

BOARD OF COUNTY COMMISSIONERS

DATE: December 11, 2012
AGENDA ITEM NO. 13

Consent Agenda ☐

Regular Agenda ☒

Public Hearing ☐

County Administrator's Signature:

Subject:

Approval of Final Negotiated Agreement – Consultant Services, Revenue Enhancement – DEI
Contract No. 112-0170-R(KR)

Department:

Department of Environment and Infrastructure (DEI) /
Purchasing

Staff Member Responsible:

Stephen Carroll / Joe Lauro

Recommended Action:

I RECOMMEND THE BOARD OF COUNTY COMMISSIONERS (BOARD), APPROVE THE FINAL NEGOTIATED CONTRACT FOR CONSULTANT SERVICES, REVENUE ENHANCEMENT, WITH ISI WATER COMPANY D/B/A WATER COMPANY OF AMERICA, (WCA) OVIEDO, FLORIDA

IT IS FURTHER RECOMMENDED THAT THE CHAIRMAN SIGN THE AGREEMENT AND THE CLERK ATTEST.

Summary Explanation/Background:

On February 17, 2012 the Purchasing Department on behalf of DEI let a Request for Proposal (RFP) to obtain the services of a firm to provide consultant services for revenue enhancement opportunities. The specific intent of the RFP was to establish a contract with a qualified firm that specializes in the analysis, suggestions for correction, and subsequent implemental action pertaining to Pinellas County water, wastewater, and reclaimed water under-billing, incorrect billing, missed billing and issues involving improperly operating meters and service theft.

On August 7, 2012, the Board authorized staff to negotiate a contract with the number one ranked firm, WSA. The negotiations were centered on specific deliverables, division of revenue and contract conditions.

Staff has negotiated a contract containing but not limited to the following:

- For actual increased revenue identified by WCA, their share is 46% for 36 months (was 49% prior to negotiation); DEI Utilities retains 54% for 36 months and 100% thereafter.
- WCA will not receive increased revenue as a result of back billing.
- Water meters previously identified by staff as needing replacement are excluded from the contract.
- New rates imposed by the County after award is not part of the contract.
- Fees are excluded from the revenue share.
- Discoveries must represent an economic feasibility. A return on investment of less than 36 months is considered economically feasible.

Fiscal Impact/Cost/Revenue Summary:

The average annual revenue WCA typically "discovers" for a utility of our size is \$1,100,000. The County's estimated share of the increased revenue using the average figures would be \$594,000 yearly. After 36 months of revenue sharing, the county will receive 100% of the increased revenue.

Exhibits/Attachments:

Contract Review
Agreement



PURCHASING DEPARTMENT
CONTRACT REVIEW TRANSMITTAL

CATS
NO.:38788

PROJECT: CONSULTANT SERVICES, REVENUE ENHANCEMENT - DEI

RFP NUMBER: 112-0170-R (GG)

REQ. NUMBER:

TYPE: ☒ Purchase Contract ☐ Other: ☐ Construction-Less than \$100,000 ☐ One Time

In accordance with the policy guide for Contract Administration, the attached documents are submitted for review and comment.

Upon completion of review, complete Contract Review Transmittal and forward to next Review Authority listed. Please indicate suggested changes by revising, in RED, the appropriate section of the document reflecting the exact wording of the change.

RISK MANAGEMENT: Please enter required liability coverage on pages: 12 & 13 PRODUCT ONLY ☐

This is an annual contract. Estimated Expenditure: \$ REVENUE

REVIEW SEQUENCE	REVIEW AUTHORITY	REVIEW DATE	REVIEW SIGNATURE	COMMENTS (Attach Separate page if necessary)	COMMENTS INCORPORATED
1.	Purchasing Dept. J. Lauro, Director	1/17/12	<i>[Signature]</i>		
2.	Requesting Dept. - Steve Carroll, Director DEI Finance <i>Lee Ann Smedley</i> <i>Bob Peacock</i> <i>Bob Peacock</i>	<i>1/18/12</i> <i>1/17/12</i> <i>1-20/12</i>	<i>[Signature]</i> <i>LAS</i> <i>RDP</i> <i>Rmg</i>	<i>Comments in purple endoc</i> <i>one thing notice -</i> <i>will either propose</i> <i>or Contractor put not</i> <i>both</i>	<i>[Initials]</i>

Using Dept please provide below information:

☐ Yes, funding for this requisition is using grant Funding. ☐ No, funding for this requisition is not using grant Funding.

