

Memorandum



Date: July 2, 2024

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

From: Daniella Levine Cava
Mayor 

Subject: Contract Award Recommendation for South Bulkhead Repairs Bays 165-177 - Project
No: 2010-051.06; Contract No: 2010-051.06, to Ebsary Foundation Company

Agenda Item No. 8(J)(2)

Resolution No. R-586-24

EXECUTIVE SUMMARY

The purpose of this item is to gain approval from the Board of County Commissioners ("Board") to award a competitively bid contract with the Ebsary Foundation Company ("Ebsary") for the South Bulkhead Repair Bays 165-177 at the Seaport Department ("PortMiami"). Project No: 2010-051.06 ("The Project") will reinforce the existing seawall sections for Bays #165 to #177 to withstand additional cargo container loads, as well as berth renovation improvements. This will allow larger and more efficient container cargo cranes to be utilized for more efficient container loading and unloading purposes.

The construction contract between Ebsary and PortMiami will have a 365-day term with a total contract amount of \$17,518,350.00. Approximately \$4,039,866.00 will be funded through a grant by the United States Department of Transportation Maritime Administration ("MARAD") under the Nationally Significant Freight and Highway Projects ("NSFHP") Program.

RECOMMENDATION

It is recommended that the Board approve a competitive award of Construction Contract: 2010-054.06, between Ebsary and PortMiami ("Contract"). The Contract will have a total contract amount not to exceed of \$17,518,350.00, inclusive of a base bid amount of \$14,795,000.00; a contingency allowance amount of \$1,479,500.00; a dedicated allowance amount for permits of \$443,850.00; a dedicated allowance amount (contaminated soils) of \$500,000.00; and a dedicated allowance amount (dockage/berthing/wharfage fees) of \$300,000.00.

SCOPE

PortMiami is located within District 5, which is represented by Commissioner Eileen Higgins. The impact of this agenda item is countywide as PortMiami is a regional asset and generates employment for residents throughout Miami-Dade County.

BACKGROUND

The Project consists of furnishing materials, labor, and equipment for the general construction necessary to repair approximately 1,440 linear feet of PortMiami's south bulkhead walls from Bays 165-177. The Scope of Work consists of but is not limited to: the installation of a concrete cap, king piles marine fenders, water stations, mooring bollards, and the demolition of a roll-on/roll-off ramp. In addition, adjacent areas along the seawall will be restored which shall include pavement and striping.

This project will seek reimbursement from federal funds through the United States Department of Transportation Maritime Administration (MARAD) under the Nationally Significant Freight and Highway

Projects (NSFHP) Program (23 U.S.C. 117) (FY 2019 Infra Grants) - Infra Grant No. 693JF72040008 for the PortMiami Bulkhead Rehabilitation and Capacity Expansion Project, and as such, all applicable Federal Laws, State Laws, Regulations, Executive Orders, and USDOT (MARAD) policies, procedures, and directives are required. It is important to note that due to MARAD and FDOT grant procurement guidelines, local preferences are precluded from the project. However, Davis-Bacon prevailing wages are applicable to the project.

FISCAL IMPACT / FUNDING SOURCE

The fiscal impact for the project/contract is \$17,518,350.00, inclusive of a base bid amount of \$14,795,000.00; a contingency allowance amount of \$1,479,500.00; a dedicated allowance amount for permits of \$443,850.00; a dedicated allowance amount (contaminated soils) of \$500,000.00; and a dedicated allowance amount (dockage/berthing/wharfage fees) of \$300,000.00.

The project/contract is funded from the Fiscal Year (FY) 2023-2024 Adopted Budget and Multi-Year Capital Plan with the below funding sources.

<u>Funding Source</u>	<u>Project Number</u>	<u>Site Number</u>	<u>Amount</u>
U.S. Department of Transportation Maritime Administration (MARAD) Funds - NSFHP	644520	75744	\$4,039,866.00
PortMiami Future Financing	644520	75744	<u>\$13,478,484.00</u>
Total Funding			\$17,518,350.00

OPERATIONS COST IMPACT / FUNDING

Throughout the life of the asset, there will be no impacts to operating costs as this is an infrastructure improvement project.

