



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

**COMMISSION AUDITOR'S
INFORMATIONAL RESEARCH**

BOARD OF COUNTY COMMISSIONERS MEETING

June 15, 2021

9:30 A.M.

Commission Chambers

Yinka Majekodunmi, CPA
Commission Auditor

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**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 3A1
File No. 211413**

Research: CB / Reviewer: PGE

RESOLUTION APPROVING THE CITY OF MIAMI CODESIGNATION OF THAT PORTION OF NORTHEAST 7TH STREET FROM BISCAVNE BOULEVARD TO NORTHEAST 2ND AVENUE AS “DWAYNE WADE BOULEVARD”

Prime Sponsor: Commissioner Keon Hardemon, District 3
Requester: None
Committee Action Date: N/A

RESEARCH FINDINGS

OCA completed the required background research on “Dwyane Wade” and noted no adverse findings. Pursuant to Ordinance No. 18-79, OCA determined that there is no prior Board of County Commissioners (BCC) codesignation for “Dwyane Wade.” Pursuant to Ordinance No. 19-11, OCA verified that “Dwyane Wade” is living. In accordance with the cited ordinances, OCA is providing this report as a Supplement to BCC Agenda File Item No. 211413.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Ordinance No. 13-29](#), adopted on April 2, 2013, requires OCA to conduct background research on any person, organization, place or thing that is the subject of a naming, renaming or codesignation item or an item approving the codesignation of state or municipal roads and prepare a report detailing the findings of said research prior to the Commission meeting during which the item is scheduled to be considered.
- [Ordinance No. 18-79](#), adopted on July 24, 2018, relates to any item codesignating any Miami-Dade County road, facility, or property, or approving any state or municipal road codesignation, and requires that OCA prepare a report detailing: (1) whether the subject road, facility, or property has been the subject of any prior codesignation and, if so, the location or the end points of each; and (2) whether there are any other roads, facilities, or properties located in Miami-Dade County that already bear the same name as the proposed new codesignation and, if so, the location or end points of each.
- [Ordinance No. 19-11](#), adopted on February 5, 2019, relates to codesignation items, requiring OCA’s report to indicate whether the person to be honored is living or deceased.

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 5G
File No. 210833**

Research: CB / Reviewer: PGE

ORDINANCE CREATING THE STELLAR NORTH COMMUNITY DEVELOPMENT DISTRICT

Prime Sponsor: None

Requester: Parks, Recreation and Open Spaces

BCC/Committee Action Date: Adopted on first reading at the 4/20/2021 Board of County Commissioners meeting

RESEARCH FINDINGS

OCA completed the required background research regarding the initial members of the Stellar North Community Development District Board of Supervisors – Jim Harvey, Greg Meath, Michael Caputo, Candice Smith and Jon Seifel. The research yielded no adverse informational findings for the members. This report is being provided as a Supplement to BCC Agenda File Item Number 210833.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Resolution No. R-636-14](#), adopted on July 1, 2014, requires OCA to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations or appointments by the BCC.

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 8F1
File No. 210935**

**Research: MF / Reviewer: PGE
Financial: ES / Reviewer: PC & EA**

RESOLUTION APPROVING, PURSUANT TO SECTION 125.38, FLORIDA STATUTES, THE TERMS OF AND AUTHORIZING THE EXECUTION BY THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE OF A LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AS LANDLORD AND THE ASSOCIATION FOR RETARDED CITIZENS, SOUTH FLORIDA, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION AS TENANT, FOR THE PREMISES LOCATED AT 11025 SW 84 STREET, COTTAGES 6, 7, AND 10, MIAMI, FLORIDA, TO BE UTILIZED FOR THE PURPOSE OF PROVIDING EDUCATIONAL, RECREATIONAL AND RELATED SERVICES TO INFANTS, TODDLERS, AND PRE-SCHOOL CHILDREN WITH DISABILITIES AND THEIR FAMILIES, AND FOR THE PERFORMANCE OF WORK INCIDENTAL THERETO, WHICH MIGHT INCLUDE CHILDREN OF SIMILAR AGES WITHOUT DISABILITIES, WITH A TOTAL RENTAL REVENUE TO THE COUNTY ESTIMATED TO BE \$690,738.52, FOR A LEASE TERM OF FIVE YEARS, WITH ONE, FIVE-YEAR OPTION TO RENEW; DECLARING THE PROPERTY SURPLUS, WAIVING THE BOARD POLICY SET FORTH IN RESOLUTION NO. R-256-13 AS IT RELATES TO PAYMENT OF RENT IN LIEU OF TAXES; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN; AND DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO PROVIDE AN EXECUTED COPY OF THE LEASE AGREEMENT TO THE PROPERTY APPRAISER'S OFFICE WITHIN THIRTY DAYS OF THE EXECUTION OF THE LEASE AGREEMENT

Sponsors: Sen. Javier D. Souto, District 10 (Prime Sponsor); Commissioner Sally A. Heyman, District 4 (Co-Sponsor)
Requester: Internal Services Department
BCC and Committee Action Dates: BCC – 6/2/21 (Deferred); 5/13/21 – Public Housing and Community Services Committee

RESEARCH FINDINGS

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

1. Based on the County Commission's directive from the June 2, 2021 BCC meeting, CAHSD has been working with ISD to address a request pertaining to the rental revenue for the ARC of South FL. Per CAHSD's communication with OCA on June 11, 2021, ISD will be submitting a supplement for this item responding to that directive: reassess the application of the rental revenue in excess of \$690,000 that will allow direct service to be provided to ARC clients.
2. The prior lease expired in March 2017 and despite the mayoral memo stating that the tenant remains on premises pursuant to the lease holdover provision, there is no such provision based on review of the prior lease and confirmation by ISD.

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Financial: ES / Reviewer: PC & EA**

FINANCIAL ANALYSIS

Table 1 below depicts the information provided by ISD pertaining to the financial aspects of the subject item.

