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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: April 4, 2011

Amended
Agenda Item No. 8(R)(1)(A)

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Resolution No. R-246-11

Subject: Resolution recommending award in the amount of $56,690,421.21 between Ric-Man Construction, Inc. and Miami-Dade County for design-build services to replace an existing 20-inch water main from Port Island to Fisher Island and an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach - Project No: DB10-WASD-01 ESP located within Commission District 5

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution for the contract award recommendation for design-build services (Project No: DB10-WASD-01 ESP) in the amount of $ 56,690,421.21 between Miami-Dade County and Ric-Man Construction, Inc. (Ric-Man) to replace an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel.

This project was approved and executed by the Clerk of the Board on February 11, 2011 pursuant to Section 2-8.2.7 of the Code of Miami-Dade County which governs the Economic Stimulus Plan Ordinance. Although this project is listed in the ESP Ordinance, pursuant to Section 2-9.2.7 (4)(d)(4) of the Code of Miami-Dade County as a result of a Bid Protest, this award recommendation must be approved by the Board.

Scope

This Miami-Dade Water and Sewer Department (WASD) project is located in Commission District 5. It will have an impact county-wide as it consists of constructing water and sewer facilities of county-wide significance.

Fiscal Impact/Funding Source

There is a fiscal impact to the County. Pursuant to Resolution R-530-10 adopted by the Board on May 4, 2010 1) the nature of the commitment is a total of $56,690,421.21 spread over a five-year period. The base contract amount includes the contingency ($2,693,409.55), and dedicated allowances ($6,628,820.59), 2) the funding source includes Wastewater Connection Charges, Water Construction Bonds Sold, and Future WASD Water Revenue Bonds, and 3) there is a fiscal impact to the County's current budget and to future annual budgets. The Capital Budget Project Numbers are 9650241-Central Miami-Dade Wastewater Transmission Mains and Pump Station Improvements and 9654041-Central Miami-Dade Water Transmission Mains Improvements from the Adopted Capital Budget Book for FY 2010-2011, Book Pages 238 and 252 and corresponding Funding Years beginning with Prior Years' Funds through FY 2014-2015.

Track Record/Monitor

Pursuant to the Firm History Report provided by the Department of Small Business Development, Ric-Man has been awarded one contract with the County within the last five (5) years, for a total value of $3,097,610.24, with no change orders approved by the Board. The Office of Capital

Improvements CIIS database shows Ric-Man having one evaluation with an average rating 3.3 out of a possible 4 points showing satisfactory performance. The Project Manager assigned to this project is Julio Amoedo, Chief, WASD Construction Contracts Management Division.

According to the Florida Department of State Division of Corporations, Ric-Man Construction, Inc. has been in business in Florida for 9 years and their Principal is Daniel C. Mancini. The company's address is listed as 3100 SW 15 Street, Deerfield Beach, Florida 33442. Ric-Man has been in business since 1970 in Lansing, Michigan.

Background

This project is a critical component of a time sensitive project to improve the Port of Miami and to develop the economy of Miami-Dade County. Commencing with the completion of improvements to the Panama Canal currently on schedule for August of 2014, larger vessels will be used to transport cargo worldwide and will be seeking port dockage capable of handling the large size of these new transport vessels. To accommodate these ships, the Port of Miami will be implementing a Dredging Project along Government Cut Channel to deepen and widen the channel. A deeper and wider channel leading into the Port of Miami will increase the competitive profile of the Port and expand its availability to potential cargo operations. This Dredging Project is expected to increase local business and create over 30,000 new jobs in South Florida. Before the Dredging Project may commence, the County must replace and deepen the existing 54-inch force main and the 20-inch water main. Unless both pipelines are moved by the end of summer of 2012, they will prevent the Dredging Project from moving forward, thereby, impacting the competitiveness of the Port of Miami and by extension, the local economy. The proposed design-build contract is scheduled to be substantially completed in October 2012, with final completion (including restoration) by December 2012, in time for the channel deepening project to begin. Maintaining the project schedule has increased in importance since Florida Governor Scott announced his support for State funding of the Dredging Project.

On August 18, 2010, WASD staff submitted this design-build project to the Department of Small Business Development for review under the ESP Ordinance. Small Business Development staff reviewed it and on August 26, 2010, recommended an overall 17% Community Business Enterprise contract measure and a 10% Community Small Business Enterprise contract measure.

WASD advertised via e-solicitation on September 3, 2010, and shortly thereafter in the Daily Business Review, Diario Las Americas, and Haiti en Marche. The County received five proposals on September 29, 2010. A two-step selection process was utilized for this design-build solicitation; Step 1-Evaluation of Qualifications and Step 2-Evaluation of Technical and Price Proposals. The Step 1 meeting was held on October 13, 2010 in which the Standing Selection Committee reviewed and ranked the five proposals received on September 29, 2010. Ric-Man and four other firms met the minimum qualifications and demonstrated their relevant experience with other projects as required, as such, they were invited to submit Technical and Price Proposals for the Step 2 evaluation.

The Step 2 Technical and Price Proposal meeting which consists of oral presentations was held on December 15, 2010. Alternate proposals were submitted by three of the five firms, they were reviewed, evaluated and validated by the Standing Selection Committee. The Standing Selection Committee scored the firms and the price envelopes were opened and tabulated. The lowest adjusted bid was Ric-Man's. The Standing Selection Committee motioned that Ric-Man, the top ranked firm with the lowest adjusted bid, be recommended for negotiations for the design-build contract.

The Negotiation Committee was approved by the County Manager on December 20, 2010. On January 3, 2011, the Negotiation Committee met with Ric-Man and concluded its third negotiation meeting on January 12, 2011, with Ric-Man agreeing to reduce its bid price by $250,000. Based on the above facts, WASD recommended awarding the design-build contract to Ric-Man.

On February 16, 2011, a bid protest was filed with the Clerk of the Board by Lanzo Construction on the subject design-build project. Lanzo, the second lowest adjusted bidder, argued that Ric-Man be found non-responsive for altering OCI Form 6 "Price Proposal" and for submitting nine alternate proposals.

A bid protest hearing was held on March 10, 2011, with the Hearing Examiner issuing a ruling on March 15, 2011. The Findings of Fact and Recommendations of the Hearing Examiner were filed with the Clerk of the Board, which recommended that the Bid Protest filed by Lanzo be denied and the recommendation to award by the County Manager to Ric-Man Construction, Inc. shall stand.

Assistant County Manager

MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: April 4, 2011

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Amended Agenda Item No. 8(R)(1)(A)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

✓ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

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Approved _____ Mayor
Veto _____
Override _____

Amended
Agenda Item No. 8(R)(1)(A)
4-4-11

RESOLUTION NO. R-246-11

RESOLUTION APPROVING A CONTRACT AWARD RECOMMENDATION IN THE AMOUNT OF $54,892,728.57 BETWEEN RIC-MAN CONSTRUCTION, INC. AND MIAMI-DADE COUNTY FOR PROJECT ENTITLED DESIGN-BUILD SERVICES FOR THE REPLACEMENT OF AN EXISTING 20-INCH WATER MAIN FROM PORT ISLAND TO FISHER ISLAND UNDER THE FISHERMAN'S CHANNEL AND FOR THE REPLACEMENT OF AN EXISTING 54-INCH SEWER FORCE MAIN FROM FISHER ISLAND TO SOUTH OF THE CITY OF MIAMI BEACH UNDER GOVERNMENT CUT CHANNEL LOCATED WITHIN COMMISSION DISTRICT 5 (PROJECT NO. DB10-WASD-01 ESP; CONTRACT NO. DB10-WASD-01)

WHEREAS, the accompanying memorandum set forth an offer by Ric-Man Construction, Inc. to perform the services described therein; and

WHEREAS, at the April 4, 2011 meeting of the Board, Ric-Man Construction, Inc. orally amended their offer to reduce the Base Contract Amount by $1,483,000.00 without lowering the total dollar amount of the CSBE and CBE goals contained in the offer outlined in the accompanying memorandum; and

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum as amended by the parties,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the modified award in the amount of $54,892,728.57 between Ric-Man Construction, Inc. and Miami-Dade County for project entitled Design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the

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replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel located within Commission District 5 (Project No. DB10-WADF-01 ESP; Contract No. DB10-WASD-01) and directs the County Mayor or County Mayor's designee to memorialize and execute the revised Contract agreed to by the Board and Ric-Man Construction at the April 4, 2011 meeting.

The foregoing resolution was offered by Commissioner **Rebeca Sosa** , who moved its adoption. The motion was seconded by Commissioner **Lynda Bell** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			aye
Audrey M. Edmonson, Vice Chairwoman			aye
Bruno A. Barreiro	aye	Lynda Bell	aye
Jose "Pepe" Diaz	aye	Carlos A. Gimenez	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Rebeca Sosa	aye	Sen. Javier D. Souto	aye

The Chairperson thereupon declared the resolution duly passed and adopted this 4TH day of April, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.
Oren Rosenthal

Harvey Ruvin
CLERK OF THE CIRCUIT AND COUNTY COURTS
Miami-Dade County, Florida

CLERK OF THE BOARD OF COUNTY COMMISSIONERS
STEPHEN P. CLARK MIAMI-DADE GOVERNMENT CENTER
SUITE 17-202
111 N.W. 1st Street
Miami, FL 33128-1983
Telephone: (305) 375-5126
Fax: (305) 375-2484

March 15, 2011

Miguel De Grandy, P.A.
800 Douglas Road, Suite 850
Coral Gables, Florida 33134

Re: Bid Protest – Project No. DB10-WASD-01 – ESP
Protester: Lanzo Construction

Dear Mr. De Grandy:

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, forwarded for your information is a copy of the Findings and Recommendation filed by the hearing examiner in connection with the foregoing bid protest hearing held on March 10, 2011.

Should you have any questions regarding this matter, please do not hesitate to contact Fara C. Diaz at (305) 375-1293.

Sincerely,
HARVEY RUVIN, Clerk
Circuit and County Courts

By Diane Collins
Diane Collins, Acting Division Chief
Clerk of the Board Division

DC/fcd
Attachments

cc: Honorable Carlos Alvarez, Miami-Dade County Mayor (via email)
George Burgess, County Manager (via email)
Hugo Benitez, Assistant County Attorney (via email)
Oren Rosenthal, Assistant County Attorney (via email)
John Renfrow, Director, Miami-Dade Water & Sewer Dept. (via email)
George Navarrete, Director, Office of Capital Improvement (via email)
Patty David, Administrative Officer 3, WASD (via email)
Lin Li, Professional Engineer, WASD (via email)
Luisa Millan, Chief, Professional Services Division, OCI (via email)
Penelope Townsley, Director, Small Business Development (via email)
Traci Adams-Parish, Administrative Officer 2, Small Business Development (via email)
Faith Samuels, Sr. A/E Consultant Selection Coordinator, OCI (via email)
Miami Tunnelers, LLC (via US mail)
Dragados USA, Inc. (via US mail)
Ric-Man Construction, Inc. (via US mail)
Lanzo Construction, Co., Florida (via US mail)
Barnard-Nicholson Southeast J.V. (via US mail)

HARVEY RUVIN, CLERK OF THE BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

CLERK OF THE BOARD
2011 MAR 15 AM 10: 35
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA
#1

IN RE: THE PROTEST OF THE FEBRUARY 11,2011 RECOMMENDATION OF AWARD OF CONTRACT FOR DBIO-WASD-OI ESP FOR REPLACEMENT OF EXISTING 20-INCH WATER MAIN FROM PORT ISLAND TO FISHER ISLAND AND REPLACEMENT OF EXISTING 540INCH FORCE MAIN FROM FISHER ISLAND TO CITY OF MIAMI BEACH

LANZO CONSTRUCTION, Petitioner,

v.

MIAMI-DADE COUNTY, a political subdivision of The State of Florida.

Respondent.

REPORT AND RECOMMENDATION OF THE HEARING EXAMINER

Lanzo Construction Co. Florida (Lanzo) protests the Febuary 11, 2011 recommendation of an award for DBIO-WASD-OL ESP for replacement of existing 20-inch water main from Port Island to Fisher Island and replacement of existing 540 inch force main from Fisher Island to City of Miami Beach contract in DBIO-WASD-OL ESP. Miami-Dade County (County) is soliciting the replacement of an existing 20-inch water main from Port Island to Fisher Island and the replacement of an existing 54-inch force main from Fisher Island to the City of Miami Beach. The winning bidder was intervener Ric-Man Construction, Inc. (Ric-Man). The solicitation involved a two-step methodology for selection of a Proposer. In Step 1, the County evaluated the qualifications of the individual Proposers to perform the work. The Step 2 aspect consisted of an evaluation of each Proposer's technical and price proposals. Five Proposers including Lanzo participated in Step I of the solicitation process. All five Proposers were deemed qualified and were invited to participate in Step 2 of this procurement. Although the

specifications set forth a proposed manner of doing the work, the County subsequently issued Addendum 5, which provided Proposers invited to participate in Step 2 the opportunity to redesign the project and make "alternate proposals" on how the work could be performed. These new provisions contained in Addendum 5 informed, among other things, that Proposers must submit a responsive and responsible "Base Proposal" in full compliance with the specifications and all requirements of the design criteria package. Those Proposers that complied with this requirement were also allowed to submit alternative proposals (salient discussion of this point *infra*). Proposers submitting an Alternative Proposal had to submit their Alternative Proposal Price on OCI Form 6.

Despite the clear language of paragraph 3.6 within Addendum 5, Lanzo wrongly interpreted that provision to limit itself to one alternative proposal. It claims that Addendum 5, when considered together with other language in Addendum paragraphs 3.6 and 3.7, is clearly and without any ambiguity restricted to just one alternative proposal. The Addendum clearly shows otherwise.

The opening sentence of 3.6 rebuts that interpretation.

> "3.6 ALTERNATIVE PROPOSALS
> Alternate proposals may be submitted at the sole option of a Design-Builder."

It is true that other instruction details use singular terminology. In addition, the forms on which bids are submitted only have room for one alternate proposal, but, at best, this creates an ambiguity which demanded and required further inquiry. Making a deduction from the addenda details that there could be only one "alternative proposals" (sic) is in the mind of the hearing examiner a mistaken interpretation.

Any ambiguity required Lanzo to raise the issue as a timely question to the County. Section 3.6. Code of Miami-Dade County Implementing Order 3-21 reads,

> Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained in the solicitation document shall be deemed waived by the protestor and shall be rejected as a basis for a bid protest, unless it was brought by that bidder or protestor to the attention, in writing, of the procurement agent buyer, contracting officer or other contact person of the County department that issued the

solicitation document, at least two work days (not less than 48 hours) prior to the hour of bid opening or proposal submission.

Not doing so put Lanzo at its peril, resulting in misinterpreting 3.6's clear language and missing its opportunity to submit multiple alternative bids.[1]

Lanzo argues that it could not have complied with the strict published requirement of the addendum which requires no changes or additions to forms submitted. The change that the winning bidder Ric-Man is accused of making is merely copying the form to find room for its alternative bids and adding the number of each separate bid to the copied forms. Ric-Man is also accused of changing the font on its application. Even if one were to adopt Lanzo's interpretation by ignoring the clear language of the addendum, such small changes in form do not invalidate the winning bid. *Robinson Electric Co., Inc. v Dade County*, 417 So.2d 1032 (Fla. 3rd DCA 1982), holds that, even with "mandatory" language, substantial compliance with an advertisement for bid is sufficient. Only material variances are unacceptable. The hearing examiner finds that the changes made by Ric-Man here were in no way material and necessary for it to submit its permitted alternative bids.

Lanzo cites *City of Miami Beach v Klinger*, 179 So. 2d 864 (Fla. 3rd DCA 1965). The hearing examiner finds this case to be inapplicable. Though it correctly requires the administrative agency to call for bids consistent with reasonably definite plans or specifications and did not approve the material change occuring in that case, in the instant protest there was no material change from the bidding requirements. Neither was there here, as there was in that case, the kind of change that would foster favoritism. In fact, though Lanzo alleged that it was put at a competitive disadvantage, there was no proof, just its stated assertion.

"Florida's competitive bid statutes are enacted for the protection of the public. They create a system by which goods or services required by public authorities may be acquired at the lowest possible cost. . . . Under this system the public authority may not arbitrarily or capriciously discriminate between bidders or make the bid based upon personal preference." *City of Sweetwater v Solo Construction Corporation*, 823 So. 2d 798, 801 (Fla. 3rd DCA 2002)

[1] There is a conflict in the evidence as to whether Lanzo ever intended to submit alternative bids. A finding on this issue is irrelevant to the recommendation.

(quoting *Hotel China and Glassware Co. v Bd. of Public Instruction,* 130 So. 2d 78,81 (Fla 3rd DCA 1982). There was no such prohibited bias in this case.

The Request for Design Building Services in this matter allowed the appropriate amount of flexibility important to benefit the taxpayers and citizens of our community. *See*: *System Development Corporation v Department of Health and Rehabilitative Services,* 423 So. 2d 433 (Fla. 1st DCA 1982). Ric-Man properly followed its requirements. The hearing examiner recommends that the bid protest in this case be DENIED.

Dated this 14th of March 2011.

Steven D Robinson
Hearing Examiner

Copies furnished to parties by the Clerk of the Board

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Memorandum

MIAMI-DADE COUNTY

Date: 1/17/2011

To: George M. Burgess
County Manager

From: John W. Renfrow, P.E.
Director
Miami-Dade Water and Sewer Department

Attn: George Navarrete
Director
Office of Capital Improvements

CLERK OF THE BOARD
2011 FEB 11 AM 9:12
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.

Subject: Contract award recommendation for design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel - Project No: DB10-WASD-01 ESP; Contract No: DB10-WASD-01 in the amount $56,690,421.21, to, Ric-Man Construction, Inc.

Recommendation

This recommendation for award for Contract No. DB10-WASD-01 between Miami-Dade County and Ric-Man Construction, Inc. has been prepared by the Miami-Dade Water and Sewer Department (WASD) and is recommended for approval pursuant to Section 2-8.2.7 of the Code of Miami-Dade County. Ric-Man Construction, Inc. will provide design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel.

Delegation of Authority - The authority of the County Mayor or County Mayor's designee to execute and implement this contract is consistent with those authorities granted under the Code of Miami-Dade County. Additional delegation of authorities requested for this contract are as follows:

No additional authority is being requested within the body of this contract.

Scope

PROJECT NAME: Design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel

PROJECT NO: DB10-WASD-01 ESP

CONTRACT NO: DB10-WASD-01

PROJECT DESCRIPTION: Ric-Man Construction, Inc. will provide all services and any supportive tasks ancillary to the primary scope of services which includes but are not limited to: professional design, permitting, construction, testing, and commissioning of new utility pipelines, and the decommissioning and preparation for removal of the existing utility pipelines by others, all as indicated in the

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Request for Design-Build Services (RDBS) included in the Design Criteria Package. Both existing utility pipelines must be kept in service while the replacement pipelines are being installed.

The replacement of the existing 20-inch water main pipeline under Fisherman's Channel will be performed by installing two new water mains in a microtunnel, a 24-inch and a 12-inch diameter pipeline, below Fisherman's Channel. The 12-inch diameter water main will be designed and constructed such that it can be reconfigured and reclassified as a reclaimed water pipeline in the future. A water metering station will also be installed on Port Island. For providing these two new pipelines, the Standing Selection Committee validated an "Alternate Proposal" submitted by Ric-Man Construction, Inc. which includes using directional drilling technology on the new water main pipelines between Port Island and Fisher Island. In accordance with the RDBS and the Design Criteria Package, Ric-Man Construction, Inc. accepts full technical, cost and schedule responsibility, and risk for the feasibility of implementing the Alternate Proposal within the design-build contract price and the schedule dates of completion.

Ric-Man Construction, Inc. agrees that if such "Alternate Proposal" is determined not feasible or impractical for any reason, including any reason beyond its control, it is required to perform the project, without recourse, in accordance with the original requirements of the RDBS and the Design Criteria Package. Ric-Man Construction, Inc. further agrees to implement in parallel both the "Alternate Proposal" as well as the original design criteria document approach of micro-tunneling the water main pipelines in order to meet contract schedule dates of completion.

The replacement of the existing 54-inch sewer force main pipeline under Government Cut Channel includes providing a deep shaft on land at Fisher Island and another deep shaft in the water, south of the City of Miami Beach; micro-tunneling below Government Cut Channel to install a casing between the Fisher Island shaft and the shaft in the water; installing a new 54-inch diameter pipeline within the casing; tying the new 54-inch pipeline into the existing 54–inch sewer force main, testing the pipeline and all connections; grouting the new pipeline within the casing and shafts; disinfecting, cutting and decommissioning the existing section of 54-inch sewer force main under the Government Cut Channel for the removal by others.

It will be the responsibility of Ric-Man Construction, Inc. to secure all permits other than those provided by WASD as indicated in the RDBS document, and to provide signed and sealed construction documents which comply with all regulatory requirements, and local governing authorities/entities including but not limited to Port of Miami, Fisher Island Community Association, Fisher Island Club, as well as those indicated in the contract documents.

PROJECT LOCATION: Port Island to Fisher Island and Fisher Island to south of the City of Miami Beach

PROJECT SITES:

SITE #	LOCATION 1	DIST	ESTIMATE	T-S-R
#68603	Wastewater System - Central District - Budget	5	$37,802,421.21	0 -0 -0
#68532	Central Miami-Dade County - Budget	5	$18,888,000.00	0 -0 -0

	Total:	$56,690,421.21

PRIMARY COMMISSION DISTRICT: District 5 Bruno A. Barreiro

APPROVAL PATH: Manager's Authority — This project qualifies under the Economic Stimulus Plan Ordinance, Section 2-8.2.7 of the Code of Miami-Dade County.

OCI A&E PROJECT NUMBER: DB10-WASD-01 ESP

USING DEPARTMENT: Miami-Dade Water and Sewer Department

MANAGING DEPARTMENT: Miami-Dade Water and Sewer Department

Fiscal Impact / Funding Source

FUNDING SOURCES:

SOURCE	PROJECT NUM	SITE #
Wastewater Connection Charges	9650241	#68603
Water Construction Bonds Sold	9654041	#68532
Future WASD Wastewater Revenue Bonds	9650241	#68603
Wastewater Revenue Bonds Sold	9650241	#75944

OPERATIONS COST IMPACT / FUNDING: There are no operations costs for both the water and sewer force main pipelines.

MAINTENANCE COST IMPACT / FUNDING: Total cost for both the water and sewer force main pipelines is $600.00/yr. for the 80 year life expectancy. The funding source is the Operations and Maintenance budget from WASD.

LIFE EXPECTANCY OF ASSET: 80 years.