MAINTENANCE COST IMPACT / FUNDING

Throughout the life of the asset, maintenance costs are anticipated to be approximately five thousand dollars (\$5,000.00) annually.

LIFE EXPECTANCY OF ASSET

The life expectancy of the asset is approximately thirty (30) years.

PTP FUNDING

No

GOB FUNDING

No

ARRA FUNDING

No

CAPITAL BUDGET PROJECTS

CAPITAL BUDGET PROJECT NUMBER AND DESCRIPTION

AWARD ESTIMATE

644520 - INFRASTRUCTURE IMPROVEMENTS - CONTAINER YARD (SEABOARD)
\$1,341,000.00

Book Page: 219 - Adopted Budget and Multi-Year Capital
Plan FY 23-24 (US DOT Funds) Funding Year: FY PRIOR

644520 - INFRASTRUCTURE IMPROVEMENTS - CONTAINER YARD (SEABOARD)
\$1,341,000.00

Book Page: 219 - Adopted Budget and Multi-Year Capital
Plan FY 23-24 (US DOT Funds) Funding Year: FY 2023-2024

644520 - INFRASTRUCTURE IMPROVEMENTS - CONTAINER YARD (SEABOARD)
\$3,369,621.00

Book Page: 219 - Adopted Budget and Multi-Year Capital
Plan FY 23-24 (Future Financing) Funding Year: FY 2023-2024

644520 - INFRASTRUCTURE IMPROVEMENTS - CONTAINER YARD (SEABOARD)
\$1,341,000.00

Book Page: 219 - Adopted Budget and Multi-Year Capital
Plan FY 23-24 (US DOT) Funding Year: FY 2024-2025

644520 - INFRASTRUCTURE IMPROVEMENTS - CONTAINER YARD (SEABOARD)
\$10,108,863.00

Book Page: 219 - Adopted Budget and Multi-Year Capital
Plan FY 23-24 (Future Financing) Funding Year: FY 2024-2025

644520 - INFRASTRUCTURE IMPROVEMENTS - CONTAINER YARD (SEABOARD)
\$16,866.00

Book Page: 219 - Adopted Budget and Multi-Year Capital
Plan FY 23-24 (US DOT Funds) Funding Year: FY 2025-2026

CAPITAL BUDGET PROJECTS TOTAL

\$17,518,350.00

PROJECT TECHNICAL CERTIFICATION REQUIREMENTS

Miami-Dade County Contractor's Certification is required in one of the following categories: General Contractor or other categories as applicable to Chapter 10 of the Miami-Dade County Code, or State of Florida General Contractor's License.

SUSTAINABLE BUILDINGS ORDINANCE (I.O. NO. 8-8)

This Project does not involve the design, construction, renovation, and/or maintenance of County-owned, financed, and/or operated buildings.

SEA LEVEL RISE (ORD. NO. 14-79)

The impact of sea level rise has been considered as part of the design.

BID PACKAGES ISSUED

16

BIDS RECEIVED

5

TOTAL CONTRACT PERIOD

365 Calendar Days

CONTINGENCY PERIOD

10% of the project duration

IG FEE INCLUDED IN BASE CONTRACT

No (Grant Funding)

ART IN PUBLIC PLACES

No

BASE ESTIMATE

\$14,378,825.00

BASE CONTRACT AMOUNT

\$14,795,000.00

CONTINGENCY ALLOWANCE AMOUNT (SECTION 2-8.1 MIAMI DADE COUNTY CODE)

Type: Infrastructure

Percent: 10.00%

Amount: \$1,479,500.00

DEDICATED ALLOWANCE AMOUNT

Permit Fees: \$443,850.00 (3.00%)

Contaminated Soil: \$500,000.00

Dockage / Berthing / Wharfage Fees: \$300,000.00

Total Dedicated Allowance: \$1,243,850.00

TOTAL AMOUNT

\$17,518,350.00

DELEGATED 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:

The Standard Construction General Contract Conditions, Article 11, "Claims And Disputes," Section C 1b, "Disputes" states that for contracts valued at more than \$5 million, Disputes shall be decided by a designee appointed by the Office of the Mayor (OOM).