Table 1

Has the expenditure been budgeted for?					
If yes:			If no:	If Applicable	
Provide the budget line item where this expenditure can be identified.	Provide the funding source(s).	Provide the Financial index or account code.	Explain why this expenditure was not budgeted for, including how the expenditure will be addressed.	Provide the actual revenues in FY20-21.	Provide the projected revenues in FY21-22.
N/A, if Lease is approved by the Board, OMB will assign the Budget Book Page Number.	General Fund	Account: 4620000001, Funds: SC001, Dept ID: CH05020000	The projected cumulative rental revenue for the initial five-year lease and the one (1) five (5) year renewal period is expected to be \$690,738.52. The Lease Agreement is expected to be effective 07/01/2021. A 5% of the rental revenue will be applied to ISD/REDD account number ID07010000-G5014-NO-GRANT, for lease management fee, and a 10% will be applied to PHCD, account #ID07010000-G5014-NO-GRANT, for the Affordable Housing Trust Fund. Tenant is responsible for all operating cost of the property.	\$1.00	\$16,998.00

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**Item No. 8F1
File No. 210935**

**Research: MF / Reviewer: PGE
Financial: ES / Reviewer: PC & EA**

Table 2 below depicts the rent schedule both annually and monthly of the proposed lease agreement between the County (Landlord) and The Association for Retarded Citizens, South Florida, Inc. (Tenant) for the first five-year term and the succeeding five-year option-to-renew term. According to the lease agreement, the Tenant will undertake expenses relating to the premises including the following services: utilities, janitorial, maintenance, fire alarm, landscaping, improvements, repairs and the replacement of furniture, fixtures, HVAC, electrical wiring, and plumbing.

Table 2

Rent Schedule for Initial Term			
Lease Year	Monthly Base Rent	Annual Rent	Annual Increase
Year 1	\$0.00	\$1.00	0%
Year 2	\$5,666.00	\$67,992.00	0%
Year 3	\$5,835.98	\$70,031.76	3%
Year 4	\$6,011.06	\$72,132.72	3%
Year 5	\$6,191.39	\$74,296.68	3%
	Subtotal	\$284,454.16	
Rent Schedule for Option to Renew Term			
Lease Year	Monthly Base Rent	Annual Rent	Annual Increase
Year 6	\$6,377.13	\$76,525.56	3%
Year 7	\$6,568.44	\$78,821.28	3%
Year 8	\$6,765.49	\$81,185.88	3%
Year 9	\$6,968.46	\$83,621.52	3%
Year 10	\$7,177.51	\$86,130.12	3%
	Subtotal	\$406,284.36	
	Total	\$690,738.52	

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**Research: MF / Reviewer: PGE
Financial: ES / Reviewer: PC & EA**

Table 3 below depicts the County's projected yearly rental revenue under the proposed lease agreement presented on a fiscal year basis and estimated for the initial term of five years and the succeeding five-year option-to-renew term.

Table 3

Category	Fiscal Year	Projected Annual Rental Revenue
Initial Term	FY 2020-21	\$ 1.00
	FY 2021-22	\$ 16,998.00
	FY 2022-23	\$ 68,501.94
	FY 2023-24	\$ 70,557.00
	FY 2024-25	\$ 72,673.71
	FY 2025-26	\$ 55,722.51
	Subtotal	\$ 284,454.16
Option To Renew Term	FY 2025-26	\$ 19,131.39
	FY 2026-27	\$ 77,099.49
	FY 2027-28	\$ 79,412.43
	FY 2028-29	\$ 81,794.79
	FY 2029-30	\$ 84,248.67
	FY 2030-31	\$ 64,597.59
	Subtotal	\$ 406,284.36
	Total	\$ 690,738.52

Notes:

"Projected Annual Rental Revenue" is estimated based on applying a monthly rental rate presented in Table 2 to the number of months applicable to each respective fiscal year, where July 1, 2021 is the projected lease commencement date and July 1, 2026 is the projected lease commencement date under the option to renew.

ADDITIONAL INFORMATION

According to the mayoral memorandum, the Tenant has remained in Cottages 6, 7 and 10 pursuant to the holdover provision of the prior lease which expired in March 2017. However, upon review of the prior lease approved through [Resolution No. 216-10](#), OCA did not find a holdover provision.

At the PHCS Committee meeting of May 13, 2021, Commissioner Raquel Regalado (District 7) suggested for staff to contact the subject organization regarding its name, being that part of the organization's name is considered a derogatory term when referring to individuals with developmental or intellectual disabilities. The federal government abolished the term more than a decade ago. In 2010, then-President Barack Obama signed legislation requiring the federal government to replace the term with "intellectual disability" in many areas of government.¹ The aforementioned law

¹Michelle Diamant, *Obama Signs Bill Replacing 'Mental Retardation' with 'Intellectual Disability,'* DISABILITY SCOOP, October 5, 2010, <https://www.disabilityscoop.com/2010/10/05/obama-signs-rosas-law/10547/>

**BCC Meeting:
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**Item No. 8F1
File No. 210935**

**Research: MF / Reviewer: PGE
Financial: ES / Reviewer: PC & EA**

replaced the derogatory term from federal health, education and labor policy. Additionally, the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) refers to the diagnosis as one of intellectual development disorder.²

OCA inquired with ISD pertaining to both the holdover provision inquiry as well as the use of the “R” word in the organization’s name. The Department stated that the prior lease agreement did not include a holdover clause as it related to Cottages 5, 6, and 7; notwithstanding, the Tenant had been allowed to stay on the property on a month-to-month tenancy basis, to continue to provide services. The new lease agreement, under this item, incorporates a holdover clause in Section 5 of the Lease Agreement.

