

LEASING EXECUTIVE SUMMARY

PROJECT: S39 Hillsboro Canal Right-of-Way Tower Lease
COUNTY: Palm Beach County
TRACT NO.: Encumbers Tract 27T5114
ACRES: 1.00 acre
DATE: August 9, 2012
PURPOSE: Approval of Leasing Policy Term and Waiver of Competition

BACKGROUND/CONSIDERATIONS:

The District entered into a Lease Agreement No. 4600001891 commencing on October 1, 2009, with U.S. Department of Homeland Security, Bureau of Customs and Border Protection (CBP), to lease an existing radio tower owned by the LESSOR. The tower is situated on a 1-acre parcel located on District Right-of-Way along the S39 Hillsboro Canal in Palm Beach County. The Lessee leases the property for the purpose of operating and managing the Premises as a Government radio tower location.

According to the contract specialist representing the lessee, the lessee is requesting a new lease with a three-year lease term in order to keep the total cost of the lease under \$100,000; which is the maximum allowable for their contract signatory authority. The current lease requires an annual rent payment of \$31,827 which brings the three-year total rent paid to the District to \$95,487 which is just under the \$100,000 contract threshold.

The South Florida Water Management District Policies Code, Section 140-10 (1d) allows for a five year renewal of expiring leases for up to a cumulative total of a ten-year period without Governing Board approval. The initial lease term was for a three year period which started in October 1, 2009, with an expiration date of September 30, 2012. While extending the current lease is allowable per District policy; should the District extend the current lease for five years, the total amount of rent collected on that lease contract term would exceed the \$100,000 contract limit. Therefore, the lessee is requesting a new 3-year lease contract.

The new lease contract, if approved, would be #4600002700.

According to the District's Policies Code, Section 140-10 (3), all non-agricultural leases shall be issued for a term of five years. The U.S. Department of Homeland Security can only sign a three year lease contract. However, according to District's Policies Code, Section 140-10 (7), the Governing Board may approve an exception to the five year term policy.

Pursuant to the District's Policies Code, Section 140-10 (1a) that states that for all new leases: "The District shall conduct a competitive bid process when it determines that it will lease District land and upon termination of an existing lease term unless the Governing Board approves a waiver of competition. The minimum bid shall be the appraised market rent as approved by a District appraiser."

The Bureau of Customs and Border Protection is requesting a new lease and according the new policy all new leases are put out from competitive bidding. Therefore, a Governing Board approval of a Waiver of Competition is required.

Staff recommends that the Governing Board approves an exception to the leasing policy regarding lease terms based on the following reason:

1. Any lease term over three years would exceed \$100,000 in rent paid to the District; which is the maximum allowable for their contract signatory authority.

Staff recommends that the Governing Board approves a waiver of competition based on the following reasons:

1. The Bureau of Customs and Border Protection, is a federal law enforcement agency of the United States Department of Homeland Security with whom the District would like to work with cooperatively;
2. The Bureau of Customs and Border Protection depends on this particular radio tower location to effectively continue their mission of protective efforts and to perform their job to the best of their ability; and
3. The new rent will be based upon a current appraisal of market rent.

The District and the Bureau of Customs and Border Protection would like to enter into a new lease agreement to continue their mission and protective efforts. The continued revenue from the lease is advantageous to the District. Therefore; staff recommends an approval of the waiver of the competitive bid process for this lease.

FISCAL IMPACT: The payment to the District under the Lease for the period of October 1, 2012 through October 1, 2015, will be equal to current market value.

AUTHORIZATION: The Governing Board, pursuant to Section 373.093 of the Florida Statutes, may lease lands or interests in land under terms and conditions determined by the Governing Board.

RECOMMENDATION: A Resolution of the Governing Board of the South Florida Water Management District to approve an exception to the leasing policy and a waiver of competition.

Attachments: Resolution, map
Waiver of competition