PTP FUNDING: No

GOB FUNDING: No

ARRA FUNDING: No

CAPITAL BUDGET PROJECTS:

CAPITAL BUDGET PROJECT # - DESCRIPTION	AWARD ESTIMATE
9650241- CENTRAL MIAMI-DADE WASTEWATER TRANSMISSION MAINS AND PUMP STATION IMPROVEMENTS Book Page:238 Funding Year: Funding Year: Adopted Capital Budget Book for FY 2010-11, Prior Years Funds' through FY 2014-15	$37,802,421.21
9654041- CENTRAL MIAMI-DADE WATER TRANSMISSION MAINS IMPROVEMENTS Book Page:252 Funding Year: Funding Year: Adopted Capital Budget Book for FY 2010-11, FY 2010-11 through FY 2014-15	$18,888,000.00

CAPITAL BUDGET PROJECTS TOTAL: $56,690,421.21

PROJECT TECHNICAL CERTIFICATION REQUIREMENTS:

TYPE	CODE	DESCRIPTION
Prime	6.01	WATER AND SANITARY SEWER SYSTEMS - WATER DISTRIBUTION AND SANITARY SEWAGE COLLECTION AND TRANSMISSION SYSTEMS
Prime	12.00	GENERAL MECHANICAL ENGINEERING
Prime	16.00	GENERAL CIVIL ENGINEERING
Other	3.02A	HIGHWAY SYSTEMS - TUNNEL DESIGN
Other	3.12	HIGHWAY SYSTEMS - UNDERWATER ENGINEERING INSPECTION
Other	5.01	PORT AND WATERWAY SYSTEMS - ENGINEERING DESIGN
Other	5.08	PORT AND WATERWAY SYSTEMS - MARINE ENGINEERING DESIGN
Other	9.01	SOILS, FOUNDATIONS AND MATERIALS TESTING - DRILLING, SUBSURFACE INVESTIGATIONS AND SEISMOGRAPHIC SERVICES
Other	9.02	SOILS, FOUNDATIONS AND MATERIALS TESTING - GEOTECHNICAL AND MATERIALS ENGINEERING SERVICES
Other	9.03	SOILS, FOUNDATIONS AND MATERIALS TESTING - CONCRETE AND ASPHALT TESTING SERVICES
Other	9.04	SOILS, FOUNDATIONS AND MATERIALS TESTING - NON-DESTRUCTIVE TESTING AND INSPECTIONS
Other	10.05	ENVIRONMENTAL ENGINEERING - CONTAMINATION ASSESSMENT AND MONITORING
Other	11.00	GENERAL STRUCTURAL ENGINEERING
Other	13.00	GENERAL ELECTRICAL ENGINEERING
Other	15.01	SURVEYING AND MAPPING - LAND SURVEYING
Other	15.03	UNDERGROUND UTILITY LOCATION

SUSTAINABLE BUILDINGS ORDINANCE: (I.O NO. 8-8) Did the Request for Design-Build Services contain specific language requiring compliance with the Sustainable Buildings Program? NO

NTPC'S DOWNLOADED: 176

PROPOSALS RECEIVED: 5

CONTRACT PERIOD: 622 Days. During negotiation meetings held on 1/3/11, 1/7/11 and 1/12/11 Ric-Man Construction, Inc. agreed to provide design, permitting, construction, installation, testing and commissioning the new water and force main pipelines; and cutting, decommissioning and capping the existing

	sections of 20-inch water main under Fisherman's Channel and 54-inch sewer force main under the Government Cut Channel, for removal of the existing pipelines by others within the following dates: 562 calendar days from the Notice to Proceed as the Substantial Completion Date and 622 calendar days from the Notice to Proceed as the Final Completion Date. Assuming the Notice to Proceed is issued on February 7, 2011, the dates for Substantial Completion and Final Completion are August 21, 2012 and October 21, 2012, respectively. The contract time denoted does not include the warranty administration period.			
CONTINGENCY PERIOD:	62 Calendar Days			
IG FEE INCLUDED IN BASE CONTRACT:	Yes			
ART IN PUBLIC PLACES:	No			
BASE ESTIMATE:	$62,480,000.00			
BASE CONTRACT AMOUNT:	$47,368,191.07	Design $6,500,000.00 Construction $40,868,191.07		
CONTINGENCY ALLOWANCE (SECTION 2-8.1 MIAMI DADE COUNTY CODE):	**TYPE**	**PERCENT**	**AMOUNT**	**COMMENT**
	Design Build	10% 5%	$2,693,409.55	Contingency Allowance per Ordinance 00-65 has been combined considering 10% for the estimated design fees ($6,500,000=$650,000) plus 5% of estimated construction fees ($40,868,191.07=$2,043,409.55)
PERMIT FEES :	$1,226,045.73	3.00%	This amount is based on total construction cost.	
CHANGE IN GEOTECHNICAL CONDITIONS :	$2,157,840.49	5.28%	This amount is based on total construction cost.	
UNFORESEEN WORK RESTRICTIONS (NAVIGATIONAL, FISHER ISLAND, PIPELINE OPERATIONS) :	$809,190.18	1.98%	This amount is based on total construction cost.	
UNKNOWN PIPE CONDITION :	$931,794.76	2.28%	This amount is based on total construction cost.	
ENVIRONMENTAL MITIGATION :	$645,717.42	1.58%	This amount is based on total construction cost.	
UNDEFINED INTERFERING UTILITIES :	$138,951.85	0.34%	This amount is based on total construction cost.	
DISPOSAL OF HAZARDOUS MATERIAL :	$719,280.16	1.76%	This amount is based on total construction cost.	
TOTAL DEDICATED ALLOWANCE:	$6,628,820.59			
TOTAL AMOUNT:	$56,690,421.21			

Track Record / Monitor

SBD HISTORY OF VIOLATIONS:	None
EXPLANATION:	**STEP 1** At the Step 1 Evaluation of Qualifications meeting held on October 13, 2010, the Standing Selection Committee (SSC) reviewed and ranked the five (5) proposals received on September 29, 2010. Ric-Man Construction, Inc. and the other team members met the minimum qualifications and demonstrated their relevant experience with other projects as required in the RDBS. The references in the proposal were verified by OCI. The five (5) firms met the experience and qualifications denoted in the RDBS and the SSC voted to invite all five (5) firms to submit Technical and Price Proposals for the Step 2. Ric-Man Construction, Inc. was ranked number one by the SSC. **STEP 2** The Step 2 Technical and Price Proposal meeting (Oral Presentations) was held on December 15, 2010. Alternate proposals submitted by three (3) of the five (5) proposers were reviewed and evaluated. The SSC validated the alternate proposals. The SSC evaluated and scored the firms and the price envelopes were opened and tabulated, the lowest adjusted bid was Ric-Man Construction, Inc. The SSC motioned that Ric-Man Construction, Inc. as the top ranked firm with the lowest adjusted bid to be recommended to the County Mayor or his designee for negotiations of the design-build contract. The Negotiation Committee was approved by the County Manager on December 20, 2010. On January 3, 2011, the Negotiation Committee met with Ric-Man Construction, Inc. and concluded its third negotiation meeting on January 12, 2011, with Ric-Man Construction, Inc. agreeing to reduce its price by $250,000. Based on the above facts, WASD is making a recommendation to award the design-build contract to Ric-Man Construction, Inc. The Office of Capital Improvements CIIS database, contains one (1) evaluation for Ric-Man Construction, Inc. with an average overall 3.3 rating out of a possible total 4 points.
SUBMITTAL DATE:	9/29/2010
ESTIMATED NOTICE TO PROCEED:	2/7/2011
PRIME CONSULTANT:	Ric-Man Construction, Inc.
COMPANY PRINCIPAL:	Daniel C. Mancini, Vice President
COMPANY QUALIFIERS:	Daniel C. Mancini, Vice President
COMPANY EMAIL ADDRESS:	dmancini@ric-man.com
COMPANY STREET ADDRESS:	7005 NW 41 Street
COMPANY CITY-STATE-ZIP:	Miami, Florida 33166

YEARS IN BUSINESS: 40

PREVIOUS CONTRACTS WITH COUNTY IN THE LAST FIVE YEARS: Pursuant to the Firm History Report provided by the Department of Small Business Development, Ric-Man Construction, Inc. has been awarded one (1) contract in the amount of $3,097,610.24 in the last five (5) years.

SUBCONSULTANTS: Hazen and Sawyer, P.C., Jacobs Associates Corp., Kaderabek Company, H.J. Ross Associates, Inc., Avino & Associates, Inc., Youssef Hachem Consulting Engineering, Inc., J Bonfill and Associates Inc., Triangle Associates, Inc., Michels Corporation, TDW Services, Inc., Homestead Concrete & Drainage, Inc., and Cobalt Construction Group, LLC

MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS: Yes

The design-builder shall demonstrate team project experience by listing a maximum of ten (10) projects completed within the last ten (10) years, including projects that are currently active and at least fifty percent (50%) complete that demonstrate experience prior to the proposal submittal date of this solicitation.

Minimum requirements for project experience of the design-builders, the lead constructor(s) and the lead designer(s) for qualification in the Step One Evaluation of Qualifications for this project are as follows:
The design-builder entity contracting with the COUNTY must have performed in at least one (1) design-build project of $30 million dollars or more for which they were the design-builder.

The contractor performing the micro-tunneling work must have performed in at least two (2) micro-tunneling projects, which demonstrate experience constructing a micro-tunnel to install a casing of 60-inch diameter or more.

The contractor performing the shaft construction must have performed in at least two (2) deep shaft construction projects which demonstrate experience constructing a shaft of at least 50 foot depth and a shaft in a body of water.

The lead design firm must have performed in at least one (1) design-build project of $20 million or more for which they were the lead designer.

The design firm who will design the micro-tunnel must demonstrate they have designed at least two (2) micro-tunnels, one of which was 60-inch diameter or more.
The design firm who will perform the shaft design must have designed at least two (2) deep shaft projects that included a shaft depth of at least 50 feet depth, and constructing a shaft in a body of water.

REVIEW COMMITTEE: **MEETING DATE:** 8/17/2010 and 8/18/2010 **SIGNOFF DATE:** 8/26/2010

APPLICABLE WAGES: (RESOLUTION No. R-54-10) Yes

REVIEW COMMITTEE ASSIGNED CONTRACT	TYPE	GOAL	ESTIMATED VALUE	COMMENT

MEASURES:	CSBE	10.00%	$4,291,160.06 ~~$4,068,848.41~~	Administrative Order 3-22
	CBE	17.00%	~~$4,405,000.00~~ $1,215,000.00	Administrative Order 3-32
	DBE	0.00%	$0.00	Not Applicable
	CWP	0.00%	0	Not Applicable

MANDATORY CLEARING HOUSE:	Yes		
CONTRACT MANAGER NAME / PHONE / EMAIL:	Patty David	786-552-8040	pattyd@miamidade.gov
PROJECT MANAGER NAME / PHONE / EMAIL:	Lin Li	786-268-5283	LILIN@miamidade.gov

Background

BACKGROUND:

The existing 20-inch water main pipeline provides water service from Port Island to Fisher Island and continues onward to Virginia Key. The existing 54-inch sewer force main pipeline transmits all sewage collected from Miami Beach, Surfside, Bal Harbor, Bay Harbour, North Bay Village and Fisher Island to the Central District Wastewater Treatment Plant located on Virginia Key for treatment and disposal. Both existing pipelines are in conflict with the Federal Navigational Dredging Project that proposes to deepen the Port of Miami Harbor.

The pipelines must be relocated and removed by August 2012 to allow the harbor dredging to be completed by August 2014.

BUDGET APPROVAL FUNDS AVAILABLE:	OSBM DIRECTOR	1/25/11 DATE
APPROVED AS TO LEGAL SUFFICIENCY:	COUNTY ATTORNEY	2/1/11 DATE
CAPITAL IMPROVEMENTS CONCURRENCE:	OCI DIRECTOR	2/8/11 DATE
	ASSISTANT COUNTY MANAGER	2/10 DATE

CLERK DATE _____ DATE

CONTRACT AWARD RECOMMENDATION

Design-Build Services for the Replacement of an Existing 20-inch Water Main from Port Island to Fisher Island under Fisherman's Channel and for the Replacement of an Existing 54-inch Force Main from Fisher Island to South of the City of Miami Beach under Government Cut Channel - OCI Project No. DB10-WASD-01 ESP
RIC-MAN CONSTRUCTION, INC.

BUDGET PROJECT AND DESCRIPTION:	**9650241 – Central Miami-Dade Wastewater Transmission Main and Pump Stations Improvements** **or 9654041 ~~9650441~~ – Central Miami-Dade Water Transmission Mains Improvements**
FUNDING SOURCE:	**Wastewater Connection Charges** **Wastewater Revenue Bonds Sold** **Future WASD Water and Wastewater Revenue Bonds** **Water Construction Bonds Sold**
ASSISTANT DIRECTOR, WATER:	RALPH TERRERO, P.E. — DATE 1/21/11
ASSISTANT DIRECTOR, WASTEWATER:	VICENTE ARREBOLA, P.E. — DATE 1/21/2011
ASSISTANT DIRECTOR, ENGINEERING:	EDUARDO A. VEGA, P.E. — DATE Jan. 21, 2011
BUDGETARY & FINANCIAL ADVISOR TO THE DIRECTOR	~~PETER~~ Pedro VELAR — DATE 1/22/11
DEPUTY DIRECTOR, REGULATORY COMPLIANCE & CAPITAL IMPROVEMENTS	DOUGLAS L. YODER — DATE 1-21-11

COLLUSION AFFIDAVIT

(Code of Miami-Dade County Section 2-8.1.1 and 10-33.1) (Ordinance No. 08-113)

BEFORE ME, A NOTARY PUBLIC, personally appeared DANIEL MANCINI (insert name of affiant) who being duly sworn states:

I am over 18 years of age, have personal knowledge of the facts stated in this affidavit and I am an owner, officer, director, principal shareholder and/or I am otherwise authorized to bind the Proposer of this contract.

I state that the Proposer of this contract:

☒ is not related to any of the other parties proposing in the competitive solicitation, and that the Proposer's proposal is genuine and not sham or collusive or made in the interest or on behalf of any person not therein named, and that the Proposer has not, directly or indirectly, induced or solicited any other proposer to put in a sham proposal, or any other person, firm, or corporation to refrain from proposing, and that the Proposer has not in any manner sought by collusion to secure to the Proposer an advantage over any other proposer.

OR

☐ is related to the following parties who proposed in the solicitation which are identified and listed below:

_____ _____

_____ _____

_____ _____

Note: Any person or entity that fails to submit this executed affidavit shall be ineligible for contract award. In the event a recommended Proposer identifies related parties in the competitive solicitation its proposal shall be presumed to be collusive and the recommended Proposer shall be ineligible for award unless that presumption is rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such proposals. Related parties shall mean bidders or proposers or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement. Bids or proposals found to be collusive shall be rejected.

By: [signature]
Signature of Affiant

9-23 20 10
Date

DANIEL MANCINI V.P.
Printed Name of Affiant and Title

3 8 1 9 4 3 9 6 0
Federal Employer Identification Number

RIC-MAN CONST., INC.
Printed Name of Firm

7005 N.W. 41ST ST. MIAMI FL 33166
Address of Firm

SUBSCRIBED AND SWORN TO (or affirmed) before me this 23 day of September, 2010

He/She is personally known to me or has presented DANIEL MANCINI as identification.
(Type of identification)

[signature]
Signature of Notary

DD928687
Serial Number

Esther Zoblin
Print or Stamp Name of Notary

09/28/2013
Expiration Date

Notary Public – State of FLORIDA

Notary Seal

Notary Public State of Florida
Esther Zoblin
My Commission DD928687
Expires 09/28/2013

AECOM

AECOM
800 Douglas Entrance
Suite 200
Coral Gables, Florida 33134
www.aecom.com

305 592 4800 tel
305 716 8166 fax

January 24, 2011

Lin Li, P.E.
Miami-Dade Water and Sewer Department
3575 South LeJeune Road
P.O.Box 330316
Miami, FL 33233-0316

Dear Mr. Li:

Re: 54-inch Water Main and 20-inch Water Main Replacement/DesignCriteria Engineer's Recommendation on Prices Bid

Construction bids for Contract DB10-WASD-01 ESP, Design-Build Services for the Replacement of the 54-inch Force Main under Government Cut and the Replacement of the 20-inch Water Main under Fisherman's Channel, were opened on December 15th 2010. A total of five (5) bids were received for evaluation by the Standing Selection Committee (SSC) using a "best value" selection process in which the bid prices were weighed against the Contractor's technical score (i.e. Bid price/technical score) to conclusively yield the adjusted bid price. The lowest adjusted bid price was received from Ric-Man Construction for a total of $47,618,191.07 (refer to attached bid results summary). The Engineer's Opinion of Probable Construction Cost (OPCC) was estimated at $62,480,000 for the base bid. The variance from OPCC was primarily due to three items:

1. The local construction climate is highly competitive because the limited availability of major construction opportunities/projects. This environment has resulted in companies adopting more aggressive bidding strategies, and has allowed the County to benefit from lower pricing.
2. Two of the base proposal bids were within 5% of the OPCC, and a third within 9% of the OPCC. This provides assurance that the OPCC is representative of the market's current pricing for micro-tunneling work.
3. Both Ric-Man Construction and Lanzo Construction provided an alternate proposal for the replacement of the 20-inch water main using Horizontal Direction Drill (HDD) as the method of construction. This methodology was presented as a lower priced and more expeditious approach to the micro-tunnel base bid condition. The final aggregate bid price (for the WM Alternate & Force Main Base) submitted by both Ric-Man Construction and Lanzo Construction was within 4% of each other. The fact the both were within 5% of each other (which is a standard threshold for comparison) provides the assurance that that the pricing was competitive and is representative of the current market rates for HDD pipe installations.

Based on the analysis presented above, we recommend that the County proceed with the award of the contract to Ric-Man Construction, as the candidate with lowest adjusted bid price.

Respectfully,

Roger Williams
AECOM FOR
Ken Watson, P.E.
Project Manager

cc: Norm Anderson
Roger Williams, P.E.

MIAMI-DADE COUNTY
EVALUATION/SELECTION DESIGN-BUILD SERVICES

MIAMI-DADE WATER AND SEWER DEPARTMENT
REPLACEMENT OF AN EXISTING 20" WATER MAIN FROM PORT ISLAND TO FISHER ISLAND UNDER FISHERMAN'S CHANNEL AND REPLACEMENT OF AN EXISTING 54" FORCE MAIN FROM FISHER ISLAND TO SOUTH OF THE CITY OF MIAMI BEACH UNDER GOVERNMENT CUT CHANNEL
OCI PROJECT NO. DB10-WASD-01 ESP
STEP 2 MEETING
December 15, 2010

STEP 2 RANKING

FIRMS	BASE PROPOSAL	BASE OR SELECTED ALTERNATE	TOTAL QUALITATIVE POINTS	ADJUSTED BID	SYSTEM RANK	LP RANGE	LP RANK	FINAL RANK
MIAMI TUNNELERS, LLC (Alternate Proposal Validated by SSC)	$57,067,000.00	$57,067,000.00	486	[redacted]	4	[redacted]		4
RIC-MAN CONSTRUCTION, INC, (LP) (Alternate Proposal #5 Validated by SSC)	$49,618,191.07	$47,618,191.07	519	[redacted]	1	[redacted]		1
DRAGADOS USA, INC. (LP)	$49,772,000.00	$49,772,000.00	478	[redacted]	3	[redacted]		3
LANZO CONSTRUCTION CO., FLORIDA (LP) (Alternate Proposal Validated by SSC)	$59,835,000.00	$45,885,000.00	465	[redacted]	2	[redacted]		2
BARNARD NICHOLSON SOUTHEAST JV	$65,500,000.00	$65,500,000.00	500	[redacted]	5	[redacted]		5

LP - Local Preference

SSC - Standing Selection Committee

If an Alternate Proposal was validated by the SSC, the Alternate Price Proposal was utilized to yield the Adjusted Bid.