Regarding the use of the derogatory term in the organization’s name, the Department confirmed that the nonprofit is registered with the State of Florida as The Association for Retarded Citizens, South Florida Inc. Although the County has no purview regarding the selection of an organization’s name, ISD communicated the concern discussed at the PHCSC committee meeting. In response to the County, staff from the organization indicated that The Arc of South Florida is a Florida chapter of the Arc national organization, which since 1995 has been advocating to remove the “r” word and was considered by its board at one time. Upon recommendations received by board members, the organization decided to keep the legal name as is – for legal reasons – and instead submit a change to the State of Florida for a DBA (doing business as) The Arc of South Florida, Inc. Furthermore, the organization officials stated they have begun the process to officially change its name to “The Arc of South Florida, Inc.” with the State of Florida. Previously, an issue arose when the organization had attempted to change its name and could not because another entity – a for-profit company in West Palm Beach – had already been using said name. That company has been inactive since 2000, therefore, the nonprofit organization may in fact be able to change its name upon submission of the required documentation to the State. Once the name change occurs, the nonprofit intends to inform the County.

The State of Florida’s Division of Corporations shows the organization is active and is registered as [The Association for Retarded Citizens, South Florida Inc.](#) The Tax Collector’s Office has the organization name as [The Arc of South Florida](#), and shows the current owner as Association for Retarded Citizens So. FL Inc.

Illustration 1 shows the subject property pertaining to the three free-standing buildings with Folio No. [30-4031-000-0170](#) that will be leased to the nonprofit organization.

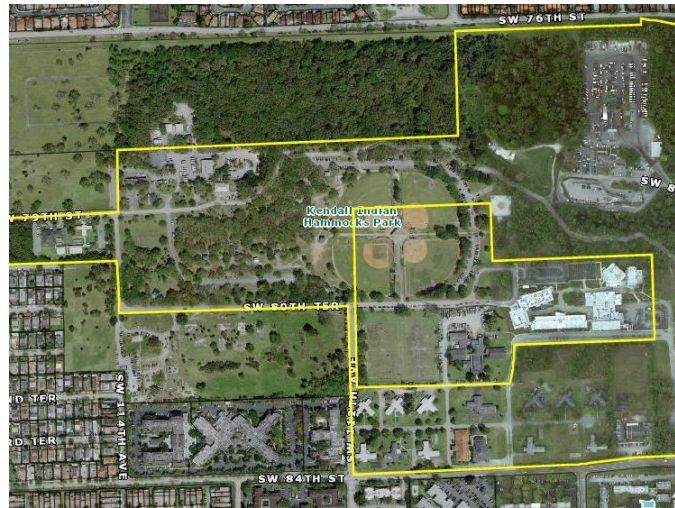
²Marc J. Tasse, *Defining intellectual disability: Finally we all agree... almost*, AMERICAN PSYCHOLOGICAL ASSOCIATION, Spotlight on Disability Newsletter, September 2016, <https://www.apa.org/pi/disability/resources/publications/newsletter/2016/09/intellectual-disability>

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**Item No. 8F1
File No. 210935**

**Research: MF / Reviewer: PGE
Financial: ES / Reviewer: PC & EA**

Illustration 1



**Subject
Site**

The Association for Retarded Citizens, South Florida, Inc. is also known as [The Arc of South Florida](#). Per the lease agreement, the Tenant may only utilize the premises to provide educational, recreational, and related services to infants, toddlers, and pre-school children with disabilities and their families and perform work associated with said services, including providing aid to children of similar ages without disabilities. Aside from land conveyances, some local jurisdictions have codified annual appropriations to assist children's organizations. One example is Broward County. Pursuant to Section [15-9](#) of the Broward Code, County Commissioners may allocate up to \$2,500 from the general fund of its annual budget to the Children's Rehabilitative Services, a nonprofit corporation in Florida that provides housing and care for children with emotional issues.

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 8N3
File No. 211161**

Researcher: VW / Reviewer: PGE

RESOLUTION APPROVING AWARD OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND T.Y. LIN INTERNATIONAL FOR CONSTRUCTION, ENGINEERING AND INSPECTION SERVICES FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS' INFRASTRUCTURE RENEWAL PROJECTS, CONTRACT NO. CIP193-DTPW18-CEI (2), IN AN AMOUNT NOT TO EXCEED \$5,500,000.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$500,000.00; AUTHORIZING THE USE OF PEOPLE'S TRANSPORTATION PLAN BOND PROGRAM FUNDS FOR THE INFRASTRUCTURE RENEWAL PLAN PROJECTS AND THE METRORAIL ACOUSTICAL BARRIER REPLACEMENT PROJECT WHICH WERE ADDED TO THE FIVE-YEAR IMPLEMENTATION PLAN ON MARCH 7, 2017 AND MARCH 6, 2018; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE RIGHTS CONTAINED THEREIN [SEE ORIGINAL ITEM UNDER 210893]

Prime Sponsor(s): None

Requester: Transportation and Public Works (DTPW)

Committee Action Date: 5/11/21 - Transportation, Mobility and Planning Committee (TMPC)

RESEARCH FINDINGS

At the May 11, 2021 TMPC meeting the TMPC committee members requested that the Administration include language in the Staff's Recommendation section of the Mayoral Memo specifying that PSAs for Construction, Engineering, and Inspection (CEI) services which utilize federal funding must hire outside consultants. OCA's review of the item does not indicate that any language was added by the Administration specifying that federal funding for CEI services requires the hiring of external consultants as requested by the commissioners at the TMPC meeting.

FINANCIAL ANALYSIS

This Professional Services Agreement (PSA) in the amount of \$5,500,000 includes a base estimate of \$5,000,000 and a contingency allowance of \$500,000.

According to the Non-Exclusive Professional Services Agreement, the PSA is work order driven. According to correspondence with the Chief of Contract Services for DTPW, the funding for the projects in the PSA can be derived from either local, state, or federal funds. While the Mayor's Memo cites three locally funded projects from the People's Transportation Plan (PTP) Bond Program as funding the PSA, projects utilizing federal funding from the Federal Transit Administration (FTA) or state funding from the Florida Department of Transportation (FDOT) can also be used to fund the PSA based on the priority of the projects within DTPW's Infrastructure Renewal Program (IRP).