TRACK RECORD/MONITOR

Chief Port Engineer, Helga Sommer, and Frank Ramirez, Chief Procurement Officer, will be the Project and Contract Manager for this project.

Contract Manager Name / Phone / Email

Frank Ramirez / (305) 347-5508 / frank.ramirez@miamidade.gov

Project Manager Name / Phone / Email

Helga Sommer / (305) 347-3229 / helga.sommer@miamidade.gov

PROCUREMENT HISTORY/ SMALL BUSINESS ENTERPRISE MEASURES

The project was advertised on January 11, 2024, with an original base estimate of \$14,159,465.00 and was subsequently revised upward to \$14,378,825.00, due to Addendum No. 9 which was issued during the bidding process to provide clarifications and additions to the required scope of work.

Five (5) bids were received by March 20, 2024, and opened. The received base bid amounts (excluding allowance accounts) were \$14,795,000.00 from Ebsary Foundation Company; \$16,792,732.06 from Quality Construction Performance Inc.; \$17,348,183.00 from GLF Construction Corporation; \$21,162,900.00 from Kearns Construction Company; and \$21,513,945.00 from Mastec Civil, LLC. Ebsary's bid is 4.49% higher than the original base estimate (\$14,159,465.00) and 2.89% higher than the revised base estimate (\$14,378,825.00).

The bids were reviewed by PortMiami staff and the Engineer of Record (EOR) to determine whether the apparent lowest bidder Ebsary is responsive and responsible to all bid requirements. Ebsary has performed work similar to the requirements specified in the Project's scope of work and been in business as a contractor under its present business name for the past ninety-four (94) years.

Pursuant to Resolution R-187-12, and in accordance with the Internal Services Department's Procurement Guidelines, PortMiami staff exercised due diligence to determine the Contractor's responsibility. The lists that were referenced included: Sun Biz, Small Business Development (SBD) History of Violations Report, convicted vendors, debarred vendors, delinquent contractors, suspended vendors, and federal excluded parties. There were no adverse findings related to the Contractor's responsibility. PortMiami has also worked closely with the Internal Services Department in the issuance of this Award Recommendation.

In addition, PortMiami staff and the EOR reviewed the business references included in Ebsary's bid package and deemed their experience for projects similar in size and complexity to be in compliant with the contract requirements.

Additionally, as part of the due diligence verification process, PortMiami staff compiled information regarding Ebsary's prior experience with Miami-Dade County. Ebsary has been a Prime Contractor on fourteen (14) County projects and a Subcontractor on twenty-eight (28) County projects.

Finally, in accordance with Resolution No. R-1181-18, PortMiami considered the safety records of Ebsary. The information provided by Ebsary and the information verified by PortMiami through its own research, has determined that the safety records do not adversely affect the responsibility of Ebsary.

As a result of these comprehensive reviews, PortMiami and the EOR have confirmed that Ebsary has the extensive experience, impressive portfolio of current/completed projects, and available professional staffing needed to successfully complete the scope of work for the price stated in their submitted bid package.

SUBMITTAL DATE

March 20, 2024

ESTIMATED NOTICE TO PROCEED

July 1, 2024

PRIME CONTRACTOR

Ebsary Foundation Company

COMPANY PRINCIPAL(S)

Scott A. Alfele

COMPANY QUALIFIER(S)

Scott A. Alfele

COMPANY EMAIL ADDRESS(ES)

scotta@ebsaryfoundationco.com

COMPANY STREET ADDRESS

2154 NW North River Drive

COMPANY CITY-STATE-ZIP

Miami, Florida 33125

YEARS IN BUSINESS

Ninety-four (94) years

PREVIOUS EXPERIENCE WITH COUNTY IN THE LAST FIVE (5) YEARS

Fourteen (14) times as a Prime Contractor & twenty-eight (28) times as a Subcontractor.