If grant funding is being used you must provide Purchasing with the exact clauses that need to be on attached document.

Please check attached vendor list. Circle vendors you want bids mailed to. Add additional vendors with complete information (Name, Address, Phone and Fax)

3 <i>9/16/12</i>	Risk Management Director Attn: Virginia E. Holscher (Check applicable box at right)	<i>1/31/12</i>	<i>Virginia Holscher</i>	See attached - p12-13	HIGH RISK
4.	BCC Finance Attn: Cassandra Williams	<i>2/3/12</i>	<i>CBW</i>		NOT HIGH RISK
5.	Asst. County Administrator Attn: M. Woodard	<i>2/7/12</i>	<i>[Signature]</i>	<i>→ familiar with consultants that review utility bills on behalf of client to seek savings (i.e. meter errors, wrong rate structure, etc...). Typically these consultants</i>	
6.	Legal Attn: Michelle Wallace	<i>2/8/12</i>	<i>MW</i>	<i>Retain a percentage of the actual savings they deliver. I've never seen a model where the utility (us) hires a</i>	

RETURN ALL DOCUMENTS TO PURCHASING

Make all inquiries to: Gus Gonzalez, Operations Manager at Extension - 43146

In order to meet the following schedule, please return your requirements to Purchasing by: 1/30/12

customer base.

Revised 08/2010

TENTATIVE DATES

RFP Posted: 2/3/12
RFP Due Date: 2/23/12
BOCC Approval: 3/27/12

Is this a best practice? Do we have examples of other public utilities that have successfully used this approach?

AGREEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 201_, by and between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the "County" and ISI Water Company d/b/a Water Company of America, hereinafter referred to as the "Contractor".

WITNESSETH:

WHEREAS, County has previously determined that it has a need for Consultant Services, Revenue Enhancement; and

WHEREAS, County, after soliciting competitive proposals for such services pursuant to Pinellas County Request for Proposal, RFP No. 112-0170-R (hereinafter Request for Proposal or RFP), County has awarded this Agreement to Contractor; and

WHEREAS, Contractor has represented that it is able to satisfactorily provide the services according to the terms and conditions of the Request for Proposal, which are incorporated herein by reference, and the terms and conditions contained herein; and

NOW THEREFORE, in consideration of the above and mutual covenants contained herein, the parties agree as follows:

1. Services to be Performed. The Contractor hereby agrees to provide the County with Consultant Services, Revenue Enhancement, as requested and more specifically outlined in the Request for Proposal, this Agreement and all subsequent official documents that form the Contract Documents for this Agreement.

2. Term of Agreement/Term Extension. Services performed pursuant to this Agreement shall commence upon execution of this Agreement and continue for a period of thirty-six (36) months, unless canceled or terminated as provided herein.

3. Amendment of the Agreement. This Agreement may be amended only by mutual written agreement of the parties.

4. Assignment/Subcontracting. The Contractor shall provide the Services required by this Agreement. No assignment or subcontracting shall be allowed without the prior written consent of the

County. In the event of a corporate acquisition and/or merger, the Contractor shall provide written notice to the County within thirty (30) business days of Contractor's notice of such action or upon the occurrence of said action, whichever occurs first. In that event, the County may terminate this Agreement in those instances in which a corporate acquisition and/or merger represents a conflict of interest or contrary to any local, state or federal laws.

5. Termination. County reserves the right to terminate this Agreement without cause by giving thirty (30) days prior notice to the contractor in writing of the intention to terminate or with cause if at any time the contractor fails to fulfill or abide by any of the terms or conditions specified.

Failure of the Contractor to comply with any of the provisions of this Agreement shall be considered a material breach of the Agreement and shall be cause for immediate termination of the Agreement at the sole discretion of County.

