

Date: January 19, 2018

To: Gary T. Hartfield, Division Director
Small Business Development Division
Internal Services Department

From: Alejandro Martinez-Esteve, RA, LEED AP
Chief, Capital Improvements Division
Transportation and Public Works Department

Subject: Notice of Construction Project:
Project No. 20170321
Joint Participation Agreement (JPA) between
Miami-Dade County and the City of Miami for
Roadway Improvements to NE 42 Street
Railroad Crossing and Federal Highway/NE 4
Court
CONSTRUCTION



RECOMMENDATION

The Department of Transportation and Public Works (DTPW) Capital Improvements staff completed the review of the subject Construction Services in accordance with the applicable provisions of Implementing Order 3-22. Please review and approve the resulting Small Business Enterprise (SBE) Contractor goal for construction services for the above-referenced project. Attached is the Project Measure Analysis and Recommendation along with other supporting documentation.

Scope of Work: Roadway Improvements to NE 42 Street Railroad Crossing and Federal Highway/NE 4 Court.

Engineer Project Base Cost Estimate (including Contingency): \$1,381,703.84

SBE Construction Measure:	Signage & Pavement Markings	1.2%
	Concrete	8.4%
	Landscaping	2.4%

CWP Goal: As applicable

BACKGROUND

This JPA between Miami-Dade County and the City of Miami (the City) will facilitate a roadway improvements project in Miami-Dade County. Work under this Contract will include the following: Furnishing all supervision, labor, materials, equipment, tools and performing all operations necessary for three (3) lanes with bike lanes, parking, turn lane and curb and gutter.

The City shall procure the services of a licensed contractor holding an engineering contractor's license to construct the Project. The City shall also comply with all applicable County contract compliance and oversight measures relating to the expenditure of County funds in accordance with Section 6 of the attached JPA.

Prior to the advertisement to solicit a licensed contractor, the City will contact the Department of Transportation and Public Work's (DTPW) Capital Improvements Section to confirm compliance.

If any additional information is required you may contact me at (305) 375-2097, or James Ferreira at (305) 375-3267.

AM/jf

Attachments (3)

C: James Ferreira, P.E., DTPW
Alfredo Munoz, P.E., DTPW
Laurie Johnson, ISD
File

Leandro Ona, DTPW
Javier Heredia, P.E., DTPW
Alice Hidalgo-Gato, ISD

MIAMI-DADE COUNTY DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
CONTRACT / PROJECT MEASURE ANALYSIS AND RECOMMENDATION

To: Gary Hartfield, Division Director
Small Business Development Division
Internal Services Department

From: Alejandro Martinez-Estevez, RA, LEED AP
Chief, Capital Improvements Section
Department of Transportation and Public Works

Date: Friday, January 19, 2018



CONTRACT INFORMATION

DTPW Project No.: 20170321

Project Title: NE 42 Street Railroad Crossing and Federal Highway/NE 4 Court

Re-submittal: No

Standard Industrial Code (SIC) / North American Industry Classification Code (NAICS): 1610 / 237310 - Construction – Highway, Street & Bridge Construction

Estimated Project Base Cost (including Contingency): \$1,381,703.84 - Construction

Funding Source: Road Impact Fees (RIF)

Bonding Requirements: Bid Bond– 5% of base bid amount
Performance Bond- 100% of Contract Award Amount

PROJECT INFORMATION

Scope of Work

Work includes construction services for a roadway improvements project at NE 42 Street Railroad Crossing and Federal Highway/NE 4 Court including three (3) lanes with bike lanes, parking, turn lane and curb and gutter.

Required Contractor's Certification:

At the time of Bid and pursuant to the requirements of Section 10-3 of the Code of Miami-Dade County, Florida (the County), Florida and these Solicitation and Contract Documents, the Bidder must hold a valid, current, and active Certificate of Competency as a General Engineering Contractor or as a Specialty Engineering Contractor, commensurate to the requirements of the Scope of Work, in engineering crafts to include paving engineering work. The specialty contractor shall subcontract with a

Project No.: 20170321
Project Title: NE 42 Street Railroad Crossing and Federal Highway/NE 4 Court

qualified contractor any work which is incidental to the specialty but is specified in the aforementioned Code as being the work of other than that of the Engineering specialty for which certified.

