

Memorandum



Date: January 17, 2023

Agenda Item No. 8(P)(1)

To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Daniella Levine Cava *Daniella Levine Cava*
Mayor

Subject: Recommendation for Approval to Award Metrorail Track Fastener Replacement; and
Authorizing the Use of Charter County Transportation Surtax Funds for Such Purpose

Summary

This item is recommending the award of an 18-month contract to Gonzalez & Sons Equipment, Inc. (Gonzalez & Sons) for the removal of 50,000 track fasteners and installation of new fasteners on the Metrorail Track for the Department of Transportation and Public Works (DTPW). This contract is for services only as DTPW purchases the track fasteners under an existing contract and will provide the fasteners to Gonzalez & Sons. DTPW will purchase the fasteners and related materials, with funds from the People Transportation Plan half penny surtax, under the Green Line Rail Component Renewal project.

Track fasteners have a life expectancy of over 40 years. Replacing Metrorail track fasteners which are nearing the end of their life expectancy is necessary to avoid any safety issues. DTPW conducted an evaluation of the fasteners and determined it was best to begin a full-scale replacement under several phases. At the time the project was set to begin, DTPW experienced staff shortages due to the COVID-19 pandemic and entered into two separate emergency agreements which were ratified by the Board on January 20, 2021 and July 8, 2021 through Resolution Numbers R-20-21, and R-645-21, respectively. Following the completion of this proposed contract, most fasteners will have been replaced. DTPW staff will replace any individual fasteners needing replacement following completion of this contract.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. FB-02020, Metrorail Track Fastener Replacement*, to Gonzalez and Sons for DTPW in the amount of \$1,937,500. This contract will be used to obtain services from Gonzalez and Sons for the removal and installation of 50,000 track fasteners.

This item is placed for Board review pursuant to Miami-Dade County Code Section 29-124(f). The Board may only consider this item if the Citizens' Independent Transportation Trust (CITT) has forwarded a recommendation to the Board. If CITT has not forwarded a recommendation and 45 days have not elapsed since the issuance of this recommendation, a withdrawal of this item will be requested. It should be noted that the entire allocation requested is for DTPW.

Background

The contract provides for the removal of track fasteners that are currently installed along the Metrorail Track and installation of new fasteners. DTPW had previously used track maintenance staff to replace fasteners on a smaller scale when needed, but since the COVID pandemic DTPW has suffered staff shortages. Due to difficulties with recruitment, it was determined that outsourcing the work would allow for faster completion of the fastener replacement project. The work will be completed during the hours the Metrorail is not in service or operating on a single-track schedule. Gonzalez and Sons will obtain the parts from DTPW storage and transporting it to the site where they will be doing fastener replacements as well as removing and properly disposing of the existing track fasteners. Following the installation of the track fasteners, DTPW personnel will inspect the track to ensure the fasteners are properly installed prior to the resumption of service on the track. Any deficiencies will be immediately corrected by Gonzalez and Sons at no cost to the County.

The solicitation was advertised under full and open competition and over 5,289 bidders were notified of the solicitation via BidSync, with 47 bidders viewing the solicitation. Of the 47 bidders that viewed the

solicitation, five bids were received in response to the solicitation, including one “No Bid.” There were no adverse findings relating to vendor responsibility. A survey of Small Business Enterprise (SBE) certified firms was conducted by the Small Business Development Division. They identified there are three SBE firms under the relevant commodity codes; however, none of them responded as being able to meet the project requirements.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the one-year and six-month term is \$1,937,500. The previous agreement established under emergency contract E-10072 is valued at \$3,000,000 for one year and expired upon completion of the work in 2021. The allocation under the proposed contract is lower than the previous contract due to reduced costs achieved via this competitive solicitation for the services requested.

Department	Allocation	Funding Source	Contract Manager
Transportation and Public Works	\$1,937,500	PTP Funds	Ana Rioseco
Total:	\$1,937,500		

Track Record/Monitor

Vanessa Stroman of the Strategic Procurement Department is the Procurement Contracting Manager.