Adopted FY10-11

STRATEGIC AREA: Neighborhood and Unincorporated Area Municipal Services
DEPARTMENT: Water and Sewer

******* FUNDED PROJECTS *******
(dollars in thousands)

CENTRAL MIAMI-DADE WASTEWATER TRANSMISSION MAINS AND PUMP STATION IMPROVEMENTS PROJECT # 9650241

DESCRIPTION: Construct a force main crossing Baer Cut, a force main in Flagler St from SW 37 Ave to SW 10 Ave, and a force main from Miami Beach to the Central District Wastewater Treatment Plant

LOCATION: Wastewater System - Central District Area

ESTIMATED ANNUAL OPERATING IMPACT: Minimal
DISTRICT LOCATED: Systemwide
DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Wastewater Connection Charges	6,380	818	0	0	0	0	0	0	7,198
Wastewater Renewal Fund	50	0	0	0	0	0	0	0	50
Wastewater Construction -2011 Bonds	0	22,162	0	0	0	0	0	0	22,162
Wastewater Construction -2009 Bonds	200	0	0	0	0	0	0	0	200
WASD Wastewater Commercial Paper	97	0	0	0	0	0	0	0	97
Future WASD Revenue Bonds	0	0	21,180	5,213	0	177,000	0	0	203,393
TOTAL REVENUE:	6,727	22,980	21,180	5,213	0	177,000	0	0	233,100

EXPENDITURE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Land/Building Acquisition	229	959	847	209	0	7,080	0	0	9,324
Planning and Design	229	959	847	209	0	7,080	0	0	9,324
Construction	5,040	21,102	18,639	4,587	0	155,760	0	0	205,128
Equipment Acquisition	229	960	847	208	0	7,080	0	0	9,324
TOTAL EXPENDITURES:	5,727	23,980	21,180	5,213	0	177,000	0	0	233,100

CORROSION CONTROL FACILITIES IMPROVEMENTS PROJECT # 9653381

DESCRIPTION: Construct corrosion control facilities and force mains; renovate structures at wastewater treatment plants and pump stations; and restore sewer mains

LOCATION: Systemwide

ESTIMATED ANNUAL OPERATING IMPACT: Minimal
DISTRICT LOCATED: Systemwide
DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Wastewater Construction -2011 Bonds	0	2,060	0	0	0	0	0	0	2,060
Wastewater Construction -2009 Bonds	935	0	0	0	0	0	0	0	935
WASD Revenue Bonds Sold	9,990	0	0	0	0	0	0	0	9,990
Future WASD Revenue Bonds	0	0	3,569	3,000	3,000	3,000	1,370	0	13,939
TOTAL REVENUE:	10,925	2,060	3,569	3,000	3,000	3,000	1,370	0	26,924

EXPENDITURE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Planning and Design	109	20	36	30	30	30	14	0	269
Construction	10,816	2,040	3,533	2,970	2,970	2,970	1,356	0	26,655
TOTAL EXPENDITURES:	10,925	2,060	3,569	3,000	3,000	3,000	1,370	0	26,924

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Department: Miami-Dade Water and Sewer Department

2/2/2011 4:23:55 PM

BUDGET PROJECT 9650241 - (As per 2010-2011 Approved Budget)

Project Title: 9650241-CENTRAL MIAMI-DADE WASTEWATER TRANSMISSION MAINS AND PUMP STATION IMPROVEMENTS

Project Desc: Construct a force main crossing Bear Cut, a force main in Flagler St from SW 37 Ave to SW 10 Ave, and a force main from Miami Beach to the Central District Wastewater Treatment Plant

CDP Project Revenue

CDP Revenue:	Prior:	10-11:	11-12:	12-13:	13-14:	14-15:	15-16:	FUTURE:	Total:
Future WASD Revenue B	0	0	21,180,000	5,213,000	0	177,000,000	0	0	203,393,000
Future Wastewater Rev	0	0	0	0	0	0	0	0	0
WASD Revenue Bonds So	0	0	0	0	0	0	0	0	0
WASD Wastewater Comme	97,000	0	0	0	0	0	0	0	97,000
Wastewater Connection	6,380,000	818,000	0	0	0	0	0	0	7,198,000
Wastewater Constructi	200,000	0	0	0	0	0	0	0	200,000
Wastewater Constructi	0	22,162,000	0	0	0	0	0	0	22,162,000
Wastewater Renewal Fu	50,000	0	0	0	0	0	0	0	50,000

CIIS Site Funding Info

SITE Location/Desc:	Prior:	10-11:	11-12:	12-13:	13-14:	14-15:	15-16:	FUTURE:	Total:
68603 - Wastewater System - Central District - Budget	2,178,000	68,409,000	960,000	15,930,000	0	177,000,000	0	0	264,477,000

Desc: Construct 60-inch force main from Miami Beach to Central District plant, relief force main PS No. 177, 12-inch force main crossing Bear Cut; install flow meter at PS No. 187; upgrade PS No. 1; rehabilitate existing 54

75943 -	0	0	0	0	0	0	0	0	0

Desc: Construct a force main crossing Bear Cut, a force main in Flagler St from SW 37 Ave to SW 10 Ave, and a force main from Miami Beach to the Central District Wastewater Treatment Plant

75944 -	0	0	0	0	0	0	0	0	0

Desc: Construct a force main crossing Bear Cut, a force main in Flagler St from SW 37 Ave to SW 10 Ave, and a force main from Miami Beach to the Central District Wastewater Treatment Plant

Total: Count 3	2,178,000	68,409,000	960,000	15,930,000	0	177,000,000	0	0	264,477,000

	Recs:	05-06:	06-07:	07-08:	08-09:	09-10:	10-11:	11-12:	12-13:	13-14:	14-15:	15-16:	16-17:	17-18:	18-19:	Total:
OSBM RV:	4	0	0	0	0	2,178,000	68,409,000	960,000	15,930,000	0	177,000,000	0	0	0	0	264,477,000.00
OSBM MS:	16	0	0	0	0	361,000	33,798,000	37,388,000	15,930,000	0	177,000,000	0	0	0	0	264,477,000.00
CIIS Proposed RV:	6	0	0	0	3,614,000	3,113,000	22,980,000	21,180,000	5,213,000	0	177,000,000	0	0	0	0	233,100,000.00
CIIS Proposed	24	0	0	0	477,000	5,250,000	23,980,000	21,180,000	5,213,000	0	177,000,000	0	0	0	0	233,100,000.00

MS:

Update Project

OSBM Book Report

CIIS Proposed Book Report

Add GEO Coded Site | PROJECT SITES | SITE SCHEDULES REPORT 20

PROJECT REPORT 4

EXIT

Current Contracts for Project 9650241

Dept	ContractNo	Contract Name	RTA / MCC Estimated Allocation	Award / MCC Award Allocation	CIIS Award
WS	DB10-WASD-01	Design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel	$54,112,000.00	$0.00	$56,690,421.21
WS	DB10-WASD-01	Design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel	$0.00	$37,802,421.21	$56,690,421.21
WS	E07-WASD-09	Design criteria for the replacement of the 54-inch Sanitary Sewage Force Main from Miami Beach to the CDWWTP and design criteria for the replacement of a 20-inch Water Main from Port Island to Fisher Island	$4,000,000.00	$0.00	$4,400,000.00
WS	E07-WASD-09	Design criteria for the replacement of the 54-inch Sanitary Sewage Force Main from Miami Beach to the CDWWTP and design criteria for the replacement of a 20-inch Water Main from Port Island to Fisher Island	$0.00	$4,000,000.00	$4,400,000.00
WS	E10-WASD-01	Construction Management Services for Government Cut Utility Relocation Projects	$4,400,000.00	$0.00	$5,500,000.00
WS	E10-WASD-01	Construction Management Services for Government Cut Utility Relocation Projects	$0.00	$4,400,000.00	$5,500,000.00
WS	S-742	Installation of 16-Inch H.D.P.E. (SDR-9) and12-Inch D.I. Force Main at Bear Cut Channel Between Key Biscayne and Virginia Key	$0.00	$1,916,951.35	$2,269,423.66
		Total Allocated:	$62,512,000.00	$48,119,372.56	

Current Contracts for Sites of Project 9650241

(Theses contracts are not necessarily funded from this project)

Dept	Site NO	ContractNo	Award Allocation
WS	#68603	E10-WASD-01	$4,400,000.00
WS	#75943	DB10-WASD-01	$0.00
WS	#75944	DB10-WASD-01	$0.00
WS	#68603	DB10-WASD-01	$37,802,421.21
		Total Allocated:	$42,202,421.21

[redacted]

Search for Site Number
Search for Budget Project Number

Adopted FY10-11

STRATEGIC AREA: Neighborhood and Unincorporated Area Municipal Services
DEPARTMENT: Water and Sewer

****** FUNDED PROJECTS ******
(dollars in thousands)

CENTRAL MIAMI-DADE WATER TRANSMISSION MAINS IMPROVEMENTS PROJECT # 6954041

DESCRIPTION: Replace various low pressure water mains; install a 64-inch water main at railroad crossings via microtunneling method

LOCATION: Central Miami-Dade County Area

ESTIMATED ANNUAL OPERATING IMPACT: Minimal
DISTRICT LOCATED: Systemwide
DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Water Connection Charges	0	0	0	0	0	560	0	0	560
Water Renewal and Replacement Fund	500	0	0	0	0	0	0	0	500
Water Construction - 2011 Bonds	0	9,068	0	0	0	0	0	0	9,068
Water Construction - 2009 Bonds	3,129	0	0	0	0	0	0	0	3,129
Future WASD Revenue Bonds	0	0	6,191	0	0	561	2,651	16,080	25,483
TOTAL REVENUE:	3,629	9,068	6,191	0	0	1,121	2,651	16,080	38,740

EXPENDITURE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Land/Building Acquisition	109	272	166	0	0	34	80	483	1,164
Planning and Design	254	635	433	0	0	78	185	1,126	2,711
Construction	3,266	8,161	5,572	0	0	1,009	2,386	14,471	34,865
TOTAL EXPENDITURES:	3,629	9,068	6,191	0	0	1,121	2,651	16,080	38,740

NORTH MIAMI-DADE WATER TRANSMISSION MAIN IMPROVEMENTS PROJECT # 6654031

DESCRIPTION: Install 36-inch water main along NW 87 Ave to improve transmission capabilities in the north - central area of the county; and a 48-inch water main connection to the Carol City tank

LOCATION: North Miami-Dade County Area

ESTIMATED ANNUAL OPERATING IMPACT: Minimal
DISTRICT LOCATED: Systemwide
DISTRICT(s) SERVED: Systemwide

REVENUE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Water Connection Charges	3,312	0	0	0	0	0	0	0	3,312
Water Renewal and Replacement Fund	144	0	0	0	0	0	0	0	144
Water Construction - 2011 Bonds	0	2,218	0	0	0	0	0	0	2,218
Water Construction - 2009 Bonds	6,929	0	0	0	0	0	0	0	6,929
WASD Water Commercial Paper	35	0	0	0	0	0	0	0	35
Future WASD Revenue Bonds	0	0	2,100	2,168	1,655	1,413	1,335	0	8,671
TOTAL REVENUE:	10,420	2,218	2,100	2,168	1,655	1,413	1,335	0	21,309

EXPENDITURE SCHEDULE:	PRIOR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	FUTURE	TOTAL
Planning and Design	406	100	84	87	66	57	53	0	853
Construction	9,732	2,400	2,016	2,081	1,589	1,356	1,282	0	20,456
TOTAL EXPENDITURES:	10,138	2,500	2,100	2,168	1,655	1,413	1,335	0	21,309

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BUDGET PROJECT 9654041 - (As per 2010-2011 Approved Budget)

Project Title: 9654041-CENTRAL MIAMI-DADE WATER TRANSMISSION MAINS IMPROVEMENTS

Project Desc: Replace various low pressure water mains; install a 54-inch water main at railroad crossings via microtunneling method

CDP Project Revenue

CDP Revenue:	Prior:	10-11:	11-12:	12-13:	13-14:	14-15:	15-16:	FUTURE:	Total:
Future WASD Revenue B	0	0	6,191,000	0	0	561,000	2,651,000	16,080,000	25,483,000
WASD Revenue Bonds So	0	0	0	0	0	0	0	0	0
Water Connection Char	0	0	0	0	0	560,000	0	0	560,000
Water Construction -	3,129,000	0	0	0	0	0	0	0	3,129,000
Water Construction -	0	9,068,000	0	0	0	0	0	0	9,068,000
Water Renewal and Rep	500,000	0	0	0	0	0	0	0	500,000

CIIS Site Funding Info

SITE Location/Desc:	Prior:	10-11:	11-12:	12-13:	13-14:	14-15:	15-16:	FUTURE:	Total:
68532 - Central Miami-Dade County - Budget	361,000	18,526,000	0	0	0	1,121,000	2,652,000	16,080,000	38,740,000

Desc: Replace low pressure main from Hialeah Water Treatment Plant to NW 14th Ave and along NW 62nd St to NW 10th Ave; construct elevated water storage tank.

	Recs:	05-06:	06-07:	07-08:	08-09:	09-10:	10-11:	11-12:	12-13:	13-14:	14-15:	15-16:	16-17:	17-18:	18-19:	Total:
OSBM RV:	3	0	0	0	0	361,000	18,526,000	0	0	0	1,121,000	2,652,000	9,630,000	6,450,000	0	38,740,000.00
OSBM MS:	9	0	0	0	0	361,000	9,207,000	9,319,000	0	0	1,121,000	2,652,000	9,630,000	6,450,000	0	38,740,000.00
CIIS Proposed RV:	5	0	0	0	500,000	3,129,000	9,068,000	6,191,000	0	0	1,121,000	2,651,000	16,080,000	0	0	38,740,000.00
CIIS Proposed MS:	15	0	0	0	42,000	3,587,000	9,068,000	6,191,000	0	0	1,121,000	2,651,000	9,630,000	6,450,000	0	38,740,000.00

Update Project

OSBM Book Report

CIIS Proposed Book Report

Add GEO Coded Site | PROJECT SITES | SITE SCHEDULES REPORT 20

PROJECT REPORT 4

EXIT

Current Contracts for Project 9654041

	RTA / MCC Estimated	Award / MCC Award	CIIS

Dept	ContractNo	Contract Name	Allocation	Allocation	Award
PW	20050170	NW 62nd Street from NW 47th Avenue to NW 37th Avenue	$0.00	$2,257,000.00	$7,161,776.67
PW	20050170	NW 62nd Street from NW 47th Avenue to NW 37th Avenue	$0.00	$704,776.67	$7,161,776.67
WS	DB10-WASD-01	Design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel	$21,000,000.00	$0.00	$56,690,421.21
WS	DB10-WASD-01	Design-build services for the replacement of an existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel and for the replacement of an existing 54-inch sewer force main from Fisher Island to south of the City of Miami Beach under Government Cut Channel	$0.00	$18,888,000.00	$56,690,421.21

Total Allocated: $21,000,000.00 $21,849,776.67

Current Contracts for Sites of Project 9654041

(Theses contracts are not necessarily funded from this project)

Dept	Site NO	ContractNo	Award Allocation
WS	#68532	DB10-WASD-01	$18,888,000.00

[redacted]

Search for Site Number
Search for Budget Project Number

MEMORANDUM MIAMI-DADE COUNTY

DATE: December 13, 2010

TO: George Navarrete, Director
Office of Capital Improvements

FROM: Penelope Townsley, Director
Small Business Development

SUBJECT: Compliance Review
Design/Build Project No. DB10-WASD-01 ESP
Design-Build Services for the Replacement of the Existing 20-Inch Water Main from Port Island to Fisher Island and The Existing 54-Inch Sewer Force Main from Fisher Island to South of The City of Miami Beach

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The Department of Small Business Development (SBD) has completed its review of the proposals submitted for the Evaluation of Technical and Price Proposal phase of the Selection Process (Step 2) for the subject project. The contract measures established for this project are a 10% CSBE subcontractor goal and a 17% CBE sub-consultant goal.

The ~~Construction Contracts Section~~ Professional Services Division of the Miami-Dade Office of Capital Improvements has submitted proposals from Miami Tunnelers, LLC (#1), Ric-Man Construction, Inc. (#2), Dragados USA, Inc. (#3), Lanzo Construction Co., Florida (#4), and Barnard-Nicholson Southeast, JV (#5) for review. Following is the result of the pre-award Step two (2) status and summary.

STATUS:

1.	Miami Tunnelers, LLC	Compliant
2.	Ric-Man Construction, Inc.	Compliant
3.	Dragados USA, Inc.	Compliant
4.	Lanzo Construction Co., Florida	Compliant
5.	Barnard-Nicholson Southeast, JV	Compliant

SUMMARY:

Miami Tunnelers, LLC (#1), submitted the required commitment letter at the time of submittal agreeing to enter into written lower tier subcontracts with second, third, and fourth tier CSBE subcontractors for at least 10% of the build (or construction) component value, of this design-build project.

Miami Tunnelers' proposal also included Letters of Agreement that listed CBE sub-consultants Rodolfo Ibarra P.E., P.A. to perform Port & Waterway Systems-Engineering Design, Port & Waterway Systems-Marine Engineering Design, and General Civil Engineering at 5%, Leiter Perez & Associates, Inc. to perform Environmental Engineering-Contamination Assessment & Monitoring, Surveying and Mapping-Land Surveying, Underground Utility Location, and General Civil Engineering at 8%, Kaderabek Company to perform Drilling Subsurface Investigations and Seismographic Services, Geotechnical & Materials Engineering Services, and Concrete and Asphalt Testing Services at 1%, CES Consultants, Inc. to perform Geotechnical & Materials Engineering Services, Concrete and Asphalt Testing Services, Non-Destructive Testing and Inspections, and General Civil Engineering at 5%, and Triangle Associates, Inc. to perform Highway Systems-Underwater Engineering Inspection at 1%.

Miami Tunnelers, LLC has fulfilled the submittal requirements for the build and the design portions of this solicitation and is therefore in compliance with the CSBE and CBE Participation Provisions.

Ric-Man Construction, Inc. (#2), submitted the required commitment letter at the time of submittal agreeing to enter into written lower tier subcontracts with second, third, and fourth tier CSBE subcontractors for at least 10% of the build (or construction) component value, of this design-build project.

Ric-Man's proposal also included Letters of Agreement that listed CBE sub-consultants Avino & Associates, Inc. to perform Surveying and Mapping-Land Surveying at 3%, J. Bonfill and Associates, Inc. to perform Underground Utility Services at 2%, Kaderabek Company to perform Geotechnical & Materials Engineering Services at 8%, Triangle Associates, Inc. to perform Highway Systems-Underwater Engineering Inspection at 2%, and Youssef Hachem Consulting Engineering, Inc. to perform Geotechnical & Materials Engineering Services, also at 2%, a technical category in which they are not CBE certified. Ric-Man also submitted a Letter of Qualifications (at the Step 1 phase), reflecting Youssef to perform Non-Destructive Testing and Inspections, a technical category in which Youssef is CBE certified. A CBE-A/E can only be utilized to meet an established goal, in a technical category in which they are CBE certified. In a clarification letter dated December 10, 2010, Ric-Man confirmed Youssef Hachem would be performing Non-Destructive Testing and Inspections.

Ric-Man Construction, Inc. has fulfilled the submittal requirements for the build and the design portions of this solicitation and is therefore in compliance with the CSBE and CBE Participation Provisions.

Dragados USA, Inc. (#3), submitted the required commitment letter at the time of submittal agreeing to enter into written lower tier subcontracts with second, third, and fourth tier CSBE subcontractors for at least 10% of the build (or construction) component value, of this design-build project.

Dragados USA's proposal also included Letters of Agreement that listed CBE sub-consultants C Solutions, Inc. to perform W & S Sewer Systems-Water Distribution & Sanitary Sewage Collection at 3%, CES Consultant, Inc. to perform W & S Sewer Systems-Water Distribution & Sanitary Sewage Collection, Geotechnical & Materials Engineering Services, Concrete and Asphalt Testing Services, Non-Destructive Testing and Inspection, General Structural Engineering, General Mechanical Engineering, General Electrical Engineering, and General Civil Engineering also at 3%, E Sciences, Inc. to perform Environmental Engineering-Contamination Assessment & Monitoring at 4%, Hadonne Corp. to perform Surveying and Mapping-Land Surveying and Underground Utility Location at 2%, HP Consultants, Inc. to perform Drilling Subsurface Investigations & Seismographic and Geotechnical & Materials Engineering Services at 3%, and SRS Engineering, Inc. to perform Port & Waterway Systems-Engineering Design, Port & Waterway Systems-Marine Engineering Design, W & S Sewer Systems-Water Distribution & Sanitary Sewage Collection, and General Civil Engineering at 2%.

Dragados USA, Inc. has fulfilled the submittal requirements for the build and the design portions of this solicitation and is therefore in compliance with the CSBE and CBE Participation Provisions.

Lanzo Construction Co., Florida (#4), submitted the required commitment letter at the time of submittal agreeing to enter into written lower tier subcontracts with second, third, and fourth tier CSBE subcontractors for at least 10% of the build (or construction) component value, of this design-build project. Lanzo Construction also submitted a Schedule of Intent Affidavit for Star Paving Corp. to perform heavy and civil engineering construction, construction placement and pipe work at 10%.

Lanzo's proposal also included Letters of Agreement that listed CBE sub-consultants A.D.A. Engineering, Inc. to perform Port & Waterway Systems-Engineering Design, W & S Sewer Systems-Water Distribution & Sanitary Sewage Collection, Environmental Engineering-Contamination Assessment & Monitoring, General Structural Engineering, General Mechanical Engineering, General Electrical Engineering, and General Civil Engineering at 10% and BND Engineers, Inc. to perform W & S Sewer Systems-Water Distribution & Sanitary Sewage Collection and Environmental Engineering-Contamination Assessment & Monitoring, at 10%.

Dragados USA, Inc. has fulfilled the submittal requirements for the build and the design portions of this solicitation and is therefore in compliance with the CSBE and CBE Participation Provisions.

Barnard-Nicholson Southeast, JV (#5), submitted the required commitment letter at the time of submittal agreeing to enter into written lower tier subcontracts with second, third, and fourth tier CSBE subcontractors for at least 10% of the build (or construction) component value, of this design-build project.

Barnard-Nicholson's proposal also included Letters of Agreement that listed CBE sub-consultants CES Consultants, Inc. to perform W & S Sewer Systems-Water Distribution & Sanitary Sewage Collection, Concrete and Asphalt Testing Services, and Non-Destructive Testing and Inspection at 7%, J. Bonfill and Associates, Inc. to perform Surveying and Mapping-Land Surveying and Underground Utility Location at 3%, and Kaderabek Company to perform Drilling Subsurface Investigations & Seismographic 7%.

Barnard-Nicholson Southeast, JV has fulfilled the submittal requirements for the build and the design portions of this solicitation and is therefore in compliance with the CSBE and CBE Participation Provisions.

Please note that SBD staff only reviewed and addressed compliance with the CSBE and CBE programs. The Construction Contracts Section of the Miami-Dade Office of Capital Improvements is responsible for any other issues that may exist.

Should you have any questions or need any additional information, please do not hesitate to Vivian O. Walters, Jr. at (305) 375-3138.

PT: vow

c: Luisa Millan, (OCI)
Traci Adams-Parish, (SBD)
File

MIAMI-DADE COUNTY

Dept. of Small Business Development
Economic Stimulus Project

Project/Contract Title: DESIGN-BUILD SERVICES FOR THE REPLACEMENT OF THE EXISTING 20-INCH WATER MAIN FROM FORT ISLAND TO FISHER ISLAND AND THE EXISTING 54-INCH SEWER FORCE MAIN FROM FISHER ISLAND TO SOUTH OF THE CITY OF MIAMI BEACH (SIC 871)

Received Date: 08/18/2010
Committee Date:
Item No:
Resubmittal Date(s):

Project/Contract No: DB10-WASD-01 ESP (DESIGN)
Funding Source: VARIOUS
Department: PUBLIC WORKS DEPARTMENT
Estimated Cost of Project/Bid: $5,680,000.00
Description of Project/Bid: TO ESTABLISH A DESIGN-BUILD AGREEMENT WHERE THE DESIGN COMPONENT INCLUDES, BUT IS NOT LIMITED TO THE ENGINEERING DESIGN, PERMITTING, AND INSPECTION TO SUPPORT THE CONSTRUCTION / INSTALLATION, TESTING AND REPLACING AN EXISTING 20-INCH WATER MAIN UNDER FISHERMAN'S CHANNEL AND A 54-INCH SEWER MAIN UNDER GOVERNMENT CUT CHANNEL.

Contract Measures Recommendation

Measure	Program	Goal Percent
Goal	CBE	17.00%

Reasons for Recommendation

This project meets all the criteria set forth in A.O. 3-32, Section V.

Funding Sources: Future WASD Revenue Bonds and Water Renewal and Replacement Fund.

