Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Airport & Seaport Committee

October 15, 2009
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

October 15, 2009

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

Item Number(s)

3(A)
3(C)
3(D)
3(K)
3(M)
3(Q)

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

Acknowledgements--Analysis prepared by:
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MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Items:	3(A) & 3(C)
File Number:	092329 & 092557
Committee(s) of Reference:	Airport and Seaport Committee
Date of Analysis:	October 14, 2009
Type of Item:	Two (2) Award Recommendations- $1,728,750

Summary

3(A)- This resolution awards the Professional Services Agreement (PSA) between Miami-Dade County and H.J. Ross & Associates, Inc. (H.J. Ross) for a Utilities Master Plan (Drainage) at Miami International Airport (MIA) in the amount of $1,728,750 for three (3) years with two one (1) year renewal options.

The PSA has a five percent (5%) Community Business Enterprises (CBE) goal. H.J. Ross has submitted Letters of Agreement to provide environmental engineering and stormwater drainage design engineering services at twenty percent (20%) through the following firms:

- Nifah and Partners Consulting Engineers, Inc.- 5%- Approx. $75,000
- Nova Consulting, Inc.- 10%- Approx. $150,000
- BCC Engineering, Inc.- 5%- Approx. $75,000

3(C)- This resolution awards the Professional Services Agreement (PSA) between Miami-Dade County and Tetra Tech, Inc. (Tetra) for a Utilities Master Plan (Water) at Miami International Airport (MIA) in the amount of $1,728,750 for three (3) years with two one (1) year renewal options.

The PSA has a five percent (5%) Community Business Enterprises (CBE) goal. Tetra has submitted Letters of Agreement to provide water and sanitary sewer systems- water distribution, sanitary sewage collection, transmissions systems, environmental engineering and stormwater drainage design engineering services at fifty percent (50%) through the following firms:

- Milian, Swain & Associates, Inc.- 20%- Approx. $300,000
- ES Consultants, Inc.- 10%- Approx. $150,000
- Nova Consulting, Inc.- 20%- Approx. $300,000

The Memorandum states that the Competitive Selection Committee held a first-tier meeting on April 8, 2009 and waived a second-tier meeting.

- According to MDAD, under the provisions of A.O. 3-39, the Committee determined it had enough information to rank and recommend to the Manager based on the first-tier meeting.

Background and Relevant Legislation

On June 30, 2009 the Board of County Commissioners (BCC) adopted R-802-09 awarding the PSA between Miami-Dade County and Hazen and Sawyer, P.C. for a Utilities Master Plan (Sanitary Sewer) at MIA in the amount of $1,728,750 for three (3) years with two one (1) year renewal options.

Budgetary Impact

3(A)- The funding source for this PSA award is MDAD Operational Funds in the amount of $1,728,750.

3(C)- The funding source for this PSA award is MDAD Operational Funds in the amount of $1,728,750.

Prepared by: Bia Marsellos

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

Legislative Notes

Agenda Item: 3(D)

File Number: 092679

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: October 14, 2009

Type of Item: Retroactive Second Amendment to Concession Agreement

Summary

This resolution authorizes the Retroactive Second Amendment to the Baggage Wrap Services Concession Agreement between Miami-Dade County and Secure Wrap of Miami, Inc. at Miami International Airport (MIA).

This resolution provides for the following:

- Extending the term of the Agreement on a month-to-month basis not to exceed one year, retroactive to August 22, 2009;
- Increasing the monthly percentage fee to twenty percent (20%) of the monthly gross revenues, retroactive to August 22, 2009;
- Authorizes Mayor or designee, to execute the Amendment and exercise any termination provisions;
- Waives competitive bid procedures pursuant to Section 2-8.1 of the Miami-Dade County Code requiring a two-thirds vote of the board members present.

Background and Relevant Legislation

On February 13, 2001, R-100-01 awarded the baggage wrap services concession agreement to the current vendor, Secure Wrap of Miami, Inc. for a term of three (3) years with four one (1) year options to renew. Subsequently, R-1220-04 adopted on October 19, 2004, extended the Agreement for one five (5) year term, modified the MAG, and waived competitive bid requirements.

The contract expired on August 21, 2009.

The Office of the Inspector General Memorandum dated September 30, 2008 to MDAD urges MDAD to immediately begin initiating a new RFP or an Invitation to Bid (ITB) process.

