



Miami-Dade Board of County Commissioners
Office of the Commission Auditor

Parks and Cultural Affairs Committee (PCAC) Meeting

September 13, 2018
9:30 A.M.
Commission Chambers

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PCAC Meeting: September 13, 2018
Research Notes

Item No. 3A
File No. 182065

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING CONTRACT NO. RFQ-00769A, CONTRACT NO. RFQ-00769B, AND CONTRACT NO. RFQ-00769C FOR THE PURCHASE OF PARK PLANNING AND PRE-DEVELOPMENT SERVICES FOR PARKS, RECREATION AND OPEN SPACES DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$4,500,000.00 FOR A FIVE YEAR TERM TO AECOM TECHNICAL SERVICES, INC., MILIAN, SWAIN AND ASSOCIATES, INC., AND PROS CONSULTING, INC. D/B/A YOUNGER PROS CONSULTING, INC.; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE MIAMI-DADE COUNTY CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should approve three contracts for the purchase of park planning and pre-development services, one for each of three service categories, for the Parks, Recreation and Open Spaces Department in an amount not to exceed \$4,500,000 for a five year term to AECOM Technical Services, Inc., Milian, Swain and Associates, Inc., and PROS Consulting, Inc. dba Leon Younger Pros Consulting, Inc.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Resolution No. R-716-12, adopted by the Board on September 4, 2012, requires identification of a firm's small business enterprise program certification in any procurement item submitted for Board approval.

<http://intra/gia/matter.asp?matter=121265&file=true&yearFolder=Y2012>

Resolution No. R-1017-12, adopted December 4, 2012, authorizes execution of agreements, not to exceed, in the aggregate, the amount of \$4,500,000 for a term of five years with PROS Consulting, LLC, AECOM Technical Services, Inc. and Milian, Swain & Associates, Inc. to obtain park planning services.

<http://intra/gia/matter.asp?matter=121863&file=true&yearFolder=Y2012>

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-1011-15, adopted by the Board on November 3, 2015, directs the County Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ in memoranda to the Board pertaining to vendors being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

Resolution No. R-140-15, adopted by the Board on February 3, 2015, directs the County Mayor to conduct a full review, prior to re-procurement of replacement contracts for goods or services of the scope of services or goods requested to

PCAC Meeting: September 13, 2018
Research Notes

ensure such contracts reflect the current needs of the County and to include such information in award recommendations to the Board.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

Resolution No. R-477-18, adopted by the Board on May 1, 2018, directs the County Mayor to disclose to the Board the reasons goods and services are not being procured through local businesses when the recommendation is to award a contract to a non-local vendor or to establish a prequalification pool where less than 75 percent of the pool members are local businesses.

<http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018>

Resolution No. R-841-06, adopted by the Board on July 6, 2006, requires successor contracts or extensions of existing contracts be presented for Board approval no later than 30 days prior to the contract's expiration date.

<http://www.miamidade.gov/govaction/matter.asp?matter=061720&file=true&yearFolder=Y2006>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

The proposed resolution has no procedural history.

ANALYSIS

The proposed resolution approves awards of three competitive contracts, *Contract No. RFQ-00769A*, *Contract No. RFQ-00769B*, and *Contract No. RFQ-00769C*, for the Parks, Recreation and Open Spaces Department as delineated below, by category.

Category A – *Market Research and Business Planning*: PROS consulting Inc. dba Leon Younger Pros Consulting, Inc.

Category B – *Parks, Recreation and Open Spaces Planning Services*: AECOM Technical Services, Inc.

Category C – *Pre-Development and Environmental Planning Services*: Milian, Swain & Associates, Inc. (SBE)

The fiscal impact for the five-year term of the contracts is \$4,500,000. Previous contracts awarded to the same consultants were approved by the Board on December 4, 2012 for a five-year term via Resolution No. 1017-12. These previous contracts were extended for an additional six months under administrative authority to June 30, 2018 in order to minimize service interruption.