SIC 871 - Architectural and Engineering Services

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
GENERAL ELECTRICAL ENGINEERING	CBE	$227,200.00	4.00%	4
SURVEYING AND MAPPING-LAND SURVEYING	CBE	$170,400.00	3.00%	7
ENVIRONMENTAL ENG-CONTAMINATION ASSESS & MONITOR	CBE	$113,600.00	2.00%	5
GEOTECHNICAL & MATERIALS ENGINEERING SERVICES	CBE	$170,400.00	3.00%	4
DRILLING SUBSURFACE INVESTIGATIONS & SEISMOGRAPHIC	CBE	$284,000.00	5.00%	3
	Total	$965,600.00	17.00%	

Living Wages: YES [ ] NO [X]
Responsible Wages: YES [ ] NO [X]

Ordinance 90-143 is applicable to all construction projects over $100,000 that do not utilize Federal Funds

RECOMMENDATION

Tier 1 Set Aside _____

Set Aside _____ **Level 1** _____ **Level 2** _____ **Level 3** _____

Trade Set Aside (MCC) _____ **Goal** _____ **Bid Preference** _____

No Measure _____ **Deferred** _____ **Selection Factor** _____

Director, SBD — 8/20/10 Date — Chairperson — N/A Date

DBDR0092

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Dept. of Small Business Development
Economic Stimulus Project

MIAMI-DADE COUNTY

Project/Contract Title: DESIGN-BUILD SERVICES FOR THE REPLACEMENT OF THE EXISTING 20-INCH WATER MAIN FROM PORT ISLAND TO FISHER ISLAND AND THE EXISTING 54-INCH SEWER FORCE MAIN FROM FISHER ISLAND TO SOUTH OF THE CITY OF MIAMI BEACH (SIC 16)

Received Date: 08/17/2010
Committee Date:
Item No:
Resubmittal Date(s):

Project/Contract No: DB10-WASD-01 ESP (CONST)
Funding Source: VARIOUS
Department: WATER & SEWER DEPARTMENT
Estimated Cost of Project/Bid: $69,864,000.00
Description of Project/Bid: TO ESTABLISH A DESIGN-BUILD CONTRACT THAT INCLUDES BUT IS NOT LIMITED TO THE ENGINEERING, DESIGN, PERMITTING, AND INSPECTION TO SUPPORT THE CONSTRUCTION/INSTALLATION, TESTING AND COMMISSIONING OF REPLACING AN EXISTING 20-INCH WATER MAIN UNDER FISHERMAN'S CHANNEL AND A 54-INCH SEWER FORCE MAIN UNDER GOVERNMENT CUT CHANNEL.

Contract Measures Recommendation

Measure	Program	Goal Percent
Goal	CSBE	10.00%

Reasons for Recommendation

2nd, 3rd, 4th Tier CSBE Subcontractor Goal: 10%

An analysis of the factors contained in Section VI C of Administrative Order 3-22 indicate that a 2nd, 3rd, and 4th Tier CSBE subcontractor goal is appropriate in the following: tunneling construction and waste removal, open cut, by pass and waste removal, lands shafts construction and waste removal, and site preparation/restoration.

Funding Source: Future WASD Revenue Bonds and Water Renewal and Replacement Fund

CWP Not Applicable: Not in DTA

Analysis for Recommendation of a Goal

Subtrade	Cat.	Estimated Value	% of Items to Base Bid	Availability
Other Heavy and Civil Engineering Construction	CSBE	$6,986,400.00	10.00%	42
	Total	$6,986,400.00	10.00%	

Living Wages: YES [ ] NO [X] Highway: YES [ ] NO [X] Heavy Construction: YES [X] NO [ ]
Responsible Wages: YES [X] NO [ ] Building: YES [ ] NO [X]

Ordinance 90-143 is applicable to all construction projects over $100,000 that do not utilize Federal Funds

RECOMMENDATION

Tier 1 Set Aside _____

Set Aside _____ Level 1 _____ Level 2 _____ Level 3 _____

Trade Set Aside (MCC) _____ Goal _____ Bid Preference _____

No Measure _____ Deferred _____ Selection Factor _____

Director, SBD — Date: 8/26/10 — Chairperson: N/A — Date

DBDR0092

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MIAMI DADE COUNTY
Department of Small Business Development
Firm History Report

From: 02/02/2006 To: 02/02/2011

FIRM NAME: RIC-MAN CONSTRUCTION, INC.
7005 NW 41 St
Miami, FL 33166-0000

PRIMES

PROJECT #	CONTRACT	DEPT.	MEASURES	AWARD DATE	AWARD AMOUNT
W-906	1	WS	GOAL CSBE 14%	12/02/2008	$3,097,610.24
MIAMI SPRINGS CALCIUM CARBONATE DEPOSIT LAGOON CALCIUM CARBONATE DEPOSIT REMOVAL (WEST HALF) (SIC 16)					
					$3,097,610.24

Total Award Amount	$3,097,610.24
Total Change Orders Approved by BCC	$0.00
	$3,097,610.24

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* Indicates closed or expired contracts
Disclaimer: Payments shown may not reflect current information

Find Contracts With Search String ==> Projects

Goto Bottom

Exit

OFFICE OF CAPITAL IMPROVEMENTS
CAPITAL IMPROVEMENTS INFORMATION SYSTEM

Wednesday, February 02, 2011

All Contracts for FEIN 381943960

Ric-Man Construction, Inc.

DST	DPT	Type	Contract	Name	Location / Contractor	Estimated Completion Date	Total Award	Last Status Date	% Complete / Status *
6	WS	CON	W-906	Miami Springs Calcium Carbonate Deposit Lagoon C	Ric-Man Construction, Inc.	8/3/2010	$2,738,528	10/15/2010	100% / Closed
					Totals:	1	$2,738,528		

* Yellow Status=Inactive Contract

Contracts Status View Exit Projects Goto Top

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Exit

Capital Improvements Information System

Contractor Evaluations Report

Dept	Contract	Type	Contractor / Architect Name	Date	Rater	Period	Rate
WS	W-906	CON	Ric-Man Construction, Inc.	6/11/2010	Juan E Diaz	Project conclusion or closeout	3.3

Evaluation Count: 1 Contractors: 1 Average Evaluation: 3.3

Exit

Detail by Entity Name

Foreign Profit Corporation

RIC-MAN CONSTRUCTION, INC.

Filing Information

Document Number	F02000006152
FEI/EIN Number	381943960
Date Filed	12/11/2002
State	MI
Status	ACTIVE

Principal Address

6850 NINTEEN MILE ROAD
STERLING HGTS MI 48314

Mailing Address

3100 SW 15TH STREET
DEERFIELD BEACH FL 33442

Changed 03/17/2009

Registered Agent Name & Address

MANCINI, DANIEL C
3100 SW 15TH STREET
DEERFIELD BEACH FL 33442 US

Name Changed: 03/17/2009

Address Changed: 03/17/2009

Officer/Director Detail

Name & Address

Title PD

MANCINI, STEVEN
6850 NINTEEN MILE ROAD
STERLING HGTS MI 48314

Title VD

MANCINI, EDWARD
6850 NINTEEN MILE ROAD
STERLING HGTS MI 48314

Title VD

MANCINI, DANIEL
6850 NINTEEN MILE ROAD
STERLING HGTS MI 48314

Title S

~~MANCINI, CATALINA~~
6850 NINTEEN MILE ROAD
STERLING HGTS MI 48314

Annual Reports

Report Year	Filed Date
2009	03/17/2009
2010	02/15/2010
2011	01/25/2011

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State of Florida, Department of State

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PROJECTS PROPOSED FOR ADDITION TO THE COUNTY'S ECONOMIC STIMULUS PLAN (ESP)

DEPT	COMMISSION DISTRICT	PROJECT NAME	PROJECT DESCRIPTION	ESTIMATED PROJECT COST	COMMENTS
TRANSIT	5	Upgrade Metrorail Central Control	Facility Rehabilitation	$32,400,000	
TRANSIT	12	Upgrade and expand the Lehman Center Test Track	Facility Rehabilitation	$12,200,000	
TRANSIT	12	Rehabilitate the Lehman Train Yard	Facility Rehabilitation	$7,100,000	
TRANSIT	3	N.W. 7th Avenue & 62 Street Passenger Activity Center	Construction of New Passenger Activity Center near MLK Center	$3,420,000	
TRANSIT	8,9	Park & Ride Lot @ S.W. 344th Street	Construct Park & Ride Lot	$4,123,000	
WASD	Countywide	Cleaning and Surveying of Large Diameter Sewers 36" and larger	WASTEWATER SYSTEM IMPROVEMENTS	$1,500,000	Currently in Contractor Selection Phase
WASD	Countywide	Rehabilitation of Sanitary Sewers by the Sectional Lining Method (S-847)	WASTEWATER SYSTEM IMPROVEMENTS	$1,000,000	Currently in Contractor Selection Phase
WASD	3	DESIGN OF 48-INCH SEWAGE FORCE MAIN ROUTE FROM INTERCEPTOR TO PS 2 DISCHARGE	Design 48-in Sewage Force Main to connect to an existing 36-in Sewage Force Main along Biscayne Blvd from a point north of NE 35th Street and extend to an existing 48-in sewage Force Main along NW 8th Street between NE 2nd Avenue and NW 3rd Avenue and replacement of approx. 2,500 LF portion of the existing 30/36-inch force main.	$2,426,059	Currently in A&E Selection Phase
WASD	5	Replacement of existing 54-inch force main from South Miami Beach to Fisher Island (CIP #9650241)	Design-Build project for the replacement of existing 54-inch force main from South Miami Beach to Fisher Island under the Government Cut Channel.	$45,500,000	Currently in Design Phase
WASD	5	Replacement of existing 20-inch water main from Port Island to Fisher Island (CIP# 9850181)	Design-Build project for the replacement of existing 20-inch water main from Port Island to Fisher Island under the Fisherman's Channel	$18,800,000	Currently in Design Phase
WASD	5	Construction Management Services for the Government Cut Utility Projects	Construction Management Services for the Government Cut Utility Projects	$5,000,000	Currently in A&E Selection Phase
			TOTAL VALUE OF PROJECTS PROPOSED FOR ADDITION TO ESP	$[illegible]	

SPEC 2 MEETING
DECEMBER 20, 2018

MIAMI-DADE WATER AND SEWER DEPARTMENT

ON-SITE CHLORINE GENERATION AND EMERGENCY GENERATORS AT THE JOHN E. PRESTON/HIALEAH AND ALEXANDER ORR WATER TREATMENT PLANTS

OCI PROJECT NO. DP16-WASD-B1

TABULATION SHEET

	NAME OF FIRM(S)	COMPETITIVE SELECTION COMMITTEE							SUB-TOTAL	Average	Low Disparity	High Disparity	TOTAL	System Ranking
		Julio Cerezo	Brian Trujillo	Jason Fernandez	[illegible]	Jason McCarthy	Yalkis Wong	Harry Chinea						
1	Kenny Infrastructure Sweitz, Co.													
	2A - Summary Narrative (Max. 5 points)	5	4	4	4	4	5	5	31	4	3	6		
	2B - Design, Technical and Permitting Approach (Max. 25 points)	20	22	21	22	23	20	23	151	22	14	29		
	2C - Drawings (Max. 20 points)	15	18	18	19	17	16	16	119	17	11	23		
	2D - Construction Execution Approach & Project Schedule (Max. 15 points)	12	13	12	14	12	13	14	90	13	9	17		
	2E - Construction Environmental & Quality Management Approach (Max. 10 points)	8	8	8	9	8	8	8	57	8	5	11		
	2F - Safety and Health Aprpoach (Max. 10 points)	8	9	8	9	8	8	9	59	8	6	11		
	2G - Operations and Maintenance Considerations (Max.10 points)	8	9	8	10	7	8	8	58	8	6	11		
	2H - Financial Payment Plan (Max. 5 points)	4	4	4	5	3	5	4	29	4	3	6		
	Total Scores Out of 100 Possible	80	87	83	92	82	83	87					594	

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MIAMI-DADE COUNTY
EVALUATION/SELECTION DESIGN-BUILD SERVICES

MIAMI-DADE WATER AND SEWER DEPARTMENT
ON-SITE CHLORINE GENERATION AND EMERGENCY GENERATORS AT THE JOHN E. PRESTON/HIALEAH AND ALEXANDER ORR WATER TREATMENT PLANTS
OCI PROJECT NO. UP10-WASD-01
STEP 2 MEETING
December 20, 2010

STEP 2 RANKING REPORT

FIRM	BASE PRICE	TOTAL QUALITATIVE POINTS	ADJUSTED BID	SYSTEM RANK	FINAL RANK
KIEWIT INFRASTRUCTURE SOUTH CO.	$61,647,000	594	103782.83	1	1

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MIGUEL DE GRANDY P.A.

ATTORNEYS AT LAW

January 12, 2011

Marlen Brant
Capital Improvements
111 NW 1st Street, Suite 2130
Miami, Florida 33128

Sent Via Facsimile & Email
(305) 372-6130/ mpi@miamidade.gov

Re: Public Records Request Concerning OCI Project Number DB10-WASD-01 ESP "Design-Build Services"

Dear Ms. Brant:

Pursuant to the Florida Public Records Act, Chapter 119, Florida Statutes, please accept this letter as a Public Records Request. I respectfully request that, consistent with State law, you promptly produce, and make available for inspection, the following public records:

1. Any and all documents or handouts that were discussed during any and all of the negotiations meetings ranging from January 3, 2011 to January 12, 2011.

2. Any and all public records that have been produced and/or received by and between the County and proposers (including any lobbyists, lawyers, and/or representatives thereof) since December 22, 2010 to the present concerning the above-referenced procurement

Please note that the definition for public records in Florida, as defined in Florida Statutes 119.011 (11) includes all documents, papers, letters, e-mails, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

Please be so kind to contact Mr. Pablo Tamayo at my office to coordinate the inspection of the public records sought. Of course, pursuant to Section 119.07 (1) (a) of the Florida Statues, we will gladly pay for the costs of duplication of the public records that we identify for copying.

Thank you for your prompt attention to this matter. If you have any questions, please do not hesitate to contact me at (305) 444-7737.

Sincerely,

for Miguel De Grandy

Cc:
Clerk of the Board
Faith Samuels

Douglas Entrance
800 Douglas Road, Suite 850, Coral Gables, Florida 33134 P. 305.444.7737 F. 305.443.2616

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Memorandum

MIAMI-DADE COUNTY

Date: December 16, 2010

To: George M. Burgess
County Manager

Thru: George Navarrete
Director, OCI 12/17/10

From: Faith Samuels
Faith Samuels, Sr. A&E Consultant Selection Coordinator
Chairperson, Competitive Selection Committee

Subject: NEGOTIATION AUTHORIZATION
Miami Dade Water and Sewer Department (MDWASD)
Economic Stimulus Plan
Design-Build Services for the Replacement of an Existing 20-inch Water Main from Port Island to Fisher Island under Fisherman's Channel and Replacement of an Existing 54-inch Force Main from Fisher Island to South of the City of Miami Beach under Government Cut Channel
OCI Project No. DB10-WASD-01 ESP

The Standing Selection Committee (SSC) has completed the evaluation of the proposals submitted in response to the above referenced OCI Project No. following the guidelines published in the Request for Design-Build Services (RDBS) Volume I.

OCI Project No.: OCI Project No. DB10-WASD-01 ESP

Pursuant to Ordinance 08-92 as amended, this solicitation is one of the projects within the Economic Stimulus Plan (ESP).

Project Title: Design-Build Services for the Replacement of an Existing 20-inch Water Main from Port Island to Fisher Island under Fisherman's Channel and Replacement of an Existing 54-inch Force Main from Fisher Island to South of the City of Miami Beach under Government Cut Channel

Scope of Services:

The scope of services and any supportive tasks ancillary to the primary scope of services will include but are not limited to: professional design, permitting, construction, testing, and commissioning of new utility pipelines, and the decommissioning and preparation for removal of the existing utility pipelines by others. Both existing utility pipelines must be kept in service while the replacement pipes are being installed.

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The existing 20-inch water main under Fisherman's Channel will be replaced by installing two new water mains, 24-inch and 12-inch diameter pipeline; micro-tunneling below Fisherman's Channel to install a minimum 60-inch inside diameter casing between the Port Island and Fisher Island shafts. Subsequent to testing and commissioning the new pipelines, the new pipelines shall be grouted within the casing and the shafts, and the existing 20-inch pipeline shall be cut at both ends, decommissioned and prepared for removal by others. The 12-inch water main will be designed and constructed such that it can be reconfigured and reclassified as a reclaimed water line in the future. A water metering station will also be installed on Port Island. Deep shafts will be required at both Port Island and Fisher Island to perform the tunneling and installation of the pipelines.

Replacement of the 54-inch sewer force main under Government Cut Channel includes providing a deep shaft on land at Fisher Island and another deep shaft in the water, south of the City of Miami Beach, micro-tunneling below Government Cut Channel to install a minimum 72-inch inside diameter casing between the Fisher Island shaft and the shaft in the water; installing a new 54-inch pipeline within the casing; tying the new 54-inch pipeline into the existing 54–inch force main; testing the pipeline and all connections; grouting the new pipeline within the casing and shafts; cutting and decommissioning the existing section of 54-inch force main under the Government Cut Channel for removal by others.

It will be the responsibility of the Design-Builder to secure all permits other than those provided by MDWASD, and to provide signed and sealed construction documents, which comply with all regulatory requirements, as well as the Contract Documents.

Alternate Proposals may be submitted at the sole option of a Design-Builder. The SSC, at its sole discretion, may validate or reject any Alternate Proposal. Only Alternate Proposals that provide an equal or lesser price than the Base Proposal will be considered. For any Alternate Proposal, an Alternate Proposal Price must be provided. The SSC will decide, in its sole discretion, after oral interviews and prior to opening the Price Proposal envelope, to validate or reject any Alternate Proposal by majority vote of the SSC. The SSC's decision is final.

For a validated Alternate Proposal, the Adjusted Bid will be calculated with the Design-Builder's Alternate Proposal Price for that Design-Builder. The Base Proposal Price for that Design-Builder will not be utilized and becomes null and void.

If the Design–Builder is awarded the Design-Build Contract based on a validated Alternate Proposal, the Design-Builder accepts full technical, cost and schedule responsibility, and risk for the feasibility of implementing that Alternate Proposal. If such Alternate Proposal is determined not feasible or impractical for any reason, including any reason beyond control of the Design-Builder, the Design-Builder is required to perform the Project without recourse in accordance with the original requirements of the RDBS Design Criteria Package at the same price and schedule as contracted with the Alternate Proposal.

BACKGROUND:

Term of contract: One Design-Build Contract will be awarded under this solicitation. The estimated total cost of the project is sixty two million four hundred and eighty thousand dollars ($62,480,000). The Design-Builders must complete all work by the following dates:

- Substantial Completion on or before August 21, 2012 which requires putting into commercial service the new 24-inch and 12-inch water mains and the 54-inch sewer force main, and

completing preparation of the existing 20-inch water main and 54-inch force main under the navigation channels for removal by others.

- Final Completion on or before October 21st, 2012 which requires obtaining acceptance by all applicable regulatory agencies including MDWASD of all Work and Services under the Contract, including restorations, as-built drawings and record documents, and all other remaining items identified at Substantial Completion.

If the Design-Builder does not achieve Substantial Completion by the established Substantial Completion Contract Date, Liquidated Damages (LDs) will be assessed in the amount of $5,000 per calendar day, which will be paid to the County by the Design-Builder. All assessments of Liquidated Damages to the Design-Builder may be adjustments to payments due the Design-Builder.

Review Committee: The Review Committee recommended at their August 26, 2010 meeting that the following goals shall be applied: 17% Community Business Enterprise Program (CBE) Subconsultant Goal and 10% 2nd, 3rd and 4th Tier Community Small Business Enterprise Program (CSBE) Goal.

Date of County Manager's approval to advertise/initiate: September 3, 2010.

Request to Advertise (RTA) Stamped by the Clerk of the Board: September 3, 2010.

Number of proposals received: Five.

Name of Proposer(s): Please refer to the attached List of Respondents (LOR).

SELECTION PROCESS:

A two-step selection process was utilized for this design-build solicitation, Step 1 – Evaluation of Qualifications and Step 2 – Evaluation of Technical and Price Proposal. Step 1 is the evaluation of the design-build team's qualifications based on the teams' completed submittal. Step 2 is the evaluation of competitive technical and price proposals from those Advancing Firms (those firms deemed responsive and responsible at Step 1) who choose to offer a responsive and responsible proposal.

Step 1:

The Step 1 process is the evaluation of qualifications of the teams. Such qualifications included the experience and qualifications of the team, design team's technical certification and pre-qualification, Design-Builder's licensing requirements, assurance in meeting the Community Business Enterprise and Community Small Business Enterprise goals, Design-Builder's capability to provide a Payment and Performance Bond and acknowledgement of insurance coverage.

The experience and qualifications required for this solicitation were as follows:

1) Project Experience and Past Performance: Design-Builder shall demonstrate team project experience by listing a maximum of ten projects completed within the last ten years, including projects that are currently active and at least 50% complete prior to the proposal submittal date of the solicitation that demonstrate related experience.

   a. Minimum requirements for Project Experience of Design-Builders, Lead Constructor(s) and Lead Designer(s):

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i. The constructor firm performing the micro-tunneling work must have performed at least two micro-tunneling projects, which demonstrate constructing a micro-tunnel to install a casing of 60 inches diameter or more.

ii. The constructor firm performing the shaft construction must have performed at least two deep shaft construction projects, which demonstrates construction of shafts of at least 50 foot depth, and a shaft in a body of water.

iii. The design firm who will design the micro-tunnel must demonstrate they have designed at least two micro-tunnels, one of which was 60 inches diameter or more.

iv. The design firm who will perform the shaft design must have designed at least two deep shaft projects that included a shaft depth of at least 50 feet depth, and a shaft in a body of water.

b. Additional Preferred Experience: Design-Builder teams will receive higher qualifications scores from the SSC when they can demonstrate that:

i. Lead firms have performed design-build projects in the past of similar size and complexity in similar roles as proposed for this project.

ii. Team's firms performed in project design and construction roles similar to those proposed for this project.

iii. Listed projects include experience in reasonably similar geotechnical conditions.

iv. Listed projects include experience of tapping into an operating sewer system pipe of reasonably similar size and type.

v. Lead firms have worked together on previous projects.

2) Design-Build Team Key Personnel Experience and Qualifications:

a. Minimum industry and position experience of key personnel are as follows:

15 years total industry experience of which five years is in a similarly responsible position for each of the following key personnel:

- Design-Build Project Manager
- Lead designer firm – Design Manager
- Lead construction firm – Construction Manager
- Tunneling Superintendent
- Shafts Construction Superintendent

Ten years total industry experience of which five years is in a similarly responsible position for each of the following key personnel:

- Lead Structural Engineer
- Lead Geotechnical Engineer
- Mechanical Piping / Tapping / Bypass Superintendent

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- Environmental Permitting / Compliance Manager
- Design-Builder Quality Assurance / Quality Control (QA / QC) Manager
- Design-Builder Safety Manager

b. Key personnel must demonstrate experience with the type work to be performed.

c. Identity those State of Florida registered Professional Engineers who will sign and seal construction plans and specifications.

d. Key personnel resumes shall indicate the individual's role and duration on each project for which they are being credited.