In addition to all other legal remedies available to County, County reserves the right to terminate and obtain from another source any services which have not been provided within the period of time stated in the proposal, or if no such time is stated, within a reasonable period of time from the date of order or request, as determined by County.

In the event that sufficient budgeted funds are not available for a new fiscal period, the County shall notify the Contractor of such occurrence and the Agreement shall terminate on the last day of the then current fiscal period without penalty or expense to the County. Earned fees survive termination of the Agreement, however brought about.

6. Payment/Invoices:

Contractor shall submit invoices for payment due as provided herein with such documentation as required by County and all payments shall be made in accordance with the requirements of Section 218.70 *et. seq.*, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable
Pinellas County Board of County Commissioners
P. O. Box 2438
Clearwater, FL 33757

Each invoice shall include, at a minimum, the Contractor's name, contact information and the standard purchase order number. In order to expedite payment, it is recommended the Contractor also include the information shown in below. The County may dispute any payments invoiced by Contractor in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

7. Permits/ Licenses. Contractor must secure and maintain any and all permits and licenses required to complete this Agreement.

8. Audit. The Contractor shall retain all records relating to this Agreement for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, County reserves the right to audit such records pursuant to Pinellas County Code, Section 2-176(j).

9. Minimum Insurance Requirements. The Contractor shall obtain and maintain, and require any sub-contractors to obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth by the County.

10. Indemnification. Contractor shall indemnify, pay the cost of defense, including attorneys' fees, and hold harmless the County from all suits, actions or claims of any character brought on account of any injuries or damages received or sustained by any person, persons or property by or from the said Contractor; or by, or in consequence of any neglect in safeguarding the work; or by the use of unacceptable materials in the construction of improvements; or by or on account of any act or omission, neglect or misconduct of the said Contractor; or by, or on account of, any claim or amounts recovered under the "Workers' Compensation Law" or of any other laws, by-laws, ordinance, order or decree, except only such injury or damage as shall have been occasioned by the sole negligence of the County. The first ten dollars (\$10.00) of compensation received by the Contractor represents specific consideration for this indemnification obligation.

11. Governing Law. The laws of the State of Florida shall govern this Agreement.

12. Independent Contractor Status and Compliance with the Immigration Reform and Control Act of 1986. The Contractor is and shall remain an independent contractor and is neither agent,

employee, partner, nor joint venturer of County. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et. seq., and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the Agreement, at the discretion of County.

13. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

14. Documents Comprising Contract. This Agreement for Consultant Services, Revenue Enhancement, as well as the following documents, which are incorporated herein by reference.

- a. Pinellas County's Request for Proposal and all of its addenda and attachments issued on February 17, 2012;
- b. Negotiated Points Letter dated November 2, 2012; and
- c. Contractor's Proposal.

If there is a conflict between the terms of this Agreement and the above referenced documents, then the conflict shall be resolved as follows: the terms of this Agreement shall prevail over the other documents, and the terms of the remaining documents shall be given preference in their above listed order.

IN WITNESS WHEREOF the parties herein have executed this Agreement for Consultant Services, Revenue Enhancement pursuant to RFP No. 112-0170-R as of the day and year first written above.

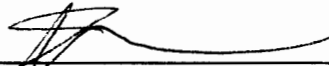
PINELLAS COUNTY, FLORIDA
by and through its Board of County
Commissioners

Chairman

ATTEST:

By: _____
(Attesting Witness' name/title)

CONTRACTOR

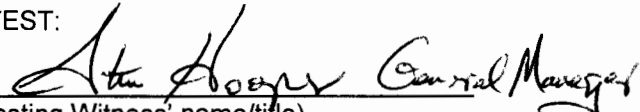


President (Signature)

Timothy Hebert

President (Printed Name)

[Corporate Seal]

ATTEST:
By: 

(Attesting Witness' name/title)

APPROVED AS TO FORM:



Office of the County Attorney



Joe Lauro, CPPO/CPPB
Director

November 2, 2012

ISI Water Company d/b/a Water Company of America
Attn: Mr. Steven Hooper
3625 SR 419 Suite 220
Winter Springs, FL 32708

