Memorandum

MIAMI-DADE COUNTY

Date: April 14, 2015

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

From: Carlos A. Gimenez
Mayor

SPAGO
Agenda Item No. 3D

Subject: Recommendation to Reject all Proposals Received Under Request for Proposals No. 833, Communications Facility Towers on County Properties and Authorize Waiving the Competitive and Bid Protest Process to Conduct an Invitation to Bid - Best and Final Offer Process

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Recommendation

It is recommended that the Board of County Commissioners (Board) approve the following actions related to *Request for Proposals (RFP) No. 833, Communications Facility Towers on County Properties:*

- Reject all five (5) proposals received; and
- Authorize the waiving of the competitive and bid protest processes in accordance with Section 5-03(D) of the Charter, Sections 2-8.1 and 2-8.4 of the Code of Miami-Dade County (County) and Implementing Order 3-38 to conduct an Invitation to Bid/Best and Final Offer (BAFO) process with the three (3) responsive proposals.

This solicitation was issued on behalf of the Information Technology Department to select a contractor that would market County-owned properties to the wireless communications industry for the placement of communications facility towers. The selected contractor would have been required to pay the County an annual ground lease fee for use of a site as well as a fixed percentage of the total revenue generated through sublicense agreements with wireless providers.

Five (5) proposals were received in response to the solicitation. The proposals received from Crown Castle USA, Inc. (Crown Castle) and Eco-Site, Inc. were deemed non-responsive by the Office of the County Attorney (see attached opinion from the Office of the County Attorney). Crown Castle was found non-responsive as it qualified its proposal by striking language from a submittal form that would have bound it to the terms of its proposal. Similarly, the Office of the County Attorney found Eco-Site, Inc. non-responsive because the firm failed to submit forms that would bind it to the terms of its proposal, including the required revenue projection form.

The remaining three (3) proposers – Parallel Infrastructure, LLC, Wireless Edge Consultants, LLC and SmallCells Tower Company, LLC – were deemed responsive and evaluated by the Selection Committee. However, there was inconsistency in scoring by the Selection Committee due to confusion regarding the application of points for optional development of sites located at Parks, Recreation and Open Spaces Department facilities. As a result, it is deemed in the County's best interest to reject all five (5) proposals received.

If the Board approves the rejection and authorizes the waiving of the competitive and bid protest processes, the County will issue an Invitation to Bid/BAFO to the three (3) remaining responsive proposers. The method of award under the new solicitation will be to the single responsive and responsible bidder offering the highest revenue to the County. No subjective scoring will be completed under the Invitation to Bid/BAFO eliminating any inconsistency in the application of points. Award of a contract resulting from the Invitation to Bid/BAFO will be presented to the Board for approval. This method is similar to that utilized for the Miami-Dade Transit Security Guard Services award several months ago.

Scope

The impact of this item would have been countywide in nature.

Fiscal Impact/Funding Source

The anticipated fiscal impact of the initial ten-year contract term was estimated to have been approximately $1,500,000. The solicitation included two (2), five-year options to renew.

Department	Allocation	Funding Source	Contract Manager
Information Technology	$1,500,000	Revenue-Generating	Felix Perez
Total	**$1,500,000**		

Track Record/Monitor

Beth Goldsmith of the Internal Services Department is the Procurement Contracting Officer.

Vendors Not Recommended for Award

The solicitation was issued under full and open competition on January 9, 2014. Award would have been made to the responsive, responsible proposer that offered the best value to the County and satisfied all other criteria established in the solicitation.

Proposers	Reason for Not Recommending
Crown Castle USA, Inc.	Rejection of Proposal
Eco-Site, Inc.	
Parallel Infrastructure, LLC	
Wireless Edge Consultants, LLC	
SmallCells Tower Company, JV	

Applicable Ordinances and Contract Measures

- The User Access Program provision did not apply.
- The Local Preference Ordinance was included in the solicitation.
- Contract measures would have applied to projects identified by the selected proposer.
- The Living Wage Ordinance did not apply.

