

DEPARTMENTAL INPUT
CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION

Rev 1

<input type="checkbox"/> <u>New contract</u>	<input type="checkbox"/> <u>OTR</u>	<input type="checkbox"/> <u>CO</u>	<input type="checkbox"/> <u>SS</u>	<input checked="" type="checkbox"/> <u>BW</u>	<input type="checkbox"/> <u>Emergency</u>	Previous Contract/Project No.
<input type="checkbox"/> <u>Re-Bid</u>	<input type="checkbox"/> <u>Other</u>	LIVING WAGE APPLIES: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO				

Requisition/Project No: **ROAV1400020**

TERM OF CONTRACT: **10.5** years with **NO** options-to-renew

Requisition/Project Title: **Miami International Airport Eboy Pixorama Artwork**

Description: Eboy Artists will make use of images representative of Miami International Airport in creating the Pixorama Artwork. Eboy is an art group founded in 1997. Their style has gained them a following among graphic designers worldwide, as well as a long list of commercial clients. The Eboy MIA Pixorama landing will take place at the **Miami International Airport the 5th of June 2014** with a presentation of a big print of the Art Work. Reproduction posters of the original work will be printed and sold at MIA Gift Shops, MIA Online Store and EboyMIA Online. Proceeds from sales will be distributed between MDAD and Contractor.

User Department: **Miami International Airport Department**

Issuing Department: **Internal Services Department** Contact Person: **Maria Carballeira**

Phone: **305-375-4260**

Estimated Value/Revenue: **\$190,000 for term of contract**

Funding Source: **Revenue Generating**

REVENUE GENERATING: **YES**

ANALYSIS

Commodity/Service No: 96104		SIC:	
Artist Services			
Contract/Project History of Previous Purchases For Previous Three (3) Years Check Here <input type="checkbox"/> if this is a New Contract/Purchase with no Previous History			
	EXISTING	2ND YEAR	3RD YEAR
Contractor:			
Small Business Enterprise:			
Contract Value:			
Comments:			
Continued on another page (s): <input type="checkbox"/> Yes <input type="checkbox"/> No			

RECOMMENDATIONS

SBE	Set-Aside	Sub-Contractor Goal	Bid Preference	Selection Factor
		%		
		%		

Basis of Recommendation:

Signed: **Maria Carballeira**

Date to SBD: **5/9/2014**

Date Returned to PMD: _____

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This is not an advertisement.

Miami-Dade County, Florida

RFP No.

SCOPE OF SERVICES

1. Purpose

The purpose of this Agreement is to allow the Artist to make use of images of Miami International Airport (MIA) in creating the MIA Pixorama Artwork. The County, through the Miami-Dade County Aviation Department ("MDAD" or "the Department") shall allow, in times, places, and manners as determined in the sole discretion of the County, reasonable access to MIA so that the Artist can compile sufficient images for the creation of the work. Upon such compilation, the Artist shall create a Pixorama image of MIA, in a manner substantially similar to Artist's Pixorama images of various cities such as New York, London, Rio De Janeiro, or otherwise.

2. Requirements and Services to Be Provided

In creating the Work, Artist shall not:

- a) Depict any lewd or salacious conduct.
- b) Depict any racially or culturally insensitive content.
- c) Depict any instances of criminal activity, as defined by the laws of Florida and/or the United States, including but not limited to: theft, robbery, fraud, drug usage, drug smuggling, terrorism, assault, human trafficking, or otherwise.
- d) Make use of any logos, trademarks, or copyright material owned by any third parties, including but not limited to Airlines, airport concessionaires, airport advertisers, creators of art on display at MIA, or others, without the express consent of such third parties.
- e) Include the work of any other artist whose work is displayed at or incorporated into MIA, without the express written consent of such artist. A list of art which is incorporated into MIA is attached hereto as Attachment A - Collection of Art in Public Place at MIA.

1. The Work shall be created as High definition digital image of 1200 x 860 pixels. Artist shall solely be responsible for all costs associated with compilation of images and creation of the Work. Artist shall provide the County with a digital copy of the Work in its native format.