3) Safety Record - Past Performance: Minimum past performance as reflected by a three-year average for the last three previous full years of the experience modification rate (EMR) for the Design-Builder, Tunnel Constructor and Shafts Constructor, shall not exceed 1.25 for each firm.

4) A narrative provided by the Design-Builder that explains how the Design-Builder and team can efficiently interface with the County and MDWASD in a timely and effective manner with respect to items such as regular and emergency communications, submittals, meeting attendance, commercial issues and other project related activities.

Five proposals were received for Step 1 (please refer to the attached List of Respondents). The SSC evaluated and scored the five respondents based upon the five criteria denoted in the attached Step 1 Ranking Report and found all five respondents to be qualified. The SSC motioned to invite the five respondents to submit a technical and price proposal for Step 2.

Step 2:

Technical and price proposals were received from the five respondents deemed qualified at Step 1. Three of the five respondents submitted alternate proposals for consideration by the SSC. Pursuant to the RDBS, if an alternate proposal is validated by the SSC, then the alternate proposal price shall take the place of the base price proposal in calculating the Adjusted Bid. The SSC validated the alternate proposals submitted by three of the five firms. The technical proposals were evaluated and scored by the SSC based upon the eight criteria denoted in the attached Step 2 Ranking Report. Upon completion of the Step 2 scores by the SSC, the sealed envelopes containing the price proposals and bid guarantees were opened and read into the record. Each Design-Builder's proposed price was divided by the total SSC's Step 2 scores, to obtain the Adjusted Bid. The SSC motioned that Ric-Man Construction Inc., the top ranked Design-Builder with the lowest Adjusted Bid be recommended to the County Mayor or County Mayor's designee for negotiations of a design-build contract.

STEP 1 AND STEP 2 RESULTS:

Step 1 Results: See attached Step 1 Ranking Report

Step 2 Results: See attached Step 2 Ranking Report

REQUEST FOR APPOINTMENT OF NEGOTIATION COMMITTEE:

Pursuant to the August 25, 2010 Memorandum – Standing Selection Negotiation Committee for Miami-Dade County's Competitive Selection Processes During the Effective Period of the County's Economic Stimulus Ordinance, Negotiation Committee #2 is appointed for the purpose of negotiating a design-build contract with the top ranked firm, as listed below:

1. Vicente Arrebola, MDWASD
2. Julio Amoedo, MDWASD
3. Victor Fernandez-Cuervo, MDWASD
4. Mohammed Mansuri, PWD

REQUEST FOR AUTHORIZATION TO ENTER NEGOTIATIONS:

Pursuant to Section 2-10.4 (6) of the Code of Miami-Dade County, it is hereby requested that the County Manager approve the selection of the following firms, in the following order of preference, for negotiations:

RANKING OF RESPONDENTS
SELECTION FOR DESIGN-BUILD NEGOTIATION
ONE (1) DESIGN-BUILD CONTRACT - 17% CBE GOAL & 10% 2nd, 3rd and 4th Tier CSBE GOAL

1. Ric-Man Construction, Inc.
2. Lanzo Construction Co., Florida
3. Dragados USA, Inc.

If approved, the Negotiation Committee is to proceed with the contract negotiations pursuant to Section 6 of the above-mentioned Code, and submit the signed contract ready to be presented to the County Commission for final approval to this office no later than 60 days from the date of this memorandum.

If a satisfactory agreement cannot be reached within the 60 day period, a report is required to be prepared fully explaining all problems resulting from the negotiations. If negotiations are proceeding within a reasonable timeframe, then negotiations are to continue and the report is to be submitted upon completion. The final contract and report should be sent to this office.

Pursuant to the Cone of Silence Legislation included in the Conflict of Interest and Code of Ethics Ordinance and Section 2-11.1 of the County Code, the County Mayor, or designee will report to the Board of County Commissioners any of the following instances:

- When negotiations do not commence, or other affirmative action is not taken, within 30 days of the Selection Committee's recommendation.
- When the County Mayor or designee's recommendation to award or reject is not made within 90 days from the date of the Selection Committee's recommendation.

Authorization to negotiate is:

12/20/10

Approved Date
Susanne M. Torriente, Director
Office of Sustainability

Not Approved Date
Susanne M. Torriente, Director
Office of Sustainability

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Attachments:
1. List of Respondents
2. Step 1 Ranking Report
3. Step 2 Ranking Report

c: Clerk of the Board of County Commissioners
Ysela Llort, Assistant County Manager
George Navarrete, Director, OCI
John W. Renfrow, P.E., Director, MDWASD
Luisa Millan, Chief, Professional Services Division, OCI
Standing Selection Committee

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MIAMI-DADE COUNTY

MIAMI DADE COUNTY
OFFICE OF CAPITAL IMPROVEMENTS

LIST OF RESPONDENTS

OCI Project Name: Replacement of An Existing 20" Water Main & Replacement of an Existing 54" Force Main
OCI Project No.: DB10-WASD-01ESP
Measures: 17% CBE Goal, 10% CSBE Goal
Number of Agreements: 1
Contract Type: DESIGN BUILD
Submittal Date: 09/29/2010

Submittal No: 1
Prime Name: BARNARD NICHOLSON SOUTHEAST JV
Trade Name:
Prime Local Preference: No
FEIN No.: 273462422

Subs Name	Trade Name	Subs FEIN No.
a. URS CORPORATION SOUTHERN	GREINER SOUTHERN, INC.	592087895
b. CES CONSULTANTS, INC.		650792884
c. MARLIN ENGINEERING, INC.		650279601
d. J. BONFILL AND ASSOCIATES INC.		650133546
e. KADERABEK COMPANY		820560149
f. CEB CONSTRUCTION, INC.		200145314
g. QUALITY CONSTRUCTION PERFORMANCE, INC.		201154043
h. SOLARES ELECTRICAL SERVICES, INC.		650731811

Submittal No: 2
Prime Name: MIAMI TUNNELERS, LLC
Trade Name:
Prime Local Preference: No
FEIN No.: 272818142

Subs Name	Trade Name	Subs FEIN No.
a. JACOBS ENGINEERING GROUP, INC.		954081636
b. RODOLFO IBARRA, P.E., P.A.		650738755
c. LEITER, PEREZ & ASSOCIATES, INC.		592746730
d. KADERABEK COMPANY		820560149
e. CES CONSULTANTS, INC.		650792884
f. TRIANGLE ASSOCIATES, INC.		650671382
g. KERR CONSTRUCTION, INC.	HUXTED TUNNELING	591618091
h. COASTAL CAISSON CORP.		043163765
i. METRO EQUIPMENT SERVICE, INC.		650010248
j. EBSARY FOUNDATION COMPANY		590229150
k. RS ENVIRONMENTAL CONSULTING, INC.		870775158
l. GEI CONSULTANTS, INC.		042468348
m. RANGELINE TAPPING SERVICES, INC.		650330364

MIAMI DADE COUNTY
OFFICE OF CAPITAL IMPROVEMENTS

LIST OF RESPONDENTS

OCI Project No.: DB10-WASD-01ESP
Measures: 17% CBE Goal, 10% CSBE Goal
Number of Agreements: 1
Contract Type: DESIGN BUILD
Submittal Date: 09/29/2010

Submittal No: 3
Prime Name: DRAGADOS USA, INC.
Trade Name:

Prime Local Preference: Yes
FEIN No.: 203902316

Subs Name	Trade Name	Subs FEIN No.
a. CAMP DRESSER & MCKEE INC		042473650
b. C SOLUTIONS, INC.		202591227
c. CES CONSULTANTS, INC.		650792884
d. COASTAL SYSTEMS INTERNATIONAL, INC.		650543399
e. E SCIENCES, INCORPORATED		593667002
f. HADDONE CORPORATION		651089850
g. HP CONSULTANTS INC.		270014034
h. SRS ENGINEERING, INC.		650607552
i. TETRA TECH, INC		954148514
j. C.A.P. ENGINEERING, INC.		204590441
k. FRANK COLUCCIO CONSTRUCTION COMPANY		910649649

MIAMI DADE COUNTY

MIAMI DADE COUNTY
OFFICE OF CAPITAL IMPROVEMENTS

LIST OF RESPONDENTS

OCI Project No.: DB10-WASD-01ESP
Measures: 17% CBE Goal, 10% CSBE Goal
Number of Agreements: 1
Contract Type: DESIGN BUILD
Submittal Date: 09/29/2010

Submittal No: 4 **Prime Local Preference:** Yes
Prime Name: RIC-MAN CONSTRUCTION, INC. **FEIN No.:** 381943960
Trade Name:

Subs Name	Trade Name	Subs FEIN No.
a. HAZEN AND SAWYER, P.C.		132904652
b. JACOBS ASSOCIATES CORP.		941371792
c. KADERABEK COMPANY		820560149
d. H.J. ROSS ASSOCIATES, INC.		650163389
e. AVINO & ASSOCIATES, INC.		650053775
f. YOUSSEF HACHEM CONSULTING ENGINEERING, INC.		203225960
g. J. BONFILL AND ASSOCIATES INC.		650133546
h. TRIANGLE ASSOCIATES, INC.		650671382
i. MICHELS CORPORATION		390970311
j. TDW SERVICES, INC.		730788288
k. HOMESTEAD CONCRETE &.DRAINAGE, INC.		592069390
l. COBALT CONSTRUCTION GROUP, LLC		262618462

Submittal No: 5 **Prime Local Preference:** Yes
Prime Name: LANZO CONSTRUCTION CO., FLORIDA **FEIN No.:** 592011933
Trade Name:

Subs Name	Trade Name	Subs FEIN No.
a. HDR ENGINEERING, INC.		470680568
b. MACTEC ENGINEERING AND CONSULTING, INC.		680146861
c. BRIERLEY ASSOCIATES, LLC		043462392
d. BND ENGINEERS, INC.		650421519
e. A.D.A. ENGINEERING, INC.		592064498
f. HALCROW, INC.	HPA, INC.	201900891
g. EAC CONSULTING, INC.		650519739
h. SUPER EXCAVATORS, INC.		391050777
i. CASE FOUNDATION COMPANY		363926755
j. STAR PAVING CORP.		592270057

STEP 1 MEETING
OCTOBER 13, 2010

MIAMI-DADE WATER AND SEWER DEPARTMENT

REPLACEMENT OF AN EXISTING 20" WATER MAIN FROM PORT ISLAND TO FISHER ISLAND UNDER FISHERMAN'S CHANNEL AND REPLACEMENT OF AN EXISTING 54" FORCE MAIN FROM FISHER ISLAND TO SOUTH OF CITY OF MIAMI BEACH UNDER GOVERNMENT CUT CHANNEL

OCI PROJECT NO. DB10-WASD-01 ESP

TABULATION SHEET

COMPETITIVE SELECTION COMMITTEE

	NAME OF FIRM(S)	Vicente Arrebola	Victor Fernandez-Cuervo	Julio Amodo	Isabel Padron	Mohammed Mansuri	Franklin Sikroop	Jesus Guerra	SUB-TOTAL	Alternate	Jose Rosado	Elena Quinones	TOTAL	System Ranking	Local Preference Range	Criteria 1A Tie-Breaker	Criteria 1B Tie-Breaker	Criteria 1C Tie-Breaker	Criteria 1D Tie-Breaker	Criteria 1E Tie-Breaker	FINAL RANK	OCI RANK
1	BARNARD NICHOLSON SOUTHEAST LLC																					
	1A - Design-Builder Team Project Experience and Past Performance (Max. 40 points)	38	38	37	30	36	28	38	245	35	23	47										
	1B - Design-Builder Team Key Personnel Experience and Qualifications (Max. 40 points)	37	35	40	25	35	26	34	232	33	22	44										
	1C - Saftey Record - Past Performance (Max. 10 points)	9	10	10	10	10	7	10	66	9	6	13										
	1D - Amount of Work Awarded and Paid by the County (Max. 5 points)	2	3	2	2	3	4	4	20	3	2	4										
	1E - Ability of team members to interface with the County (Max 5 points)	3	5	2	5	5	3	4	27	4	3	5	590								4	
		89	91	91	72	89	68	90														
2	MIAMI TUNNELERS SE CONSTRUCTORS																					
	1A - Design-Builder Team Project Experience and Past Performance (Max. 40 points)	35	36	40	35	33	34	28	241	34	23	46										
	1B - Design-Builder Team Key Personnel Experience and Qualifications (Max. 40 points)	37	38	35	35	33	32	40	250	36	24	48										
	1C - Saftey Record - Past Performance (Max. 10 points)	4	6	3	1	5	4	7	30	4	3	6										
	1D - Amount of Work Awarded and Paid by the County (Max. 5 points)	5	5	5	5	5	5	5	35	5	3	7										
	1E - Ability of team members to interface with the County (Max 5 points)	3	5	5	5	5	3	4	30	4	3	6	586								5	
		84	90	88	81	81	78	84														
3	DRAGADOS USA INC. (LP)																					
	1A - Design-Builder Team Project Experience and Past Performance (Max. 40 points)	37	34	37	25	33	26	38	230	33	22	44										
	1B - Design-Builder Team Key Personnel Experience and Qualifications (Max. 40 points)	38	36	35	30	33	28	37	237	34	23	45										
	1C - Saftey Record - Past Performance (Max. 10 points)	8	9	7	8	5	6	10	53	8	5	10										
	1D - Amount of Work Awarded and Paid by the County (Max. 5 points)	1	1	3	2	3	4	3	17	2	2	3		594								
	1E - Ability of team members to interface with the County (Max 5 points)	3	5	3	5	5	3	5	29	4	3	6	566	538							3	
		87	85	85	70	79	67	93														
4	RIC-MAN CONSTRUCTION INC. (LP)																					
	1A - Design-Builder Team Project Experience and Past Performance (Max. 40 points)	38	38	37	35	38	38	31	247	35	24	47										
	1B - Design-Builder Team Key Personnel Experience and Qualifications (Max. 40 points)	37	34	40	30	38	34	40	253	36	24	48										
	1C - Saftey Record - Past Performance (Max. 10 points)	8	8	10	8	8	5	9	56	8	5	11										
	1D - Amount of Work Awarded and Paid by the County (Max. 5 points)	3	4	5	4	3	4	5	28	4	3	5		642								
	1E - Ability of team members to interface with the County (Max 5 points)	4	5	5	3	5	3	2	27	4	3	5	611	586							1	
		90	89	97	80	92	76	87														
5	PANZO CONSTRUCTION CO. (FLORIDA) (LP)																					
	1A - Design-Builder Team Project Experience and Past Performance (Max. 40 points)	36	34	40	28	35	32	30	235	34	22	45										
	1B - Design-Builder Team Key Personnel Experience and Qualifications (Max. 40 points)	37	37	37	38	35	38	40	246	35	24	47										
	1C - Saftey Record - Past Performance (Max. 10 points)	6	7	3	1	6	3	7	33	5	3	6										
	1D - Amount of Work Awarded and Paid by the County (Max. 5 points)	4	3	5	4	5	5	4	30	4	3	6		596								
	1E - Ability of team members to interface with the County (Max 5 points)	4	5	5	2	3	3	2	24	3	2	5	565	540							2	
		87	86	90	65	84	73	83														
	LE - Local Preference																					

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STEP 2 MEETING
DECEMBER 15, 2010

MIAMI-DADE WATER AND SEWER DEPARTMENT

REPLACEMENT OF AN EXISTING 20" WATER MAIN FROM FORT ISLAND TO FISHER ISLAND UNDER FISHERMAN'S CHANNEL AND REPLACEMENT OF AN EXISTING 54" FORCE MAIN FROM FISHER ISLAND TO SOUTH OF THE CITY OF MIAMI BEACH UNDER GOVERNMENT CUT CHANNEL

OCI PROJECT NO. DB10-WASD-01 ESP

TABULATION SHEET

	NAME OF FIRM(S)	STANDING SELECTION COMMITTEE: Vicente Arrebos	Victor Fernandez-Cuervo	Julio Amedo	Franklin Shirrup	Isabel Padron	Mohammed Manseri	SUB-TOTAL	Average	Low Disparity	High Disparity	TOTAL	System Ranking
1	Miami Tunneling LLC												
	1B - Summary Narrative (Max. 5 points)	4	5	4	4	4	4	25	4	3	6		
	2B - Design and Permitting (Max. 15 points)	13	13	13	14	12	12	77	13	9	17		
	3B - Drawings (Max. 10 points)	9	8	8	7	8	8	48	8	5	11		
	4B - Construction Execution Approach (Max. 25 points)	20	20	22	20	20	20	122	20	14	27		
	5B - Construction Environmental & Quality Management Approach (Max. 10 points)	7	8	8	7	7	10	47	8	5	10		
	6B - Safety and Health Approach (Max. 10 points)	7	9	8	5	8	10	47	8	5	10		
	7B - Operations and Maintenance Considerations (Max. 10 points)	7	9	8	5	7	10	46	8	5	10		
	8B - Project Schedule Approach (Max. 15 points)	12	15	15	8	10	14	74	12	8	16	486	
		79	87	86	70	76	88						
2	Re-Man Construction Inc. (LP)												
	1B - Summary Narrative (Max. 5 points)	4	5	5	4	4	5	27	5	3	6		
	2B - Design and Permitting (Max. 15 points)	13	14	13	14	14	13	81	14	9	18		
	3B - Drawings (Max. 10 points)	9	10	10	8	10	8	55	9	6	12		
	4B - Construction Execution Approach (Max. 25 points)	21	24	23	24	20	23	135	23	15	30		
	5B - Construction Environmental & Quality Management Approach (Max. 10 points)	7	9	9	9	9	10	53	9	6	12		
	6B - Safety and Health Approach (Max. 10 points)	7	9	8	5	8	10	47	8	5	10		
	7B - Operations and Maintenance Considerations (Max. 10 points)	7	9	8	5	8	10	47	8	5	10		
	8B - Project Schedule Approach (Max. 15 points)	13	15	14	8	10	14	74	12	8	16	519	
		81	95	90	77	83	93						
3	Dragados USA Inc (LP)												
	1B - Summary Narrative (Max. 5 points)	4	4	3	4	4	4	23	4	3	5		
	2B - Design and Permitting (Max. 15 points)	14	10	12	14	12	12	74	12	8	16		
	3B - Drawings (Max. 10 points)	8	7	7	7	7	8	44	7	5	10		
	4B - Construction Execution Approach (Max. 25 points)	21	20	20	20	20	20	121	20	14	27		
	5B - Construction Environmental & Quality Management Approach (Max. 10 points)	7	8	10	8	8	10	51	9	6	11		
	6B - Safety and Health Approach (Max. 10 points)	7	8	8	5	9	10	47	8	5	10		
	7B - Operations and Maintenance Considerations (Max. 10 points)	7	8	8	5	7	10	45	8	5	10		
	8B - Project Schedule Approach (Max. 15 points)	12	15	15	8	10	13	73	12	8	16	478	
		80	80	83	71	77	87						
4	Bauer Construction Co. Florida (LP)												
	1B - Summary Narrative (Max. 5 points)	4	4	5	4	4	3	24	4	3	5		
	2B - Design and Permitting (Max. 15 points)	13	9	13	8	12	10	65	11	7	14		
	3B - Drawings (Max. 10 points)	8	8	8	8	7	5	44	7	5	10		
	4B - Construction Execution Approach (Max. 25 points)	22	20	24	16	18	20	120	20	13	27		
	5B - Construction Environmental & Quality Management Approach (Max. 10 points)	8	8	8	6	7	10	47	8	5	10		
	6B - Safety and Health Approach (Max. 10 points)	7	8	8	5	7	10	45	8	5	10		
	7B - Operations and Maintenance Considerations (Max. 10 points)	7	8	10	5	7	9	46	8	5	10		
	8B - Project Schedule Approach (Max. 15 points)	14	15	15	8	10	12	74	12	8	16	465	
		83	80	91	60	72	79						
5	Bayard Nickelson Southeast JV												
	1B - Summary Narrative (Max. 5 points)	4	5	4	4	5	4	26	4	3	6		
	2B - Design and Permitting (Max. 15 points)	14	14	9	11	14	12	74	12	8	16		
	3B - Drawings (Max. 10 points)	9	9	9	8	9	8	52	9	6	12		
	4B - Construction Execution Approach (Max. 25 points)	21	24	23	16	23	20	127	21	14	28		
	5B - Construction Environmental & Quality Management Approach (Max. 10 points)	8	9	9	7	10	10	53	9	6	12		
	6B - Safety and Health Approach (Max. 10 points)	7	9	9	5	9	9	48	8	5	11		
	7B - Operations and Maintenance Considerations (Max. 10 points)	7	9	9	5	10	10	50	8	6	11		
	8B - Project Schedule Approach (Max. 15 points)	11	15	13	8	10	13	70	12	8	16	500	
		81	94	85	64	90	86						

LP - Local Preference

56

MIAMI-DADE COUNTY
EVALUATION/SELECTION DESIGN-BUILD SERVICES

MIAMI-DADE WATER AND SEWER DEPARTMENT
REPLACEMENT OF AN EXISTING 20" WATER MAIN FROM PORT ISLAND TO FISHER ISLAND UNDER FISHERMAN'S CHANNEL AND REPLACEMENT OF AN EXISTING 54" FORCE MAIN FROM FISHER ISLAND TO SOUTH OF THE CITY OF MIAMI BEACH UNDER GOVERNMENT
OCI PROJECT NO. DB10-WASD-01 ESP
STEP 2 MEETING
December 15, 2010

STEP 2 RANKING

FIRMS	BASE OR ALTERNATE PRICE PROPOSAL	TOTAL QUALITATIVE POINTS	ADJUSTED BID	SYSTEM RANK	LP RANK	FINAL RANK
MIAMI TUNNELERS, LLC (Alternate Proposal Validated by SSC)	$57,067,000.00	486	117421.81	4		4
RIC-MAN CONSTRUCTION, INC. (LP) (Alternate Proposal #5 Validated by SSC)	$47,618,191.07	519	91749.89	1		1
DRAGADOS USA, INC. (LP)	$49,772,000.00	478	104125.52	3		3
LANZO CONSTRUCTION CO., FLORIDA (LP) (Alternate Proposal Validated by SSC)	$45,885,000.00	465	98677.42	2		2
BARNARD NICHOLSON SOUTHEAST JV	$65,500,000.00	500	131000.00	5		5

LP - Local Preference

SSC - Standing Selection Committee

If an Alternate Proposal was validated by the SSC, the Alternate Price Proposal was utilized to yield the Adjusted Bid.

