

MEMORANDUM

PSASC
Substitute to
Agenda Item No. 2E

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: January 14, 2015

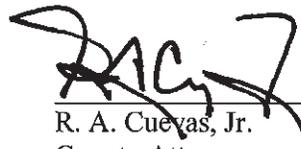
FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution directing the Mayor to solicit proposals for a public private partnership to design, build, finance, operate and maintain County Civil and Criminal Court Facilities and Jail Facilities and for the retention of financial consultants and special counsel to advise the County regarding proposed Court and Jail Facilities public private partnership, and, if approved by the Board, other public private partnership arrangements

This substitute differs from the original in the following respects:

1. The maximum number of RFQ participants to be shortlisted, formerly five, is eliminated.
2. The requirements of the RFQ are clarified to require that proposers demonstrate their qualifications and capabilities to perform the project that they offer and the evaluation is clarified to relate to those qualifications
3. The County states the expectation, with respect to the Proposer, the financial consultant, and the special counsel, that they have demonstrated experience in multiple public private partnership engagements exceeding \$250 million in cost. The RFQ and solicitation documents shall provide for evaluation and ranking in accordance with that criteria.
4. The substitute clarifies that the RFQ shall provide for building operation and management, but not for the privatization of functions of the users, including the Courts and the Corrections and Rehabilitation Department.
5. The item requires that the proposed RFP to be approved by the Commission include a description of the site or sites where the County would permit the development.
6. The item provides that the issuance of the RFP shall be subject to the completion of the statutorily mandated independent analysis showing the cost-effectiveness and overall public benefit of the proposed public private partnership. The analysis shall be transmitted to the Board together with the request for approval of the RFP.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata.



R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: February 3, 2015

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's _____, 3/5's _____, unanimous _____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No.
2-3-15

RESOLUTION NO. _____

RESOLUTION DIRECTING THE MAYOR OR THE MAYOR'S DESIGNEE TO SOLICIT PROPOSALS FOR A PUBLIC PRIVATE PARTNERSHIP TO DESIGN, BUILD, FINANCE, OPERATE AND MAINTAIN COUNTY CIVIL AND CRIMINAL COURT FACILITIES AND JAIL FACILITIES AND FOR THE RETENTION OF FINANCIAL CONSULTANTS AND SPECIAL COUNSEL TO ADVISE THE COUNTY REGARDING PROPOSED COURT AND JAIL FACILITIES PUBLIC PRIVATE PARTNERSHIP, AND, IF APPROVED BY THE BOARD, OTHER PUBLIC PRIVATE PARTNERSHIP ARRANGEMENTS

WHEREAS, Article V, section 14 of the Florida Constitution provides that counties are required to fund the cost of construction, operations and maintenance of facilities for the state trial courts including both civil and criminal, and jails; and

WHEREAS, the Miami-Dade County Courthouse located at 73 W. Flagler Street ("1928 Courthouse") is in need of substantial repairs and may no longer be able to serve the needs of Miami-Dade County; and

WHEREAS, due to its age and the growth of the criminal justice system, the Richard E. Gerstein Criminal Justice Building located at 1351 N.W. 12th Street (the "REG Building", and together with the 1928 Courthouse and the County's other existing civil and criminal court facilities, the "Court Facilities") is overcrowded and faces a wide range of problems due to its design and spacing and the functions it seeks to accommodate; and

WHEREAS, the Miami-Dade County Corrections and Rehabilitation Department operates six correctional facilities in a complex of buildings across the County (the "Jail Facilities"), which have been the subject of a finding by the United States Department of Justice ("DOJ") identifying certain conditions as violating the rights of inmates and recommending

remedial measures, and a settlement agreement between the County and the DOJ addressing those identified violations; and

WHEREAS, given their location and function, Court Facilities and Jail Facilities may operate more efficiently if their functions are consolidated; and

WHEREAS, the poor state of existing Court Facilities, as full, overcrowded, dysfunctional, and unable to meet the demands of a growing Miami-Dade County population, has been recognized in the 2008 Courts Master Plan conducted by Miami-Dade County as commanding the highest priority for attention and action, and

