsiveness, and failure to proceed with the incomplete work.			
Total Change Order		(\$779,645.61)	-90

PURCHASING INFORMATION			
PO : PO CMD0000084			
Original Award :	Approved Amendments :	Approved COs :	Previous Revised :
\$178,760,000.00	\$14,900,000.00	\$2,611,018.95	\$196,271,018.95
1292 Days	0 Days	104 Days	1396 Days
This ESTIMATED Change Order:	DECREASE	(\$779,645.61)	DECREASE -90 Days
New Revised Contract:		\$195,491,373.34	1306 Days

BOARD OF COUNTY COMMISSIONERS, BROWARD COUNTY, FLORIDA

UNILATERAL CHANGE ORDER NO: 41

DELEGATED ESTIMATED

Project: 100729 CMD-5211-20 - Broward County Courthouse Justice Center

Contract: H0891902C1 Vend: JAMES A CUMMINGS INC

Description of Changes, Reasons Therefore, and Cost and/or Time Changes For Each:
Cost Basis: Estimated - Resolve at Later Date

Consultant

Signature:

Date: 7.2.19

Name:

SPILLIS CANDELA DMJM/HEERY/CARTAYA JOINT VENTURE Representative

UNILATERAL CHANGE ORDER

Recommended By CONSTRUCTION MANAGEMENT DIVISION - SPECIAL PROJECTS Project Manager

Signature:

Date: 07/02/19

Dory Khater

Recommended By CONSTRUCTION MANAGEMENT DIVISION - SPECIAL PROJECTS Contract Administrator

Signature:

Date: 7/2/19

Steve Hammond, Division Director

Recommended By PUBLIC WORKS DEPARTMENT Department Director

Signature:

Date: 7/3/19

Thomas Hulka, Department Director

COPY FOR: MINUTES, CONTRACTOR, PURCHASING, CONSULTANT, SUPERVISING AGENCY, BUDGET, DEPARTMENT

7/2/2019

Percentages may not total exactly, due to rounding

Source: ContractsCentral - A Service Of The Purchasing Division

**UNILATERAL CHANGE ORDER NO: 41
DELEGATED ESTIMATED**

Project: 100729 CMD-5211-20 - Broward County Courthouse Justice Center

Contract: H0891902C1 Vend: JAMES A CUMMINGS INC

Description of Changes, Reasons Therefore, and Cost and/or Time Changes For Each:
Cost Basis: Estimated - Resolve at Later Date

	<u>AMOUNT</u>	<u>TIME</u>
ORIGINAL CONTRACT	\$178,760,000.00	1292
APPROVED AMENDMENTS	\$14,900,000.00	0
PREV APPROVED CHANGE ORDERS	\$2,611,018.95	104
THIS CHANGE ORDER NO. 41	(\$779,645.61)	-90
REVISED CONTRACT AMOUNT	\$195,491,373.34	1306
<i>PENDING CHANGE ORDERS</i>	<i>(\$3,299,323.77)</i>	<i>-630</i>

	<u>Current</u>	<u>- Apprvd CO</u>	<u>- This CO</u>	<u>= Remaining</u>
Admin Allowance	10.00	-2.62	-0.40	10.00
Board Allowance	4.30	3.97		0.33
Total Allowance	14.30	-0.36	-0.40	10.00

DECREASE CONTRACT AMOUNT BY (\$779,645.61)

DECREASE CONTRACT PERIOD BY -90 Days

Hammond, Steve

From: Hammond, Steve
Sent: Thursday, April 18, 2019 11:43 AM
To: Kerr, Michael
Subject: FW: East Wing Meeting
Attachments: BCCH - East Wing Management Plan

From: Khater, Dory <DKHATER@broward.org>
Sent: Thursday, April 18, 2019 8:53 AM
To: 'Robert Lees' <Robert.Lees@tutorperini.com>
Cc: Derek Bixby <Derek.Bixby@weitz.com>; 'McKenzie, Doug' <Doug.McKenzie@aecom.com>; Schiappa, Jennifer <JSCHIAPPA@broward.org>; Diego Lopez <Diego.Lopez@weitz.com>; Annie Rossi <Annie.Rossi@tutorperini.com>; Hammond, Steve <SHAMMOND@broward.org>
Subject: RE: East Wing Meeting

Robert:

We were waiting on getting the approval from John Travers on the management plan from the JV that he requested during our meeting at his office. His approved the plan on April 12, 2019. The management plans are part of the master permit drawings that were re-opened. JAC to proceed according to the direction outlined in the attached email from the JV.

Thank you,

Sincerely,

Dory Khater
Expansion Project Administrator
Broward County Construction Management Division
115 South Andrews (Rm A550)
Fort Lauderdale, Florida 33301
O: (954) 357-6166
M: (954) 873-2558
F: (954) 357-6411



From: Robert Lees <Robert.Lees@tutorperini.com>
Sent: Tuesday, April 09, 2019 3:57 PM
To: Khater, Dory <DKHATER@broward.org>
Cc: Derek Bixby <Derek.Bixby@weitz.com>; 'McKenzie, Doug' <Doug.McKenzie@aecom.com>; Schiappa, Jennifer <JSCHIAPPA@broward.org>; Diego Lopez <Diego.Lopez@weitz.com>; Annie Rossi <Annie.Rossi@tutorperini.com>
Subject: East Wing Meeting

Dory,

This meeting was canceled a few weeks ago and I don't recall seeing any further correspondence. Can you please update me on this situation?