A total of eight proposals were received in response to this solicitation, which involved notification to 21,166 vendors through the County's online bidding system, BidSync. Although six of the vendors that responded to the solicitation are local, non-local vendor PROS consulting Inc. dba Leon Younger Pros Consulting, Inc. was the only firm that applied to Category A and is thus being recommended for award for that category. The awardees for categories B & C, AECOM Technical Services, Inc. and Milian, Swain & Associates, Inc., respectively, are both local firms. The highest-ranked, responsive and responsible proposers for each category are being recommended for award for as-needed park planning and pre-development services, performing work that includes biological and hydrological site assessments, platting

PCAC Meeting: September 13, 2018
Research Notes

related to sensitive wetland environments, park business modeling and forecasting, national park and recreation trend planning and benchmarking, and other planning and pre-development projects.

As reported pursuant to Resolution No. R-1011-15, Milian, Swain & Associates, Inc., an SBE firm, employs 15 Miami-Dade County residents, which comprises 79% of its total workforce. AECOM employs 194 County residents (.47% of its total workforce), and PROS Consulting, Inc. does not employ any local residents.

ISD conducted a full review of the scope of services to ensure the replacement contracts reflect the County's current needs. As a result, the scope of services was updated to include analysis of organizational development practices and technical consultation for business proposals; geographic information system services; pre-development services such as platting and surveys; a traffic impact studies category (Category D). Given that no proposals were received for the traffic impact studies category, these services will be obtained through the County's Equitable Distribution Program.

ADDITIONAL INFORMATION

PROS consulting Inc. dba Leon Younger Pros Consulting, Inc.

PROS Consulting, Inc is a full-service management consulting and planning firm focusing on services to government and not-for-profit agencies. Headquartered in Indianapolis, Indiana with a full-service office in Phoenix, Arizona, the PROS Team has worked on more than 900 projects in 46 states and 7 countries.

<http://prosconsulting.com/>

AECOM Technical Services, Inc.

AECOM designs, builds, finances and operates infrastructure assets in more than 150 countries.

<https://www.aecom.com/>

Milian, Swain & Associates, Inc.

Milian, Swain & Associates, Inc. has been providing over 20 years of engineering & financial management solutions for the public and private sectors throughout South Florida.

<http://milianswain.com/>

PCAC Meeting: September 13, 2018
Research Notes

Item No. 3B
File No. 181961

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING SUBLEASE AGREEMENT BETWEEN 33032 PARTNERS, LTD., AND 33032 PARTNERS OPCO, LLC, FOR OPERATION AND COMPLIANCE WITH REAL ESTATE INVESTMENT TRUST REGULATIONS RELATED TO OPERATIONS AT BLACK POINT MARINA

ISSUE/REQUESTED ACTION

Whether the Board should approve a sublease agreement between 33032 Partners, Ltd. (Lessor) and 33032 Partners OpCo (Lessee) to allow for operations and compliance with Real Estate Investment Trust (REIT) regulations related to operations at Black Point Marina in District 8.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-1312-98, adopted on December 1, 1998, authorizes the assignment of the Marine Management, Inc. lease at Black Point Park to Marina Funding Group, Inc.

<http://intra/gia/matter.asp?matter=983303&file=false&yearFolder=Y1998>

Resolution No. R-510-02, adopted on May 21, 2002, allows a lease agreement payment terms for a sub-lease and approves a sub-lease agreement between Marina Funding Group, Inc. and Southeast Total Marine Center Inc. for boat repair and detailing services at the dry storage facility at Black Point Marina.

<http://intra/gia/matter.asp?matter=021070&file=false&yearFolder=Y2002>

Resolution No. R-865-04, adopted on July 13, 2004, authorizes the assignment of Marina Funding Group, Inc. lease agreement to 33032 Partners, LTD., approves a third lease amendment to exercise two five year renewal options, removes a parcel of land from the leasehold, and modifies the minimum rent guarantee.

<http://intra/gia/matter.asp?matter=041716&file=true&yearFolder=Y2004>

Sections 856 the Internal Revenue Code of 1986 governs real estate investment trusts.

