

Memorandum



Date: October 6, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

Agenda Item No. 8(F)(8)

From: Carlos A. Gimenez
Mayor

Resolution No. R-952-20

Subject: Recommendation for Approval to Award Hazardous and Non-Hazardous Waste Services

A handwritten signature in blue ink, likely belonging to Carlos A. Gimenez, the Mayor.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. FB-01513, Hazardous and Non-Hazardous Waste Services*, for multiple County Departments. Contract FB-01180 was awarded by the Board for a five-year term on May 19, 2020. The County was unable to award six groups on that contract due to inaccurate licensing requirements in the solicitation. In the interim, a short-term bridge contract was established under delegated authority to ensure continuity of services until this award is approved. This solicitation was issued to award those six groups.

This item is placed for Board review pursuant to Miami-Dade County Code Section 29-124(f)(ii). Because this is a transit-related procurement with a value of more than \$1 million, even though no Charter County Transportation Surtax Funds will be used to pay the costs, the Board may only consider this item if the Citizens' Independent Transportation Trust (CITT) has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the issuance of this recommendation. 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.

Background

This contract will provide recycling and disposal services for hazardous and non-hazardous materials in accordance with applicable laws, ordinances and regulations and will provide labor, equipment, materials, such as drums, transportation and supervision necessary for performance of these services. This contract will allow the Departments to be in compliance with County and State regulatory requirements and to safely and expeditiously respond to hazards that occur during the regular course of business such as emergency oil spills, removal of chemicals or fluids and household waste collection and disposal events.

Seven bids were received in response to the solicitation, including two "No Bids." An Invitation to Bid was issued under full and open competition. Upon advertisement, 5,388 vendors were notified, of which 57 downloaded the solicitation. Award is being recommended to the lowest priced, responsive and responsible bidder on a group-by-group basis.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$3,440,137. When combined with the award value of FB-01180, approved by the Board on May 19, 2020 as Resolution No. R-470-20, the aggregated award value is \$7,484,017. The previous contract, 7224-1/19-1, was valued at \$10,199,000 for six-year and six-month term. The combined allocation under the replacement contracts (FB-01180 and FB-01513) is lower than the previous contract due to the estimated usage/quantities of the user departments. The short-term bridge contract that was established for six months, BW-10080, is valued at \$250,000 and expires on October 31, 2020.

Department	Allocation	Funding Source	Contract Manager
Aviation	\$145,076	Proprietary Funds	Neivy Garcia
Corrections and Rehabilitation	\$10,736	General Fund	Zuleika Davidson
Fire Rescue	\$43,523	Fire District Funds	Marianela Betancourt
Internal Services	\$406,214	Internal Service Funds	Rey Llerena/ Pete Moolah
Medical Examiner	\$145,076	General Fund	Aylin Concepcion
Parks, Recreation and Open Spaces	\$54,549	General Fund	Bernie Rodriguez
Police	\$43,523	General Fund	Laura Romano
PortMiami	\$29,015	Proprietary Funds	Sophia Cunningham
Regulatory and Economic Resources	\$216,454	Proprietary Funds	John Lariosa
Solid Waste Management	\$928,489	General Fund/ Proprietary Funds	Karina Careaga
Transportation and Public Works	\$1,160,611	DTPW Operating	Angela Mathews-Tranumn
Water and Sewer	\$256,871	Proprietary Funds	Susan Pascual
Total:	\$3,440,137		

Track Record/Monitor

Jessica Tyrrell of the Internal Services 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.

Vendors Recommended for Award

An Invitation to Bid was issued under full and open competition. Seven bids were received in response to the solicitation, including two "No Bids." The three vendors being recommended are the lowest priced, responsive and responsible vendors for their respective groups.

The solicitation included six groups based on different waste categories: Group A – Used Oil Filters; Group B – Drums and Pails; Group C – Waste Batteries; Group D – Non-Hazardous Bulbs; Group E– Household Hazardous Waste Disposal Services; and Group F – Collection disposal of soil contaminated with hydrocarbon products like hydraulic oil, gasoline and diesel.