2. Upon completion of the Work, but prior to its sale, publication, distribution, or display, Artist shall provide the County with a copy of the Work for

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review and approval. The County shall have seven (7) days to approve or reject the Work. In the event that the County, for whatever reason, and in its sole discretion, rejects the Work, the Work shall be destroyed, and neither the County nor Artist may make use of the Work for any purpose, including but not limited to commercial, educational, promotional, or other uses, or otherwise display the Work in any fashion. Artist shall not promote, sell, publish, distribute or display the Work until such time as the County has approve the Work, or until thirty days has elapsed from the date the Work was provide to the County for approval, whichever comes first. Approval of the County pursuant to this section shall not relieve Artist of its indemnity and other obligations under this Agreement. In the event that the County does not approve the Work, the County shall pay to the Artist, and the Artist agrees to accept, fifty thousand dollars (\$50,000) as full and final reimbursement for all costs, to include, but not limited to all expenses incurred (*i.e., preparation, photographs, artists' time, etc.*) and claims of any kind arising out of this Agreement, and shall constitute a full release of all claims under this Agreement. The County and the Artist may agree on interim dates to review the work in-progress; however, no interim approval shall be considered as preclusive of the County's rights with to the completed work under this Section.

3. Except as expressly provided in this Agreement, the Artist retains copyright and proprietary interests to the Work. The Artist retains permission to copy, reproduce, or publish the image of the Work for non-commercial promotional, educational or historical purposes. Artist may sell posters of the Work, which Artist anticipates to be sized at A0: 46.8 x 33.1 inch or at A2: 16.5 x 23.4 inch ("Posters"), but the Artist may not make any other commercial use of the Work without the express written consent of the County. Artist shall not, and shall not permit or license, the commercial reproduction or exploitation of the Work or of the copyright to the Work in any manner to any person except as expressly specified herein. County shall be entitled to recover all economic damages that flow from a breach of this covenant of the Artist.

4. On or before January 30th of each year, Artist shall provide to MDAD a payment in the amount of thirty percent (30%) of the gross revenues generated by the sale of posters (or other merchandise as may be authorized for sale or trade by the Artist and the County) of the Work during the prior year. This payment shall be in American dollars; to the extent all or some of Artist's gross sales were conducted in currency other than American dollars, the value of the County's payment shall be calculated using the applicable exchange rate in effect on thirty days prior to the issuance of the payment. In conjunction with this payment, Artist shall furnish to MDAD, a Statement of Yearly Gross Revenues, in a format acceptable to MDAD. The Statement shall include, but shall be limited to, data accounting for all sales by unit of Posters of the Work by the Artist worldwide, without limitation, and shall reflect all revenues (gross of costs) generated to Artist through sales of Posters. The Artist shall certify as to the accuracy of such Gross Revenues in such form as shall be prescribed by the Department. The Department may modify from time to time, the form of reporting upon not less than thirty (30) Days written notice to the Artist. The statement must be signed by the Artist or an officer of the

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Artist and identify all Gross Revenues reported to the Artist during such year. At the request of the County, Artist will provide reports of yearly gross revenues generated by sales of Posters by Artist, as audited by an independent certified public accounting firm, licensed in the State of Florida, prepared in accordance with Generally Accepted Auditing Standards. The Artist shall, at all times during the term of this Agreement maintain at the Artist's principal office located in the United States and make available to the County in Miami-Dade County, Florida, complete and accurate books and records of all receipts and disbursements from its operations in sales of the Posters, in a form consistent with good accounting practice.

5. The County is hereby granted an exclusive copyright license to reproduce the Work or portions thereof for non-commercial, promotional, educational, or advertising purposes, including but not limited to use of the Work in any advertisement, promotions, and uniforms, buttons, lapel pins, internal reports, catalogues or magazines, banners, murals and the like, in both digital and print format, for the express purposes of the County and/or Miami International Airport, without compensation to the Artist; however, the Artist must provide written consent to such uses to the extent that the modify or alter the Work. The County shall be entitled to reproduce the Work or to create derivative works for use and display at Miami International Airport without compensation to the Artist. However, the Artist will be acknowledged as creator of the Work in a reasonable manner in all forms of use of the Work. Further, to the extent provided elsewhere in this Agreement, Artist limits all rights he has or may have under the Visual Artists Rights Act of 1990 as it may be amended from time to time, to the extent necessary to give the purposes of this Agreement the fullest possible implementation by County. Notwithstanding, nothing herein shall authorize the County to make commercial use of the Work, including the sale or trade for commercial benefit of any items which incorporate the Work or elements thereof, except with the consent of the Artist.



INTERNAL SERVICES DEPARTMENT
PROCUREMENT MANAGEMENT SERVICES

Justification/Input Document for Non-Competitive Acquisition

It is the policy of Miami-Dade County to consistently purchase goods and services using full and open competition. The citizens of Miami-Dade County are best served when we make sound business decisions based on competitive bids or proposals. Early acquisition planning that includes consultation with Internal Service Department's procurement staff can help avoid delays and facilitates effective market research. However, there may be instances when other than full and open competition may be justified. When a user department(s) determines that other than full and open competition is necessary or in the best interest of the County, appropriate justification for that course of action must be submitted to ISD for approval and execution in order to waive the competitive bid/proposal process.