ADDITIONAL INFORMATION

During the May 11, 2021 TMPC meeting, the committee members raised questions as to why the Construction, Engineering, and Inspection (CEI) services could not be performed in-house. Representatives from the Administration, County Chief Operating Officer and Deputy Director of DTPW notified the committee that the PSA under consideration requires the hiring of outside consultants because federal provisions require the use of outside consultants for any CEI contract which involves federal funding as in the case of this PSA. The TMPC committee members requested that language be added to the Staff's Recommendation section of the Mayoral Memo specifying that federal requirements prohibit the use of in-house staff if federal funding is being utilized. OCA's review of the item reveals that the item has not been updated to include the language requested by TMPC committee members.

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 8N3
File No. 211161**

Researcher: VW / Reviewer: PGE

T.Y. Lin International failed to meet the SBE-A&E Goal on a 2015 Seaport contract for civil infrastructure engineering services, *Contract No. E13-SEA-02*. SBD issued the violation to T.Y. Lin International for a \$122,159 SBE-A&E goal deficit on April 17, 2020, while the firm was in the evaluation and selection process for *Contract No. E19-MDAD-01*. At the March 2, 2021 BCC meeting, T.Y. Lin International was awarded a PSA for Concourse E New Pre-Conditioned Air Chiller Plant, *Contract No. E19-MDAD-01*, through [Resolution No. R-133-21](#). The violation resulted in a \$244,318 makeup requirement with a 20% of the \$122,159 SBE-A&E goal penalty of \$24,432. Pursuant to SBD policy and [County Code Section 2-10.4.01](#), the firm was required to pay any unpaid penalties prior to any future award. T.Y. Lin International paid the penalty to the County on June 2, 2020, after the Competitive Selection Committee recommended the firm for award of *Contract No. E19-MDAD-01*, on April 29, 2020.

The item being brought before the Board is a substitute item. The substitute differs from the original in that the original memo indicated that the Division of Small Business Development (SBD) approved a make-up plan in the amount of \$200,000.00 with an outstanding goal deficit of \$44,318.00 as of September 10, 2020. On May 3, 2021, SBD approved an updated make-up plan in the total amount of \$244,318.00, which is reflected in this substitute. As explained in the previous paragraph, T.Y. Lin International is required to pay the SBD penalty for failing to meet the SBE-A&E Goal on a 2015 Seaport contract, *Contract No. E13-SEA-02*. The item is being brought before the June 15, 2021 BCC rather than the June 2, 2021 BCC due to the fact that the item required CITT approval which was only granted on May 27, 2021 after the printing deadline for the June 2, 2021 BCC.

The firm is the defendant in an ongoing wrongful death lawsuit (Case No. 2017-L-008009) filed on August 8, 2017 in Cook County Circuit Court, wherein T.Y. Lin International, who was contracted by the City of Chicago to provide construction management and consultant services to the City of Chicago's Department of Water management on various sewer improvement projects, was allegedly negligent in failing to provide protection, supervision and adequate instruction to its workers, resulting in decedent being buried alive while working in the trench dug of the firm's sewer improvement project. The latest court action on the case was an amendment of the complaint to add a party filed on May 20, 2021 by the plaintiff.

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. 11A1
File No. 211394**

Research: CB / Reviewer: PGE

RESOLUTION URGING THE FLORIDA LEGISLATURE TO CODESIGNATE THE PLAZA AT THE INTERSECTION OF SOUTHWEST 23RD AVENUE AND SOUTHWEST 8TH STREET AS “ARTURO DIAZ ARTILES PLAZA” AND APPROVING SUCH STATE CODESIGNATION

Prime Sponsor: Commissioner Eileen Higgins, District 5
Requester: None
Committee Action Date: N/A

RESEARCH FINDINGS

OCA completed the required background research on “Arturo Diaz Artiles” and noted no adverse findings. Pursuant to Ordinance No. 18-79, OCA determined that there is no prior Board of County Commissioners (BCC) codesignation for “Arturo Diaz Artiles.” Pursuant to Ordinance No. 19-11, OCA verified that “Arturo Diaz Artiles” is deceased. In accordance with the cited ordinances, OCA is providing this report as a Supplement to BCC Agenda File Item No. 211394.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Ordinance No. 13-29](#), adopted on April 2, 2013, requires OCA to conduct background research on any person, organization, place or thing that is the subject of a naming, renaming or codesignation item or an item approving the codesignation of state or municipal roads and prepare a report detailing the findings of said research prior to the Commission meeting during which the item is scheduled to be considered.
- [Ordinance No. 18-79](#), adopted on July 24, 2018, relates to any item codesignating any Miami-Dade County road, facility, or property, or approving any state or municipal road codesignation, and requires that OCA prepare a report detailing: (1) whether the subject road, facility, or property has been the subject of any prior codesignation and, if so, the location or the end points of each; and (2) whether there are any other roads, facilities, or properties located in Miami-Dade County that already bear the same name as the proposed new codesignation and, if so, the location or end points of each.
- [Ordinance No. 19-11](#), adopted on February 5, 2019, relates to codesignation items, requiring OCA’s report to indicate whether the person to be honored is living or deceased.

**BCC Meeting:
June 15, 2021
Research Notes**

Item No. TBD

Research: TA & JNF / Reviewer: PGE

File No. 211247 and 211248

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND HILL INTERNATIONAL, INC. FOR CAPITAL IMPROVEMENT PROGRAM SPECIALIZED SERVICES, CONTRACT NO. A18-MDAD-01 IN AN AMOUNT NOT TO EXCEED \$35,839,375.00 FOR A TERM OF FIVE YEARS WITH TWO FIVE-YEAR OPTIONS TO RENEW; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE THE TERMINATION PROVISIONS CONTAINED THEREIN

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND CBRE HEERY, INC. FOR CAPITAL IMPROVEMENT PROGRAM SPECIALIZED SERVICES, CONTRACT NO. A18-MDAD-01 IN AN AMOUNT NOT TO EXCEED \$35,839,375.00 FOR A TERM OF FIVE YEARS WITH TWO FIVE YEAR OPTIONS TO RENEW; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE THE TERMINATION PROVISIONS CONTAINED THEREIN

Prime Sponsor: N/A

Requester: Aviation Department (MDAD)

Committee Action Date: June 9, 2021 Airports and Economic Development Committee

RESEARCH FINDINGS

OCA's review of the item found no substantive legislative, procedural or administrative noncompliance. See the Additional Information section for historical and other background information on the item.