Pursuant to Resolution No. R-477-18, the lowest, responsive and responsible bidders are recommended in accordance with the method of award per the solicitation, of which one is local and two are non-local. There are a limited number of vendors who can perform these services.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal	Group(s) Awarded
			1) Miami-Dade 2) Percentage*		
E-Scrap, Inc.	2220 East 11 Avenue Hialeah, FL	Same	13	Gustavo Saliva	C and D
			86%		

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal	Group(s) Awarded
			1) Miami-Dade 2) Percentage*		
Triumvirate Environmental Services, Inc.	3701 SW 47 Avenue Suite 109 Davie, FL	None	13	John F. McQuillan, Jr.	A, B and F
			.021%		
US Ecology Tampa, Inc.	101 S Capitol Boulevard Suite 1000 Boise, ID	None	0	Don Locke	E
			0%		

*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

Vendor	Local Address	Reason for Not Recommending
Environmental Management Conservation Oil Corp. dba EMC Oil Corp.	Yes	Higher than lowest bid for Groups A, B, D, and F. No bid for Group C. Deemed non-responsive by the County Attorney's Office for Group F. Opinion attached.
Greer Enterprises, LLC	No	Higher than lowest bid for Groups C and D. Deemed non-responsive by the County Attorney's Office for Groups A, B, E, and F. Opinion attached.
American Safety Utility Corp.	Not Applicable	No Bid*
W.W. Grainger, Inc.	Not Applicable	

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. 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 departments. The solicitation was updated to modify licensing requirements to ensure bidders are properly licensed to perform the services being offered.

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 applied where permitted by the funding source.
- The Living Wage does not apply.



Jennifer Moon
Deputy Mayor

Memorandum



Date: May 19, 2020

To: Dakota Thompson, CPPB
Procurement Contracting Officer 2
Internal Services Department

From: Miguel A. Gonzalez
Assistant County Attorney

A handwritten signature in black ink, appearing to read "Miguel A. Gonzalez".

Subject: Responsiveness Opinion re: FB-01513 – Hazardous and Non-Hazardous Waste Services (the “Solicitation”)

I am in receipt of your request for a responsiveness determination, which I received on May 11, 2020, and which is accompanied by various attachments, including a memorandum from you seeking responsiveness determinations as to bids received from Environmental Management Conversation Oil Corp. (d/b/a E.M.C. Oil Corp.) (“EMC”) and Greer Enterprises, LLC (“Greer”), a bid tally, and the Solicitation. I rely on these materials and on our conference of today in reaching the conclusions set forth herein. If there are additional facts of which I should be made aware, please let me know, as those facts may alter the conclusions reached herein.

For the reasons set forth below, EMC’s bid is not responsive as to Group E. The defects identified with respect to Greer’s bid also render its bid non-responsive as to Groups A, B, E, and F.

Analysis

A. EMC

In your memorandum, you advise that EMC did not provide pricing on all items in Group E, which has an estimated award value exceeding \$1 million.

Section 2.4 of the Solicitation provides the following method of award:

Award of this contract will be made to the lowest priced responsive, responsible bidder on a group-by-group basis, who meets the bidder requirements for that group, and whose offer represents the lowest price when all items within the group are added in the aggregate. Bidder may bid on any or all groups. The Bidder’s prices for each group will be determined by multiplying the estimated quantity by the unit price per item and then totaling the resultant amount for all items in the group. If a Bidder fails to submit an offer for all items within a group, its offer for that specific group may be rejected.

The bid form for Group E contains 6 tasks (Tasks 1, 2, 3-A, 3-B, 4, and 5) on which bidders are instructed to bid; each task contains several items within it.

The tally sheet included with the memorandum shows that EMC failed to bid on any of the items within Tasks 1, 2, 3-B, 4, and 5, and that EMC failed to bid on many of the items within Task 3-A.