HARVEY RUVIN, CLERK OF THE BOARD

IN RE: THE PROTEST OF THE FEBRUARY 11, 2011 RECOMMENDATION OF AWARD OF CONTRACT FOR DB10-WASD-01 ESP FOR REPLACEMENT OF EXISTING 20-INCH WATER MAIN FROM PORT ISLAND TO FISHER ISLAND AND REPLACEMENT OF EXISTING 54-INCH FORCE MAIN FROM FISHER ISLAND TO CITY OF MIAMI BEACH

LANZO CONSTRUCTION,
Petitioner,

v.

MIAMI-DADE COUNTY,
a Political sub-division of the State of Florida.

Respondent.

CLERK OF THE BOARD
2011 MAR 10 PM 1:11
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
#1

RIC-MAN'S RESPONSE TO LANZO'S WRITTEN INTENT TO PROTEST AND INCORPORATED GROUNDS FOR PROTEST

COMES NOW, Ric-Man Construction ("Ric-Man") the recommended proposer in the above-referenced competitive process, by and through undersigned counsel, and hereby files the instant Response in the above-styled matter.

1. Ric-Man adopts in its entirety the "Miami-Dade County's Memorandum in Opposition to Lanzo Construction's Bid Protest," filed on March 7, 2011.

2. As an additional grounds to support the County's argument that it had the wide discretion to accept Ric-Man's alternative bids as these were presented on "Miami-Dade County OCI Form – 6," Ric-Man would point to the following express provisions contained on that form:

> The execution of the Price Proposal form constitutes the unequivocal offer of the Design-Builder to be bound by the terms of its proposal. Failure to sign this proposal where indicated by an authorized representative shall render the proposal non-responsive. **The County, may however, in its sole discretion, accept any proposal that includes an executed document, which unequivocally binds the Design Builder to the terms of its offer.** [emphasis added]

This exact same language is included in the body of Addendum No. 5 at page 37.

This provision would appear to be dispositive of Lanzo's argument that Ric-Man inappropriately submitted an "altered" OCI Form 6, as it is not disputed that each of the Ric-Man forms (1) unequivocally bound it to the offered price and (2) was signed by an authorized representative.

Accordingly, Ric-Man respectfully requests that the hearing examiner deny the bid protest and affirm its award.

Dated: March 8, 2011.

By: _____

Augusto E. Maxwell, Esq.
Florida Bar No. 867845
Jose Villalobos, Esq.
Florida Bar No. 213101
Akerman Senterfitt P.A.
1 S.E. 3rd Avenue, 25th Floor
Miami, Florida 33131
Tel: 305-374-5600

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished via U.S. Mail this 8th day of March, 2011 to: Oren Rosenthal, Assistant County Attorney, the Clerk of the Board and Miguel de Grandy, Esq., 800 Douglas Road, Suite 850, Coral Gables, Florida 33134.

Augusto E. Maxwell, Esq.

CLERK OF THE BOARD
2011 MAR -9 AM 10: 30
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA
#1

HARVEY RUVIN, CLERK OF THE BOARD

IN RE: THE PROTEST OF THE FEBRUARY 11, 2011 RECOMMENDATION OF AWARD OF CONTRACT FOR DB10-WASD-01 ESP FOR REPLACEMENT OF EXISTING 20-INCH WATER MAIN FROM PORT ISLAND TO FISHER ISLAND AND REPLACEMENT OF EXISTING 540-INCH FORCE MAIN FROM FISHER ISLAND TO CITY OF MIAMI BEACH

LANZO CONSTRUCTION,

Petitioner,

v.

MIAMI-DADE COUNTY,
a political subdivision of
The State of Florida.

Respondent.

PETITIONER LANZO CONSTRUCTION'S PRE-HEARING STATEMENT AND INCORPORATED MEMORANDUM OF LAW

Introduction

COMES NOW, LANZO CONSTRUCTION (Lanzo), by and through undersigned counsel, and respectfully files the instant Pre-Hearing Statement and Incorporated Memorandum of Law in support of the Written Notice of Intent to Protest and Incorporated Grounds for Protest filed with the Clerk of the Board on February 16, 2011. Along with its Written Notice of Intent

to Protest, Lanzo filed several exhibits in support thereof. Moreover, as allowed by the Code of Miami-Dade County (Code) and Implementing Order 3-21, on February 22, 2011, Lanzo filed additional exhibits in support of the Written Notice of Intent to Protest.

In this Pre-Hearing Statement, Lanzo will make reference to the exhibits it filed. All references to exhibits attached to the Written Notice of Intent to Protest will be referred to as NIP 1-8. Reference to exhibits subsequently filed will be noted as EX 1-5.

Below Lanzo sets forth its arguments in several sections. Section I is a statement of the facts that Lanzo intends to prove at the Hearing. In Section II, Lanzo respectfully sets forth the questions presented in the context of this protest. Section III presents Lanzo's arguments and incorporated Memorandum of Law addressing these issues.

I. STATEMENT OF FACTS

In DB10-WASD-01 ESP, Miami-Dade County (County) is soliciting the replacement of an existing 20-inch water main from Port Island to Fisher Island and the replacement of an existing 54-inch force main from Fisher Island to the City of Miami Beach. (EX 3) The solicitation involved a two-step methodology for selection of a Proposer. (EX 3) In Step 1, the County evaluated the qualifications of the individual Proposers to perform the work. (EX 3) The Step 2 aspect consisted of an evaluation of each Proposer's technical and price proposals. (NIP 7)

Five Proposers including Lanzo participated in Step 1 of the solicitation process. All five Proposers were deemed qualified and were invited to participate in Step 2 of this procurement.

Although the specifications set forth a proposed manner of doing the work, the County subsequently issued Addendum 5, which provided Proposers invited to participate in Step 2 the opportunity to redesign the project and make an Alternate Proposal on how the work can be

performed. (EX 3) These new provisions contained in Addendum 5 informed, among other things, that Proposers must submit a responsive and responsible "Base Proposal" in full compliance with the specifications and all requirements of the design criteria package. (EX 3) Those Proposers that complied with this requirement were also allowed to submit an Alternative Proposal. (EX 3) Proposers submitting an Alternative Proposal had to submit an Alternative Proposal Price on OCI form 6, and a form set forth in Exhibit J of the RFP documents providing required information relevant to the Alternate Proposal. (EX 3)

The terms set forth in Addendum 5 also made clear that proposing firms "**shall not modify** any of the forms provided and **must submit** in their proposal completed **applicable forms**..." (See NIP 3) (emphasis added).

OCI form 6, (the price proposal form) is one of those forms referenced in the RFP that must be utilized and may not be modified. Moreover, OCI form 6 itself states that "the Design-Builder's Contract Price Proposals **shall be submitted on this OCI form 6** 'Design-Builder Contract Price Proposal', and in the manner stated herein, without exception or any qualification; ***there is no exception allowed to this requirement***". (See NIP 6) (emphasis added).

The five Proposers invited to participate in Step 2 all submitted bids. However, two of those five submitted a Base Bid but did not submit an Alternate Proposal. Of the three who submitted an Alternate Proposal, only one Proposer, Ric-Man, disregarded the mandatory provisions of the RFP and submitted more than one Alternate Proposal (See NIP 6). Moreover, the evidence clearly demonstrates that Ric-Man altered OCI form 6, which was clearly prohibited by the terms of the RFP, precisely in order to file multiple Alternate Proposals, which were also not allowed by the terms of the RFP.

Therefore, the evidence clearly shows that Ric-Man was non-responsive for failure to follow the mandatory and material terms of the RFP, including the requirement to file proposals on the required forms, the prohibition against altering any form, and the unauthorized tactic of filing multiple bids for multiple Alternate Proposals.

Ultimately, the Evaluation/Selection Committee wrongfully considered all of Ric-Man's Alternates and recommended them on the basis of its Alternate Number 5, which proposed a price that was over 1.7 million dollars higher than Lanzo's Alternate Proposal. Even after negotiations with Ric-Man, its price is approximately 1.5 million dollars higher than Lanzo's Alternate Proposal. Finally, the evidence clearly demonstrates that the County's failure to follow its own mandatory provisions- - in effect waiving these mandatory and material provisions post-submission- - is arbitrary and capricious and provided Ric-Man with an unfair competitive advantage not enjoyed by any other Proposer that correctly followed the mandatory provisions of the specifications and filed either a Base Bid, or a Base Bid and an Alternate Proposal.

II. ISSUES FOR DETERMINATION

1. Whether Ric-Man failed to follow the mandatory and material terms of the RFP by altering the required Price Proposal form and filing non-conforming Price Proposal forms.
2. Whether the County's failure to follow well-established Florida law and its own mandatory provisions and specifications – thereby *de facto* waiving same post-submission – is arbitrary and capricious and provided Ric-Man with an unfair competitive advantage not enjoyed by any other Proposer that correctly followed the mandatory provisions of the specifications.

III. ARGUMENTS AND INCORPORATED MEMORANDUM OF LAW

It is interesting to note that in its Memorandum of Law, the County cites federal and other authorities to support its propositions that alteration of the bid form, and/or submission of multiple Price Proposals are not necessarily prohibited. However, as set forth *infra,* well-settled Florida law holds to the contrary in virtually identical factual circumstances presented in the instant case.

As will be further set forth below, such Florida case law holds that a responsive bid is one that is "submitted on the correct forms", and that filing multiple alternate bids, thereby increasing the probability of success, and adversely affecting competitive bidding by placing a bidder in a position of advantage over other bidders, constitutes a material non-waivable defect.

The County also fails to address unequivocal Florida law which states that mandatory terms such as "shall" or "must" must be strictly construed and do not provide discretion to act in a manner contrary to what is strictly mandated.

Therefore, whether or not the actions taken by Ric-Man and the County may have been permitted in a federal or other jurisdiction provides for interesting academic discussion. However, Miami-Dade County is part of the State of Florida, and as such, Florida law controls in the instant matter.

Contrary to the County's arguments, this Protest does not present an issue of waiver under Administrative Order 3-21 of any arguments regarding the terms of the specifications. Lanzo agrees that any objection or issues with the specifications had to be tendered at least 48 hours prior to submission. However, in the instant case, Lanzo had no reason to object to the specifications. Indeed, as further detailed *infra*, Lanzo interpreted the specifications in the only

way that is consistent with well-settled Florida law. In that regard, Lanzo correctly concluded that:

- The forms on which proposals and pricing must be submitted could not be altered because the specifications state that proposing firms "shall not modify any of the forms provided".
- It could only file a proposal on the approved OCI form 6 because the specifications stated that proposing firms "...must submit in their proposal completed applicable forms".
- Lanzo also correctly interpreted the language contained in OCI form 6 itself which states that the Proposer's Price Proposals "shall be submitted on this OCI form 6 'Design-Builder Contract Price Proposal', and in the manner stated herein, without exception or any qualification; there is no exception allowed to this requirement".
- Only one Alternate Proposal could be filed because the County's mandatory OCI form 6 only provided for pricing of one Alternate Proposal.

In this regard, the cognitive dissonance of the County's argument is deafening. On the one hand, the County argues that "only where the submission of alternate proposals is **expressly** prohibited by the solicitation, or when the solicitation is awarded by a non-competitive process is the submission of multiple alternatives improper". (emphasis supplied in original County Memorandum) The County also states that Lanzo "never identifies any instance in the solicitation that **expressly** prohibits the submission of multiple alternate proposals". (emphasis supplied in original County Memorandum) In effect, the County clearly concedes that when there is a mandatory directive (i.e. express prohibition), proposers must follow it and cannot deviate there from.

However, the County then conveniently chooses to disregard the express directives of its own terms and specifications, which mandate that proposing Firms "shall not modify any of the forms provided", and "must submit in their proposal completed applicable forms". Clearly, the mandatory directive to submit proposals on applicable forms that shall not be modified constitutes an **express prohibition against filing on altered forms.** Likewise, the mandate that price proposals "shall be submitted on this OCI Form 6...without exception or qualification; there is no exception allowed to this requirement", **expressly prohibits** filing price proposals on anything but an approved OCI Form 6. Moreover, because OCI Form 6 only has spaces for one alternate proposal, there is no way that any proposer can file multiple alternate proposals, **unless it disregards the express prohibitions in the specifications.**

In its Pre-Hearing Memorandum, the County for the first time creates an issue totally outside the four corners of the protest, essentially arguing that because there is the possibility that a deep dredge of the channel will occur in the near future, time is of the essence and the Hearing Examiner should disregard basic principle of procurement law so that the County can proceed with a project that will generate economic activity. This argument is disingenuous at best.

First, if the County had not arbitrarily and capriciously disregarded its own terms and specifications, Ric-Man would have been properly disqualified and Lanzo would be recommended for award. Moreover, there is no showing that the brief delay that would be caused in correcting this fatal flaw would in any way impact the timeline of the project. Indeed, while arguing for the need for urgency, the County fails to disclose that the deep dredge project is not even funded. In fact, it has been widely reported that the Obama administration did not include funding for the deep-dredge project in its proposed budget. Without such funding, the deep-dredge project cannot be completed.

The County places great emphasis on the point score of Ric-Man during the qualitative phase to somehow imply that Lanzo is not qualified to perform the work. Respectfully, this is but a red herring. In fact, the evidence will show that prior to the instant solicitation, the County had issued another public solicitation for a portion of the work in this bid. That solicitation sought proposals for replacement only of the 20-inch water main from Port Island to Fisher Island. That project was ultimately cancelled in order to issue the instant solicitation requesting concurrent replacement of the 20-inch water main, as well as the 54-inch force main. The evidence will show that in that first solicitation for the 20-inch water main replacement, three (3) proposers participated. Said solicitation followed the same methodology for evaluation, with a Step 1 qualification phase. Lanzo was evaluated on qualitative criteria and ranked first among the three (3) proposers that participated in that process.

Moreover, the testimony will show that in the instant procurement, Step 1 of the process was intended to determine what firms were qualified to do the work. Lanzo was deemed to be qualified by the County, otherwise, it would not have been invited to propose a price in Step 2 of the process. Curiously, the County makes no mention of the fact that the Lanzo proposal, submitted by an eminently qualified firm that has satisfactorily completed over a hundred projects for the County, will save the tax payers over 1.5 million dollars.

In this regard, the County's argument is somewhat akin to a discussion of whether a Mercedes Benz is superior to a BMW. While different individuals may have different opinions in that regard, it is unquestionable that both can safely take you where you want to go with high performance and style.

Finally, the Intervener presents only one argument for consideration by the Hearing Examiner. Ric-Man quotes a provision of the specifications which state "failure to sign this

proposal where indicated by an authorized representative shall render the proposal non-responsive. The County may however, in its sole discretion, accept any proposal that includes an executed documented, which unequivocally binds the Design-Builder to the terms of its offer". Respectfully, Intervener's argument fails to address the grounds for the protest. The above-referenced language merely addresses an issue where a Proposer may inadvertently fail to sign a document, however, other sections of the proposal have executed documents that clearly evidence the Proposer's intent to make a binding offer. The language proffered by the Intervener does nothing to address the issue of the mandatory language requiring compliance thereof, which Ric-Man failed to comply with. Moreover, the language proffered by the Intervener does nothing to address the issue of an unfair competitive advantage gained by Ric-Man through the tactic of filing multiple Alternate Proposals. Notably, the language proffered by the Intervener does not, by its own terms, seek to modify or supersede any other mandatory language in the proposal. Where language in a specification, contract, or other legal document seeks to supersede other mandatory and potentially conflicting provisions, such language would normally contain words such as "not withstanding anything to the contrary" or other language clearly denoting precedence over other conflicting provisions of the document.

Below, Lanzo respectfully presents the **Florida case law** on point, which demonstrates that Ric-Man's proposal is clearly non-responsive, and the County's post-submission waiver of material and mandatory provisions which provided a competitive advantage only to Ric-Man is arbitrary and capricious.

1. **Ric-Man failed to follow the mandatory and material terms of the RFP by altering the required Price Proposal form and filing non-conforming Price Proposal forms.**

In Florida, public agencies have wide discretion in soliciting and accepting bids for public improvements. See *Liberty County v. Baxter Asphalt,* 421 So.2d 505 at 507 (Fla. 1982).

However, the case law also makes clear that the decisions of public agencies in the exercise of that discretion must be based on articulated specifications and based on facts reasonably tending to support its conclusions. See *City of Pensacola v. Kirby,* 47 So. 2nd 533 (Fla. 1950). Furthermore, Florida case law has limited such discretion of public agencies in a way that it "may not be exercised arbitrarily or capriciously." *Id.* at 535-536.

As is the case in most public solicitation documents, the County phrased its specifications using words commonly understood in the English language to be either permissive or mandatory. Therefore, for example, a specification that states that a Proposer "may" proceed in a certain manner or "should" provide particular information, allows wide discretion to the public agency in determining whether the proposal substantially complies with the requirement. However, where a public agency uses language to denote mandatory and material provisions such as "shall" or "must", that discretion is severely self-constrained *ab initio.*

In light of the above, the County's reliance on the mere title of Section 3.6 is clearly misplaced. Section 3.6 is titled "Alternate Proposals". However, such heading merely denotes the fact that the County anticipates multiple bidders in a competitive process. Therefore, the title "Alternate Proposals" speaks only to the fact that the County may consider alternate proposals in the aggregate, as may be filed by the several bidders. The remainder of that Section speaks to the singular Alternate Proposal.

Moreover, the County's argument in this regard fails in light of its own OCI Form 6, which only provides for proposal of a single Alternate Proposal Price. Thus, the County's argument does nothing to explain why its own forms, by their very terms, do not allow for submission of multiple alternates.

There is ample case law regarding interpretation of statutory language which stands for the proposition that when the language of a statute under interpretation is unambiguous and has a plain and ordinary meaning, the plain and ordinary meaning must be given effect. See *Osorio v. Board of Professional Surveyors and Mapers,* 898 So. 2nd 188 (5th DCA 2005). Moreover, Florida courts have specifically held that words such as "shall" when given their ordinary meaning have a mandatory rather than a permissive connotation. See *United Bonding Insurance Company v. Tuggle,* 216 So. 2nd 80 (2nd DCA 1968). In *Tuggle,* the Court considered the interpretation of Section 903.14 of the Florida Statutes which begins by saying that "Every surety for the release of any person on bail, shall file with the undertaking affidavit...". The 2nd District held that:

> The Legislature must have assumed to have intended the plain meaning of its words, and the word 'shall' **when given its ordinary meaning has a mandatory rather than permissive connotation.** *Neil v. Bryant,* Fla. 1962, 149 So. 2nd 529, 532. The obvious meaning of 'shall file with the undertaking', is, therefore, that the indemnity affidavit, if one is entered into, must be filed simultaneously with the bail bond undertaking. Section 903.14 is **imperative, not discretionary.** *Id.* At Page 81 (emphasis added)

In order to understand the plain and ordinary meaning of words we must look to the most commonly relied upon sources, i.e.: dictionaries. For instance, the word 'imperative' has been defined, and commonly accepted, in the English language to mean "not to be avoided or evaded: necessary." (See www.merriam-webster.com). 'Mandatory' has been defined as "required by law or rule" and "absolutely demanded or required." (See (Merriam-Webster's) www.learnersdictionary.com and dictionary.law.com). 'Shall' has been defined as "used to express a command or exhortation" and "used in laws, regulations, or directives to express what is mandatory". (See www.merriam-webster.com). The word 'must' is defined as "required by law, custom, or moral conscience as in -- 'we must obey the rules' --." (See www.merriam-

webster.com). As set forth above, the words 'imperative', 'mandatory', 'shall' and 'must' all have connotations of absolute or necessary commands, which are consistent with the way Courts have interpreted their meaning. In that regard, these directives also serve to **expressly prohibit** a course of conduct contrary to its imperative terms.

The same sound logic of the cases set forth above with regard to interpretation of statutory language applies to interpretation of language in the terms and specifications of a solicitation document issued by a governmental agency. Words in such document must also be given their ordinary meaning, and words such as "shall" or "must", or phrases such as "there is no exception allowed to this requirement", are imperative, not discretionary. Therefore, although public agencies have wide discretion in soliciting and accepting bids for public improvements, their discretion to disregard self-imposed imperative or mandatory terms is non-existent *ab initio*.

As set forth above, the terms of the instant Solicitation Document inform that proposing firms "**shall not** modify any of the forms provided and **must submit** in their proposal completed applicable forms..." (See NIP 3) (emphasis added).

The Price Proposal form, OCI form 6, was listed as one of the mandatory forms that must be used by Proposers (See NIP 4). The form itself informs Proposers that their **Contract Price Proposals "shall be submitted on this OCI form 6"** and further state that it must be submitted "in the manner stated herein, without exception or any qualifications; **there is no exception allowed to this requirement**". (See NIP 6) (emphasis added). Therefore, because such terms were written with mandatory/imperative language, they must be strictly construed and followed.

Moreover, it is well-settled law in this Circuit that a responsive proposal is one that "**is submitted on the correct forms,** and contains all required information, signatures, and

notarizations". See *Intercontinental Properties, Inc. v. State of Florida Department of Health and Rehabilitative Services,* 606 So.2d 380 (3rd DCA 1992). Therefore, strict compliance with these mandatory and material requirements is evident from the Florida case law requiring that words be given their ordinary meaning, as well as Florida case law addressing procurement issues.

It is beyond dispute that Ric-Man did not use the required OCI form 6 in making its Contract Price Proposal. This in and of itself evidences a failure to follow mandatory and material terms of the RFP, and runs afoul of the standard clearly enunciated in *Intercontinental Properties*. This failure to follow basic principles of the law and the mandatory and material terms of the RFP clearly render Ric-Man non-responsive. Moreover, the County's failure to follow well-established procurement law, and enforce its own mandatory/imperative requirements, clearly constitutes arbitrary and capricious conduct.

Although Lanzo respectfully submits that the analysis should end at this point based on the clear requirements of the law as set forth *supra*, the evidence demonstrates that Ric-Man's actions, and the County's *de facto* acquiescence are even more egregious in light of the purpose for which this mandatory form was altered.