Contract Title: Consultant Services – Revenue Enhancement
Contract #: 112-0170-R(KR)

Dear Mr. Hooper,

As per negotiations with county staff along with yourself representing Water Company of America (WCA) the following points were agreed upon for a finalized contract for the County's Request for Proposal no. 112-0170-R(KR) for Consultant Services – Revenue Enhancement:

1. The requirement for WCA to have and maintain Professional Liability Insurance is waived.
2. Economic feasibility is defined as a 36 month or less return on investment (ROI.)
3. From page 14, of your response to our RFP:
 - a. WCA will not rent, sell, or otherwise use our customer data for any purpose outside the scope of this contract.
 - b. WCA will be provided the billing information from SAP daily and the premise update information weekly. It will be up to WCA to extract and manipulate the data as they need for their software program. WCA understands and agrees that WCA will need to replicate the logic that the County instituted when loading new bill data into Oracle for updating reversed bills due to meter misreads.
 - c. WCA will provide an IP address for the County to upload files. In the event that the IP address changes, WCA will provide to the County any necessary changes to the IP address.
4. Pinellas County DEI will provide one (1) license to SAP, with query only rights. Vertex will provide VPN access to WCA for the period of time required. SAP licensing agreement is per named user.
5. County agrees to WCA's standard work order, copy previously provided.
6. For any discoveries, it is agreed that the corrective action involved must have a ROI of 36 months or less.
7. On page 19 of your response to our RFP:

PLEASE ADDRESS REPLY TO:
400 South Ft. Harrison, Sixth Floor
Clearwater, Florida 33756
Phone: (727) 464-3146
FAX: (727) 464-3925

Website: www.pinellascounty.org/purchase



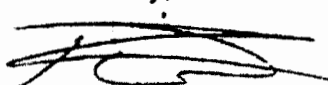
- a. WCA may accomplish the necessary physical changes in the field, but only upon approval from DEI. WCA will provide a detailed cost proposal for review and approval prior to commencement of any work. WCA will ensure that the County is charged only once per instance by capturing the entire payment history on an account by account basis; first the field work (if any,) then numbered calculations of the WCA share of increased revenue during the revenue sharing period.
- b. DEI will have final approval of materials used and method of installation for any field work.
8. WCA will provide to DEI a copy of the detailed revenue report and how the calculations are being derived before contract signing.
9. WCA will receive zero revenue share of any back billing.
10. WCA will receive a 46% share of realized increased revenue for a period of 36 months.
11. The following information will be part of the contract:
 - a. Any new rate(s) that currently do not exist as a recognized rate are exempt from the agreement.
 - b. Fees are not part of this agreement
 - c. Subaqueous crossings and valves (all sizes) are not part of this agreement.
 - d. Regarding wholesale water, sewer, and reclaimed meters: The County will allow WCA to submit work orders for meters in this category with the ultimate authority to accept or reject.
 - e. Regarding ¾" and 2" meters greater than 30 years of age: These meters are exempt until the last year of the contract. Then WCA may analyze them and submit work orders for any that have a beneficial ROI.
 - f. Regarding the 6X3" meters: These meters are exempt until the last year of the contract. Then WCA may analyze them and submit work orders for any that have a beneficial ROI.
 - g. Regarding the 3-zero consumptions: If WCA finds three consecutive zero reads and the meter involved was not on the list previously provided, WCA may research and submit a work order.
 - h. Accounts on the list previously provided covering division 07 (RCW) and no division 10 (backflow) are not part of this contract

It is understood that the above points become part of the Final Agreement as well as the other documents comprising the Agreement to include the Request for Proposal and any addenda issued, along with the Certificate of Insurance required under Section C of the RFP (except as above) and the Contractors proposal response.

Please indicate your agreement to the negotiated points listed above, by signing below as indication of your authority to negotiate and make final decisions on behalf of ISI Water Company, d/b/a/ Water Company of America.


If you have any questions or concerns, please contact me at 727-464-3146. Thank you for your interest in Pinellas County and we look forward to doing business with your firm.

Sincerely,



Ken Rickard
Procurement Operations Manager

Agree.



Steve Hooper, WCA
General Manager