

Memorandum



Date: February 8, 2018

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

From: Carlos A. Gimenez
Mayor 

Subject: Recommendation Related to the Unsolicited Proposal Received for the Design, Build, Finance, Operation, and Maintenance of a New Civil and Probate Courthouse

As reported to the Chairman's Policy Council on January 18, 2018, the County received an unsolicited proposal from New Flagler Courthouse Development Partners, LLC (NFCDP) on January 11, 2018 for the delivery of a new civil and probate courthouse through a public-private partnership. At the conclusion of the Council's discussion, the Administration was directed to utilize a dual-track process to review the unsolicited proposal while simultaneously issuing a competitive Request for Qualifications (RFQ) for prospective developers to design, build, finance, operate, and maintain a new civil and probate courthouse (Courthouse Project). This report summarizes the actions taken with respect to the unsolicited proposal and describes the next steps in the procurement process that is currently underway for the Courthouse Project.

On December 5, 2017, the Board of County Commissioners adopted Ordinance No. 17-94, which established the policies and procedures for the County's evaluation of unsolicited proposals. Upon receipt of an unsolicited proposal, the County Mayor is required to review the proposal within 30 days to determine whether formal evaluation of the proposed project or a rejection is recommended.

Under the direction of Deputy Mayor Edward Marquez, the County held a number of meetings to review the unsolicited proposal while simultaneously finalizing the RFQ for advertisement, as directed by the Council to proceed on a dual track. County staff met with representatives from NFCDP to discuss the contents of its proposal and to request clarification on certain project terms. NFCDP proposed to build a new courthouse on a County-owned parcel located adjacent to the historic Miami-Dade County Courthouse (Alternative Site). NFCDP proposed to deliver the new courthouse and maintain the facility in exchange for an estimated annual availability payment of \$26 million for a 35-year term.

While the County completed its review of the unsolicited proposal, the Internal Services Department issued a draft solicitation for the Courthouse Project for industry comment on January 26, 2018. The solicitation identified the County's selected site as the surface parking lot adjacent to the existing Children's Courthouse (Selected Site). The formal RFQ was issued on January 31, 2018 and the solicitation is currently under the Cone of Silence. Responses from prospective developers are due by April 2, 2018.

Based on the County's preliminary evaluation, the unsolicited proposal will be rejected while the County continues to pursue the selection of a prospective developer through the competitive process that is already underway. The Internal Services Department has continued to move the Courthouse Project forward. The current competitive process represents the most cost-effective and expeditious course of action, as described below:

- The Selected Site is the most build-ready site among the County's downtown holdings, as the County has already completed environmental remediation on the site prior to the construction of the Children's Courthouse. Acceptance of the unsolicited proposal

- may require the environmental remediation of the Alternative Site, which would create a significant fiscal impact to the County and would further delay the project completion.
- The Selected Site is currently underutilized as a surface parking lot and the County does not foresee any other suitable uses for the site (e.g., commercial, residential, or retail development) other than the development of an appropriate judicial facility due to its immediate proximity to the existing Children's Courthouse.
 - The Alternative Site has other potential land uses that may be monetized by the County to mitigate the costs associated with the Courthouse Project. Acceptance of the unsolicited proposal would prevent the County from selling or leasing the Alternative Site and from collecting any revenue that the site may generate.
 - Distributing a Request for Proposals through the unsolicited proposal process will significantly inhibit market competition for this project in comparison to the procurement process that is currently underway as an RFQ. As you know, members of the County's P3 Task Force last year, who are experts in these types of projects, have recommended a two-step process that first shortlists respondents before proceeding to a Request for Proposals. Skipping the RFQ step will benefit only NFCDP, not the County.

In consideration of the above, a rejection of the unsolicited proposal is in the County's best interest. Should you require additional information, please contact Tara C. Smith, Director of the Internal Services Department, at 305-375-5893, or me directly.

c: Abigail Price-Williams, County Attorney
Geri Bonzon-Keenan, First Assistant County Attorney
Office of the Mayor Senior Staff
Tara C. Smith, Director, Internal Services Department
Honorable Bertila Soto, Chief Judge, Eleventh Judicial Circuit
Harvey Ruvin, Clerk of the Courts