One court has explained that the purpose of the competitive bidding process is, among other things, “to secure fair competition upon equal terms to all bidders . . . and to afford an equal advantage to all desiring to do business with the county, by affording an opportunity for an exact comparison of bids.” *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1192 (Fla. 2d DCA 2977) (citing *Wester v. Belote*, 138 So. 721, 723-24 (Fla. 1931)). It is established that responses to a solicitation must be capable of assuring the County that, if accepted, the proposal will result in a contract that can be performed in accordance with the requirements of the solicitation. *See, e.g., Glatstein v. City of Miami*, 399 So. 2d 1005, 1007-1008 (Fla. 3d DCA 1981) (relying on *Wester* for the proposition that solicitations must include “reasonably definite plans or specifications, as a basis on which bids may be received”).

EMC’s failure to provide pricing on all items within the tasks forming a part of Group E renders its bid non-responsive as to Group E. EMC’s bid is not sufficient to provide the County with assurance that “the proposal will result in a contract that can be performed in accordance with the requirements of the solicitation.” *Glatstein*, 399 So. 2d at 1007-1008. Accordingly, EMC is not responsive.

B. Greer

As to Greer’s bid, you advise that Greer did not provide evidence of holding the permits required under Groups A, B, E, and F, and that you have confirmed with Miami-Dade County Regulatory and Environmental Resources (“RER”) staff that Greer does not hold the required permits.

Section 2.4.1 of the Solicitation provides, for each of Groups A, B, E, and F, that the Bidders shall provide, depending on the Group, one or both of listed licenses or approvals issued by the County or Florida Department of Environmental Protection.

Notably, Section 24-46 of the Code of Miami-Dade County, Florida provides that “[i]t shall be unlawful for any person to permit, cause, allow, let or suffer the transportation within Miami-Dade County of any liquid waste without having a valid liquid waste transporter operating permit issued by the Director or the Director’s designee pursuant to Section 24-18.” This is precisely the scope of work required under Groups A (transporting used oil filters), E (household hazardous waste disposal services), and F (collection/disposal of soil contaminated with hydrocarbon products such as hydraulic oil, gasoline, diesel, etc.). While Group B concerns the transportation of “non-hazardous empty drums for disposal” and “new or unused or reconditioned empty drums

and pails for purchase,” RER has confirmed that possession of the license identified in the Solicitation is required for transportation of the materials identified as part of Group B.

Because possession of this license is a legal requirement, imposed by the Code, to perform the scope of work solicited under Groups A, B, E, and F of the Solicitation, Greer’s failure to possess the license at the time of bid (as verified by RER’s staff) renders its bid non-responsive as to Groups A, B E, and F. Allowing Greer to correct this defect by obtaining the license would confer upon Greer an unfair competitive advantage not enjoyed by other bidders. *See Harry Pepper*, 352 So. 2d at 1192.

Greer would have an advantage over other bidders insofar as it would have the ability to withdraw from the procurement by having the option to refuse to obtain the license that it does not currently possess (an opportunity not enjoyed by other bidders who had the licenses at the time of bid opening), *see, e.g., Comptroller Gen. Ltr. to Heads of Depts., Independent Establishments, Agencies and Others Concerned*, 38 Comp. Gen. 532, 536 (Comp. Gen. Feb. 5, 1959) (determining that allowing bidders to cure bid certain defects post-opening unfairly allows them “two bites at the apple” and creates processes whereby agencies must determine whether the omission was intentional or excusable causing “delay[s] award and consequently the entire production schedule” and creating opportunities for inconsistent results from similar facts).

Accordingly, Greer’s bid is non-responsive as to Groups A, B, E, and F.

Please feel free to contact me if you have any questions or concerns about the foregoing.



MEMORANDUM (Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(F)(8)

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(F)(8)
10-6-20

RESOLUTION NO. R-952-20

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-01513 GROUPS A, B, AND F TO TRIUMVIRATE ENVIRONMENTAL SERVICES, INC., CONTRACT NO. FB-01513 GROUPS C AND D TO E-SCRAP, INC., AND CONTRACT NO. FB-01513 GROUP E TO US ECOLOGY TAMPA, INC. FOR THE PURCHASE OF HAZARDOUS AND NON-HAZARDOUS WASTE SERVICES FOR MULTIPLE DEPARTMENTS WITH AN AMOUNT NOT TO EXCEED \$3,440,137.00, FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD TO GROUP A, B, AND F TO TRIUMVIRATE ENVIRONMENTAL SERVICES, INC., GROUP C AND D TO E-SCRAP, INC, AND GROUP E TO US ECOLOGY TAMPA, INC., ISSUE THE APPROPRIATE PURCHASE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA 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,