However, the resolution authorizing the County Mayor or his designee, to advertise a Request for Proposals (RFP) MDAD-01-09, for the Luggage Wrapping Services at MIA was withdrawn at the June 11, 2009, Airport and Seaport Committee (ASC) meeting. Concerns were raised regarding the RFP subsequent to the deferral of a similar RFP item at the April 16, 2009 ASC meeting.

First, the Transportation Security Administration (TSA) had committed to providing guidelines for luggage wrapping services in July 2009 and the directive to MDAD was that once these guidelines were issued then MDAD would proceed with issuing an RFP under its own authority, pursuant to Sec. 2-8.1(b) of Miami-Dade County Code, along with other directives given at the April ASC meeting.

The Aviation Director and Assistant County Manager confirmed that an RFP process would not be issued until guidelines were received from TSA, based on the statements issued from the Federal Security Director for MIA that the guidelines would be issued promptly. In an e-mail dated June 10, 2009, the Federal Security Director states that, "it seems reasonable to expect that this should conclude in a matter of weeks" referring to creation of federal standards/requirements for baggage wrapping vendors to re-wrap inside TSA screening areas.

- *What is the status of the RFP?*

Another concern raised was the compatibility with the new baggage handling system and that language be included in the RFP as a caveat integrating the luggage wrapping services with the new baggage handling system in the case it was not compatible.

Secure Wrap, through their attorney, requested a five (5) year extension in a letter to MDAD dated December 5, 2007. However, MDAD responded by stating that they would review the request and determine the best course of action as they were aware of other vendors who expect MDAD to allow the opportunity to participate in a public solicitation.

Budgetary Impact

Under the current Agreement, which expired on August 21, 2009, the revenue to the County was approximately $1,200,000. However, after discussion at the June 11, 2009, ASC meeting, the Aviation Director stated he would re-negotiate the percentage the County receives for the month-to-month extension period.

The monthly percentage fee was increased to twenty percent (20%) of the monthly gross revenues, to be applied retroactively to August 22, 2009.

- *How much does the retroactive increase in percentage fee amount to for MDAD?*

Prepared by: Bia Marsellos

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

Legislative Notes

Agenda Item: 3(K)

File Number: 092720

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: October 13, 2009

Type of Item: Letter of Understanding and Assignment of Leases

Summary

This resolution ratifies the retroactive Assignment of two Leases held by International Cargo Marketing Consultants, Inc., doing business as, Alliance Air (ICMC/Alliance), as assignor, to Alliance Ground International, LLC (AGI), an affiliated company of Cargo Force, Inc. (collectively, CF/Alliance) as assignee, for cargo facilities in Buildings 706 and 708 at Miami International Airport (MIA).

Currently, Cargo Force, Inc. is a tenant in good standing with an excellent payment record, under a separate lease agreement at MIA since 2003. The principals of Cargo Force, Inc. formed Alliance Ground International, LLC.

This resolution also waives the provisions of R-105-03 relating to the imposition of a delinquency charge in the amount of 1 ½% on the overdue accounts of ICMC/Alliance and accepting an interest charge based on the then-current prime interest rate as of the last day of the month preceding the month in which a past-due payment is made.

The two original lease agreements are comprised as follows:

- Lease, C-3578, Lessee, International Cargo Marketing Consultants, Inc. d/b/a Alliance Air, Building 708, expiration date, May 31, 2010 with two additional one-year options to renew.
- Lease, C-3641, Lessee, International Cargo Marketing Consultants, Inc. d/b/a Alliance Air, Building 706, expiration date, June 30, 2012.

According to MDAD, both leases were signed by the Aviation Director under delegated signature authority granted by the County Manager.

Background

On February 28, 2009, ICMC/Alliance notified MDAD in a letter that their financial condition precluded them from making further rent payments to MDAD and they would have to cease their relationship with MDAD. The letter also stated that they had met their rent obligations at MIA up to and including November 2008.

Additionally, the letter stated that they had reached an agreement with AGI including the transfer of all of ICMC/Alliance 's MIA assets to AGI. In return AGI has committed to pay MDAD the balance of their outstanding debt at MIA.

