

Memorandum



Date: July 7, 2022

Agenda Item No. 8(F)(7)

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

Resolution No. R-618-22

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Recommendation for Approval to Award Supply of Natural Gas

Summary

This item is recommending the award of a contract for the supply of natural gas for the Miami-Dade Water and Sewer Department (WASD) and Department of Transportation and Public Works (DTPW). These departments use natural gas for the operation of generators, pumps, and kilns which are utilized for the treatment of municipal water and wastewater and for the operation of the Northeast Bus Depot, respectively. The natural gas usage under this contract is estimated to be more than 22,000 Therms per day, with an actual connected gas consumption of approximately 8,349,000 Therms per year to meet the needs of Water and Sewer. Two bids were received in response to the solicitation, of which one was deemed non-responsive, and award is being recommended to the sole responsive and responsible bidder.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve a competitive contract award, *Contract No. FB-01762, Supply of Natural Gas*, to Interconn Resources, LLC for WASD and DTPW in the amount of \$54,652,610 for a five-year term. This contract will replace Contract No. 5731-1/22-1, *Supply of Natural Gas*, which was established by the Board on March 6, 2012, through Resolution No. R-203-12 for a five-year term with a five-year option to renew term for WASD. The Small Business Enterprise (SBE) Bid Preference and Local Preference were included in the solicitation but did not impact the award as none of the bidders were certified SBE's or local vendors. There are no certified SBE firms under the commodity codes associated with this solicitation. Due to the nature of this commodity, whereby the gas is sourced at the pipeline, small businesses typically are not engaged in providing these services because of the location of the pipeline and the expense involved in accessing the gas. However, potential subcontracting opportunities for small businesses could be realized further down the supply chain, as subcontracting is allowed per the general terms and conditions of the contract.

This item is placed for Board review pursuant to Miami-Dade County Code Section 29-124(f)(ii). Since a portion of this procurement is transit-related, 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. 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. Furthermore, it should be noted that of the \$54,652,610 being requested, only \$6,142,610 is for DTPW.

Background

Natural gas produced from a subsurface reservoir contains mostly methane plus various other heavier hydrocarbons and undesirably, some impurities. The relative proportion of heavier hydrocarbons versus methane would determine the energy content of the gas when combusted and, thus, its ultimate value to a customer. Customers pay for energy derived from gas, not for a specific volume of gas. Natural gas is sold by units of energy. Common energy units include BTU or British Thermal Unit, Therms, and Joules. Although natural gas and oil share many characteristics, both are hydrocarbons, both are found and produced using similar methods and equipment, both are often produced simultaneously, and they contrast in the way they are sold and priced. Because natural gas is difficult to transport, natural gas prices tend to be set locally or regionally, not globally as for oil.

An Invitation to Bid was issued on December 21, 2021 for the purchase of natural gas for the WASD and DTPW, on an as needed basis. WASD uses natural gas for the operation of generators, pumps, and kilns used for the treatment of municipal water and wastewater; while DTPW uses the natural gas for the operation of the Northeast Bus Depot.

During this contract, WASD intends to install one high service gas pump at the Alexander Orr Water Treatment Plant. This new gas-burning pump, when operating full time, will consume an additional 30,000 to 40,000 Therms per day, which is above the existing consumption level. This additional usage has been included in the annual usage amount previously mentioned. DTPW is a new participant in this contract and anticipates the natural gas usage to be more than 8,975 Therms per day, with an actual connected gas consumption of approximately 3,276,000 Therms per year. The natural gas is delivered via the Florida Gas Transmission (FGT) pipeline.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$54,652,610. The current contract, 5731-1/22-1, has a cumulative allocation of \$94,482,000 for a ten-year and three-month, term, and expires on July 31, 2022. The allocation under the replacement contract is higher on an annualized basis than the current contract, due to an increase in the estimated usage per year, resulting from the addition of the DTPW to this contract, as well as an additional gas pump for WASD.

Department	Allocation	Funding Source	Contract Manager
Transportation and Public Works	\$6,142,610	DTPW Operating	Angela Mathews-Tranumn
Water and Sewer	\$48,510,000	Proprietary Funds	Susan Pascal
Total:	\$54,652,610		

Track Record/Monitor

Manuel Jimenez 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.

Vendor Recommended for Award

An Invitation to Bid was issued under full and open competition. Two bids were received in response to the solicitation of which one was deemed non-responsive by the County Attorney’s Office for taking an exception to solicitation requirements. Neither of the responding vendors were local or certified Small Business Enterprise firms. This solicitation was advertised on BidSync with 3,232 notifications, from which 10 suppliers viewed the notification.