Delegated Authority

If this item is approved, the County Mayor or County Mayor’s designee will have the authority to exercise all provisions of the contract, including any cancellation or extension provisions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendor Recommended for Award

An Invitation to Bid was issued under full and open competition. Five bids were received in response to the solicitation, including one “No Bid.”

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Gonzalez & Sons Equipment, Inc.	14450 NW 102 Avenue Hialeah, FL	Same	226	Juan Gonzalez
			88%	

*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor’s employees who reside in Miami-Dade County as compared to the vendor’s total workforce.

Vendors Not Recommended for Award or Did Not Bid

Vendor	Local Address	Reason for Not Recommending
Delta Railroad Construction, Inc.	No	Higher than lowest bid
RailWorks Track Systems, Inc.	No	
JB Railroad Contracting, Inc.	No	Deemed non-responsive by the County Attorney’s Office for failing to submit pricing (opinion attached)
American Safety Utility Corp	No	No Bid*

*A “No Bid” means the vendor responded indicating that it will not be providing an offer.

Due Diligence

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with the Internal Services Department's Procurement Guidelines to determine vendor responsibility, including verifying corporate status and that there are no performance and compliance issues through various vendor responsibility lists and a keyword internet search. The lists that were referenced included convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings relating to vendor responsibility.

Pursuant to Resolution No. R-140-15, prior to re-procurement, a full review of the scope of services was conducted to ensure the replacement contract reflects the County's current needs. The review included conducting market research, posting a draft solicitation for industry comment, and holding meetings and drafting sessions with the user department. The scope of services was refined to more clearly define requirements such as hours of operation, security, material pick-up prior to start of work and clean-up.

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision applies where permitted by the funding source.
- The Small Business Enterprise Bid Preference and Local Preference were included in the solicitation but did not impact the award.
- The Living Wage applies as the services are covered under the Ordinance.

Attachment


Jimmy Morales
Chief Operations Officer

Memorandum



Date: August 4, 2022
To: Robert Mendoza,
Procurement Contracting Officer
Strategic Procurement Division-Internal Services Department
From: Bruce Libhaber
Assistant County Attorney
Subject: Responsiveness Determination on FB-02020: Metrorail Track Fasteners

You have asked whether the bid from JB Railroad that did not contain a pricing sheet for the services requested constitutes a responsive bid. For the reasons set forth below, we conclude that JB Railroad/s bid materially deviates from the solicitation's requirements, and as such, JB Railroad's bid is non-responsive and must be rejected.

FACTS

We rely on the information provided in your e-mail to this office on March 15, 2022, and a review of the relevant portions of the bid solicitation and JB Railroad's bid submittal.

The relevant language included in the bid solicitation is contained in Section 2, Special Terms and Conditions Paragraph 2.3, which states "Award of this contract will be made to the lowest priced responsive, responsible bidder." Section 4 of the bid solicitation entitled "Bid Submittal Price Form" instructed prospective bidders to "Please fill out the Pricing Information below and attach the document in Bidsync along with your submittal. Failure to provide pricing may result in the submittal being deemed non-responsive."

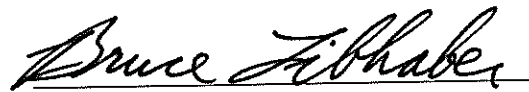
JB Railroad timely submitted its purported bid. JB Railroad's submittal did not include the bid submittal form nor did JB Railroad's submittal include a price quote for the goods and services sought.

DISCUSSION

There is a two part test to determine if a specific noncompliance in a bid constitutes a substantial and thus nonwaivable issue: (1) whether the effect of the waiver would be to deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) whether it would adversely affect competitive bidding by placing a bidder in a position of advantage over other bidders. See, e.g., *Glatstein v. City of Miami*, 399 So. 2d 1005 (Fla. 3d DCA), rev. denied, 407 So.2d 1102 (Fla. 1981).