WHEREAS, the conditions of the Court Facilities, both civil and criminal, present extraordinary challenges to the delivery of essential services and constitute an immediate need to Miami-Dade County which requires expedient action; and

WHEREAS, Miami-Dade County owns or controls properties throughout the County which are currently underutilized and may be evaluated as potential sites for consolidated court and jail facilities; and

WHEREAS, on December 4, 2014, this Board adopted Resolution No. R-1084-14, which among other provisions, directed the Mayor or the Mayor's designee to perform any future work to repair and/or replace the 1928 Courthouse through a transparent, competitive solicitation process open to all qualified vendors in accordance with the law; and

WHEREAS, in 2013, the Florida legislature declared the intent to encourage investment by private entities in the development and operation of qualifying projects, and enacted a law to implement that intent, codified as Section 287.05712, Florida Statutes, and titled "Public-private partnerships" (the "Public Private Partnership Law"); and

WHEREAS, various communities throughout the United States including Long Beach, California, Indianapolis, Indiana and Houston, Texas have addressed their courthouse needs through the use of creative public private partnership arrangements; and

WHEREAS, this Board wishes to be informed of the public interest and potential advantages of contracting with private entities to design, build, finance, operate, and maintain its Court Facilities and Jail Facilities, and for that purpose wishes to take advantage of the flexibility afforded by the Public Private Partnership Law to create a vehicle to explore and potentially contract for those services,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The County wishes to explore the possibility of establishing a public private partnership to design, build, finance, operate and maintain its Court Facilities and Jail Facilities. For these purposes the Mayor or Mayor's designee is hereby directed to issue a solicitation for a public private partnership to design, build, finance, operate and maintain its Court Facilities and Jail Facilities (the "P3 Solicitation") in accordance with the Public Private Partnership Law and the provisions of this resolution. The P3 Solicitation shall consist of two steps, a Request for Qualifications ("RFQ") followed by a Request for Proposals ("RFP) from ~~[[up to the five]]~~¹ >>the<< highest qualified firms resulting from the RFQ. The County anticipates awarding only one comprehensive contract as a result of the P3 Solicitation, to a private entity or a consortium of private entities.

Section 2. The RFQ shall provide a general description of the County's Court Facilities and Jail Facilities, and a description of the County's expectations for the project,

¹ The differences between the substitute and the original item are indicated as follows: Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< are added.

including a statement of priorities, needs and objectives (the "Description of the Project"). The RFQ shall not disqualify proposers who offer to render services limited to individual Court Facilities and Jail Facilities, but among the County's priorities to be included in the Description of the Project shall be the proposer's ability to deliver a comprehensive justice plan, which addresses the County's needs with respect to its Court Facilities and Jail Facilities in an integrated fashion, including efficiencies to be gained from proximity. The Description of the Project shall also identify potential County sites (without any assurance as to their availability or suitability for development) including that area generally bounded by N.W. 11th to N.W. 13th Street and N.W. 13th Avenue to N.W. 14th Avenue and other sites as recommended by the Mayor or Mayor's designee. The RFQ shall invite the proposers to provide information and ideas on the scope of the project including, without limitation, design, construction, management, operation and maintenance concepts and financing concepts and methodologies. >>While the RFQ shall provide the opportunity for the proposer to provide for building management and operation, it shall not invite the privatization of operations of the functions of the users of those facilities, the Courts or the Miami-Dade Corrections and Rehabilitation Department. The RFQ shall require the proposers to demonstrate their qualifications and capabilities to accomplish the project.<< Proposers will be ranked in accordance with the qualifications of the project team and ~~[[how the proposed project and financing concepts satisfy the County's priorities, needs and objectives set forth in the Description of the Project.]]~~ >>their demonstrated ability to deliver and finance the project being offered by the proposer to satisfy the County's priorities, needs and objectives. It is the County's expectation that proposers shall have demonstrated experience in multiple public private partnership engagements exceeding \$250 million in cost; proposers will be evaluated and ranked in accordance with such criteria.<<

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Section 3. The Mayor or Mayor's designee shall issue for public and industry comment a draft of the RFQ not later than 30 days following the effective date of this Resolution. Following a reasonable period for industry comment, the Mayor or Mayor's designee shall edit the RFQ as deemed appropriate to incorporate industry comment. The Mayor shall present the RFQ to this Board for its consideration not later than 90 days following the effective date of this resolution, together with a summary of public and industry comments and any revisions made to the RFQ to address those comments.