FINANCIAL ANALYSIS

The award of two separate Non-Exclusive Professional Services Agreements (PSAs) each with a term of five years, with two five-year options-to-renew (OTRs), is each valued at \$35,839,375. The base compensation is \$25,000,000 for the initial five-year term, \$3,750,000 for each of the two five-year option-to-renew terms, plus a 10% contingency (\$3,250,000) and the Inspector General fee (\$89,375). The funding sources for this contract, once awarded, would include future Aviation financing, such as commercial paper or bonds, and operating funds.

ADDITIONAL INFORMATION

Timeline

Contract No. B701D - Project Support Services for the Terminal Optimization Program (TOP) at Miami International Airport evolved from an agreement for North Terminal Development Program project support services, award of which was [approved via bid waiver](#) on July 6, 2006. The contract received eight amendments for a total contract value of \$116,534,902 and was in place until April 30, 2018 with Sequeira & Gavarrete, Inc. (S&G), which was [acquired by Heery International, Inc. in 2007](#), as the awarded vendor. At the January 23, 2018 BCC meeting, the Board directed MDAD to not extend this contract past an eighth amendment.

On June 31, 2016, a Notice to Professional Consultants for the replacement contract, ISD Project No. A16-MDAD-02 entitled Terminal Optimization Program (TOP) – Project Support Services, was issued. Three proposals were received in response to the solicitation:

1. AECOM Technical Services, Inc.
2. Burns & McDonnell Engineering Company, Inc.
3. Heery International, Inc. (Incumbent)

**BCC Meeting:
June 15, 2021
Research Notes**

**Item No. TBD
File No. 211247 and 211248**

Research: TA & JNF / Reviewer: PGE

The Competitive Selection Committee (CSC) [ranked Heery International, Inc. first](#) at its November 22, 2016 Second-tier evaluation. Second-ranked AECOM filed a protest to the recommendation on January 27, 2017, alleging that Heery International, Inc. had a conflict of Interest in performing the work under the NTPC and had been provided an unfair competitive advantage. The Internal Services Department (ISD) forwarded the complaint for investigation to the Commission on Ethics (COE). The COE issued its [Letter of Instruction](#) on April 13, 2017 outlining guidance for conflicts of interest protocol, which did not bar the top-ranked firm from being recommended for award. The Office of the Inspector General (OIG) issued findings on March 24, 2017 and subsequently on June 26, 2017 clearing allegations and stating that reported issues would not alter the committee's selection or rankings. While negotiations with Heery International, Inc. were successfully completed on May 19, 2017, a new selection committee was ultimately impaneled due to OIG's tangential finding—one of the selection committee members having not disclosed that her son worked for the third-ranked firm, Burns & McDonnell Engineering Company, Inc.¹ The newly impaneled CSC then [ranked AECOM Technical Services, Inc. first](#) at its October 31, 2017 Second-tier evaluation.

At the July 18, 2018 Economic Development and Tourism Committee, a rejection of the three proposals received in response to ISD Project No. A16-MDAD-02 was deferred. MDAD's justification for the rejection was that the TOP, for which project support services were solicited, was limited and did not address the long-term needs of the County's complete aviation system.

In May 2019, MDAD developed a Capital Improvement Plan (CIP) to address the County's entire aviation system needs, inclusive of passenger operations, cargo, and general aviation. The CIP envisioned in 2019 included a series of capital projects from the former TOP as well as long-term plans to address all capacity and operational needs. In addition to the capital project needs at general aviation airports, the CIP addresses MIA's capital project needs with five sub-programs as detailed below:

1. North Terminal Program
 - a. Gate Optimization Project
 - b. D60 Redevelopment
2. Central Terminal Program
 - a. Central Terminal Redevelopment
 - b. Concourse F Modernization
 - c. Concourse G Demolition and Apron
3. South Terminal Program
 - a. South Terminal Expansion
 - b. Apron Expansion
4. Cargo Program
 - a. Taxiway R, Fuel Tender, and Ramp Expansion
 - b. Building 702 Expansion and Apron
 - c. Fumigation Facility
5. Miscellaneous Program
 - a. Roadway and Bridge Improvements
 - b. Bus Maintenance Facility
 - c. North Terminal Ground Service Equipment (GSE)
 - d. South Terminal GSE and Auto Fueling Station

¹ Reported by ISD at the July 18, 2018 Economic Development and Tourism Committee meeting.

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- e. Park 6 Garage
- f. New On-Airport Hotels

On July 10, 2019, the Board adopted two companion resolutions: Resolution No. [R-721-19](#), a rejection of all bids for ISD Project No. A16-MDAD-02 for consultant selection regarding MDAD's TOP project and Resolution No. [R-722-19](#), approval of a Request to Advertise ISD Project No. A18-MDAD-01 for consultant selection regarding MDAD's CIP Specialized Services Project, a project broader in scope than the TOP project. The goal of the RTA was to retain two specialized Architectural/Engineering (A/E) firms to implement the CIP, rather than just one A/E firm as solicited for in ISD Project No. A16-MDAD-02 where all bids were rejected. The two firms were to provide services only when requested by MDAD staff, at a compensation amount of up to \$35,839,375 per firm for the initial contract term of five years and two five-year options to extend. According to the Mayoral Memorandum for Resolution No. R-722-19, the item was brought before the Board for approval, even though [Section 2-8.1 of the County Code](#) delegates authority to the Mayor to advertise bids for all County contracts, to allow for Board input prior to the solicitation being advertised to the industry due to the significance and countywide impact of the CIP.

The solicitation was advertised on December 6, 2019 and five submittals were received by the deadline of January 31, 2020. The CSC's First-tier meeting was held on November 6, 2020 wherein the CSC elected to invite the four highest proposers to the Second-tier phase. The Second-tier meeting was held on December 7, 2020, wherein the CSC recommended the two top-ranked firms, Hill International, Inc. and CBRE Heery, Inc., to proceed to negotiations. Neither the COE nor the OIG has issued reports regarding this solicitation.