<https://www.gpo.gov/fdsys/pkg/USCODE-2010-title26/html/USCODE-2010-title26-subtitleA-chap1-subchapM-partII-sec856.htm>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Parks, Recreation and Open Spaces

The proposed resolution has no procedural history.

ANALYSIS

The proposed resolution approves a sublease agreement between 33032 Partners, Ltd. (Lessor) and 33032 Partners OpCo (Lessee) to allow for operations and compliance with REIT regulations related to operations at Black Point Marina located at 24775 SW 87 Avenue, Miami, Florida 33032 in District 8. Previous Board approved resolutions established a lease agreement for the development and operation of dry rack storage and other related services at the County's Black Point Park Marina, most recently assigning the lease to 33032 Partners via Resolution No. 865-04 on September 30, 2004.

Now, in response to an internal restructuring, 33032 Partners (Lessor) would like to enter into a sublease with 33032 Partners OpCo (Lessee) to allow for the Lessee to operate within and comply with REIT regulations. In order for a

PCAC Meeting: September 13, 2018
Research Notes

corporation, trust, or association to be considered a Real Estate Investment Trust for any taxable year, it must comply with the following requirements, as outlined in Sections 856(c)(2), (c)(3) and (c)(4) of the Internal Revenue Code of 1986, as amended:

(2) at least 95 percent (90 percent for taxable years beginning before January 1, 1980) of its gross income (excluding gross income from prohibited transactions) is derived from—

- (A) dividends;
- (B) interest;
- (C) rents from real property;
- (D) gain from the sale or other disposition of stock, securities, and real property (including interests in real property and interests in mortgages on real property) which is not property described in section 1221(a)(1);
- (E) abatements and refunds of taxes on real property;
- (F) income and gain derived from foreclosure property (as defined in subsection (e));
- (G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);
- (H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6); and
- (I) mineral royalty income earned in the first taxable year beginning after the date of the enactment of this subparagraph from real property owned by a timber real estate investment trust and held, or once held, in connection with the trade or business of producing timber by such real estate investment trust;

(3) at least 75 percent of its gross income (excluding gross income from prohibited transactions) is derived from—

- (A) rents from real property;
- (B) interest on obligations secured by mortgages on real property or on interests in real property;
- (C) gain from the sale or other disposition of real property (including interests in real property and interests in mortgages on real property) which is not property described in section 1221(a)(1);
- (D) dividends or other distributions on, and gain (other than gain from prohibited transactions) from the sale or other disposition of, transferable shares (or transferable certificates of beneficial interest) in other real estate investment trusts which meet the requirements of this part;
- (E) abatements and refunds of taxes on real property;
- (F) income and gain derived from foreclosure property (as defined in subsection (e));
- (G) amounts (other than amounts the determination of which depends in whole or in part on the income or profits of any person) received or accrued as consideration for entering into agreements (i) to make loans secured by mortgages on real property or on interests in real property or (ii) to purchase or lease real property (including interests in real property and interests in mortgages on real property);
- (H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6); and
- (I) qualified temporary investment income; and

(4) at the close of each quarter of the taxable year—

- (A) at least 75 percent of the value of its total assets is represented by real estate assets, cash and cash items (including receivables), and Government securities; and
- (B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)),
- (ii) not more than 25 percent of the value of its total assets is represented by securities of one or more taxable REIT subsidiaries,

PCAC Meeting: September 13, 2018
Research Notes

- (iii) except with respect to a taxable REIT subsidiary and securities includible under subparagraph (A)—
- (I) not more than 5 percent of the value of its total assets is represented by securities of any one issuer,
 - (II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any one issuer, and
 - (III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any one issuer.

Given that a sublease is allowable under the lease agreement with 33032 Partners, there is no need for an amendment to the 2004 lease agreement. The lease has a final expiration date of January 31, 2024 and includes a provision wherein any payments to 33032 Partners by 33032 Partners OpCo shall also be subject to percentage payments to the County. The sublease will not change the manner in which the marina is operated, nor will it result in any reduction in lease payments, or any alteration in which revenues are reported are calculated.