



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Airport & Seaport Committee

June 10, 2010

9:30 A.M.

Commission Chamber

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**Miami-Dade County Board of County Commissioners
Office of the Commission Auditor**

**Legislative Notes
Airport & Seaport Committee
Meeting Agenda**

June 10, 2010

Written analyses and notes for the below listed items are attached for your consideration:

Item Number(s)

3(B)
3(E)
3(F)

If you require further analysis of these or any agenda items, please contact Guillermo Cuadra, Esq., Chief Legislative Analyst, at (305) 375-5469.

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 3(B)
File Number: 101378
Committee(s) of Reference: Airport and Seaport Committee
Date of Analysis: June 4, 2010

Summary

This resolution approves Change Order No. 1 to the TGSV Enterprises Inc. (TGSV) contract increasing the total contract amount by \$783,583.07, for a new total of \$11,381,915.57, and extends the contract term by 128 days. The resolution lists the following funding sources:

SOURCE	AMOUNT
FAA Grant	\$6,550,000
FDOT Grant 50% of unfunded balance	\$3,013,500*
MDAD Airport Improvement Fund	\$3,013,500
MDAD CIP/Improvement Fund CO #1	\$783,583.07
TOTAL	\$13,360,583.07

**However, R-834-08 ratified a JPA with FDOT in the amount of \$3,871,000, which is not reflected in the item. Additionally, the amounts of the funding sources listed in the current item are not the same as the amounts provided in R-22-09 originally awarding the contract to TGSV.*

- Why are there discrepancies in the funding source amounts?

Background

The Board of County Commissioners (BCC) adopted R-22-09 awarding TGSV the contract for the construction of the Opa-Locka Air Traffic Control Tower (ATCT), Project No. L-085A, **in an amount not to exceed \$10,598,332.50**, for an 18 month term. The funding sources included the following:

SOURCE	AMOUNT
FAA Grant	\$6,700,000
FDOT Grant 50% of unfunded balance	\$2,938,500
MDAD Airport Improvement Fund	\$2,938,500
TOTAL	\$12,577,000*

**According to R-22-09 the amount of the contract award is not to exceed \$10,598,332.50 but the amount of the funding listed in the memorandum totals \$12,577,000.*

- Why is the change order necessary if there is sufficient funding in the original award of the contract?

Relevant Legislation

5/9/2006	R-496-06	BCC authorized the execution of an Other Transportation Agreement (OTA) between the County and the FAA to develop specifications, design, construct and equip a new Airport Traffic Control Tower at Opa-Locka Airport. FAA will contribute \$2.35 million as its total share of the \$2.5 million appropriated for the project and reserves \$150,000 for costs associated with the purchase and installation of telecommunications circuits, lines and equipment and related work, and for other FAA provided equipment as required. FDOT funding is anticipated at the maximum level of \$3,463,181. The remaining funding of approximately \$4,962,489 to be provided by Aviation Improvement Funds.
11/6/2007	R-1205-07	BCC approved the Supplemental Agreement No. 1 to the OTA between the County and the FAA for additional federal funding in the amount of \$4.2 million bringing the total federal funding for the project to \$6.7 million. FDOT funding at the anticipated maximum level of \$3,871,000. The remaining funding of approximately \$354,000 will be provided by Aviation Improvement Funds. Construction completion and occupancy is scheduled in 2009.
7/17/2008	R-834-08	BCC ratifies the execution of a Joint Participation Agreement (JPA) with FDOT in the amount of \$3,871,000.
5/5/2009	R-480-09	First Amendment to Project Specific Services Agreement (PSA) with Kimley-Horn and Associates, increases contract amount by \$300,000 for a new total of \$2,305,000 and corrects a scrivener’s error in the scope of work description. The PSA awarded through R-543-04 did not include General Aviation Airports (GAA) in the scope of work description in the final agreement. This first amendment corrects the scrivener’s error by including GAA in the scope of work description and by including the Air Traffic Control Tower Project L-085A, this amendment allowed for Kimley-Horn to meet the 18% DBE goal that was established when the PSA was originally awarded as they had only met 4.88%.
5/11/2004	R-543-04	Authorized PSA with Kimley-Horn and Associates for MIA Airfield Security Project No. E02-MDAD-04 at Miami International Airport in a contract amount of up to \$2,005,000 with an 18% DBE goal and a contract term of five (5) years or until all service orders had been completed.