Pursuant to Resolution No. R-477-18, the responsive and responsible bidder is recommended in accordance with the method of award per the solicitation and is non-local. Neither bidder that responded to the solicitation was local.

Vendor	Principal Address	Local Address*	Number of Employee Residents	Principal
			1) Miami-Dade 2) Percentage*	
Interconn Resources, LLC	2000A Southbridge Parkway Suite 330 Birmingham, AL	None	0	Kevin Stump
			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.

Vendor Not Recommended for Award

Vendor	Local Address	Reason for Not Recommending
Gas South, LLC	None	Deemed non-responsive by the County Attorney’s Office for taking exception to the Solicitation’s requirement of a firm fixed service adder price (Opinion attached).

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 scope of services was updated to include an increase in the estimated quantities of Therms per year due to the inclusion of a new department (Transportation and Public Works), as well as the planned addition of a new gas pump for the existing department (Water and Sewer).

Applicable Ordinances and Contract Measures

- The two percent User Access Program provision applies.
- The Small Business Enterprise Bid Preference and Local Preference were included in the solicitation but did not impact the award.
- The Living Wage does not apply as the services to be procured are not covered services under the Ordinance.

Attachment



Jimmy Morales
Chief Operations Officer

Date: February 14, 2022

To: Sherry Y. Crockett
Procurement Contracting Officer
Internal Services Department

From: Christian J. Fernandez-Andes
Assistant County Attorney

Subject: Responsiveness Opinion re: Solicitation No. FB-01762 – Natural Gas

We received your request for a responsiveness determination as to submittals by various bidders in response to Solicitation FB-01762 (the “Solicitation”). We rely on the materials provided, including the memorandum sent by your office, dated January 27, 2022, in reaching the conclusions set forth herein. If there are additional facts of which we should be made aware, please let us know, as those facts may alter the conclusions below.

Background

The purpose of the Solicitation was to establish a contract for the purchase of the supply of natural gas (delivered by pipeline) in conjunction with the needs of the County, on an as needed basis, for the Miami-Dade Water and Sewer Department (WASD). On January 26, 2022, two bids were received for the subject solicitation and subsequently reviewed for responsiveness and responsibility. It was noted that the bid received from Gas South, LLC (“Gas South”) took exception to Paragraph 2.5 of the Solicitation, titled “Firm Fixed Service Adder Price.” Paragraph 2.5 stated the following terms:

“The firm fixed service adder price shall be defined as a price per therm consisting of all charges necessary for the vendor to fully complete and invoice the business transaction, inclusive of delivery, profit, and any other fees/charges; exclusive of FGT fuel and usage fees. The firm fixed service adder price excludes taxes and the Index Price of spot gas delivered to pipelines, as published by the Federal Energy Regulatory Commission (FERC).

The Price to be paid by the County for the months in which deliveries occur shall be based on the Index Price published in the first-of-the-month issue of the “Inside FERC’s Gas Market Report – Prices of Spot Gas Delivered to Pipelines”, under Florida Gas Transmission (FGT), Zone 2, plus the firm fixed service adder price.”

Paragraph 2.5 also stipulates:

“During the term of the contract and any subsequent extensions exercised by the County, the County may at any time request a firm fixed price for natural gas for any number of consecutive months based on the New York Mercantile Exchange (NYMEX) pricing. The vendor shall use all reasonable efforts to purchase the natural gas on the requested basis. However, the vendor shall not purchase the natural gas for the County unless both parties mutually agree. If a mutually agreeable price is not achieved, the price for the natural gas will defer to the Index Price.”

In Section 4 of the Bid Submittal Form (page 26) Gas South submitted additional notes and comments to the offer, stating the following:

“Considering the length of the term and the project FCG rate case in the future, Gas South reserves the right to adjust offer in alignment with any FCG rate case adjustments. The Division will be noticed and be provide back up before any rates case adjustment will be made.”