The May 4, 2021 Board agenda included a [recommendation from the Mayor](#)² to reject all proposals for ISD Project No. A18-MDAD-01 and issue a replacement solicitation that would include new criteria as part of the evaluation process. The proposed criteria were as follows:

1. Workforce Training, Local Hire Commitment and Workplace Safety
2. Support Diversity
3. Resiliency and Energy Efficiency
4. Forward Looking
5. Efficiency

The County's Code and Board resolutions legislatively mandate or establish policies for competitive procurements within the authority provided under the County Charter; the applicability to the latest solicitation were enumerated on Section 1.11 of the NTPC. The applicable legislation related to the above criteria include:

- [Section 2-8.8: Fair Subcontracting Practices](#) – it is the policy of the County to promote diversity in the use of Subcontractors on Miami-Dade County projects and to allow opportunities for subcontracting to as many qualified Subcontractors as possible.
- [Ordinance 07-65 Sustainable Buildings Program](#) and [Implementing Order 8-8](#) – Established as County policy the institution of sustainable development practices and measures into buildings owned, financed, and/or operated by the County.
- [Ordinance 98-30: County Contractors Employment/Procurement Practices](#) – Requires County contractors to demonstrate that their employment and procurement practices do not discriminate against minorities and women.

² The amended item was assigned Resolution No. R-406-21, but was not available in Legistar as of June 11, 2021.

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- [Resolution No. R-617-17: Envision Sustainable Infrastructure](#) – Requires the Sustainable Infrastructure “Envision” Sustainable Rating System for Miami-Dade County infrastructure projects to be incorporated into the planning, design, construction and operation of County-funded infrastructure projects.
- [Resolution No. R-1106-14](#) – Sets the aspirational policy of Miami-Dade County that all individuals and entities in Miami-Dade County have a full, fair and meaningful opportunity to participate in County-funded and Public Health Trust-funded contracting regardless of race, gender or ethnic origin, reflective of the diversity of the County.

Per a memorandum dated April 30, 2021, the Mayor requested a withdrawal of the rejection item, based on continued conversations and engagement with the top two ranked firms that resulted in written commitments to address the five above criteria. As such, the Mayor intended to bring the final negotiated contracts for the Board’s consideration. At the May 4, 2021 Board meeting, there were concerns voiced regarding continued delays to the progress of MDAD’s CIP. In order to meet priorities of the airlines and to keep smaller projects moving forward, MDAD had been accessing consultant services under other existing agreements and using internal staff, respectively. There was also the desire to maintain the integrity of the original solicitation by not imposing additional requirements as a condition of award. The Board ultimately directed the Mayor to proceed with the award of the subject contract without the new criteria and bring the negotiated contracts back to the following Board meeting (May 18, 2021).

At the May 18, 2021 Board meeting, the AEDC Chairman requested that the two award items be referred to the June AEDC meeting.

At the June 9, 2021 AEDC meeting, the items were approved with a favorable recommendation and waived to the June 15, 2021 Board agenda. The MDAD Director noted that additional contract opportunities would be available as the CIP moves forward.

Due Diligence

On February 3, 2020, the prime consultant of the top ranked team, Hill International, Inc., received a \$500,000 civil penalty owed to the Securities and Exchange Commission for violating Section 17(a)(2) and (3) of the Securities Act of 1933, 15 U.S.C. § 77q(a)(2) and (3) (*Securities and Exchange Commission v. Hill International, Inc. et al, Case No. 1:20-CV-00447 filed on January 16, 2020 in U.S. District Court, Southern District of New York*).

A 25% minimum DBE goal was established for this contract. The ownership and certification breakdown of the two recommended top-ranked teams are presented below:

(see next page)

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Top-Ranked Team	Committed DBE Goal	Ownership	Local Address	DBE-certified	SBE-certified
Hill International, Inc.					
Alleguez Architecture, Inc.	3%	Woman/Hispanic	Yes	Yes	Yes
Alfredo J. Balsera, P.A. dba Balsera Communications	8%	Male/Hispanic	Yes	Yes	Yes
Fraga Engineers, LLC dba Fraga Engineers	4%	Woman/Hispanic	Yes	Yes	No*
Nifah and Partners Consulting Engineers, Inc.	3%	Male/Black	Yes	Yes	Yes
Paco Technologies, Inc. (Paco Group, Inc.)	3%	Male/Hispanic	No (New York)	Yes	No
Sharp 10 Group, LLC	3%	Male/Black/Veteran	No (Palm Beach)	Yes	No
Architectural Design Consortium, Inc.	4%	Male/Black	Yes	Yes	Yes
Bermello Ajamil & Partners, Inc.	n/a	Male/Hispanic	Yes	No	No
T Y Lin International**	n/a	Male/Asian	Yes	No	No
Alpha Construction & Engineering Corp. dba Alpha Corporation	n/a	Female/Unspecified	Yes	No	No
TJJA Architects PA	n/a	Male/Caucasian	Yes	No	Yes
Total DBE participation:	28%				
CBRE Heery, Inc.					
Bekka Group, Inc.	10%	Woman/Hispanic	Yes	Yes	Yes
De Zayas-Bitar Construction Co.	10%	Woman/Hispanic	Yes	Yes	Yes
Hammon & Associates, Inc.	5%	Male/Black	Yes	Yes	Yes
EAC Consulting, Inc.	n/a	Male/Black	Yes	No	No
Total DBE participation:	25%				

Sources: Business Management Workforce System (BMWS), June 10, 2021.

Florida Unified Certification Program (UCP) Directory, June 10, 2021.

* The SBE certification for Fraga Engineers, LLC is no longer active as of March 31, 2021; however, this contract has no SBE goals.

** As of June 11, 2021, T Y Lin International has an open SBE Goal Deficit violation in the amount of \$244,318; the firm is a subcontractor under this contract.