Questions

On May 5, 2009 the BCC requested the MDAD Director to provide the County Commission with monthly reports regarding Kimley-Horn’s efforts to achieve the 18% DBE goal.

- Have these reports been provided? *The County Manager provided a Kimley-Horn DBE Achievement Report in a Memorandum dated February 12, 2010 stating that 11% of the 18% goal had been met and that Minority Affairs will continue monitoring this project .*
 - What is the current DBE goal status?

Prepared by: Bia Marsellos

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Legislative Notes

Agenda Item: 3(E)
File Number: 101431
Committee(s) of Reference: Airport and Seaport Committee
Date of Analysis: June 8, 2010

Summary

This resolution approves the Operations and Maintenance (O&M) Agreement between Miami -Dade County and Crystal Mover Services, Inc. (CMSI) for the North Terminal Automated People Mover (APM) System for an initial term of five (5) years in the amount of \$33,414,783. Additionally, this resolution authorizes the County Mayor or his designee to renew the Agreement for five separate one-year extensions each in the amount of \$6,723,000 or \$33,615,000 for the five extensions. The cumulative total for this contract if all extensions are renewed is \$67,029,783 for ten (10) years.

The memorandum states the following in the project description:

On occasion, CMSI may be required to extend or reduce system operation beyond normal operating hours according to the needs of the Miami-Dade Aviation Department (MDAD).

- What are the normal operating hours?

The current substantial completion date for Phase 1 work of the North Terminal APM System is September 15, 2010.

- What happens to the Contract if there are additional delays?
- When is the APM System expected to be fully operational?

Pursuant to R-735-05, the County has the option to have the contractor train Miami-Dade staff to operate and maintain the APM system in-house. However, the Miami-Dade County Transit Department and the Miami-Dade Aviation Department (MDAD) reviewed this option and determined it is in the best interest of the County to have CMSI operate and maintain the APM system since much of the equipment, controls, components, and the APM cars are out of warranty due to earlier delays.

There is \$240,480 included in the Contract for the Option to Train Owner Designated Personnel. The amount would subsequently be escalated pursuant to Section 4.1 Economic Price Adjustment. According to Form OMP-T of the Contract, this amount covers 13 trainees that would be designated by the Owner.

Section 39 of the Contract states that this Contract is governed by the laws of the State of Texas, unless the Contract is assigned to Miami-Dade County.

- Why is the Contract governed by the laws of the State of Texas and what are the ramifications of utilizing those laws?

Budgetary Impact

This agreement provides \$3 million for the General Allowance Account (GAA) to address among other things any repairs to non-warranty items that were originally expected to be under warranty. However, currently nothing remains under warranty.

According to Appendix E, the GAA is for the following purposes: funding portions of the work which are unforeseeable at the time of execution of the Contract; for escalation (Economic Price Adjustment); items no longer covered by any Supply/Installation Contract warranty; payment of bond premiums; and special work deemed desirable by the County to be incorporated into the Contract. Performance of work under GAA will be authorized by written Work Order issued by Owner.

Operations and Maintenance – General Requirements; Section 4.1 Economic Price Adjustment

Section 4.1 states the following:

“The annual lump sum fixed prices for each year of the Contract shall be adjusted for inflation at the beginning of each year.....The prices for Demobilization and the Option to Train Owner-designated Personnel shall be adjusted for inflation to the date for which these activities are to begin.....The O&M fixed prices shall be adjusted in accordance with the following procedures.

- 1) Labor Prices-shall be adjusted according to the ratio of the latest published Consumer Price Index (CPI) for Miami-Dade County;
- 2) Parts and Materials- shall be adjusted depending on classification either by the Electrical Machinery and Equipment Index (WPI 117), the Metal and Metal Products Index (PPI 10), or CPI, all as published by the U.S. Bureau of Labor Statistics.”

Furthermore, the cumulative amount of Economic Price Adjustment shall not exceed an average of six percent (6%) per year.

The table below illustrates the breakdown of the O&M Contract beginning with the bid amount provided in 1999 as part of the procurement process followed by the updated current day pricing, the General Allowance Account and the amount of the extensions.

Total 5 year Lump Sum Price (1999)	\$22,209,620
Total Escalation Through Substantial Completion Date of 9/15/10	\$8,205,163
Total 5 year Lump Sum Price	\$30,414,783
General Allowance Account (GAA)	\$3,000,000
Total Contract Amount	\$33,414,783
5 separate one-year extensions each	\$6,723,000
Total 5 one-year extensions	\$33,615,000
Cumulative Total for this Agreement if all extensions are renewed for ten (10) years	\$67,029,783

The amount for each of the initial 5 years of the Contract (not inclusive of GAA) is \$6,082,956.60. However, the amount for each year of the extensions is \$6,723,000.

