



**OFFICE OF THE COMMISSION AUDITOR  
MIAMI-DADE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION AUDITOR'S  
INFORMATIONAL RESEARCH**

**PORTMIAMI AND ENVIRONMENTAL RESILIENCE  
COMMITTEE**

**April 13, 2021**

**3:00 P.M.**

**Commission Chambers**

Yinka Majekodunmi, CPA  
Commission Auditor

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**PRC Meeting:  
April 13, 2021  
Research Notes**

**Item No. 3C  
File No. 210685**

**Research: TA / Reviewer: PGE**

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND EAC CONSULTING, INC. FOR CIVIL INFRASTRUCTURE ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED \$3,300,000.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$300,000.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, TO EXERCISE ANY CANCELLATION AND OTHER PROVISIONS CONTAINED THEREIN, AND TO APPROVE THE CONTINGENCY TIME EXTENSION AND CONTINGENCY EXPENDITURE LIMITED TO 10 PERCENT OF THE BASE CONTRACT AMOUNT

**Prime Sponsor:** None  
**Requester:** PortMiami  
**Committee Action Date:** N/A

**RESEARCH FINDINGS**

OCA's review of the item found no substantive legislative, procedural or administrative noncompliance.

The following was noted:

1. The award recommendation does not report on the results of an evaluation of in-house capabilities and expertise prior to contracting the services of outside consultants as required by Board resolution. (See the Additional Information section.)
2. The award recommendation does not include a listing of previous contracts in the past three years for the recommended firm as required by Board resolution (See the Additional Information section).

**FINANCIAL ANALYSIS**

The fiscal impact for this Professional Services Agreement (PSA) is \$3,300,000, which includes a 10% contingency allowance of \$300,000. This project is funded as part of the FY20-21 Adopted Budget and Multi-Year Capital Plan (Budget Book) for the fiscal years up to FY24-25. According to page 181 of the Budget Book, this project (Infrastructure Improvements – Port Wide) has annual capital allocations until FY25-26. The funding source in the Budget Book is identified as “future financing”, but there is no specification as to what this funding consists of in the Budget Book or the mayoral memo. According to the PSA, Section V: Compensation (page 29 of the agenda item), any unspent portion of the contract ceiling will remain with the County.

**ADDITIONAL INFORMATION**

A “[No-Sail Order](#)” imposed by the U.S. Centers for Disease Control and Prevention (CDC) has been in effect since March 14, 2020. A “[Framework for Conditional Sailing](#)” was issued on October 30, 2020 to allow for a gradual restart of cruising operations within the United States. The CDC has only recently (on April 2, 2021) published the [guidelines](#) for required COVID-19 agreements between cruise lines and the U.S. ports they utilize. Once such agreements are approved, cruise lines will then be required to operate test cruises with crew only before resuming passenger cruises. On [April 8, 2021](#), Governor Ron DeSantis and Attorney General Ashley Moody announced that they were suing the Biden Administration in federal district court to overturn the CDC's Conditional Sailing Order.

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Due to delays and the regulatory process, cruises have begun taking their business to other countries. According to [Cruise Critic](#), a cruise line review site owned by TripAdvisor, some examples (as of March 25, 2021) are as follows:

- Royal Caribbean Group, which includes Royal Caribbean International and Celebrity Cruises, has announced summer restarts for two of their ships in Europe: Jewel of the Seas in Cyprus from July and Celebrity Apex in Athens from June, offering itineraries around the Greek islands and Israel.
- Celebrity Cruises, Royal Caribbean, and Crystal have all announced summer 2021 cruises leaving from new homeports outside of the U.S., as a way to safely resume sailings for fully-vaccinated passengers.
- Celebrity Cruises will send its Celebrity Millennium on sailings out of St. Maarten beginning in June, while Royal Caribbean will homeport Adventure of the Seas out of Nassau, also starting in June, and Vision of the Seas in Bermuda as of late June.
- Olsen, MSC, Princess and Viking have announced domestic "round Britain" cruises exclusively for UK residents.
- On [April 7, 2021](#), Virgin Voyages announced it will begin passenger cruises on its Scarlet Lady in England starting on August 6, 2021 and plans to bring the ship to PortMiami on September 22 to begin Caribbean cruises.

[Resolution No. R-1204-05](#) directs the Mayor to evaluate in-house capabilities and expertise prior to contracting the services of outside consultants and report the results of such inquiry together with any recommendation to the Board for award of such contracts. The mayoral memo does not report the results of this evaluation. According to the PSA, Section II: Professional Services (page 19 of the agenda item), work is to be assigned "equitably" by PortMiami, but there is no explanation of how this will be accomplished, such as considering whether in-house staff can do the work instead, or if the assignments will be on a rotation, based on the technical expertise of the consultant, or the availability of the consultant to complete the work in a timely manner.

