

Memorandum



Date: December 12, 2023

Agenda Item No. 8(O)(3)

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

From: Daniella Levine Cava
Mayor 

Subject: Recommendation for Approval of a Non-competitive Designated Purchase for Ratification of an Emergency Purchase of Industrial Grade Liquid Oxygen (LOX)

Summary

This item is to ratify an emergency purchase of Industrial Grade Liquid Oxygen (LOX) for the Water and Sewer Department (WASD). WASD uses this contract for the delivery of LOX by tanker truck to its wastewater treatment plants, which is ordered when the treatment plants cannot manufacture sufficient LOX for its needs. Failure in the Vacuum Pressure Swing Adsorption (VPSA) oxygen generation plant at the Central District Wastewater Treatment Plant (WWTP) located on Virginia Key created a shortage of oxygen needed for the biological treatment process. The VPSA produces 90 tons of oxygen per day in normal conditions, but due to the failure, production is down to 20 tons per day. This ratification is being requested to ensure adequate funding for WASD to continue purchasing LOX for its wastewater treatment process. The lack of oxygen would hinder biological treatment and potentially lead to untreated wastewater getting mixed with treated wastewater. Additionally, it's important to note, there is the risk of untreated waste being released into receiving waters, all of which would put the public health at risk and violate WASD's Florida Department of Environment Protection (FDEP) permit.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve this non-competitive designated purchase, pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code, by a two-thirds vote of the Board members present, and ratify the emergency purchase under *Contract No. FB-01219-S1, Medical, Industrial Gases, and Related Items – Industrial Grade Liquid Oxygen*, for WASD in the amount of \$2,000,000. This emergency purchase will provide sufficient expenditure authority to purchase the oxygen necessary for WASD to continue the wastewater treatment process and remain in compliance with the FDEP permit until repairs to the VPSA are completed in October 2023.

Background

The County established this competitively awarded contract under delegated authority on July 24, 2020, for a five-year term with an allocation of \$895,167 to Matheson Tri-Gas, Inc. to provide the LOX by tanker truck for WASD. On August 18, 2023, WASD declared an emergency for the immediate purchase and delivery of LOX by tanker truck to its wastewater treatment plant. This emergency purchase was required for WASD to meet its operational requirements for the wastewater treatment process until the Central District WWTP is fully operational and to remain in compliance with its FDEP permit. Accordingly, it is in the County's best interest to approve this designated purchase pursuant to Section 2-8.1(b)(3) of the Miami-Dade County Code to ratify the emergency purchase for the provision of LOX for WASD.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The contract term expires on April 30, 2025. Prior to the emergency declaration, the contract had a cumulative allocation of \$895,167. If the emergency expenditure authority of \$2,000,000 is ratified, the contract will have a modified cumulative allocation of \$2,895,167. The amount of the emergency purchase was based on expenditures of \$40,000 per day for an approximate repair timeframe of 50 days.

Department	Initial Cumulative Allocation	Ratification of Additional Emergency Allocation	Modified Cumulative Allocation	Funding Source	Contract Manager
WASD	\$895,167	\$2,000,000	\$2,895,167	Proprietary Funds	Susan Pascul
Total	\$895,167	\$2,000,000	\$2,895,167		

Track Record

Manuel Jimenez of the Strategic Procurement Department (SPD) is the Procurement Contracting Manager.

Delegated Authority

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

Awarded Vendor

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Matheson Tri-Gas, Inc.	909 Lake Carolyn Parkway Suite 1300 Irving, TX	7300 NW 58 Street Miami, FL	38	Thomas S. Kallman
			90%	

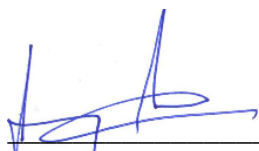
*Provided pursuant to Resolution No. R-1011-15. Percentage of employee residents is the percentage of vendor’s employees who reside in Miami-Dade County as compared to the vendor’s total workforce.

Due Diligence

Pursuant to Resolution No. R-187-12, due diligence was conducted in accordance with SPD’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.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program applies.
- The Small Business Enterprise measures and Local Preference did not apply to this emergency purchase; however, both preferences applied at the time of original award.
- The Living Wage Ordinance does not apply.



Jimmy Morales
 Chief Operations Officer



MEMORANDUM
(Revised)

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

DATE: December 12, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(O)(3)

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(O)(3)
12-12-23

RESOLUTION NO. _____

RESOLUTION AUTHORIZING A NON-COMPETITIVE DESIGNATED PURCHASE PURSUANT TO SECTION 2-8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; RATIFYING AN EMERGENCY PURCHASE FOR THE WATER AND SEWER DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$2,000,000.00 TO MATHESON TRI-GAS, INC. FOR A TOTAL MODIFIED CONTRACT AMOUNT NOT TO EXCEED \$2,895,167.00 FOR PURCHASE OF INDUSTRIAL GRADE LIQUID OXYGEN UNDER CONTRACT NO. FB-01219-S1; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

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 finds it is in the best interest of Miami-Dade County to approve a non-competitive designated purchase in an amount not to exceed \$2,000,000.00, pursuant to section 2-8.1(b)(3) of the Code of Miami-Dade County, by a two-thirds vote of the Board members present.

Section 2. This Board ratifies an emergency purchase of \$2,000,000.00 to Matheson Tri-Gas, Inc. for a total modified contract amount of \$2,895,167.00 to purchase industrial grade liquid oxygen under Contract No. FB-01219-S1 for the Water and Sewer Department as set forth in the incorporated memorandum.

Section 3. This Board authorizes the County Mayor or County Mayor’s designee to exercise all provisions of the contract, including any cancellation or extensions, 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.

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 12th day of December, 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SED

Sarah E. Davis