Section 4. The Mayor or Mayor's designee is further directed to prepare an RFP, to be issued to ~~[[up to]]~~ the ~~[[five]]~~ highest ranked proposers resulting from the RFQ, which may include any necessary update to the Description of the Project. The RFP shall be used to identify the proposer, if any, whose design, construction, management, operation and maintenance concepts and financing concepts and methodologies best satisfies the County's needs and objectives as set forth in the Description of the Project and is determined to be in the best interest of Miami-Dade County. >>The RFP shall contain a description of the project site or sites where the County would permit the development. The RFP shall be issued subject to the completion of the independent analysis provided for under Section 287.0512(6)(d) of the Public Private Partnership Law showing the cost-effectiveness and overall public benefit of the proposed public private partnership.<< The Mayor or Mayor's designee shall submit the RFP for approval by this Board prior to its issuance>>,together with the results of the independent analysis,<< ~~[[and]]~~ not later than 90 days following the rankings resulting from the RFQ. A recommendation for award of any contract resulting from the process set forth in this resolution shall be presented to this Board for approval not later than 180 days following the effective date of this resolution.

Section 5. The Mayor or Mayor's designee is further directed to prepare and issue a solicitation for the retention of a financial consultant to provide specialized expertise as needed

at the direction of the Mayor or the Mayor's designee and advise the County regarding the proposed public private partnership for the design, construction, financing, operation and maintenance of its Court Facilities and Jail Facilities. The solicitation and contract shall provide that the proposer may perform additional services for other public private partnership arrangements, subject to Board authorization. >> It is the County's expectation that the financial consultant shall have demonstrated experience in participating in multiple public private partnership engagements exceeding \$250 million in cost; respondents will be evaluated and ranked in accordance with such criteria.<< The Mayor or Mayor's designee is directed to identify a funding source for such services. A recommendation for award of any contract resulting from this solicitation shall be presented to this Board for approval not later than 60 days following the effective date of this resolution. The recommendation for award shall include the funding source identified by the Mayor or the Mayor's designee for such services.

Section 6. The Mayor or Mayor's designee is further directed to prepare, in consultation with the County Attorney's Office, and issue a solicitation for the retention of special counsel to provide specialized legal services as needed at the direction of the County Attorney's Office after consultation with the Mayor or Mayor's designee regarding the proposed public private partnership for the design, construction, financing, operation and maintenance of its Court Facilities and Jail Facilities. The solicitation and contract shall provide that the proposer may perform additional services for other public private partnership arrangements, subject to Board authorization. >>It is the County's expectation that the special counsel shall have demonstrated experience in participating in multiple public private partnership engagements exceeding \$250 million in cost; respondents will be evaluated and ranked in accordance with such criteria.<< The Mayor or Mayor's designee is directed to identify a funding source for such services. A recommendation for award of any contract resulting from this solicitation shall be

presented to this Board for approval not later than 60 days following the effective date of this resolution. The recommendation for award shall include the funding source identified by the Mayor or the Mayor's designee for such services.

The Prime Sponsor of the foregoing resolution is Commissioner Juan C. Zapata. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

- | | |
|-------------------------------------|----------------------|
| Jean Monestime, Chairman | |
| Esteban L. Bovo, Jr., Vice Chairman | |
| Bruno A. Barreiro | Daniella Levine Cava |
| Jose "Pepe" Diaz | Audrey M. Edmonson |
| Sally A. Heyman | Barbara J. Jordan |
| Dennis C. Moss | Rebeca Sosa |
| Sen. Javier D. Souto | Xavier L. Suarez |
| Juan C. Zapata | |

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of February, 2015. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Hugo E. Benitez
Geri Bonzon-Keenan