- Why is the amount for each extension substantially higher?

Beginning with hand written page 125 of the item, calculations of labor pricing are provided for Years 1-5 of the Contract, each year is provided on a separate form with the same total amount, however, it is stipulated that the amount will subsequently be escalated per Section 4.1.

Labor Pricing for Year 1 (p. 125):

Manager (4)	\$670,000
Administrator (1)	\$79,000
Secretary (1)	\$65,000
Total:	\$814,000*

Labor Pricing for Year 1 (p. 130):

Center Control Operator (9)	\$603,000*
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Labor Pricing for Year 1 (Electrical) (p. 135):

Vehicle Maintenance (6)	\$474,000
Wayside Maintenance (2)	\$133,000
Total:	\$607,000*

Labor Pricing for Year 1 (Mechanical) (p.140):

Vehicle Maintenance (6)	\$456,000
Wayside Maintenance (2)	\$126,500
Total:	\$582,500*

**The amounts will subsequently be escalated pursuant to Section 4.1.*

However, on p. 145, the labor pricing slightly decreases in Year 2 and then substantially increases for Years 3, 4 & 5, as illustrated in the table below.

- Will these amounts further increase annually pursuant to Section 4.1?

Labor Pricing: Category: Other	Year 1	Year 2	Year 3	Year 4	Year 5
Janitor (1 lot)	\$223,560	\$223,560	\$223,560	\$223,560	\$223,560
Equipment Repair (1 lot)	\$286,400	\$282,000	\$518,200	\$518,200	\$518,200
Total:	\$509,960	\$505,560	\$741,760	\$741,760	\$741,760

Questions

The memorandum states that no information is available in the Capital Improvements Information System (CIIS) database for these contractors.

Pursuant to Administrative Order 3-42, “all contractors and consultants shall be evaluated for their performance at least once on each capital improvements contract or agreement.”

- Why hasn't the CIIS database been updated?

Prepared by: Bia Marsellos

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Legislative Notes

Agenda Item: 3(F)
File Number: 101439
Committee(s) of Reference: Airport and Seaport Committee
Date of Analysis: June 8, 2010
Type of Item: Seaboard Cargo Yard Repairs Phase I - Change Order No. 1 (Final)

Summary

This resolution approves Change Order No. 1 (Final) to Project No. 2008.008 ESP, Seaboard Cargo Yard Repairs Phase I, between Miami-Dade County and Solo Construction Corporation (Solo), re-allocating funds within the contract and reducing the total contract sum in the amount of \$22,489.89.

Change Order No. 1 (Final) is required to authorize the project financial reconciliation and close out the contract. No additional funds are requested.

Background and Relevant Legislation

July 17, 2008	Ordinance No. 08-92	This ordinance established the Economic Stimulus Plan (ESP), a process to expedite certain capital development projects identified to stimulate the local economy. This ordinance authorized the Mayor or his designee to issue change orders as long as the change order does not increase the contract amount (§2-8.2.7).
July 17, 2008	Resolution No. 851-08	This resolution approved projects subject to the ESP, including Project No. 2008.008, Seaboard Cargo Yard Repairs Phase I, 2007-08 Capital Budget Book.
Dec. 16, 2008	Resolution No. 1427-08	This resolution ratified the County Manager's actions, as authorized by §2-8.2.7 of the Code of Miami-Dade County (Code), expediting the three (3) capital improvement projects including Project No. 2008.008, Seaboard Cargo Yard Repairs Phase I.

Project No. 2008.008 is awarded to Solo Construction Corporation in the amount of \$2,907,696.29.

Budgetary Impact

Change Order No. 1 will decrease the contract sum from \$2,907,696.29 to \$2,885,206.40, crediting the remaining contract balance of \$22,489.89 back to the County. This amount will be re-allocated to line items listed on handwritten pages 3 and 4 of the County Manager's memo.

Performance Record

Solo Construction Corporation has one (1) open violation for failing to meet the CSBE subcontractor goal on a previous Aviation project. In October 2008, Solo submitted a make-up plan, increasing the CSBE goal on this contract from 8% to 13.5%, in the amount of \$147,186.04. The remaining make-up balance for Solo is \$2,451,555.96.

Prepared by: Elizabeth Owens