2. **The County's failure to follow well-established Florida Law and its own mandatory provisions and specifications – thereby *de facto* waiving same post-submission – provided Ric-Man with an unfair competitive advantage not enjoyed by any other Proposer that correctly followed the mandatory provisions of the specifications.**

Florida courts have categorized situations where a proposal deviates from the specifications of the solicitation as either a waivable minor irregularity or a non-waivable material irregularity. Whether a deviation is a minor irregularity, or a non-waivable material irregularity turns upon the effect of the deviation in terms of the ability to contract, and its impact on the competitive nature of the process. *Central Florida Equipment Rentals, Dade County v.*

Lowell Dunn Company, 586 So.2d 1171 at 1172-1173 (Fla. 3rd DCA 1991). In *Robinson v. Dade County*, 417 So.2d 1032 (Fla. 3rd DCA 1982), the Third District set forth the analysis for determination as follows:

> ...first, whether the effect of a waiver would be to deprive the municipality of its assurance that the contract will be entered into, performed and guaranteed according to its specified requirements, and second, whether it is of such a nature that its waiver would **adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders** or by otherwise undermining the necessary common standard of competition. *Robinson* at 1034

The evaluation criteria for ranking the different Proposals in this solicitation are determined by two factors; price and the qualitative scores. The price on the Base Bid, or the Alternate, if accepted by the Committee, is divided by the qualitative score to reach the Adjusted Bid. (*NIP 7*). The resulting number (Adjusted Bid) is what is utilized to rank the Proposers. As such, a Proposer such as Lanzo that followed the terms of the solicitation documents, and complied with the mandate of using the approved OCI form 6 for Pricing only had two opportunities to impact the ranking; through its Base Proposal Price and its price for the one approved Alternate. (*NIP 8*).

The evidence demonstrates that in order to gain a competitive advantage and enhance its probabilities of having an Alternate Proposal approved and scored, Ric-Man included nine (9) non-conforming price proposal forms, each with a different variation of an Alternate Proposal and nine (9) corresponding Exhibit "J" submissions providing information on each of the non-conforming Alternate Proposals. (*NIP 6*). Clearly, the County's failure to disqualify Ric-Man, and allow for an evaluation and consideration of all nine (9) Alternate Proposals provided Ric-Man with a significant economic competitive advantage not enjoyed by any other Proposer.

The 3rd DCA has long ago decided an issue of competitive advantage with facts very similar to those in the instant case. In *City of Miami Beach v. Klinger*, 179 So.2d 864 (3rd DCA 1965), the City solicited a dockage concession of for-hire charter fishing boats for a five year period. The recommended bidder submitted two bids. The first bid was in accordance with the terms of the solicitation but was $19,000 higher than the second place bidder. The second bid was an additional offer that allowed the City to grant it an additional optional five-year term, which had a substantial increase in yearly revenue to the City, and also guaranteed improvements in excess of $20,000 to the City. *Id.*

The 3rd DCA found that the recommended bidder's bid materially and substantially differed from the invitation and in doing so, specifically adopted the Supreme Court's language in *Webster v. Belote*, 138 So. 721,724 (Fla. 1931) discussing the importance of proper interpretation and adherence to the terms of the solicitation in order to ensure fair competition in public procurements, stating that:

> In so far as they thus serve the object of protecting the public against collusive contracts **and prevent favoritism towards contractors by public officials and tend to secure fair competition upon equal terms to all bidders**, they remove temptation on the part of public officials to seek private gain at the tax payers expense, are of highly remedial character, **and should receive a construction always which will fully effectuate and advance their true intent and purpose and which will avoid the likelihood of the same being circumvented, evaded, or defeated.** (Cites omitted). *Id* at 866.

Much like in *Klinger*, in the instant case, the successful bidder (Ric-Man) submitted a proposal that was substantially different than the actual solicitation as well as from the other proposals. Ric-Man submitted nine (9) Alternate Proposals, wherein it had the opportunity to provide nine different prices and nine different options with different levels of associated risks. (*NIP 6*). Ric-Man was the only Proposer that submitted more than one Alternate, whereas the

other Proposers who submitted an Alternate chose to comply with the specifications and only submitted one.

Lanzo respectfully submits that the Hearing Examiner should decline to slide down the slippery slope that the County belatedly recommends and the Third District Court in *Klinger* chose not to follow. The County posthumously argues that although Ric-Man did not follow the material and mandatory terms of the submission-- and it indeed acted in derogation thereof in order to gain its competitive advantage-- the County should, in effect, be allowed to re-write its mandatory specifications to be permissive and allow waiver thereof. As has been repeatedly held by Florida Courts, allowing this type of post-submission waiver opens the door to the type of unlawful conduct and favoritism that the law clearly seeks to prohibit.

3. **Florida law governs determination of this Protest and is dispositive in this case.**

With a notable exception of citing Florida cases for the proposition that a public jurisdiction in Florida has discretion to evaluate and waive minor irregularities, virtually all cases cited by the County to support the position that Ric-Man's tactics should not disqualify it are cases involving federal procurements.

The different states, and indeed the federal government, have different rules that govern their respective public procurements. Moreover, the specifications of the solicitations themselves may allow or prohibit things that other jurisdictions would not. While federal cases or decisions by other state courts may be persuasive on matters of first impression, they have little if any relevance in procurements let by a Florida County, where Florida law is clearly on point. In the instant matter, the County has not and cannot cite any case that contradicts the simple mandate of the Third District in *Intercontinental Properties* that responsive bids are those that are "filed on the correct forms". Moreover, the County has not and cannot cite any Florida case which

contradicts the Third District's holding in *Klinger*, a decision with very similar facts involving a bidder that filed multiple bids that "differed materially and substantially from that invited by the City and submitted by the other bidder".

Moreover, even if they had any relevance to the instant matter, the Federal cases cited by the County are easily distinguished. For example, the County highlights *Group 7 Associates, LLC*, 68 Fed. CL at 32 arguing that it involves virtually identical allegations raised by Lanzo. In fact, this Court of Federal Claims case presents facts completely different from the case at Bar. In the instant matter, the facts involve a public solicitation to award a significant public works project, where none of the Proposers are currently under contract to perform any of the work. In contrast, *Group 7 Associates* involves a situation where the contractors already had General Service Administration Federal Supply Schedule Contracts. The dispute arose with respect to a request to award a Task Order to an existing vendor in the General Service Administration's pool of potential vendors.

Most, if not all, the other cases cited by the County turn on their specific facts, and the specific terms of those solicitations. Equally important, all of them hold that an alternative offer under the specific circumstances of those cases were not fatally infirm because they met the requirements of the solicitation or were consistent with the solicitation's terms, and did not prejudice other bidders. In the instant matter, the evidence clearly shows that Ric-Man's Proposal was contrary to the mandatory and material terms of the submission and prejudices all other Proposers by providing it with an unfair competitive advantage not enjoyed by any other Proposer.

WHEREFORE, Lanzo respectfully prays that this Honorable Hearing Examiner refuse to concur with the Manager's Recommendation, and recommend to the County Commission that it issue the award to Lanzo, who is the second ranked responsive and responsible Proposer.

Dated: March 8th, 2011

MIGUEL DE GRANDY

800 Douglas Road, Suite 850
Coral Gables, FL 33134-2088
Telephone: (305) 444-7737
Facsimile: (305) 443-2616

By: _____
Miguel A. De Grandy, Esq.
Florida Bar No. 332331

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished via E-Mail this 8th of March, 2011 to the County Attorney's Office, The Hearing Examiner and Ric-Man, and via Hand-Delivery on March 9th, 2011 to the Clerk of the Board.

_____
Miguel De Grandy, Esq.

CLERK OF THE
BOARD OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

CLERK OF THE BOARD
2011 MAR -7 PM 3:58
CLERK, CIRCUIT & COUNTY COURT
DADE COUNTY, FLA
#1

In re: Replacement of Existing 20-Inch Water Main from Port Island To Fisher Island and Existing 540-Inch Force Main from Fisher Island to City of Miami Beach
Contract DB10-WASD-01 ESP
Bid Protest of Lanzo Construction
_____/

MIAMI-DADE COUNTY'S MEMORANDUM IN OPPOSITION TO LANZO CONSTRUCTION'S BID PROTEST

Lanzo Construction Co., Florida's ("Lanzo") bid protest to Request for Design Build Services ("RDBS") for Contract DB10-WASD-01 ESP is premised upon two fundamentally flawed and unsupported assumptions: (1) that the RDBS only requested a single alternate to the base proposal; and (2) that the presentation of multiple alternate proposals by Ric-Man Construction, Inc. ("Ric-Man"), the winning proposer, somehow negatively effected competition. Neither of these assumptions is correct.

Initially, Article 3.6 of Addendum 5 of the RDBS was clearly titled in the plural "Alternate Proposals" and invited proposers to submit multiple alternates to the required base proposal. (Addendum 5 of the RDBS is attached hereto as "Exhibit A"). The use of the singular, alternate proposal, when referring to the requirements of any single proposal does not create a prohibition on multiple alternate proposals. Moreover, even if the proposal were somehow ambiguous as to the number of acceptable alternates, courts have routinely held that the submission of multiple bids or proposals are permissible and do not harm competition. *See, e.g., Group Seven Associates, LLC. v. United States*, 68 Fed.CL. 28, 32 (2005) ("Multiple bids that are consistent with the solicitation's terms are acceptable") (a copy of the decision is attached hereto as "Exhibit B"). Finally, even if Lanzo were somehow prejudiced by its failure

to bid multiple alternates, any bid protest predicated on this ground has been waived because Lanzo failed to raise this issue prior to bid submittal as required by Implementing Order 3-21. (IO 3-21 is attached hereto as "Exhibit C").

BACKGROUND

The current solicitation is a critical component of a time sensitive project to improve the Port of Miami and to develop the economy of Miami-Dade County. Commencing with the completion of improvements to the Panama Canal, currently scheduled for August of 2014, larger vessels will be used to transport cargo worldwide and will be seeking port dockage capable of handling the larger size of these new transport vessels. To accommodate these ships at the Port of Miami, the Miami Harbor (Government Cut Channel) Federal Navigation Project ("Dredging Project") will widen and deepen the harbor/channel. A wider, deeper harbor/channel leading into the Port of Miami will increase the competitive profile of the Port of Miami and expand its availability to potential cargo operations. This project is expected to increase local business and create approximately 30,000 new jobs in South Florida.

Before the Dredging Project may commence and the community may experience the benefits of the increased economic activity, Miami-Dade County must replace and deepen the existing 54-inch force main and 20-inch water main crossing the Government Cut Channel. Unless moved by the end of the summer of 2012, these pipelines will prevent the Dredging Project from moving forward and thereby dealing a dramatic blow to the competitiveness of the Port of Miami and by extension the local economy.

The construction risks and environmental concerns associated with the replacement of the existing 54-inch force main entails the "hot tapping" of an operational pipe, within the waterside, that carries more than 20 million gallons a day from the City of Miami Beach. Such a project is

akin to changing the wheels on your car while driving down an expressway. This complex marine work requires the selection of a very qualified Design/Build team to safely deliver the project on schedule. With this in mind, the Department crafted specific qualifications and technical requirements to promote the selection of the "most qualified firm" to orchestrate this work.

Accordingly, on September 3, 2010, the County advertised the RDBS to hire an extremely well qualified Design/Build team to complete the replacement of the two pipelines in time to begin the Dredging Project. The solicitation originally asked for a proposal on a base set of design criteria but was expanded to include alternate design criteria that would accomplish the replacement of the pipelines. On October 20, 2010, the County issued Addendum 5 which permitted proposers to submit, in addition to a proposal based on the base set of criteria, "alternate proposals" that would accomplish the same intent in a more proficient and efficient manner. The title and very first paragraph of Article 3.6 of Addendum 5 provides (emphasis in original):

> 3.6 ALTERNATE PROPOSALS
> Alternate Proposals may be submitted at the sole option of the Design-Builder. The Standing Selection Committee (SSC), at its sole discretion, may validate or reject any Alternate Proposal. ONLY ALTERNATE PROPOSALS THAT PROVIDE AN EQUAL OR LESSER PRICE THAN THE BASE PROPOSAL WILL BE CONSIDERED.

A week after the issuance of Addendum 5, the County held a mandatory Pre-Submittal Briefing on October 27, 2010 attended by Lanzo, Ric-Man and the other proposers. (a copy of the sign-in sheet is attached as "Exhibit D"). There the issue of multiple alternate proposals was again discussed by the County and the potential vendors. At that meeting Lanzo never asked for clarification of the number of permissible alternate proposals. Nor did Lanzo raise the issue at

the November 17, 2010 deadline for submission of proposals or at any time before the December 3, 2010 submittal deadline. (a copy of OCI FORM 6 as submitted by Ric-Man is attached hereto as "Exhibit E").

After oral presentations occurred on December 15, 2010 the proposers were all ranked by the selection committee. (a copy of the Step 2 Ranking tally is attached hereto as "Exhibit F"). Ric-Man was rated the highest in total qualitative points with Lanzo being ranked dead last in quality. Once the scores were adjusted based on the price proposal, Ric-Man was again the highest ranked proposer and proceeded to contract award recommendation.

In order to meet the timing requirements for the port dredging this contract must be awarded and the work must commence as quickly as possible. Any delay in the project timeline may cause larger delays in the subsequent Dredging Project and causing immeasurable injury to the County.

ARGUMENT

Lanzo's protest focuses on two very narrow issues: (1) the recommended proposers' ability to submit multiple alternate proposals to the RDBS; and (2) the minor modification of OCI FORM 6 to indicate the multiple alternate proposals. Not challenged by Lanzo in this protest and thus waived are the facts that: (1) Lanzo was the lowest ranked proposer in total qualitative points; (2) Ric-Man is responsible and capable of completing the work as proposed; (3) each of Ric-Man's alternate proposals are individually complete proposals responsive to the solicitation; and (4) Ric-Man was the highest ranked proposer who, apart from the propriety of multiple bids, is entitled to the award.

As a general matter, "[s]o long as such a public agency acts in good faith, even though they may reach a conclusion on facts upon which reasonable men may differ, the courts will not

generally interfere with their judgment, even though the decision reached may appear to some persons to be erroneous." *Miami-Dade County v. Church and Tower, Inc.*, 715 So. 2d 1084, 1089 (Fla. 3rd DCA 1998)); *See also Liberty County v. Baxter's Asphalt & Concrete, Inc.*, 421 So. 2d 505, 507 (Fla. 1982). Thus in a protest, "the hearing officer's sole responsibility [in reviewing a protest] is to ascertain whether the agency acted fraudulently, arbitrarily, illegally, or dishonestly." *Dep't of Transp. v. Groves-Watkins Constructors*, 530 So. 2d 912, 914 (Fla. 1988).

In order for Lanzo to succeed in this protest by alleging that Ric-Man improperly deviated from a the requirements in the solicitation Lanzo must show that the deviation permitted was one that gave the Ric-Man a "material advantage" over the other proposers. *See Robinson Electric Co. v. Dade County*, 417 So.2d 1032, 1034 (Fla. 3d DCA 1982); *see also, Harry Pepper & Associates, Inc. v. City of Cape Coral, 352 So.2d 1190, 1129* (Fla. 2d DCA 1977) ("The test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive nature is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by other bidders").

In the context of a RDBS process which places a greater weight on qualitative evaluations the burden is even higher because the County is granted more discretion to waive irregularities than it would have if it proposed to award this contract via low bid. "An [qualitative] process is flexible, identifies the problem, and requests a solution." *See System Development Corp. v. Dep't of Health & Rehabilitative Servs.*, 423 So.2d 433, 434 (Fla. 1st DCA 1982) (contrasting "rigid" bid process with more fluid RFP process). A proposer in an RDBS process is free to propose or negotiate "innovations or improvements" to services requested in the solicitation. *Id.*; *cf Banknote Corp. of America Inc. v. U.S.*, 56 Fed. Cl. 377 (F. Cl. 2003) ("a protester's burden is particularly great in negotiated procurements."). A protester attempting to

overturn a contracting entity's decision on arbitrariness in accepting multiple proposals bears a very high burden because, "the test is 'whether the contracting agency provided a coherent and reasonable explanation of its exercise of discretion, and the disappointed bidder bears a 'heavy burden' or showing that the award decision had **no rational basis**.'" *Banknote Corporation of America, Inc. v. United States*, 365 F.3d 1345, 1351 (Fed. Cir. 2004) (citing *Impresa Construzioni Geom. Domenico Garufi v. United States*, 238 F.3d 1324, 1332 (Fed. Cir. 2001)).

Lanzo's protest fails to meet this heavy burden because: (1) multiple alternate bids were permitted by the solicitation; (2) even if multiple bids were not permitted, and OCI FORM 6 was not able to be altered, such deviations, as a matter of law, are immaterial and may not form the grounds of a protest; and (3) any protest on this issue has been waived for failure to raise it prior to bid submittal.

I. The RDBS Permits Multiple Alternate Proposals

Lanzo's bid protest argues that the RDBS only called for proposers to submit a base proposal and one alternate. Lanzo, however, never identifies any instance in the solicitation that **expressly** prohibits the submission of multiple alternate proposals. Instead Lanzo invites a tortured analysis of Addendum 5's occasional use of the singular "alternate proposal" taken "in *pare materia*" with the bid submittal form to cobble together an analysis that the solicitation only called for a single alternate proposal. *See* Bid Protest at 2-4. This is simply not true.

While Lanzo's protest contorts the RDBS to find a word from one section to cobble together with a phrase from another section to create an eleventh hour interpretation of the solicitation that would allow it to jump over the highest ranked proposer, it completely ignores the very title of Section 3.6 of Addendum 5 "Alternate Proposals." Moreover, the protest fails to even mention the very first sentence of the Section stating: "Alternate Proposals may be

submitted at the sole option of the Design-Builder." This sentence clearly tells individual design-builder proposers that they may submit "Alternate Proposals" rather than a single proposal as Lanzo submits. The mere fact that Addendum 5 also uses the singular "alternate proposal" when describing the requirements of any single proposal, does little to negate the fact that the RDBS clearly and unequivocally invites multiple proposals from an individual design-builder.

Moreover, Lanzo's current interpretation of the RDBS is in direct conflict with the reasons it gave the selection committee for only submitting a single alternate. In its protest, Lanzo argues that "because the specifications and the approved Price Sheet OCI Form 6 did not allow for presentation of multiple Alternate Proposals, Lanzo, in compliance with the Specifications, had to chose only one (1) of its potential Alternate Proposals for inclusion in its submission." Bid Protest at 8. This after acquired reasoning was never expressed to the selection committee. Instead, Chuck Sinclair from the Lanzo proposal team told the selection committee after bid opening that other additional alternates were explored by the Lanzo team for the force main, but they were not offered due to risk and schedule problems that may arise from Miami Beach. Mr. Sinclair also states that the Lanzo team prepared and contemplated submitting more than one alternate proposal, and the only reason they did not was because they determined the other alternates they developed to be risky. This admission demonstrates that, at the time of bid submittal, Lanzo knew that multiple alternates were permissible but declined to propose them for reasons other than the language of Addendum 5.

Ric-Man's reading of the permissive language of the first sentence of Section 3.6 of Addendum 5 is fully permissible under the RDBS and its proposal of multiple alternatives to the County's base criteria is not only permitted, but preferred.

II. Multiple Proposals and Minor Modification of Bid Forms Are Insufficient to Challenge an Award

Even if Lanzo were correct that the RDBS only asked for an "alternate proposal" rather than "alternate proposals," courts have consistently held that the submission of multiple proposals does not confer a material advantage to a proposer sufficient to call into question the legitimacy of the procurement. *See, e.g., Group Seven Associates, LLC.*, 68 Fed.CL. at 32.

In *Group Seven Associates*, a protester raised virtually the identical allegations raised here by Lanzo arguing that because of the singular language in that solicitation, "offerors should have assumed that they could submit only one offer, even if others might have been conforming." *Group Seven Associates, LLC.*, 68 Fed.CL. at 32. The Court of Federal Claims flatly rejected this argument finding that "[m]ultiple bids that are consistent with the solicitation's terms are acceptable." *Id.* There, the Court found that as long as the alternative proposals where each independently responsive on their own, the submittal of multiple alternatives did not harm competition or render the proposal void. *Id.*

Lanzo argues that the submission of multiple proposals by Ric-Man gave it a competitive advantage because it "provided it a much greater opportunity to gain acceptance of a lower priced Alternate Proposal, a benefit not enjoyed by the other bidders who followed the specifications..." Bid Protest at 9. The naked assertion is has been rejected in bid protests before the comptroller general because there is simply no competitive advantage gained from the submission of alternate proposals. *Educational Media*, 87-2 Comp. Gen. ¶ 442 (1987) ("the government may accept an alternate offer that meets the requirements of the solicitation even though the solicitation does not provide for alternate proposals"); *See also, Hewitt, Olson Capital Recovery Group, Inc.*, 9502 CPD 210, 1995 WL 654476 (Comp. Gen. 1995) ("We have

stated that multiple bidding by...the same entity, is not objectionable if it does not give the bidder an unfair advantage that is prejudicial to the interests of the government or other bidders [and] although the protester argues that [the winning bidder] increased its odds of receiving award by submitting multiple bids, since award was to be made to the bidder submitting the lowest evaluated price, all offerors had the same opportunity to submit the lowest bid, and we do not see how other bidders were prejudiced"); *Dakota Woodworks*, 85-2 CPD 486, 1985 WL 53460 (Comp. Gen. 1985) ("[W]ith regard to multiple bidding, the general rule is that multiple bids by a single interest need not be rejected so long as such bidding is not prejudicial to the [government] or to other bidders"); *Pioneer Recovery Systems, Inc.*, 84-2 CPD 520, 1984 WL 46915 (Comp. Gen. 1984) (holding that failure to accept best bid from multiple bidder would be error) (Copies of the Comptroller General opinions cited are attached hereto as "Exhibit G"). As recognized in those proceedings, a proposer in a solicitation process which awards a contract to the highest ranked proposer is never disadvantaged by a competitors submittal of alternate proposal because if the complaining proposer had submitted the winning proposal it did not matter how many proposals a competitor submits and if the complaining proposer did not submit the winning proposal it is simply not entitled to the award. *Id.* Only where the submission of alternate proposals is **expressly** prohibited by the solicitation or when the solicitation is awarded by a non-competitive process is the submission of multiple alternatives improper. *Id.*

Nor is the fact the Ric-Man made minor modifications to OCI FORM 6 a sufficient ground for rejection of its proposals. To be clear Lanzo does not allege in its protest that **any** of the required evaluation information is missing in these "altered" forms. Instead Lanzo merely states that Ric-Man's "use of a different font and different headings, underline, etc." and inclusion of "language to identify what alternate it pertained to" is a sufficient deviation to throw

out the highest ranked vendor. Bid Protest at 7. Absent from this argument is any allegation or explanation of how a modified font or any of the other minor irregularities gave Ric-Man any advantage let alone a material advantage as required to disturb this award. *See Robinson Electric Co.*, 417 So.2d at 1034. Unless the changed forms alter the method the proposals were rendered or the information provided any change is immaterial and may not sustain a protest. *See Group Seven Associates, LLC.*, 68 Fed.CL. at 33.