According to the Business Management Workforce System (BMWS), there are currently at least three other PortMiami contracts for civil infrastructure engineering services, totaling \$6,600,000, including an existing contract with the recommended firm, EAC Consulting, Inc.:

Contract No.	Contract Title	Contract Value	Start Date	End Date	Prime Contractor
E13-SEA-01	Non-exclusive PSA for Civil Infrastructure Engineering Services (SIC 871)	\$2,200,000	1/21/2015	6/2/2018	WSP USA Inc.
E13-SEA-02	Non-exclusive PSA for Civil Infrastructure Engineering Services (SIC 871)	\$2,200,000	12/15/2015	1/8/2021	T.Y. Lin International
E16-SEA-02	PSA-Civil Infrastructure Engineering Services	\$2,200,000	12/19/2017	1/15/2023	EAC Consulting, Inc.
	<b>Total</b>	<b>\$6,600,000</b>			

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[Resolution No. R-421-16](#) directs the Mayor to attach to all design and/or construction awards of \$1,000,000 or greater a list of all contracts awarded in the previous three years to the recommended contractor and a summary of County evaluations of the recommended contractor's work. This item does not include the required listing of contracts (i.e., the "Firm History Report" generated by the division of Small Business Development), but does make reference to EAC Consulting, Inc. being awarded five contracts in the last three years totaling \$10,429,377. According to BMWS, the actual amount awarded between March 31, 2018 and March 31, 2021 (the previous three years) is one contract totaling \$500,000 (see Graphic 1); the other four contracts were awarded prior to this time frame.

Graphic 1: Current Contracts Awarded to EAC Consulting, Inc.

**Contracts as Prime Contractor**

Actions	Contract Number & Title	Prime Contact	Status	Dates	Award Amount	Paid Amount
<a href="#">View</a>	E15-MDT-03_0001: Continuous Professional Services <del>For</del> Federally Funded Projects	Christopher <del>Bucknor</del>		2/7/2017 to 2/6/2022	\$1,650,000	\$229,484
<a href="#">View</a>	EDP-SP-2018-46: EAC General Engineering Services	Enrique Crooks		10/30/2020 to 10/30/2025	\$500,000	\$0
<a href="#">View</a>	E15-WASD-01_0002: NF-ENGINEERING DESIGN AND RELATED SERVICES FOR THE DESIGN OF LARGE DIAMETER WATER AND WASTEWATER PIPELINES FOR THE WATER AND SEWER DEPARTMENT'S WASTEWATER AND WATER COLLECTION, TRANSMISSION AND DISTRIBUTION SYSTEM	Enrique Crooks		11/7/2016 to 12/31/2019	\$5,500,000	\$876,767
<a href="#">View</a>	E15-PWWM-01: NF-NON-EXCLUSIVE PROFESSIONAL SERVICES AGREEMENT FOR NW SOUTH RIVER DRIVE FROM NW 32ND AVE TO NW 38 AVE	Enrique Crooks		2/7/2017 to 2/6/2020	\$579,377	\$229,484
<a href="#">View</a>	E16-SEA-02: PSA-CIVIL INFRASTRUCTURE ENG SVCS	Enrique Crooks		12/19/2017 to 1/15/2023	\$2,200,000	\$1,969,967
Number of contracts as prime: 5					<b>\$10,429,377</b>	<b>\$3,305,702</b>

Source: BMWS, 4/8/21

No evaluations have been done for this firm since September 2014, despite having been awarded, as shown in Graphic 1, at least five contracts since 2016. As contained in the first Whereas clause of [Resolution No. R-421-16](#), the quality of a contractor's past work for the County is an important factor in determining whether a contractor should be awarded a County contract. [Administrative Order No. 3-42](#) requires departments to evaluate firm performance on construction and architectural and engineering contracts, with a minimum of one project evaluation at the end of each project.

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A Small Business Enterprise (SBE) Architectural and Engineering Services (A&E) goal of 18% and a SBE Goods & Services (G&S) goal of 0.50% were set for this PSA. The Prime consultant is meeting the goal utilizing SBE sub-consultants. On April 8, 2021, the SBE certification status of the identified firms were verified. The certifications for two of the certified firms (Basulto & Associates, Inc. and J. Bonfill and Associates) have upcoming renewals or expirations in May and April 2021, respectively.

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**Item No. 3D  
File No. 210688**

**Researcher: MF / Reviewer: PGE**

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND WSP USA INC. FOR CIVIL INFRASTRUCTURE ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED \$3,300,000.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$300,000.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, TO EXERCISE ANY CANCELLATION AND OTHER PROVISIONS CONTAINED THEREIN, AND TO APPROVE THE CONTINGENCY TIME EXTENSION AND CONTINGENCY EXPENDITURE LIMITED TO TEN PERCENT OF THE BASE CONTACT AMOUNT

**Prime Sponsor:** None  
**Requester:** PortMiami  
**Committee Action Date:** None

**RESEARCH FINDINGS**

OCA's review of the item yielded the following findings:

1. The award recommendation does not report on the results of an evaluation of in-house capabilities and expertise prior to contracting the services of outside consultants as required by Board resolution. (See the Additional Information section.)
2. The award recommendation does not include the listing of previous contracts in the past three years for the recommended firm as required by Board resolution.

