

Memorandum



Date: November 7, 2017
To: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
From: Carlos A. Gimenez
Mayor
Subject: Recommendation to Reject All Proposals: Development, Management, and Operation of Miami-Dade West Kendall District Park

Agenda Item no. 8(F)(11)

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the rejection of all proposals received under *Request for Proposals No. 00344, Development, Management and Operation of Miami-Dade West Kendall District Park*, for the Parks, Recreation, and Open Spaces Department. The County issued a solicitation under full and open competition for the design, development, construction, management, programming and operation of the Miami-Dade County West Kendall District Park, formerly known as the West End District Park. The services requested were for the turn-key development, management and operation of the entire park.

Three proposals were received in response to the solicitation, including one "No Bid." The proposal from Sports City International, LLC was deemed non-responsive by the County Attorney's Office. The proposal from LifeSports USA, LLC (LifeSports) was evaluated and recommended for negotiations. In February 2017, negotiations were held with LifeSports to discuss its proposal and the exceptions taken to the solicitation. The County affirmed that the solicitation requires the awarded vendor to facilitate the removal of the deed restrictions located on the property and pay all associated costs. In April 2017, LifeSports provided its response to the County's requirement, but the proposed resolution did not address the original intent of the solicitation and was not feasible. The County and LifeSports have reached an impasse in negotiations. The Parks, Recreation, and Open Spaces Department intends to review the requested services and may issue a new solicitation in the future, depending upon the results of further market research and need.

Scope

West Kendall District Park is located in District 11, which is represented by Commissioner Joe A. Martinez.

Fiscal Impact/Funding Source

There is no fiscal impact to the County for the rejection of proposals.

Track Record/Monitor

Michelle Loren Rapaport, CPSM, of the Internal Services Department is the Procurement Contracting Manager.

Vendors Not Recommended for Award

| Proposer | Reason for Not Recommending |
|--|--|
| Conventions, Sports & Leisure International, LLC | No Bid* |
| LifeSports USA, LLC | Rejection of proposal |
| Sports City International, LLC | Deemed non-responsive by the County Attorney's Office (see attached opinion) |

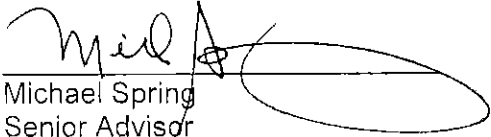
* A "No Bid" means the vendor indicated it would not be submitting an offer in response to the solicitation.

Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners
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Applicable Ordinances and Contract Measures

- The two percent User Access Program provision would not have been applied.
- The Small Business Enterprise measures were not applicable.
- The Local Preference Ordinance was applicable.
- The Living Wage Ordinance would not have applied.

Attachment

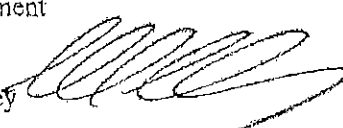

Michael Spring
Senior Advisor

Memorandum



Date: October 4, 2016

To: Michelle Loren Rapaport
Procurement Contracting Manager
Internal Services Department

From: Miguel A. Gonzalez 
Assistant County Attorney

Subject: Request for Responsiveness Determination on RFP No. 00344—Development, Management, and Operation of the Miami-Dade West End District Park

I am in receipt of your memorandum dated August 30, 2016 (the "Memorandum"), seeking a responsiveness opinion as to a response received from Sports City International, LLC (the "Proposer") to RFP No. 00344—Development, Management, and Operation of the Miami-Dade West End District Park (the "Solicitation"). I rely on the Memorandum and the materials accompanying the Memorandum (i.e., the Proposer's response to the Solicitation) to reach the conclusion contained herein.

The Memorandum notes that the Proposer failed to reference, depict, or provide cost estimates for a playground, pavilion, or shaded picnic area in any of the materials that the Proposer submitted in response to the Solicitation. As noted in the Memorandum, the Solicitation provides as follows:

1. **Excavation of Site and Development of the Park**

Excavate and plat land to make usable for entire Site development while incorporating the creation of artificial lake and green space areas for public use. The required lake shall be in accordance with all regulatory agencies' requirements. Lake shall be no more than twenty-five (25) acres in surface size. Proposals may include multiple lakes that are no more than five (5) acres in surface size each and combined surface area of all lakes may not exceed twenty-five (25) acres. Proposal shall also incorporate, at a minimum, all elements of Attachment U—Minimum Development Map and entire site brought up to the required elevation for further future development. Failure to include these elements shall deem proposals non-responsive.

See Solicitation at § 2.4 as modified by Addendum No. 4. Notably, when the County issued Addendum No. 4, modifying § 2.4, it amended, among other things, the last sentence of the above-reference provision to provide that "[f]ailure to include these elements *shall deem* proposals non-responsive" where the § 2.4 previously read that "[f]ailure to include these elements *may deem* proposals non-responsive." (emphases supplied).

The change of "may" to "shall" is of significant legal consequence, as "shall" is understood to render a contractual condition mandatory. *See, e.g., Sonus-USA, Inc. v. Thomas W. Lyons, Inc.*, 966 So. 2d 992, 993 (Fla. 5th DCA 2007) ("The use of the word 'shall' in the document is clearly 'indicative of a mandatory provision rather than one that is permissive.'")

of their proposal (e.g., revenue-generating opportunities) to instead provide for the development of a playground, pavilion, and shaded picnic area.

For each of these reasons, I conclude that the Proposer's proposal is not responsive. If you have any questions or concerns about any of the foregoing, please do not hesitate to contact me. Further, if you are aware of any fact relating to the Proposer's compliance with § 2.4 that is not set forth in the Memorandum or in this opinion, please let me know immediately, as it may impact or alter the conclusion reached in this opinion.



MEMORANDUM

(Revised)

TO: Honorable Chairman Esteban L. Bovo, Jr.
and Members, Board of County Commissioners

DATE: November 7, 2017

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(F)(11)

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
- Statement of social equity 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

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11-7-17

Veto _____

Override _____

RESOLUTION NO. _____

RESOLUTION APPROVING REJECTION OF ALL PROPOSALS RECEIVED IN RESPONSE TO REQUEST FOR PROPOSALS NO. 00344 FOR THE DEVELOPMENT, MANAGEMENT, AND OPERATION OF MIAMI-DADE WEST KENDALL DISTRICT PARK FOR THE PARKS, RECREATION AND OPEN SPACES DEPARTMENT

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 this Board approves rejection of all proposals received in response to Request for Proposals No. 00344 for the development, management, and operation of Miami-Dade West Kendall District Park for the Parks, Recreation and Open Spaces Department. A copy of the solicitation document and the proposals received in response to it are on file with and available upon request from the Internal Services Department, Procurement Management Services Division.

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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of November, 2017. 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.

HB

Hugo Benitez