Pursuant to Section 255.20, Florida Statutes (F.S.) and in lieu of the above, the County may consider a bid from a Bidder that is a duly licensed contractor in good standing that has been pre-qualified and considered eligible by the Florida Department of Transportation (FDOT) under Section 337.14, F.S. and Chapter 14-2, Florida Administrative Code, to perform the work described in the contract documents. Contractors seeking consideration under this paragraph shall submit along with the bid documents for review and consideration, current copy(ies) of their FDOT Certificate(s) of Qualification, Certification of Work Underway, and status of Contracts On Hand. Acceptable FDOT qualification(s) necessary to perform the work specified in the project's scope of work shall include Flexible Paving and Drainage Work Classes.

Additional Information – Permits, Licenses, Certifications, and General Regulations

Permits that are issued by DTPW for construction within the public right-of-way, as well as additional permits, which may be required by other municipalities or agencies, including those required for tree removal, will be the responsibility of the Contractor.

RECOMMENDATION

DTPW Areas recommended for SBE Subcontractor Goal:

SBE Construction Measure: Signage & Pavement Markings
 Concrete
 Landscaping

Contract Measure Recommendation:

- No Measure
- Set-Aside:

Level I	Level II	Level III
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- Trade Set-Aside(s):
- Aggregate Set-Aside
- SBE Subcontractor Goal:

A/E Measure:	N/A	
G/S Measure:	N/A	
Construction Measure:	Signing & Pavement Markings	1.2%
	Concrete	8.4%
	Landscaping	2.4%
- CWP: As Applicable
- DBE Subcontractor Goal: Not Applicable

Reason for Recommendation: The recommendations are based on the information provided in the attached cost estimate which is provided in accordance with the Miami-Dade County Code.

SBE Prime History of similar Contracts/Projects for previous Three (3) years: None

Scope of Work History Summary – Subcontracting Opportunities: None

Similar Projects previously submitted for SBD Action: None

SBE Goal / Project No. / Amount achieved: None

**JOINT PARTICIPATION AGREEMENT
BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI
NE 42 STREET RAILROAD CROSSING AND FEDERAL HIGHWAY/NE 4 COURT**

This AGREEMENT, made and entered into this _____ day of _____, 2018, by and between the CITY OF MIAMI, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "City", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "County".

WITNESSETH

WHEREAS, both parties herein wish to facilitate the construction of a road improvement project in MIAMI-DADE COUNTY, hereinafter referred to as the "Project" described as follows:

The construction of roadway improvements at NE 42 Street railroad crossing and Federal Highway/NE 4 Court; and

WHEREAS, the County wishes to utilize the resources of the City to contract and construct the Project, subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree:

RESPONSIBILITIES OF CITY:

- 1.1. Permits and Approvals:** The City shall obtain all necessary permits, and utility adjustments; and coordinate the review of construction documents by utilities and permitting agencies. The City shall make all necessary adjustments as required for approval and/or permitting by those agencies. The City shall obtain all necessary permits, and utility adjustments for the Project in accordance with applicable state, federal and local laws and ordinances. The City shall not pay for any permits required by the Miami-Dade County Department of Transportation and Public Works.
- 1.2. Right-of-Way:** The City shall acquire at its sole expense, any right-of-way that is required to complete the construction of the Project.
- 1.3. Public Information and Involvement:** The City will implement a Public Involvement Plan (PIP) during the construction of the Project to provide information to property owners, tenants, and area residents, including but not limited to: public meetings, Project documentation and flyers, business signs, directional parking signs, and schedules for major work to be performed in the area. Appropriate investigation of the Project stakeholders shall be used to develop the goals and objectives to implement the PIP. The City shall submit a copy of the PIP to the County Department of Transportation and Public Works Director for review and concurrence prior to its implementation.

Projects that exceed \$1,000,000.00 in construction costs shall comply with the process and guidelines for the preparation and implementation of PIPs as established by Miami-Dade County Implementing Order 10-13.