- ***Why has it taken so long to come before the BCC for ratification?*** *According to MDAD, delays were encountered in the process. There were delays in obtaining the execution of an approval from the Assistant County Attorney of (a.) the original Alliance assignment of the two leases to CF/Alliance, with the assignee being "Alliance Ground International, LLC." (b.) the "Letter of Understanding and Confirmation of Consent to Assignment of Leases" (the "LOU") between the County through its Aviation Department and CF/Alliance, the County required the LOU from CF/Alliance as a means of identifying the various obligations CF/Alliance would have to comply with in order for the County to approve ICMC/Alliance's assignment of the leases to CF/Alliance, and (c.) the third document, the County's Consent to Assignment of each lease, which was signed by the Aviation Department on behalf of the County and conditioned upon CF/Alliance's performance of its obligations under the LOU.*

The Letter of Understanding and Confirmation of Consent to Assignment of Leases (LOU) between the County and CF/Alliance has already been executed by the Aviation Director. The LOU serves to identify the various obligations CF/Alliance must comply with in order for the County to approve the assignment of the two leases.

According to the LOU Section 2(a), the Building 706 warehouse space will be modified by reducing the square footage by 10,000 square feet, with such reduction to continue for a period not to exceed twelve (12) months commencing March 1, 2009, at which time (or earlier, if the parties agree) the reduced square footage will be added back to the then current square footage under the Building 706 lease term, effective no later than March 1, 2010. Additionally, Section 4 of the LOU states that within 15 days of the date MDAD signs the LOU AGI shall pay MDAD the adjusted rent due on Buildings 706 and 708 for March, April and May 2009.

- ***What are AGI's rent payments for each of the buildings? Are they current in the rent payments?*** *According to MDAD, presently the rent payments are (1.) $59,422.24 monthly for Building 706 and (2) $58,985.44 monthly for Building 708. Alliance is current on its payment to MDAD.*
- ***Why is MDAD reducing the square footage by 10,000 sq ft for Building 706? How much of a reduction is this in the rent?*** *According to MDAD, Alliance Ground International, LLC made the Building 706 warehouse space square footage reduction of 10,000 square feet a condition for accepting the assignment of the two leases. The 10,000 square feet represent a $12,500 reduction in the monthly rent. Such reduction is for a limited period of time not to exceed twelve (12) months commencing March 1, 2009. The parties agreed that the reduced square footage shall be added back to the then current square-footage under the Building 706 lease term, effective no later than March 1, 2010. Alliance has recently informed MDAD that it will add-back the 10,000 square feet at the earlier date of January 1, 2010.*

Budgetary Impact

By allowing AGI to take over the two leases, the past indebtedness of ICMC/Alliance to MDAD in the amount of $423,584 will be paid. The debt amount of $423,584 covers the period of December 2008, January 2009 and February 2009. AGI is current on its rent payments to MDAD for both lease agreements as of the effective date of March 01, 2009. AGI is also current on its 24-month payment obligation to MDAD through October 2009.

AGI paid MDAD $105,896, on May 27, 2009, representing twenty-five percent (25%) of ICMC/Alliance's outstanding debt.

The balance of the outstanding debt is $317,688, which CF/Alliance has agreed to pay in 24 equal monthly installments in the amount of $13,237.

Prepared by: Bia Marsellos

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item:	3(M)
File Number:	092724
Committee(s) of Reference:	Airport and Seaport Committee
Date of Analysis:	October 14, 2009
Type of Item:	Award Recommendation- $459,846.75

Summary

This resolution awards a contract between Miami-Dade Aviation Department (MDAD) and Merkury Development Corporation (Merkury) for Modifications to Gate J17 for the A380 Airbus by August 2010, Project K-151A at Miami International Airport (MIA) in the amount of $459,846.75.

The contract term for this work is 180 days from the effective date established in the Notice to Proceed date of December 7, 2009. The contract provides for liquidated damages in the amount of $1,900 per day deducted from the contract amount for each calendar day of delay in the contract time due to Non-Excusable Delays. Additionally, the contract provides for liquidated indirect costs recoverable by the contractor in the amount of $1,250 per day for each day the project is delayed up to 120 days due to a Compensable Excusable Delay.

The A/E Consultant, T.Y. Lin International/H.J. Ross, pre-bid base estimate was $1,033,200, excluding allowance and inspector general amounts. Eight bids were received ranging from $417,000 to $820,205. The lowest bid was presented by Merkury.

According to the contract summary for Merkury Development, the contract amount is detailed in the following manner:

- $369,000 Lump Sum Price
- $48,000 Dedicated Allowance Account
- $41,700 General Allowance Account
- $1,146.75 Inspector General Audit Account
- $459,846.75 Total Maximum Contract Amount

The memorandum states that the base estimate for the project was submitted on January 30, 2009, and the downturn in the economy and construction industry yielded more competitive bidders, resulting in the $417,000 bid from Merkury. However, it is $616,200 lower than the estimate.