Thanks,

Robert Lees
Project Manager
New Broward County Courthouse Project



Office: 954-733-4211
Cell: 954-818-0672

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Spillis Candela & Partners/ Heery/ Cartaya Joint Venture
800 Douglas Entrance, North Tower, Second Floor
Coral Gables, Florida, 33134
T 305.444.4691 F 305.447.3580

**NARRATIVE
EAST WING PHASE 1A – PENDING SCOPE OF WORK**

March 21, 2019

The items listed below identify scope of work that needs to be completed and fully functional within East Wing Phase 1a. Refer to the attached plans for the identified limited area of work. They are as follows:

Roof

1. Elevator machine room roof needs to be completed and water tight.
2. Install copings, flashing and roofing at curtain wall.
3. Seal and paint main roof flashing located south of the elevator machine room door between the stair and wall.
4. Repair/re-finish infill parapet wall above elevator machine room doors.

Hoistway/Elevators/Elevator Machine Room

1. Remove excess concrete on elevator machine room floor slab.
2. Install door finish hardware including threshold.
3. Mount fire extinguisher on the wall.
4. Seal interior precast and curtain wall/precast joints in elevator machine room.
5. Fasten all machine room equipment to slab.
6. Complete all elevator cabs.
7. Complete all elevator call button, signage, travel and floor indicators.
8. Complete elevator pit including clean up.

Elevator Lobbies (floors 1 thru 6)

1. All tripping hazards need to be addressed at all elevator door entry thresholds, elevator lobby floors (existing and new areas). Remove drain, cap pipe and grout slab penetration flush with concrete slab. Provide finish flooring as specified.
2. Install all fire rated floor expansion joints flush with finish flooring.
3. Install all exit stair door fire rated vision panels.
4. Install all door finish hardware.
5. Provide fire caulking at all fire rated floor/wall penetrations.
6. Complete fire sprinkler system layout and sprinkler head direction to be fully operational.
7. Complete installation of all wall and ceiling fire alarm devices including smoke detectors if required by the contract documents to be fully operational.
8. Cover all open electrical junction boxes and connect/remove all loose wiring to allow a fully operating system.
9. Install all exit lighting indicating the correct travel direction to be fully operational.
10. Install all lobby lighting fully operational.
11. HVAC to be installed and fully operational as part of the finishing of the elevator lobbies.

12. Repair all existing curtain wall scratches.
13. Repair, refinish, finish and paint all gypsum board.
14. Install and complete all ceilings which are required for items 6, 7, 8, 9, 10 11 final inspections.
15. Remove existing corridor doors, door frames and walls as required by the contract documents. Refinish and paint opening as required. Please note existing Foyer door to remain at Third Floor.
16. Connect ground level exterior exit single door to fire alarm.
17. Patch solid/seal all existing masonry wall cracks at 3rd level stair fire rated wall.

Ground Floor Exit Corridor

1. All tripping hazards need to be addressed at ground floor. Provide finish flooring as specified.
2. Connect fire rated accordion door to fire alarm and electrical power so it can be fully operational.
3. Connect exterior exit double doors to fire alarm.
4. Finish and paint Clerk of the Court side of exit corridor fire rated partition.
5. Finish and paint exit corridor side of fire rated partition.
6. Repair, refinish, finish and paint all gypsum board.
7. Remove existing power pole. Cap or re-rout electrical as required.
8. Install all door finish hardware.
9. Provide fire caulking at all fire rated floor/wall penetrations.
10. Complete fire sprinkler system layout and sprinkler head direction to be fully operational.
11. Complete installation of all wall and ceiling fire alarm devices including smoke detectors if required by the contract documents to be fully operational.
12. Cover all open electrical junction boxes and connect/remove all loose wiring to allow a fully operating system.
13. Install all exit lighting indicating the correct travel direction to be fully operational.
14. Install all lobby lighting fully operational.
15. HVAC to be completed and be fully operational.
16. Install and complete all ceilings which are required for items 10, 11, 12, 13, 14 & 15 final inspections.
17. Replace or reverse existing door between lobby and corridor to swing in the direction of travel.
18. Repair all existing curtain wall scratches.
19. Remove and clean all construction material from inside exit stair.
20. Remove and clean all construction materials from exit corridor.

Exterior

1. Install all missing exterior curtain wall / exit doors trims at exit corridor and elevator lobbies.
2. Replace curtain wall temporary glass with approved glass.
3. Inspection of all elevator hoistway/tower precast sealed join

RFIs

Complete all work addressed under the East Wing RFIs listed below.

Broward County Courthouse Construction Documents permit set and related addendums and revisions

RFI 1567 Signage Plans and Details (ADA, Exit and Elevator Signage)

RFI 1572 Elevator Core Floor-To-Floor Smoke Sealant at Curtain Wall

RFI 1594 Elevator Status Panel Location

RFI 1596 Fire Pump, Fire Pump Lighting and Courthouse Drive Gate Power

RFI 1597 3rd Level Elevator Lobby Stair # 2 Doors

RFI 1598 Elevator Lobby Existing Conditions on Wall to be demoed

RFI 1599 Fire Alarm Modules Elevator Machine Room & ATS on first floor

RFI 1600 Fire Alarm Modules for Elevator Shunt Trip

RFI 1601 Missing Fireman's Phone Jack & Fire Alarm Pull Station in Field

RFI 1602 Existing Generators at East Wing not being monitored.

RFI 1603 RFI 1594 Clarification of East Wing Elevator Status Panel

RFI 1604 Level 1 Double Doors at East Side

RFI 1606 New Set of Motor Actuated Doors on First Floor

RFI 1607 Fireman's Phone Jack in Elevator Cabs

RFI 1608 Integration of New Fire Alarm Devices into Existing Fire Alarm Panels

COs

Obtain all necessary building inspections as required to obtain CO.

Regards,

Juan Justiniano
AIA, AICP, LEED AP BD+C
Vice President
Cartaya and Associates