1.4. Publicity: By the acceptance of these funds, the City agrees that the Project elements funded by this Agreement shall recognize and adequately reference the County as a funding source. The City shall ensure that all publicity, public relations, advertisements and signs recognizes and references the County for the support of all contracted activities. This is to include, but is not limited to, all posted signs, pamphlets, wall plaques, cornerstones, dedications, notices, flyers, brochures, news releases, media packages, promotions, and stationery. The use of the official County logo is permissible for the publicity purposes stated herein. The City shall submit sample or mock up of such publicity or materials to the County for review and approval. The City shall ensure that all media representatives, when inquiring about the activities funded by this Agreement, are informed that the County is its funding source.

1.5. Accounting: The City shall at all times maintain separate accounting for the costs of the Project so those costs may be independently verified and audited by the County, at the request and cost of the County. The City agrees to permit the County auditors to inspect the books, records and accounts of the Project for three (3) years after completion of the Project. These records shall be made available to the County for inspection within ten (10) business days upon written receipt of a written request from the County.

1.6. Construction: The City shall procure the services of a licensed contractor holding an engineering contractor's license to construct the Project. The City may award the contract through any available lawful means, in accordance with Section 255.20, Florida Statutes, which in the City's discretion, affords the most competitive price for construction of the Project and which may include, but is not limited to, bid solicitation, request for proposals, the award of a change order on existing City contract(s), or the extension of unit-prices provided in connection with prior competitive bid awards. Notwithstanding any provision to the contrary, the City shall comply with all applicable County contract compliance and oversight measures relating to the expenditure of County funds, in accordance with Section 6 of this Agreement. Prior to the advertisement to solicit a licensed contractor to construct the Project, the City shall contact the County Department of Transportation and Public Works Capital Improvements Section and provide all necessary documentation to ensure this compliance.

The construction contract shall also contain a requirement that the contractor(s) provide a payment and performance bond at least in the amount and form required by state law naming the County and City as joint obligees or joint contracting public entities. The construction contract shall contain a contingency amount to address unforeseen conditions and owner required changes which shall not exceed ten percent (10%) of the base amount of the contract, unless otherwise approved in writing by designated representatives of the County and City. The commitment for the expenditures of any

contingency funds shall not be made by the City without the prior written approval of the County Department of Transportation and Public Works Director. The County shall respond, in writing, within thirty (30) business days of receiving written requests from the City to approve the commitment of contingency funds.

Subsequent to the evaluation of bids or proposals by the City and the City's determination of the most advantageous bid or proposal, the City shall provide said evaluation to the County Department of Transportation and Public Works Director for review and approval. Final commitment of County funds for the Project shall occur upon approval of the contract award recommendation by the County Department of Transportation and Public Works Director. The County agrees that the selection, retention and discharge of such contractor shall be the responsibility of the City.

1.7. Claims and Change Orders: The City shall notify the County Department of Transportation and Public Works Director in writing when claims or change orders arise. The City shall also invite the County to participate in negotiations of these claims and change orders. The County shall review and make a determination or approval of all change orders or supplemental agreements, permits, modifications of plans, or other requests for approvals submitted by the City.

1.8. Construction Administration and Inspection: The City shall exercise all responsibilities of the owner under the construction contract, including construction administration and inspections. The City may delegate this

function to an authorized agent or Construction Engineering Inspection consultant. The County's inspector shall have an oversight role in the routine daily inspections. In the case of a disagreement over the interpretation of the plans, the County Department of Transportation and Public Works Director shall have final authority subsequent to an independent final inspection by the County. The City's designated representative and the County's designated representative shall jointly perform the inspection of the Project which immediately precedes substantial completion. The City shall certify upon completion that the Project has been constructed pursuant to the design plans, specifications and approved change orders. Final payment to the City and obligation of maintenance responsibility to the parties shall be subject to the final acceptance of the Project by the County Department of Transportation and Public Works Director.

1.9. Coordination with Miami-Dade County Public Schools: Due to potential safety, operational and bus transportation impacts, the City shall coordinate with Miami-Dade County Public Schools staff to implement maintenance of traffic measures.