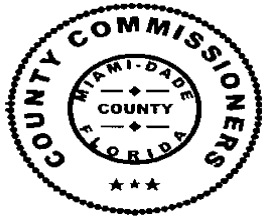
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves award of Contract No. FB-01513 Groups A, B and F to Triumvirate Environmental Services, Inc., Contract No. FB-01513 Groups C and D to E-Scrap, Inc., and Contract No. FB-01513 Group E to Us Ecology Tampa, Inc. for the purchase of hazardous and non-hazardous waste services to for multiple departments with an amount not to exceed \$3,440,137.00, for a five-year term; and authorizes the County Mayor or County Mayor's designee to give notice of this award for Groups A, B and F Triumvirate Environmental Services, Inc., Groups C and D E-Scrap, Inc., and Group

E US Ecology Tampa, Inc., issue the appropriate purchase orders to give effect to same and exercise all provisions of the contract pursuant to Section 2-8.1 of the Code of Miami-Dade County, Florida and Implementing Order 3-38. A copy of the contract document is on file with and available upon request from the Internal Services Department, Strategic Procurement Division.

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

Audrey M. Edmonson, Chairwoman	aye
Rebeca Sosa, Vice Chairwoman	aye
Esteban L. Bovo, Jr.	aye
Jose "Pepe" Diaz	aye
Eileen Higgins	aye
Joe A. Martinez	aye
Dennis C. Moss	absent
Xavier L. Suarez	aye
Daniella Levine Cava	aye
Sally A. Heyman	aye
Barbara J. Jordan	aye
Jean Monestime	aye
Sen. Javier D. Souto	aye

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of October, 2020. 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

HARVEY RUVIN, CLERK

By: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MAG

Miguel A. Gonzalez



Memorandum



To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: September 24, 2020

Re: CITT AGENDA ITEM 7G:
RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST
RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS (BCC) APPROVE
AWARD OF CONTRACT NO. FB-01513 GROUPS A, B, AND F TO TRIUMVIRATE
ENVIRONMENTAL SERVICES, INC., CONTRACT NO. FB-01513 GROUPS C AND D
TO E-SCRAP, INC., AND CONTRACT NO. FB-01513 GROUP E TO US ECOLOGY
TAMPA, INC. FOR THE PURCHASE OF HAZARDOUS AND NON-HAZARDOUS
WASTE SERVICES FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC
WORKS WITH AN ALLOCATION AMOUNT NOT TO EXCEED **\$1,160,611.00**, FOR A
FIVE-YEAR TERM; AND AUTHORIZE THE COUNTY MAYOR OR COUNTY MAYOR'S
DESIGNEE TO GIVE NOTICE OF THIS AWARD TO GROUP A, B, AND F TO
TRIUMVIRATE ENVIRONMENTAL SERVICES, INC., GROUP C AND D TO E-SCRAP,
INC, AND GROUP E TO US ECOLOGY TAMPA, INC., ISSUE THE APPROPRIATE
PURCHASE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL
PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF
MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38 (DTPW – BCC
LEGISLATIVE FILE NO. 201701) NO SURTAX FUNDS REQUESTED

On September 23, 2020, the CITT voted (10-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 20-032. The vote was as follows:

Joseph Curbelo, Chairperson – Aye
Alfred J. Holzman, 1st Vice Chairperson – Aye
Oscar J. Braynon, 2nd Vice Chairperson – Aye

Glenn J. Downing, CFP® – Aye
Joe Jimenez – Aye
Jonathan Martinez – Aye
Marilyn Smith – Aye
Robert Wolfarth – Aye

Ashley V. Gantt, Esq. – Absent
Hon. Anna E. Lightfoot-Ward, Ph.D. – Absent
Paul Schwiep, Esq. – Aye
L. Elijah Stiers, Esq. – Aye

c: Jennifer Moon, Deputy Mayor
Bruce Libhaber, Assistant County Attorney