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File No. 211448 Substitute [Original 210634]

RESOLUTION APPROVING A CONTRACT AWARD FOR PROFESSIONAL SERVICES AGREEMENTS WITH 11 CONSULTING FIRMS TO PROVIDE MATERIALS TESTING, CONSULTING AND TRAINING SERVICES (PROJECT NO. E19-DTPW-07; CONTRACT NO. 20190202) AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENTS AND EXERCISE ALL PROVISIONS CONTAINED THEREIN ON BEHALF OF MIAMI-DADE COUNTY AND AUTHORIZING THE USE OF VARIOUS FUNDING SOURCES INCLUDING CHARTER COUNTY TRANSPORTATION SURTAX FOR THOSE PROJECTS IDENTIFIED IN THE ORIGINAL EXHIBIT 1 OF THE PEOPLE'S TRANSPORTATION PLAN AND PROJECTS IDENTIFIED IN THE FIVE-YEAR IMPLEMENTATION PLAN OF THE PEOPLE'S TRANSPORTATION PLAN ADOPTED JANUARY 22, 2020 AND BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND FUNDS [SEE ORIGINAL ITEM UNDER FILE NO. 210634]

Prime Sponsor: None

Requester: Transportation and Public Works (DTPW)

Committee Action Date: 6/8/21 – Transportation, Mobility, and Planning (canceled and item waived to BCC); TMPC; 5/11/21 – TMPC (Deferred); 4/13/21 – TMPC (Deferred)

RESEARCH FINDINGS

- This substitute item does not specifically set forth how the substitute addresses the concerns (whether the solicited services are PTP-approved, distinguishing between PTP-approved projects and other countywide services, CITT's position on the award recommendation and the operational impact of the deferral) raised by the TMPC members at its April 2021 meeting. Refer to Additional Information section.
- Pursuant to [Resolution No. R-1204-05](#), which directs the Mayor to evaluate in-house capabilities and expertise prior to contracting the services of outside consultants, the mayoral memo does not provide information as to whether in-house capabilities were considered for this contract. Refer to Additional Information section.
- Recommended contractors Terracon Consultants Inc. and EBS Engineering, Inc. have OSHA cases on file. Refer to Additional Information section.

FINANCIAL ANALYSIS

The original item that traveled to TMPC on May 2021 (and subsequently deferred to June's committee meeting) requested approval of \$3,000,000 in PTP funds. The request under this item reduced the requested amount by 90% to \$300,000. Upon OCA's inquiry with DTPW pertaining to the decrease, the Department indicated the amount was reduced from the original request based on the historic use of this similar contract for PTP projects. As such, it was determined that the anticipated financial impact from PTP projects would not exceed the \$300,000 threshold.

The table below depicts the firms under this contract that have a previous history with the County as shown in the Business Management Workforce System (BMWS), including contract title, term, status, and value. The vendors, as shown in BMWS, may be prime, sub-consultants, or sub-contractors in each of the contracts shown.

RECOMMENDED VENDORS' PREVIOUS HISTORY				
Vendor	Contract Title	Term	Status	Value
Airquest Environmental Inc.	Asbestos, Survey West Transfer Station	12/4/2020 – 12/4/2025	Active	\$1,645

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	Asbestos Training – New Direction	11/15/2019 – 11/15/2024	Active	\$5,000
	Multiple Parks Asbestos Testing	10/19/2020 – 10/19/2025	Active	\$200,000
	Design Building for Bridge Replacement at N. Miami Ave. over Little River Canal	9/28/2017 – 2/12/2021	Active	\$2,925,350
Vendor	Contract Title	Term	Status	Value
Apex Companies, LLC	Asbestos Survey at Various DSWM locations	1/26/2021 – 1/26/2026	Active	\$25,000
	Site Preparation and Storm Water Master Plan	3/8/2021 – 3/8/2026	Active	\$500,000
Vendor	Contract Title	Term	Status	Value
ATC Group Services, LLC	Asbestos Testing and Project Monitoring	4/17/2020 – 4/17/2025	Active	\$200,000
Vendor	Contract Title	Term	Status	Value
EBS Engineering, Inc.	Continuous Professional Services for Federally Funded Projects	2/7/2017 – 2/6/2022	Active	\$1,650,000
	PSA for Engineering Services for DTPW	3/7/2017 – 3/6/2022	Active	\$20,130,000
Vendor	Contract Title	Term	Status	Value
GLE Associates, Inc.	Multiple Asbestos Survey, Testing and Monitoring Services	7/13/2020 – 7/13/2025	Active	\$100,000
Vendor	Contract Title	Term	Status	Value
NV5 Inc. (KACO)	Road Canal Geotechnical Engineering Services	3/7/2018 – 3/7/2023	Active	\$52,000
	Geotechnical Services for Various DTPW Projects	5/29/2020 – 5/29/2025	Active	\$54,060
	Geotechnical Testing: Various Sites	4/16/2020 – 4/16/2025	Active	\$7,736

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	MDFR Roof Asbestos Testing	3/6/2020 – 3/6/2025	Active	\$28,000
	Continuous Professional Services for Federally Funded Projects	2/7/2017 – 2/6/2022	Active	\$1,650,000
	Cruise Terminal F Expansion	8/27/2020 – 10/31/2022	Active	\$120,751,934.94
Vendor	Contract Title	Term	Status	Value
Terracon Consultants Inc.	Truck Wash Roof Repairs	2/17/2021 – 2/17/2026	Active	\$21,000
	Assessment – Coconut Grove Library Roof	9/18/2018 – 9/18/2023	Active	\$61,110
	FEMA Roof Repairs, Multiple Sites	3/25/2019 – 3/25/2024	Active	\$117,345
	ITD – 3 rd Floor Asbestos Survey	5/29/2020 – 5/29/2025	Active	\$2,894
	Replacement at Island Blvd.	7/14/2020 – 7/14/2025	Active	\$71,702
	Roof Replacement – Design and Engineering Services	3/10/2020 – 3/10/2025	Active	\$200,000
	Soil Foundations and Material Testing	3/30/2021 – 3/30/2026	Active	\$87,906
	Continuous Professional Services for Federally Funded Projects	2/7/2017 – 2/6/2022	Active	\$1,650,000
	NE 10 Ave. Bridge Replacement	8/27/2019 – 8/27/2024	Active	\$302,000
	PSA for Engineering Services for Miami-Dade Co.	3/7/2017 – 3/6/2022	Active	\$21,780,000
Vendor	Contract Title	Term	Status	Value
Wood Environment & Infrastructure Solutions, Inc.	Constructions Inspection Services	1/3/2018 – 1/3/2023	Active	\$200,000
	Environmental Cleanup,	12/6/2016 – 12/20/2021	Active	\$3,300,000