1.10. Nondiscrimination: During the performance of this Agreement, the City agrees to not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, sexual orientation, gender identity or gender expression, status as victim of domestic violence, dating violence or stalking, or veteran status, and on housing related contracts the

source of income, and will take affirmative action to ensure that employees and applicants are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Agreement, the City attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the City or any owner, subsidiary or other firm affiliated with or related to the City is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Agreement void. This Agreement shall be void if the City submits a false affidavit pursuant to this Resolution or the City violates the Act or the Resolution during the term of this Agreement, even if the City was not in violation at the time it submitted its affidavit. The provisions of Section 1.11 shall be included in any agreement between the City and any contractor performing work on this Project.

2. RESPONSIBILITIES OF COUNTY:

2.1. Funding Amount, Reimbursement of Project Costs: The County agrees to provide funds up to \$1,401,000.00 (this amount includes ten percent (10%) contingency) for eligible costs, as defined herein, incurred by the City for the construction of the Project. The County shall disburse to the City funds for the Project in the manner set forth in Section 4. The County shall incur no

liability for any costs in excess of said funding amount unless there has been a duly authorized increase approved by the Board of County Commissioners. The City shall not be obligated to commence work should the bid amount exceed the funding provided by the County. If the bid amount exceeds the funding amount, the City reserves its rights to reject all bids and re-bid the Project.

2.2. County Payments of Project Costs: The County funds provided for eligible costs as defined herein, incurred for the construction of the Project are specified below:

<u>Funding Amount</u>	<u>Funding Source</u>	<u>County Fiscal Year of Commitment</u>
\$1,401,000.00	Road Impact Fee District 2	2017-2018

2.3. Project Cost Adjustments: The amount contributed by the County is based on the current estimated costs of the Project. The parties recognize that adjustments to the above-referenced cost may be required in the future, and that at the option of the parties, amendments may be entered into to revise the funds available for the Project. Provided that there is no increase in the amount of County funds required as stated in Section 2.1, amendments may be executed by the City Mayor and the County Mayor or County Mayor's designee without the need for approval by the City Commission and County Commission. Otherwise, further funding commitments shall be subject to the approvals of the parties' respective governing boards.

3. ELIGIBLE COSTS: The parties agree that only the below identified costs that may be incurred by the City that are directly related to the Project are eligible for

reimbursement, provided adequate documentation accompanies the reimbursement request in the form of approved invoices, verified payment requests, documented journal entries, and/or check vouchers. For purposes of this Agreement, eligible costs are further defined as those pertaining to the construction of Project elements that are the standard items normally provided for by the County in County road improvement projects, and not the enhancement of standard items, or the incorporation of items which are in addition to those standard items. The County shall not be assumed to be liable to provide reimbursement for the design, construction or maintenance of such items that do not conform to this section of the Agreement. If enhancements to standard items are constructed in this Project, the City may request County reimbursement only to a maximum amount corresponding to that which would be expended in providing the normal standard version of that item for a project of the same scope. The parties further agree that eligible costs will not include fees for construction management, construction inspections, and project management.

4. **SCHEDULE AND MANNER OF REIMBURSEMENTS**: Upon execution of the Agreement, the City shall furnish the County with a copy of the estimated budget for the Project, and will similarly furnish the County with any and all revisions thereto. At the time of contract award for this Project, the City shall submit the Estimated Quarterly Construction Payout Schedule for the Project to the County Department of Transportation and Public Works Director. Quarterly disbursement of County funds to the City shall be based upon City invoices with certified copies of paid contractor invoices attached and shall not include any other charges. The quarterly

submittal for invoices shall also include a certified copy of payment to Sub-Contracted firms.