Accordingly, even if Lanzo is correct that the solicitation only requested a single alternate proposal from the design builders, the submission of multiple alternate proposals is still permissible and the minor alterations of the bid forms to accomplish this do not render the proposals from Ric-Man invalid.

III. Lanzo Has Waived Its Right to Protest On This Ground

After the issuance of Addendum 5, prospective proposers had the opportunity to submit questions to the County to clarify any ambiguities or inconsistencies in the solicitation. Although the other prospective proposers submitted over 60 questions regarding the solicitation, Lanzo never objected to the statement that "Alternate Proposals may be submitted at the sole option of the Design-Builder" or sought clarification as to any potential inconsistencies when reading this statement "in *pare materia*" with the rest of the solicitation. As a result Lanzo has waived its right to protest on this ground.

Miami-Dade County Implementing Order 3-21 provides in pertinent part:

> Any question, issue, objection or disagreement concerning, generated by, or arising from the published requirements, terms, conditions or processes contained in the solicitation document shall be deemed waived by the protester and shall be rejected as a basis for a bid protest, unless it was brought by that bidder or proposer to the attention, in writing, of the procurement agent, buyer, contracting officer or other contact person of the County department that issued the solicitation document, at least two

> work days (not less than 48 hours) prior to the hour of bid opening or proposal submission. This allows the issuing department the opportunity to consider, and to resolve or clarify in a timely fashion, through the issuance of an addendum, any such matter that is apparent on the face of the solicitation document, including but not limited to ambiguities or inconsistencies within the document.

By not submitting its question or objection to the County at least two working days prior to the hour of bid opening Lanzo deprived the County of the opportunity to clarify the solicitation. The bid protest procedure express prohibit Lanzo from participating in the solicitation and then, after being ranked last in qualitative scoring and second in total rankings, arguing that its competitors proposals should be thrown out. Its complaint is simply too little too late.

CONCLUSION

WHEREFORE, for the reasons described above, the County respectfully requests the Hearing Examiner deny the bid protest and affirm the award to Ric-Man.

Respectfully submitted,

R. A. CUEVAS, JR.
MIAMI-DADE COUNTY ATTORNEY

By: _____

Oren Rosenthal (Florida Bar No. 86320)
Assistant County Attorney
Miami-Dade County Attorney's Office
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128
Telephone: (305) 375-5744
Facsimile: (305) 375-5611

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was hand delivered to the Clerk of the Board and e-mailed w/o attachments and mailed with attachments this 7th day of March, 2011, to:

Miguel DeGrandy, Esq.
Miguel DeGrandy, P.A.
Attorney for Lanzo
800 Douglas Road, Suite 850
Coral Gables, Florida 33134-2088
Facsimile (305) 443-2616

Augusto Maxwell, Esq.
Attorney for Ric-Man
Akerman Senterfitt
One Southeast Third Avenue
Miami, Florida 33131-1704

Assistant County Attorney

Harvey Ruvin
CLERK OF THE CIRCUIT AND COUNTY COURTS
Miami-Dade County, Florida

CLERK OF THE BOARD OF COUNTY COMMISSIONERS
STEPHEN P. CLARK MIAMI-DADE GOVERNMENT CENTER
SUITE 17-202
111 N.W. 1st Street
Miami, FL 33128-1983
Telephone: (305) 375-5126
Fax: (305) 375-2484

February 23, 2011

Miguel De Grandy, P.A.
800 Douglas Road, Suite 850
Coral Gables, Florida 33134

Re: Bid Protest – Project No. DB10-WASD-01 – ESP

Dear Mr. De Grandy:

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, Bid Protest Procedures, please be advised that the above mentioned bid protest has been scheduled before a hearing examiner as noted below:

Hearing Date:	Wednesday, March 9, 2011
Time:	10:00 AM
Place:	Stephen P. Clark Center 111 N.W. First Street, 27th Floor Conference Room 27-A Miami, Florida 33128

Should you have any questions regarding this matter, please do not hesitate to contact Fara C. Diaz at (305) 375-1293.

Sincerely,
HARVEY RUVIN, Clerk
Circuit and County Courts

By: Diane Collins
Diane Collins, Division Chief
Clerk of the Board Division

DC/fcd

cc: Honorable Carlos Alvarez, Mayor, Miami-Dade County (via email)
George Burgess, County Manager (via email)
Hugo Benitez, Assistant County Attorney (via email)
Oren Rosenthal, Assistant County Attorney (via email)
John Renfrow, Director, Miami-Dade Water & Sewer Dept. (via email)
George Navarrete, Director, Office of Capital Improvement (via email)
Patty David, WASD (via email)
Lin Li, WASD (via email)
Luisa Millan, OCI (via email)
Penelope Townsley, Director, Small Business Development (via email)
Traci Adams-Parish, SBD (via email)
Faith Samuels, OCI (via email)
Metro Dade Court Reporters (via email)

MEMORANDUM

TO: Hugo Benitez
Assistant County Attorney

DATE: February 16, 2011

FROM: Diane Collins, Division Chief
Clerk of the Board Division
Diane Collins

SUBJECT: Bid Protest
Project No. DB10-WASD-01-ESP
Protester: Lanzo Construction

Pursuant to Section 2-8.4 of the Code and Implementing Order 3-21, Bid Protest Procedures, a bid protest was filed in the Clerk of the Board's office on February 16, 2011. The protest was filed by Attorney Miguel De Grandy, representing Lanzo Construction.

A filing fee in the amount of $5,000.00 was submitted by the protestor.

A copy of the bid protest and the award recommendation letter are attached for your review. Upon your direction, I will begin the bid protest procedure.

Thank you for your attention to this matter. If you have any questions pertaining to this protest, please contact Fara C. Diaz at Ext. 1293.

DC/fcd
Attachments

HARVEY RUVIN, CLERK OF THE BOARD

IN RE: THE PROTEST OF THE FEBRUARY 11, 2011 RECOMMENDATION OF AWARD OF CONTRACT FOR DB10-WASD-01 ESP FOR REPLACEMENT OF EXISTING 20-INCH WATER MAIN FROM PORT ISLAND TO FISHER ISLAND AND REPLACEMENT OF EXISTING 540-INCH FORCE MAIN FROM FISHER ISLAND TO CITY OF MIAMI BEACH

LANZO CONSTRUCTION,

Petitioner,

v.

MIAMI-DADE COUNTY,
a political subdivision of
The State of Florida.

Respondent.

CLERK OF THE BOARD
2011 FEB 16 PM 1:33
CLERK, CIRCUIT & COUNTY COURTS
DADE COUNTY, FLA.
#1

PETITIONER LANZO CONSTRUCTION'S WRITTEN INTENT TO PROTEST AND INCORPORATED GROUNDS FOR PROTEST

Introduction

COMES NOW, LANZO CONSTRUCTION (Lanzo), by and through undersigned counsel, and pursuant to Sections 2-8.3 and 2-8.4 of the Code of Miami-Dade County (Code), as amended, and Implementing Order 3-21, and hereby files the instant Formal Written Bid Protest and Incorporated Grounds For Protest to the County Manager's February 11, 2011

Recommendation of Award of DB10-WASD-01 ESP for Replacement of an Existing 20-Inch Water Main from Port Island to Fisher Island and Replacement of Existing 54-Inch Force Main from Fisher Island to City of Miami Beach.

Background and Statement of Facts:

In DB10-WASD-01 ESP, Miami-Dade County (County) is soliciting the replacement of an existing 20-inch water main from Port Island to Fisher Island and the replacement of an existing 54-inch force main from Fisher Island to the City of Miami Beach.

Five Proposers participated in Step 1 (qualifications phase) of this solicitation and were all deemed qualified to participate in Step 2. On or about October 20, 2010, the County issued Addendum 5, which changed some of the terms and specifications of the original solicitation. [1] Specifically, this Addendum significantly modified the Section titled DIVISION 3-STEP 2-EVALUATION OF TECHNICAL AND PRICE PROPOSAL (emphasis supplied in original text). In regard to the new Section 3.6 (See Exhibit 1, Excerpt of Addendum 5), proposers were advised that they must submit a responsive and responsible "Base Proposal" in full compliance with the specifications and all requirements of the Design Criteria Package. However, this Section further provided that a Design-Builder may also submit **an Alternate Proposal**, for which **an Alternate Proposal price** must be provided on OCI Form 6. (ID. at Exhibit 1).

It is clear that the RFP only allows proposers to submit ONE Alternate Proposal. This can be verified by reading the text of Section 3.6 in *pare materia* with the additional sections set forth below and the text of OCI Form 6. Indeed, as set forth in detail below, OCI Form 6, on which all Proposers must provide their pricing, only allows for pricing of one Alternate Proposal.

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[1] For ease of reference in the instant document, Lanzo respectfully provides excerpts of Addendum 5 as separately numbered Exhibits. The entire RFP and Addenda are public records in the possession of the County and a true and correct copy thereof will be provided to the Hearing Examiner at the time of hearing.

Page 2 of Addendum 5 lists the Forms and Exhibits relevant to this solicitation. Specifically, it lists "Exhibit 'J' – **Alternate Proposal Form** – Required Technical Data" (Singular). Additionally, it also lists "Exhibit 'N' – OCI Form 6, Design-Build Contract Price Proposal, **Including Optional Alternate Proposal**, if Provided" (singular). (See Exhibit 2, Excerpt of Addendum 5).

Moreover, the new Section 3.7 (See Exhibit 3, Excerpt of Addendum 5) advised the proposers that "[a]dvancing Firms should carefully follow the format and instructions outlined herein". It further stated that:

> Every firm or team of firms must be responsive to all applicable items contained in the following sections. Advancing Firms **shall not modify any of the forms provided and must submit in their proposal the completed applicable forms listed below** (ID. at Exhibit 3, at Page 35 of 43). (emphasis added).

In Section 3.7-2 of Addendum 5, the RFP again addresses the submission of only one Alternate Proposal. That Section reads: "**Alternate Proposal** (if any)", followed by Section 3.7-2.1, which says: "Alternate Proposal Form (Exhibit "J")". (ID. at Exhibit 3, page 36 of 43).

Below such language, there is a listing of several forms that were provided in the solicitation documents. This listing includes OCI Form 6 (Design-Build Contract Price Proposal Form). Paragraph 7 of Section 3.7 states in pertinent part as follows:

> OCI Form 6 (Exhibit "N") - Design-Build Contract Price Proposal Form, Including **Optional Alternate Proposal**, if applicable and price breakdown Attachment (Exhibit "0"). **Provide OCI Form 6 and Price Breakdown Attachment (original and one copy)** -in a separate sealed and labeled envelope bearing on the outside of the envelope "Design-Build Contract Price Proposal", the name of the Design-Builder and the Project Name. The execution of the Price Proposal Form constitutes the unequivocal offer of the Design-Builder to be bound by the terms of its proposal. (emphasis added) (ID. at Exhibit 3, page 37 of 43).

The above-referenced paragraph again speaks to only one (1) OCI Form 6, (original and one copy), not multiple Forms, and only one Alternate Proposal. Moreover, it is clear based on the specifications above that OCI Form 6 may not be altered in any way. Additionally, OCI Form 6 states at page 4 that "the Design-Builders Contract Price Proposals ***shall be submitted*** on this **OCI Form 6 'Design-Builder Contract Price Proposal'**, and in the manner stated herein, without exception or any qualification; ***there is no exception allowed to this requirement.***" (See Exhibit 4, OCI Form 6 at page 4, bold emphasis supplied in original text, bold italics emphasis added).

Exhibit "J" is the additional required form that must be provided if a proposer is submitting an Alternate Proposal. This form requires a proposer to describe in narrative form certain relevant information regarding its Alternate Proposal. It states in pertinent part: "ALTERNATE PROPOSAL FORM – REQUIRED TECHNICAL DATA...

> If any Design-Builder provides **an Alternate Proposal** as outlined in the RDBS, Step Two – Evaluation of Technical and Price Proposal, Design-Builder shall explain separately on this form as follows..." (See Exhibit 5, Alternate Proposal Form).

This form on its face (like the OCI Form 6 pricing form) allows for only one Alternate Proposal. Based on the above-referenced language, it is clear that the RFP only allowed for the submission of **one** "Optional Alternate Proposal", among other things, because OCI Form 6 **only provides for submission of prices for one Alternate Proposal, and Proposers must submit their price proposals on this OCI Form 6 and are not allowed to modify the OCI Form 6 in any way**. Clearly, if the RFP allowed for multiple Alternate Proposals, it would have provided a form to allow for more Alternative Proposals. Simply stated, it did not.

As part of its proposal, RM submitted Forms that were clearly altered in violation of the explicit mandate contained in Section 3.7 ("Advancing Firms shall not modify any of the forms

provided and must submit in their proposal the completed applicable forms listed below") and the unequivocal mandatory and material requirement found at the end of OCI Form 6 ("the Design-Builders Contract Price Proposals ***shall be submitted on this OCI Form 6*** 'Design-Builder Contract Price Proposal', and in the manner stated herein, without exception or any qualification; ***there is no exception allowed to this requirement.***"). Specifically, RM submitted nine (9) Altered Price documents, with nine (9) unauthorized Alternate Proposals. (See Exhibit 6, Composite of 9 Altered Price Forms).

As previously mentioned, there were five (5) proposers that were invited to participate in Step 2 of this procurement. Two (2) of those five proposers submitted a Base Bid but did not submit an Alternate Proposal. Of the three (3) who submitted an Alternate Proposal, only one proposer (RM) disregarded the mandatory provisions of the RFP and submitted more than one Alternate Proposal. (ID. at Exhibit 6). This further demonstrates that all proposers understood that only a Base Proposal and one Alternate proposal could be submitted.

The record clearly shows (audio of Selection Committee's discussions) that the members of the Selection Committee considered Lanzo's and Miami Tunnelers' Alternate Proposal, as well as each of RM's nine (9) Alternate Proposals, individually, and ultimately selected Alternate number five (5) of RM's nine (9) Alternate Proposals[2]. Simple math indicates that RM was given a success rate nine times that of the other two proposers who rightfully submitted only one Alternate Proposal. Clearly, RM's failure to follow the mandatory requirements of RFP rendered its submission non-responsive. The County's failure to follow its own mandatory provisions -- in effect waiving same post-submission -- was arbitrary and capricious and

[2] RM's Alternate number 5 was submitted at a total price of $47,618,191. In contrast, Lanzo's Price was $45,885,000, which provides a potential savings to the County of $1,733,191. Even after the County's negotiations with RM which resulted in a reduced price of $47,368,191, Lanzo's price still represents a savings to the County of approximately $1.5 million dollars.

provided RM with an unfair competitive advantage not enjoyed by any other proposer that correctly followed the mandatory provisions of the specifications.

Standing:

Lanzo is the highest ranked responsible, responsive proposer to the instant procurement. Lanzo has a "substantial interest" in the decision to award the contract as it is currently the 2nd ranked proposer and it has been a responsible and responsive participant in this procurement process. As such, Lanzo has standing to contest the County Manager's Recommendation of Award and to set forth its arguments as to why RM should not be awarded this Contract. See *Preston Carroll Company, Inc. v. Florida Keys Aqueduct Authority*, 400 So.2d 524 (Fla. 3rd DCA 1981); See also, *Couch Construction Company, Inc. v. Department of Transportation*, 361 So.2d 184 (Fla. 1st DCA 1978).

Particular Grounds for Protest:

RM is Non-Responsive for Failure to Follow Material Non-Waivable Provisions, Including Modifying OCI Form 6, Providing Multiple Pricing Forms and Providing Multiple Exhibit "J" Submissions.

OCI Form 6 only provides space for the proposer to submit one (1) Alternate Proposal. Nowhere in the specifications or subsequent Addenda is there any language authorizing Proposers to file multiple Alternate Proposals or multiple Price Forms. Yet that is exactly what RM did. Moreover, despite the clear prohibition against modifying any of the County's approved forms, the evidence unquestionably demonstrates that RM altered OCI Form 6 in order to provide for multiple alternatives and prices which were not allowed by the terms of the solicitation. (See Exhibit 6).

1) **Failure to Submit Pricing On OCI Form 6 and Providing Altered Pricing Forms Renders RM Non-Responsive and Provided the Vehicle Necessary to Obtain a Competitive Advantage**

As stated above, Section 3.7 sets forth in mandatory (as opposed to permissive) language that proposing Firms "shall not modify any of the forms provided and must submit in their proposal completed applicable forms ..." (See Exhibit 3).

In clear derogation of these mandatory provisions, RM took the "Chinese-menu" approach to bidding this project, providing nine (9) Altered Pricing Forms. (See Exhibit 6). Even a cursory review of the multiple forms demonstrates that RM failed to follow the mandatory directive that prices must be set forth on the County's approved OCI Form 6. The differences between the approved OCI Form 6 and the Altered Pricing Forms created by RM include the following:

All of RM's Altered Price Forms use a different font and different headings, underline, etc. than OCI Form 6. Additionally, RM excluded the page numbers on its submissions, and in each new Pricing Form, it added additional language to identify what Alternate it pertained to. For example, Alternate 1 added the following language, "ALTERNATE 1 (WM-BB, FM-O 1)" to the end of the title of the subsection. RM repeated this on all of its inappropriately submitted Altered Pricing Forms. (See Exhibit 6).

On page 2 of the Price Proposal, RM did not utilize the format of OCI Form 6 for listing an Alternate Proposal Price; instead it created its own form with a chart and inserted the prices in said chart. (See Exhibit 6). Throughout page 2, RM failed to underline language that is underlined in the original OCI Form 6.

The fact that it failed to follow the requirement to use the approved OCI Form 6 in and of itself renders the proposal non-responsive. However, the fatal error is further compounded by the fact that **the use of a different form was necessary in order to create an avenue for itself to gain an advantage over the other proposers, by filing nine (9) Alternate Proposals, when OCI Form 6, on its face only allowed for the submission of one Alternate Proposal.**

Although Florida Case Law provides significant discretion for an agency to waive minor irregularities, it is clear that mandatory and material terms that on their face **do not allow for any exceptions, and are clearly set forth in mandatory language (ie; shall vs. may)** cannot be waived. Therefore, RM's proposal must be disqualified as non-responsive to the specifications of the solicitation and Addendum 5.

2) **Submitting Multiple Price Proposals, and Multiple Exhibit "J" Documents Provided RM with an Unfair Economic Competitive Advantage. The County's *de facto* Post-Submission Waiver of the Mandatory and Material Provisions of the RFP is Arbitrary and Capricious.**

Like RM, Lanzo considered several different alternatives which it could have presented. The different alternatives had varying degrees of risk, as well as probability of acceptance by the Selection Committee. Some of the alternatives that Lanzo considered, but ultimately did not propose, would have resulted in a lower price. However, because the specifications and the approved Price Sheet OCI Form 6 did not allow for presentation of multiple Alternate Proposals, Lanzo, in compliance with the Specifications, had to choose only one (1) of its potential Alternate Proposals for inclusion in its submission.

The evaluation criteria for ranking the different Proposals are exclusively dependent on two factors; price and qualitative scores. The price on the Base Bid, or the Alternate if accepted by the Committee, is divided by the qualitative score to reach the Adjusted Bid. (See Exhibit 7, Excerpt from Addendum 5). This resulting number (Adjusted Bid) is what is utilized to rank the Proposers. Therefore, a Proposer such as Lanzo that followed the terms of the solicitation documents, and complied with the mandate of using the one (1) approved OCI Form 6 for Pricing had only two opportunities to impact the ranking; through its Base Proposal Price and its price for the one (1) approved Alternate. (See Exhibit 8, Lanzo's Compliant OCI Form 6 Submission).

The evidence demonstrates that in order to gain an economic competitive advantage and enhance its probabilities of having an Alternate Proposal approved and scored, RM included nine (9) OCI 6 Forms, each with a different variation of an Alternate Proposal and nine (9) corresponding Exhibit "J" submissions providing information on each of the non-conforming Alternate Proposals. The Selection Committee chose RM's Alternate 5, which coincidentally also happened to be $2 million cheaper than all of RM's other eight (8) Alternate Proposals. Clearly, the County's failure to disqualify RM, and allowing for evaluation and consideration of all nine (9) Alternate Proposals provided RM with a significant economic competitive advantage not enjoyed by any other Proposer.

RM's approach to this solicitation is improper and prohibited by well-settled Florida Procurement Law. As the Florida Supreme Court explained in Wester v. Belote, 138 So.2d 721 (Fla. 1931):

> The object and purpose of Competitive Bidding Statutes [are] to protect the public against collusive contracts; to secure fair competition upon equal terms to all bidders; to remove, not only collusion, but temptation for collusion and opportunity for gain at public expense; to close all avenues of favoritism and fraud in its various forms; to secure the best value at the lowest possible expense; and to afford an equal advantage to all desiring to do business with the public authorities, by providing an opportunity for an exact comparison of bids. (Id. at 722, emphasis added).

See also City of Miami Beach v. Klinger, 179 So.2d 864 (3rd DCA 1965), wherein the Court rejected a bid materially deviating from the specifications of the Invitation to Bid that provided a material benefit to the proposer not otherwise available to other bidders.

The material deviations in RM's proposal provided it a much greater opportunity to gain acceptance of a lower priced Alternate Proposal, a benefit not enjoyed by the other bidders who followed the specifications and used the required Form.

In summary, Lanzo respectfully submits that because RM failed to follow the material, mandatory and non-waivable terms of the specifications by altering the OCI Form 6 and presenting multiple price proposals, its submission must be deemed non-responsive. Further, the County's failure to follow its own mandatory and material provisions in the RFP is arbitrary and capricious.

Conclusion:

WHEREFORE, Petitioner Lanzo respectfully requests that the Hearing Examiner refuse to concur with the County Manager's February 11, 2011 Recommendation of Award, based on the grounds set forth above, and affirmatively recommend to the County Commission that it reject the Manager's Recommendation and direct the Administration to negotiate with Lanzo, which would result in the selection of a qualified bidder with a significantly lower price. In the alternative, Lanzo respectfully requests that the Hearing Examiner recommend that the current Procurement Process be rejected, and a new solicitation be re-issued.

Dated: February 11, 2011

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By: _____
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Florida Bar No. 332331

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy hereof has been furnished via U.S. Mail this 16th day of February to the County Attorney's Office and via Hand-Delivery to the Clerk of the Board. Additionally, copies have been furnished via U.S. mail to all participants in the competitive process of DB10-WASD-01 ESP for Replacement of Existing 20-Inch Water Main from Port Island to Fisher Island and Replacement of Existing 54-Inch Force Main from Fisher Island to City of Miami Beach.

Miguel De Grandy, Esq.