Edward Marquez
Deputy Mayor

To: Miriam Singer, Assistant Director, Internal Services Department

From: Hugo Benitez, Assistant County Attorney

Date: June 25, 2014

Re: RFP No. 833 Communications Facility Towers on County Property

By memorandum dated June 23, 2014 you ask us to issue an opinion with respect to the responsiveness of various proposers to the referenced RFP. The request identifies issues with five different proposers, and multiple issues with some. The County has scheduled oral presentations with all proposers for this Friday June 27, so you have requested that the opinion be issued in advance of that date. Given the short time for response, we address only those issues specifically identified in your memorandum dated June 23, 2014 and rely on the facts contained in that memorandum. In particular, we do not evaluate the materiality of any of the exceptions set forth in the proposals that are not the subject of your inquiry.

FACTS

The County issued the RFP on January 27, 2014. The RFP was modified by 10 addenda. The deadline for submission of the proposals was extended numerous times by addenda; ultimately proposals were due on May 2, 2014.

ISSUES

1. Eco-site: You state in your memorandum that Eco-site did not submit an executed Form A-1 or Form B-1 with its proposal. Both are material terms of the submission. Form A-1 identifies the vendor and commits the vendor to the proposal. Essentially, there is not a binding proposal in the absence of an executed form A-1 unless the same or similar information appears elsewhere in the proposal. Your memorandum does not identify any other language committing the vendor to the proposal.

Form B-1, designed to identify the revenue projections for the project, indicating the percentage revenue to the County. Because it is material to the financial terms of the transaction, its omission is material. The omission of these forms renders the proposal not responsive.

2. Parallel Infrastructure LLC; In accordance with the memorandum dated June 23, Parallel marked certain provisions of its proposal "Highly Confidential". Of particular concern, in page 12 of its proposal, under the heading "Highly Confidential", Parallel directed that Form B-1 "be redacted from any public records related to the submission of this proposal".

As discussed above, the information provided in Form B-1 is clearly material to the transaction. You state in your memorandum that Parallel lifted the restriction pursuant to your request as permitted by the RFP. In accordance with the applicable terms of the RFP, inherent in the request for withdrawal is your discretionary determination that the communication does not give the proposer a competitive

advantage over other bidders. Accordingly, the restriction no longer poses an issue for this office and you may consider the proposal from Parallel.

3. Small Cells Tower Company. The firm appears to be an active Florida corporation. Accordingly, the firm appears to be responsive.

4. Wireless Edge Consultants. The issue as described appears to be identical to the issue described with Parallel. Accordingly, the restriction no longer poses an issue for this office and you may consider the proposal from Wireless.

5. Crown Castle. By altering Form A-1 Crown Castle clearly disavows the intent of the RFP which is to obtain a binding offer from the proposers. Further, Crown Castle specifically qualifies its proposal as not binding by express language. The deviation is clearly material and the proposal from Crown Castle is not responsive.

Please call me if you have any questions.

MEMORANDUM
(Revised)

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

DATE: May 5, 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 Agenda Item No.
Veto _____
Override _____

RESOLUTION NO. _____

RESOLUTION APPROVING REJECTION OF PROPOSALS TENDERED IN RESPONSE TO REQUEST FOR PROPOSALS NO. 833 FOR COMMUNICATIONS FACILITY TOWERS ON COUNTY PROPERTIES; WAIVING, BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT, COMPETITIVE BID PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE CHARTER, SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38 AND BID PROTEST PROCEDURES PURSUANT TO SECTION 2-8.4 OF THE COUNTY CODE TO AUTHORIZE THE ISSUANCE OF AN INVITATION TO BID FOR BEST AND FINAL OFFER AMONG THREE RESPONSIVE PROPOSERS UNDER REQUEST FOR PROPOSALS NO. 833 FOR COMMUNICATIONS FACILITY TOWERS ON COUNTY PROPERTIES

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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

Section 1. This Board approves rejection of proposals tendered in response to Request for Proposals No. 833 for Communications Facility Towers on County Properties.

Section 2. This Board finds it is in the best interest of Miami-Dade County to waive formal bid procedures, pursuant to Section 5.03(D) of the Charter, Section 2-8.1 of the Code of Miami-Dade County, Florida ("County Code") and Implementing Order 3-38 by a two-thirds vote of the Board members present, to issue an Invitation to Bid/Best and Final Offer that will be limited to the responsive proposers under Request for Proposals No. 833.

Section 3. Furthermore, this Board waives the procedures contained in Section 2-8.4 of the County Code, pertaining to bid protests, by a two-thirds vote of the Board members present.

The foregoing resolution 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 5th day of May, 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. MRO

Monica Rizo