5. **COMPLIANCE WITH LAWS**: The parties shall comply with applicable federal, state and local laws, codes, ordinances, rules and regulations in performing their respective duties, responsibilities, and obligations pursuant to this Agreement and with all applicable laws relating to the Project. The parties shall not unlawfully discriminate in the performance of their respective duties under this Agreement.
6. **BUSINESS PROGRAM COMPLIANCE AND OVERSIGHT**: Whenever County funds are used, the City agrees to comply with applicable County regulations, including but not limited to, the Small Business Enterprise Goods and Services Program, the Small Business Enterprise Architecture and Engineering Program, the Small Business Enterprise Construction Services Program, the Community Workforce Program (CWP), the Resident First Training and Employment Program (RFTE), and the Responsible Wages and Benefits Ordinance (Ordinance No. 90-143). Specifically, the City agrees to abide by the applicable contract measure recommendation(s) established by the County's Internal Services Department (ISD), Small Business Development Division Project Worksheet for the participation of specified business entities and/or trades and for CWP requirements, as administered by the County's ISD. ISD shall have the right to oversee and perform compliance monitoring, including but not limited to, the right to audit and to require reports and documentation related to the Code.
7. **PROJECT SIGNAGE**: The County shall furnish and install a Project sign in each direction of traffic indicating that this Project is being funded by Road Impact Fees,

in coordination with the City, in proximity to the start/end of the Project limits. Should Maintenance of Traffic (MOT) signage be required as part of the work, the Project sign shall be placed an appropriate distance before the MOT signage range. The Project signs shall remain in place for the duration of the work or as directed by the Project engineer.

8. **INDEMNIFICATION**: To the extent authorized by Florida law, the City hereby agrees to indemnify, defend, save and hold harmless the County to the extent of all the limitations included with Section 768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the City, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the County for its sole negligence or breach of contract.

To the extent authorized by Florida law, the County hereby agrees to indemnify, defend, save and hold harmless the City to the extent of all the limitations included in Section 768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the County, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the City for its sole negligence or breach of contract.

In the event of breach or non-performance by the persons selected by the City to perform the work, the City shall, upon written request by the County, assign to the County any and all of its rights under the affected contract for purposes of the County's prosecution of claims, actions or causes of action resulting from such

breach or non-performance unless the City, at its option, pursues such claims, actions or causes of action through arbitration, administrative proceeding or lawsuit. The City agrees to cooperate fully with the County in the prosecution of any such claim or action. Any damages recovered by the County which is attributable to an expenditure by the City shall be returned to the City by the County, within sixty (60) business days of receipt.

9. **DISPUTE RESOLUTION, APPLICABLE LAW:** The parties shall resolve any disputes, controversies or claims between them arising out of this Agreement in accordance with the "Florida Governmental Conflict Resolution Act", Chapter 164, Florida Statutes, as amended. This Agreement shall be governed by the laws of the State of Florida. Venue in any proceedings shall be in Miami-Dade, Florida. Each party will bear its own attorney's fees.

10. **ENTIRE AGREEMENT, AMENDMENTS:** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms contained herein shall be effective unless set forth in writing in accordance with this section. No modification, amendment or alteration in the terms or conditions

contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties.

11. JOINT PREPARATION: The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties from the other.

12. SEVERANCE: In the event a portion of this Agreement is found to be invalid by a court of competent jurisdiction, the remaining provisions shall continue to be effective unless the City or County elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) business days after the finding by the court becomes final.

13. NOTICES: Any and all notices required to be given under this agreement shall be sent by first class mail, addressed as follows:

To the County:

Attention: Department of Transportation and Public Works
c/o Director
Miami-Dade County
701 NW 1 Court, Suite 1700
Miami, Florida 33136
(786) 469-5406

To the City:

Attention: Francis Suarez
Mayor, City of Miami
3500 Pan American Drive
Miami, Florida 33133
(305) 250-5300

DRAFT

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written,

ATTEST:
HARVEY RUVIN
CLERK OF THE BOARD

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

BY: _____
Deputy Clerk

BY: _____
County Mayor or County Mayor's Designee

Approved by County Attorney
as to form and legal sufficiency _____
County Attorney

ATTEST: CITY OF MIAMI, a municipal
corporation of the State of Florida

BY: _____
Todd B. Hannon
City Clerk

BY: _____
Francis Suarez
Mayor

(Affix City Seal)

Approved by City Attorney
as to form and legal sufficiency _____
City Attorney