Here, JB Railroad's submittal – at a minimum- fails the second part of the two part test spelled out in *Glatstein*. The potential bidders were given a due date to submit bids with firm prices. (Section 4

of the bid solicitation) The potential bidders were advised that the contract award would be made to the "lowest priced, responsive, responsible bidder." (Section 2, Paragraph 2.3 of the bid solicitation) In this instance, JB Railroad did not merely fail to use the right form to provide the pricing information, but rather, JB Railroad failed to include a bid price at all. To allow JB Railroad- or any bidder- to submit a price after the bid due date and after bids have been opened would provide an unfair competitive advantage. As a result, this being a straight bid and JB Railroad having failed to provide a price proposal, JB Railroad did not provide a responsive bid and JB Railroad may not be considered for award.

A handwritten signature in cursive script, reading "Bruce Libhaber", written over a horizontal line.

Bruce Libhaber
Assistant County Attorney



MEMORANDUM

(Revised)

TO: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

DATE: January 17, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(P)(1)

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
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(P)(1)
1-17-23

RESOLUTION NO. _____

RESOLUTION AUTHORIZING AWARD OF CONTRACT NO. FB-02020 TO GONZALEZ & SONS EQUIPMENT, INC. FOR THE PURCHASE OF METRORAIL TRACK FASTENER REPLACEMENT FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS WITH AN AMOUNT NOT TO EXCEED \$1,937,500.00, FOR AN 18-MONTH TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. This Board approves award of Contract No. FB-02020 to Gonzalez & Sons Equipment, Inc. for the purchase of metrorail track fastener replacement services for the Department of Transportation and Public Works with an amount not to exceed \$1,937,500.00, for an 18-month term; and authorizes the County Mayor or County Mayor's designee to execute same and exercise all provisions of the contract, including any cancellation or extension provisions, pursuant to section 2-8.1 of the County Code and Implementing Order 3-38. A copy of the contract document is on file with and available upon request from the Strategic Procurement Department.

Section 2. This Board authorizes the use of \$1,937,500.00 of Charter County Transportation Surtax Funds for the Department of Transportation and Public Works included in the FY23 Adopted Capital Budget and FY22-26 Five-Year Implementation Plan of the People's Transportation Plan.

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

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

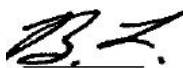
The Chairperson thereupon declared this resolution duly passed and adopted this 17th day of January, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

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

LUIS G. MONTALDO, CLERK AD INTERIM

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Bruce Libhaber



Memorandum



To: Honorable Chairman Oliver G. Gilbert, III
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: December 22, 2022

Re: **CITT AGENDA ITEM 7B:**
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) AUTHORIZE AWARD OF CONTRACT NO. FB-02020 TO GONZALEZ & SONS EQUIPMENT, INC. FOR THE PURCHASE OF METRORAIL TRACK FASTENER REPLACEMENT FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS WITH AN AMOUNT NOT TO EXCEED **\$1,937,500.00**, FOR AN 18-MONTH TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSE **(DTPW/ISD – BCC LEGISLATIVE FILE NO. 222649) SURTAX FUNDS ARE REQUESTED**

On December 21, 2022, the CITT voted (8-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 22-043. The vote was as follows:

Oscar J. Braynon, Chairperson – Aye
Alfred J. Holzman, 1st Vice-Chairperson – Aye
Robert Wolfarth, 2nd Vice-Chairperson – Aye

Hon. Peggy Bell – Aye
Joseph Curbelo – Absent
Qjuezari Harvey – Aye
L. Elijah Stiers, Esq. – Absent
Ernest Thomas – Aye

Omar K. Bradford, Esq. – Aye
Meg Daly – Absent
Paul J. Schwiep, Esq. – Aye
Mary Street, Esq. – Absent

c: Jimmy Morales, Chief Operations Officer
Bruce Libhaber, Assistant County Attorney