Please provide the information requested below to support the need and feasibility for waiving the competitive bid/proposal process:

Department:	Aviation Department		
Contact Person:	Neivy Garcia	Phone Number:	305-876-8482
Requisition No.:		Estimated Value:	Revenue generating (approx. \$18,000.00 per year)
Proposed Vendor:	Marsdesign Miami Agency		
Previous Contract Number:	NA	Previous Contract Value:	NA

Purpose of the Purchase

Please describe your minimum requirements and the benefits of making the acquisition.

The Aviation Department is seeking a term contract with Marsdesign Miami Agency for the design of an original artwork that will be made into a Pixorama (a mix between pixel and panorama). Reproduction posters of the original will be printed and sold at the MIA Gifts Shops, the MIA Online Store and the eBoyMia Online Store. This is a very unique, one-of-a-kind artwork that will be created by Marsdesign Miami Agency exclusively for MIA at no cost to MDAD. Proceeds from sales will be distributed as per the County's negotiated agreement with Marsdesign Miami Agency.

Best Interest of the County / Uniqueness of Product

Please provide a detailed description as to why a waiver of formal bidding is in the County's best interest (e.g., product standardization, compatibility, proprietary access or distributorship, how vendor is uniquely qualified to provide the needed product or service, etc.). Please note that a lack of advance planning is not an acceptable justification for a non-competitive acquisition.

Marsdesign's artwork are complex illustrations that will be created specifically for a MDAD. They are all one-of-a-kind designs and Marsdesign's artists are the only ones that are uniquely qualified to provide the needed service and product of using pixels and high graphics to create a fresh artistic pixel view of Miami, Miami Beach, and its surroundings. Marsdesign Miami Agency has an impressive history in working with major companies in different cities and in visually communicating the character, culture, key sites, people and immediate environment of these cities.



**INTERNAL SERVICES DEPARTMENT
PROCUREMENT MANAGEMENT SERVICES**

Market Research

Please describe your market research and the results thereof. This should include a description of other, similar sources or products available in the market if any and why they are not acceptable.

As this is a unique one-of-a-kind original art work, there are no other vendors that can offer this same representation. MDAD has identified Marsdesigns Miami Agency as the only vendor that offers this creation, in unity with MIA's aesthetic vision, that MDAD is looking for. Marsdesigns Miami Agency offers a special, one-of-a-kind visual representation that MIA seeks to achieve. We have also concluded that Marsdesigns is the best suited for this project as it has a long track record of creating successful partnerships and business opportunities with major corporations through the world: Adidas, Air France, Coca Cola, DKNY, Google, Honda, MTV, to name a few.

Proposed Actions

Please describe the actions the department will take to overcome the present barriers to competition prior to any future acquisitions of this product or service.

Although this is a bid waiver request because of the art aspect of the product that makes it a one-of-a-kind unique item and is intended to be a revenue producing project, with no cost to the County, MDAD is open to other similar revenue producing projects that may arise in the future.



Department Director's Approval

4/28/14

Date Approved

Walters, Vivian (ISD)

From: Carballeira, Maria D. (ISD)
Sent: Friday, May 09, 2014 5:26 PM
To: Walters, Vivian (ISD)
Subject: Measures Determination: Req. No. RQAV1400020
Attachments: Input Doc-Project Measure Worksheet.pdf; Signed Non-Competitive Waiver Justification.pdf; Future Draft Solicitation.pdf

Good Afternoon Vivian:

I hope this email finds you well. If you would be so kind as to please review the attached Technical Specifications/Scope of Services and determine if a CSBE measure should be applied to subject Bid Waiver for the purpose of procuring artistic services to ultimately create the Eboy MIA Pixorama for our Aviation Department. Please see attached non-competitive waiver justification for further information on services.

In my humble opinion, I do not believe any measures should be applied as these services will be procured through a Non-Competitive process, in addition to generating revenues for Miami-Dade County Aviation Dept. A copy of the input doc/project measures worksheet is also attached. The approximate value of the 10.5-year agreement term is \$180,000.

Please let me know if you need anything further.

Much Thanks.

Maria Carballeira, CPPB

Procurement Contracting Officer

Internal Services Department – Procurement Management Division

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