Two lawsuits involving the prime consultant and one of the sub-consultants:

3. WSP USA, Inc. (Prime Consultant) – the company is a co-defendant in a lawsuit filed February 1, 2021 (*Worrell, Donnell v. Fpg Ch 350 Henry LLC Et al*, Case No. 0525138/2020) filed in the Supreme Court, Kings County, New York. The complaint alleges that as a direct result of the actions of the defendants, the plaintiff suffered serious personal injuries after being involved in an accident at the defendant's worksite. The complaint further states the plaintiff negligently, carelessly, recklessly, failed and omitted to properly construct, shore, equip, guard, arrange, operate and conduct the construction activities at the construction site, or provide reasonable and adequate protection and safety to the persons so employed therein, and more particularly to the plaintiff. As of April 6, 2021, there is a scheduled case conference for April 13, 2021.
4. A&P Consulting Transportation Engineers Corp. (Subconsultant) – the firm was a co-defendant in a lawsuit filed May 18, 2018 (*Carlos Chapman Et Al v. Munilla Construction Management, LLC, Et Al*, Case No. 2018-016746-CA-01) filed in the 11<sup>th</sup> Judicial Circuit, Miami-Dade County. The complaint is one of several involving the FIU pedestrian bridge collapse, which resulted in injuries and deaths. According to a July 2019 [news report](#), A&P was one of several companies that reached settlement agreements in this case.

**FINANCIAL ANALYSIS**

The fiscal impact for this Professional Services Agreement (PSA) is \$3,300,000, which includes a 10% contingency allowance of \$300,000. This project is funded as part of the FY 2020-21 Adopted Budget and Multi-Year Capital Plan (Budget Book) for the fiscal years up to FY 2024-25. According to page 181 of the Budget Book, this project (Infrastructure Improvements – Port Wide) has annual capital allocations until FY 2025-26. The funding source in the Budget Book is identified as “future financing;” there is no specification as to what this funding consists of in the Budget Book or the mayoral memo.

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**ADDITIONAL INFORMATION**

**Small Business Development**

According to the Business Management Workforce System (BMWS), there are currently at least three other PortMiami contracts for civil infrastructure engineering services, totaling \$6,600,000, including an existing contract with the recommended firm, WSP USA, Inc.:

Contract No.	Contract Title	Contract Value	Start Date	End Date	Prime Contractor
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E16-SEA-02	PSA-Civil Infrastructure Engineering Services	\$2,200,000	12/19/2017	1/15/2023	EAC Consulting, Inc.
	<b>Total \$6,600,000</b>				

An 18% Small Business Enterprise (SBE) Architectural and Engineering (A&E) sub-consultant goal and 0.50% SBE-Services sub-contractor goal were set for this project. According to the Compliance Review by Small Business Development (SBD), the following firms will be utilized to meet the goals:

- Civil Works, Inc. (certified SBE A&E) to perform technical certification at 18%
- Espirito Santo Graphics, Inc. (certified SBE G&S) to provide copying services at 0.50%

**Governor Lawsuit and CDC No-Sail Order**

On April 8, 2021, Florida Gov. Ron DeSantis announced his intention to file a [lawsuit](#) against President Biden's Administration in an effort for the federal government to lift the "Conditional Sailing Order" from the CDC with the goal of allowing cruise liners to set sail once again. DeSantis stated the cruise industry's shutdown has hurt the state's tourism, leading to the loss of billions of dollars.

The "[No-Sail Order](#)" imposed by the U.S. Centers for Disease Control and Prevention (CDC) has been in effect since March 14, 2020. A "[Framework for Conditional Sailing](#)" was issued on October 30, 2020 to allow for a gradual restart of cruising operations within the United States. The CDC has only recently (on April 2, 2021) published the [guidelines](#) for required COVID-19 agreements between cruise lines and the U.S. ports they utilize. Once such agreements are approved, cruise lines will then be required to operate test cruises with crew only before resuming passenger cruises. Due to this delay and the



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regulatory process, cruises have begun taking their business to other countries. According to [Cruise Critic](#), a cruise line review site owned by TripAdvisor, some examples (as of March 25, 2021) are as follows:

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- On [April 7, 2021](#), Virgin Voyages announced it will begin passenger cruises on its Scarlet Lady in England starting on August 6, 2021 and plans to bring the ship to PortMiami on September 22 to begin Caribbean cruises.

**In-house Capabilities**

[Resolution No. R-1204-05](#) directs the Mayor to evaluate in-house capabilities and expertise prior to contracting the services of outside consultants and report the results of such inquiry together with any recommendation to the Board for award of such contracts. The mayoral memo does not report the results of this evaluation. According to the PSA, (page 1 of the agenda item), work scope is to be assigned "equitably" by PortMiami, but there is no explanation of how this will be accomplished, such as considering whether in-house staff can do the work instead, or if the assignments will be on a rotation, based on the technical expertise of the consultant, or the availability of the consultant to complete the work in a timely manner.

### **CONTRIBUTORS**

Phillip G. Edwards, Esq., Research Manager

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### **The Office of the Commission Auditor, Miami-Dade Board of County Commissioners**

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented

These research notes, prepared in collaboration with the Miami Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).