

**DEPARTMENTAL INPUT
CONTRACT/PROJECT MEASURE ANALYSIS AND RECOMMENDATION**

ROID

| | | | | | | |
|--|---------------------------------------|---|---|------------------------------------|---|--|
| <input type="checkbox"/> <u>New contract</u> | <input type="checkbox"/> <u>OTR</u> | <input type="checkbox"/> <u>CO</u> | <input checked="" type="checkbox"/> <u>SS</u> | <input type="checkbox"/> <u>BW</u> | <input type="checkbox"/> <u>Emergency</u> | <div style="border: 1px solid black; padding: 2px;">Existing Contract: SS9553-3/20</div> |
| <input type="checkbox"/> <u>Re-Bid</u> | <input type="checkbox"/> <u>Other</u> | LIVING WAGE APPLIES: ___ YES <input checked="" type="checkbox"/> NO | | | | |

Requisition/Project No: ROBU1900001/SS9553-0/24

TERM OF CONTRACT: 5 YEARS

Requisition/Project Title: SESAC Music License

Description: License to use SESAC's music composition at facilities owned, operated and leased by Miami-Dade County (County). The County currently has licenses with the three performing rights organizations (PROs) that control and manage music performance licenses/rights in the United States: Society of European Stage Authors and Composers (SESAC), American Society of Composers, Authors and Publishers (ASCAP), and Broadcast Music Inc. (BMI). These PROs represent songwriters' and music publishers' copyright works under the United States Copyright Law. They act as intermediaries between copyright holders and other parties; licensing public performing rights, monitoring the use of musical compositions, collecting royalties and presenting alleged violations to the Copyright Royalty Board. Each PRO has a distinct and unique repertory comprising different songwriters, composers, publishers and copyright holders.

User Department: OMB

Issuing Department: ISD/SPD

Contact Person: Sophia Cunningham, 305-375-2179; Sophia.Cunningham@miamidade.gov

Estimated Cost: \$120,000

Funding Source: General Funds

Revenue Generating: N/A

ANALYSIS

| | | | |
|--|-----------------|----------------------------|----------------------------|
| Commodity/Service No: <u>999</u> SIC: | | | |
| Trade/Commodity/Service Opportunities | | | |
| <div style="border: 1px solid black; padding: 5px; margin: 0 auto; width: 80%;"> Contract/Project History of Previous Purchases For Previous Three (3) Years Check Here <input checked="" type="checkbox"/> if this is a New Contract/Purchase with no Previous History Existing Contract No. is SS9553-3/20 for an initial term of one year and one, three year renewal option. The existing contract is scheduled to expire December 31, 2019 </div> | | | |
| | <u>EXISTING</u> | <u>2ND YEAR</u> | <u>3RD YEAR</u> |
| Contractor: | SESAC LLC | | |
| Small Business Enterprise: | | | |
| Contract Value: | \$53,862 | | |
| Comments: The difference in the price of the existing and the replacement contracts is due to: (1) the addition of Jackson Health System's (JHS) hospitals and health facilities to the existing contract in 2019 and inclusion in the replacement contract; four years versus five years term; and five percent contingency to account for annual increase in SESAC's rates, population growth in the County and new facilities for JHS. | | | |
| Continued on another page (s): ___ Yes <input checked="" type="checkbox"/> No | | | |

RECOMMENDATIONS

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

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|--------------------------|
| Basis of Recommendation: |
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| |

Signed: Sophia Cunningham

Date to DBD: 09/05/2019

Date Returned to DPM: _____

SCOPE OF SERVICES FOR SESAC MUSIC LICENSE

Title 17 of the United States Code establishes property rights in musical works, and grants owners and creators of copyrighted musical works, the exclusive right to perform or authorize the performance of their works publicly. Additionally, pursuant to Title 17 of the United States Code, owners and/or operators of facilities or presenters of events are legally responsible to obtain the required license for musical performances on their premises, in order to be compliant with the Copyright Law. Non-compliance represents a breach of the Copyright Law and violators can be held liable for damages.

Miami-Dade County (County) as represented by the Office of Management and Budget Department (OMB) currently has licenses with the three performing rights organizations (PROs) that control and manage music performance licenses/rights in the United States: Society of European Stage Authors and Composers (SESAC), American Society of Composers, Authors and Publishers (ASCAP), and Broadcast Music Inc. (BMI). These PROs represent songwriters' and music publishers' copyright works under the United States Copyright Law. They act as intermediaries between copyright holders and other parties; licensing public performing rights, monitoring the use of musical compositions, collecting royalties and presenting alleged violations to the Copyright Royalty Board. Each PRO has a distinct and unique repertory comprising different songwriters, composers, publishers and copyright holders.

The County) as represented by OMB is seeking to enter into contractual agreement (effective January 1, 2020) with SESAC for the non-exclusive right and license to publicly perform live or recorded non-dramatic renditions of the musical compositions, the performance rights to which SESAC controls and/or is empowered to license at the County's facilities. As used herein, the County's facilities include those locations owned, operated, and/or leased by the County which are used as governmental offices or for related purposes; those locations at which events are held under the County's control and attended by the County's employees, their families, social acquaintances, citizens, and other members of the public; those areas owned, operate, and/or leased by the County which are under the County's sole control; and those locations owned, operated, and/or leased by the County which are used as hospital and healthcare facilities.

The term of the agreement shall be for five years, with an annual license fee payment made based on the Payment Schedules (License fee for the County based on annual population and fee for the County's hospital and healthcare facilities) provided by SESAC. SESAC represents and warrants that it offers all municipalities and local governments the same rate schedule, and therefore, SESAC is required to provide Miami-Dade County with any revised industry-wide rate schedule in the event that adjustments are made to the fees in such rate schedule.

SESAC shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this License Agreement by SESAC or its employees, agents, servants, partners principals or subcontractors. SESAC shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon.

The County may at any time, in its sole discretion, with or without cause, terminate the Agreement upon 30 days' written notice to SESAC. SESAC shall refund to Licensee on a pro-rata basis any unearned license fees paid in advance.