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	Compliance and Related Services			
	North Dade Landfill Stormwater Assessment	10/4/2018 – 10/4/2023	Active	\$65,000
	Special Inspector for African Heritage Cultural Arts Center	10/29/2020 – 10/29/2025	Active	\$15,000
	MIA Taxi Lot Replacement	1/27/2021 – 1/27/2026	Active	\$400,000
	PSA for Engineering for DTPW	3/7/2017 – 3/6/2022	Active	\$18,590,000
	Stormwater Sampling & Monitoring	9/23/2020 – 9/23/2024	Active	\$1,102,750

ADDITIONAL INFORMATION

Pursuant to Resolution No. [R-63-14](#), due diligence shall be conducted by the County with respect to the responsibility of potential vendors and contractors including viewing the contractual history and background of the entities the County intends to contract with. Such history and background were not included in the mayoral memo for this item.

OCA consulted the Occupational Safety and Health Administration (OSHA) website for information on the recommended firms. Bulleted below are the findings.

- EBS Engineering, Inc. – A June 11, 2018 [OSHA case](#) was opened due to an employee injury on a public road. No other information was available pertaining to fines, et al. The case was closed October 15, 2018.
- Terracon Consultants Inc. – The firm has two OSHA cases on file: 1) A [case](#) was opened on October 16, 2019 for the amount of \$3,500; the firm settled the issue for \$1,750 and the case was closed April 10, 2020. No other information was provided on this case. 2) A [case](#) was opened on April 16, 2019 pertaining to a fatality involving an employee who was run over by a pickup truck. There was a penalty in the amount of \$4,500 and the case was closed October 14, 2019.

OCA's review of the item yielded information pertaining to two of the recommended 11 firms, pursuant to Resolution No. [R-818-19](#), which requires for the bidder or proposer to disclose in competitive and non-competitive solicitation submittal documents lawsuits relating to allegations of discrimination and their disposition for a 10-year period.

- NV5 Inc. (KACO) and Professional Services Industries, Inc. – both companies are co-defendants in a negligence lawsuit filed March 30, 2021 (*Aspen Specialty Insurance Company v. Marker Group LLC et al*, Case No. CACE21006534) in the 17th Judicial Circuit Court, Broward County. The complaint alleges that the defendant(s) negligently operated and maintained construction equipment which led to the collapse of a wall causing damages to the plaintiff. As of May 25, 2021, the case docket information cited a notice of appearance.
- Professional Service Industries, Inc. – the company is also a defendant in a lawsuit filed September 2, 2020 (*Manuel Rivera v. Professional Service Industries, Inc. et al*, Case No. 8:20-CV-01668) in the U.S. District Court, Central District of California (Santa Ana). The complaint alleges the defendant discriminated against the plaintiff based on age by creating a hostile work environment, failing to provide reasonable accommodation,

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and retaliating by terminating the plaintiff. As of April 9, 2021, the case docket reflected a pre-trial conference set for January 21, 2022 and a jury trial set for February 7, 2022.

[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. OCA reached out to DTPW for clarity on this and the Department indicated there is no in-house expertise or equipment to be able to carry out the duties for the required projects.

A review of the Capital Improvements Information System (CIIS) showed the following in terms of the number of evaluations on file for each firm and the average score of out a maximum total score of 4.0:

- Airquest Environmental Inc. – 0 evaluations
- Apex Companies LLC – 0 evaluations
- ATC Group Services LLC – 8 evaluations; average score 3.5
- EBS Engineering Inc. – 11 evaluations; average score 3.4
- GFA International Inc. – 3 evaluations; average score 3.3
- GLE Associates Inc. – 9 evaluations; average score 3.4
- NV5 Inc. (KACO) – 1 evaluation; score 3.7
- Preemptive Strike Environmental Inspections LLC – 0 evaluations
- Professional Service Industries Inc. – 78 evaluations; average score 3.9
- Terracon Consultants Inc. – 45 evaluations; average score 3.7
- Wood Environment & Infrastructure Solutions Inc. – 81 evaluations; average score 3.8

OCA contacted DTPW on June 11, 2021 to seek clarification on aspects of this contract as bulleted below; the department replied the same day.

- Pertaining to how the substitute item addresses the concerns (e.g., whether the solicited services are PTP-approved, distinguishing between PTP-approved projects and other countywide services, CITT's position on the award recommendation and the operational impact of the deferral) raised by the TMPC members at its April 2021 meeting, DTPW explained that the substitute: 1) provides a detailed explanation of the funds being utilized in the contract with a list of sample projects funded via PTP dollars; 2) the fiscal impact to the Charter County Transportation Surtax is estimated at approximately \$300,000 over the period of the PSA and funds will only be used on PTP funded projects; and 3) said projects include work on NW 37 Avenue from NW North River Drive to NW 79 Street; NE 2nd Avenue from NE 20 Street to NE 36th Street; SW 137 Avenue from US-1 to SW 200 Street; and SW 137 Avenue from HEFT to US-1.
- The item does not explain the reduced amount of the PTP surtax funds impact of \$300,000 from the initial \$3,000,000 under original item Legistar No. [210634](#) – even though the contract term of three years remains the same. In response, DTPW stated that the reason the amount was reduced from the original request was based on the historic use of this similar contract for PTP projects. As such, it was determined that that the anticipated financial impact from PTP project would not exceed the \$300,000 threshold.

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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).