Analysis

“Bid-responsiveness determinations focus on whether a bidder has unequivocally offered to perform, without exception, ‘the exact thing called for in a solicitation so that acceptance of the bid will bind the contractor to perform in accordance with all of the IFB's material terms and conditions.’” *Monument Realty LLC v. Wash. Metro. Area Transit Auth.*, 535 F. Supp. 2d 60, 74 (D.D.C. 2008) (quoting *In re: Walashek Indus. & Marine*, B–281577, 99–1 CPD ¶ 30, 1999 WL 43510, *1, (Comp. Gen. Jan. 29, 1999)). A vendor’s qualification of a bid may render it non-responsive, depending on whether the County is deprived of the assurance that the contract would be entered into, performed, and guaranteed according to its specific requirements. *Glatstien v. City of Miami*, 399 So. 2d 1005 (Fla. 3d DCA 1981). For price bids, if a qualification has a clear and demonstrable effect on the amount of the bid, it is a material deviation that cannot be waived. *Harry Pepper & Assocs., Inc. v. City of Cape Coral*, 352 So. 2d 1190, 1193 (Fla. 2d DCA 1977) (“The test for measuring whether a deviation in a bid is sufficiently material to destroy its competitive character is whether the variation affects the amount of the bid by giving the bidder an advantage or benefit not enjoyed by the other bidders.”).

Because Gas South qualified its proposal and did not truly provide a firm fixed service adder price, its bid is non-responsive. Regardless of the reasoning, Gas South improperly qualified its offer when the bidder added that it reserved “the right to adjust [its] offer[.]” See Gas South’s Bid Submittal Form, Section 4. This qualification frustrates the purpose of the Solicitation, as the County was seeking a “**firm** fixed service adder price[.]” Solicitation, Paragraph 2.5 (emphasis added). By taking exception to the Solicitation’s requirement of a firm fixed service adder price, Gas South has failed to unequivocally offer “to perform, without exception, ‘the exact thing called for in a solicitation[.]’” *Monument Realty LLC*, 535 F. Supp. 2d at 74. Consequently, the County was deprived of the assurance that the contract would be entered into, performed, and guaranteed according to its specific requirements, rendering Gas South’s submittal non-responsive. See *Glatstien v. City of Miami*, 399 So. 2d at 1007–08.

Conclusion

For the reasons stated above, Gas South’s submittal is non-responsive and should be disregarded. Please feel free to contact me if you have any questions or concerns about the foregoing.

/s/ Christian J. Fernandez-Andes



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: July 7, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(F)(7)

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)(7)
7-7-22

RESOLUTION NO. _____ R-618-22

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-01762 TO INTERCONN RESOURCES, LLC FOR SUPPLY OF NATURAL GAS FOR THE MIAMI-DADE WATER AND SEWER DEPARTMENT AND DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS WITH AN AMOUNT NOT TO EXCEED \$54,652,610.00 FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD TO INTERCONN RESOURCES, LLC, ISSUE THE APPROPRIATE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

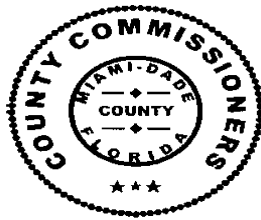
WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

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-01762 to Interconn Resources, LLC for supply of natural gas for the Miami-Dade Water and Sewer Department and Department Transportation and Public Works with an amount not to exceed \$54,652,610.00 for a five-year term; and authorizes the County Mayor or County Mayor's designee to give notice of this award to Interconn Resources, LLC, issue the appropriate orders to give effect to same and exercise all provisions of the contract, including any cancellation or extension provisions, 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 **Danielle Cohen Higgins**
 and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	absent	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 7th day of July, 2022. 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: **Basia Pruna**
 Deputy Clerk

Approved by County Attorney as
 to form and legal sufficiency.


Bruce Libhaber



Memorandum



To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: June 24, 2022

Re: CITT AGENDA ITEM 7B:
RESOLUTION BY THE CITIZENS’ INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS APPROVE AWARD OF CONTRACT NO. FB-01762 TO INTERCONN RESOURCES, LLC FOR SUPPLY OF NATURAL GAS FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS WITH AN AMOUNT NOT TO EXCEED **\$6,142,610.00** FOR A FIVE-YEAR TERM; AND AUTHORIZE THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO GIVE NOTICE OF THIS AWARD TO INTERCONN RESOURCES, LLC, ISSUE THE APPROPRIATE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION OR EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38 **(DTPW/ISD – BCC Legislative File No. 221144) NO SURTAX FUNDS REQUESTED**

On June 23, 2022, the CITT voted (6-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 22-013. The vote was as follows:

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

Hon. Peggy Bell – Aye
Meg Daly – Absent
Paul J. Schwiep, Esq. – Absent
Mary Street, Esq. – Aye

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

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