- ***Can the project be completed with the low bid amount?*** *According to MDAD, Merkury is currently working on another project at MIA, Buildings 3094 and 3095, therefore their mobilization costs for working on a new project at MIA could be considerably less than for a company not working at the airport hence the lower cost.*

Although, the Firm History Report provided in the item on hand written p. 9, states that zero change orders have been approved for Merkury, on hand written p. 8 of the item, under current contractor notes, a change order is listed in the amount of $188,547.84 from 2/1/2006.

The Department of Small Business Development Violations Report dated October 9, 2009 lists a closed violation for Merkury, for "Deviation from the Schedule of Intent" closed on October 24, 2006.

On hand written p. 4 of the item, it states the review committee assigned a 19% Community Small Business Enterprise (CSBE) goal and Community Workforce Program (CWP) goal of 11.5%. The following firms will be used:

- Solares Electrical, Inc.- 3%- $13,795.40
- DKG Metals- 6.5%- $29,890.00
- Merkury Development- 9.5%- $50,000.00

However, on hand written p. 15 and p. 55, DKG is listed for $22,000 and Solares Electrical is listed for $12,000.

- ***Which amounts reflect the correct dollar amount to be applied to this contract?*** *According to MDAD, the information provided on hand written p. 4 is correct. The subcontractor amounts were adjusted so as not to push Merkury over the 50% mark allowed for general contractors that are CSBE's, because of this, the sub-contractors fared better.*

In the event that the contractor does not achieve the established local workforce goal (CWP), liquidated damages of a minimum of $1,500 per position will be imposed or the wages that would have been payable for such position had the person been hired as listed on the Workforce Plan, will be assessed in accordance with Special provision 3, Community Workforce Program Participation Provisions.

Budgetary Impact

There is a Florida Department of Transportation (FDOT) grant in the amount of $208,500 and MDAD will provide $251,346.75.

Prepared by: Bia Marsellos

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item:	**3(Q)**
File Number:	**092438**
Committee(s) of Reference:	**Airport & Seaport**
Date of Analysis:	**10/13/09**
Type of Item:	**Lease Agreement Ratification**

Summary

The Seaport Department seeks ratification of a lease agreement with the Bayview at Fisher Island Condominium Association No. Two, to use the Bayview at Fisher Island Condominium No. Two building as a base for security equipment needed for a Waterside Surveillance System.

The lease allows the Seaport to install homeland security surveillance equipment on the top of the condo building, located at 6 Fisher Island Drive, on Fisher Island, and will provide the Port space in a storage and electrical room in the building for the installation of additional equipment. This lease agreement was made on August 21, 2009, by the County Manager during the Board of County Commissioners' summer recess pursuant to Resolution R-900-09; therefore, ratification of this lease is required.

The term of this agreement is for two-years with four additional 1-year options-to-renew.

This Waterside Surveillance System was initially funded in 2003 through a $657,000 grant from the Office of Domestic Preparedness. The second phase of the system was funded through a $2,250,000 grant awarded to the County in 2006 from the Office of Domestic Preparedness. The project will provide the Seaport with real-time video to allow the Port to detect unauthorized boats and intruders approaching restricted Port areas.

Background and Relevant Legislation

On July 1, 2008, the Board of County Commissioners approved Resolution R-760-08 which authorized a lease agreement with Three Tequesta Point Condominium Association, Inc., to install surveillance equipment for the first phase of the Seaport's waterside surveillance system.

This entire project consists of the installation of surveillance equipment on the rooftop of the Three Tequesta Point Condominium for coverage of the Southwestern portion of the Island, installation of

concrete poles with surveillance equipment on MacArthur Causeway for coverage of the North portion of the island and the installation of surveillance equipment on Bayview at Fisher Island building for coverage of the Southeastern portion of the island.

According to the Administration, the surveillance equipment installed as part of this project will be remotely monitored 24/7 from the Port of Miami's command center. The monitoring system uses radar to issue alerts regarding unauthorized vessels approaching the Port. Upon the issuance of an alert, a security officer will be dispatched to intercept the unauthorized vehicle. According to the Administration, the penalties or warnings for intercepted vehicles will vary depending on the nature of the violation.

Policy Change and Implication

This lease agreement is consistent with the previous lease agreement approved by the Board of County Commissioners regarding the Seaport's Waterside Surveillance System.

Budgetary Impact

Rental rate: $1,200 per month, which is the estimated electricity bill according to FPL. These funds will be paid from the Seaport's operating revenue.

Prepared By: Jason Smith