SUBCONTRACTORS

3C Construction Corporation and Professional Equipment Corporation

MINIMUM QUALIFICATIONS EXCEED LEGAL REQUIREMENTS

Yes. The prime contractor and / or its subcontractors performing the work shall have a minimum experience (combination) of at least three (3) similar marine projects in the last ten (10) years, where one of these three (3) projects was completed within the past five (5) years under the firm's current business name. Subcontractor(s) must be identified with the bid. Similar projects consist of projects involving repair of bulkhead walls of twenty-five (25) feet or more in depth; installation of underwater bolted or welded plates in an existing underwater steel sheet piling; installation of steel piles with vibratory hammer; installation of new foam filled fenders in a major port; underwater assessment and measurements; and underwater pictures and video recording.

Such proof shall consist of a list of projects, completed prior to the bid date, with the names and telephone numbers of the owners or representatives that PortMiami can contact to confirm the listed experience.

REVIEW COMMITTEE

Meeting Date: November 22, 2023

Signoff Date: November 29, 2023

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

Due to grant funding from MARAD and FDOT, Davis-Bacon wages are applicable.

REVIEW COMMITTEE ASSIGNED CONTRACT MEASURES

N/A due to grant funding from MARAD and FDOT.

MANDATORY CLEARING HOUSE

No



Jimmy Morales
Chief Operations Officer

CONSTRUCTION CONTRACT

STATE OF FL) ss.:
Miami-
COUNTY OF Dade)

THIS AGREEMENT made and entered into as of the ____ day of _____, 20__, by and between Miami-Dade County and Ebsary Foundation Company hereinafter called the Contractor:

WITNESSETH, that the said Contractor for and in consideration of the payments hereinafter specified and agreed to be made by Miami-Dade County, hereby covenants and agrees to furnish and deliver all the materials required, to do and perform all the work and labor required to complete **CONTRACT / PROJECT NO. 2010-051.06**, entitled, **SOUTH BULKHEAD REPAIRS BAYS 165-177**, within the time specified, in strict and entire conformity with the Contract Documents hereinafter listed, which are hereby incorporated into this Contract by reference:

Contract Documents: Conformed Contract Specifications and Drawings

The Contractor agrees to make payment of all proper charges for labor and materials required in the aforementioned work, and to defend, indemnify and save harmless Miami-Dade County and all its officers and agents against and from all suits and costs of every kind and description, and from all damages to which the said Miami-Dade County or any of its officers and agents may be put, by reason of injury or death to persons or injury to property of others resulting from the performance of said work, or through the negligence of the Contractor, or through any improper or defective machinery, implements or appliances used by the Contractor in the aforesaid work, or through any act or omission on the part of the Contractor, or his agent or agents, employees or servants.

The Contractor agrees that the requirements of this contract are reasonable and achievable.

In consideration of the premises, Miami-Dade County hereby agrees to pay to the Contractor for said work, when fully completed, the total sum not to exceed **Seventeen Million Five Hundred Eighteen Thousand Three Hundred Fifty And 00/100 (\$17,518,350.00)**, being the amount obtained from either the aggregate lump sum prices, the application of unit prices to the quantities shown in the Bid Form or the combination of both.

The total sum is subject to such additions and deductions as may be provided for in the Contract Documents.

Payments on account will be made as provided for in the Contract Documents.

In Witness whereof, the parties hereto have caused this Contract to be executed by their appropriate officials, as of the date first above written.

(OFFICIAL SEAL)

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

ATTEST:

JUAN FERNANDEZ-BARQUIN, CLERK

By: _____
Deputy Clerk

By: _____
County Mayor

Approved by County Attorney
as to Form and Legal Sufficiency _____

When Contractor is a corporation:

(CORPORATE SEAL)



Ebsary Foundation Co.
(printed name of corporation)

Florida
(printed state of incorporation)

By: Scott Alfele President
(signature of president or vice-president & capacity)

By: Scott Alfele, President
(printed name of president or vice-president & capacity)

By: Matt Shiring SECRETARY
(signature of secretary or assistant secretary & capacity)

MATT SHIRING, SECRETARY
(printed name of secretary or assistant secretary & capacity)

2154 N.W. North River Dr.

Miami, FL 33125

(business address of corporation)

ACKNOWLEDGMENT:

STATE OF Florida) ss.:

COUNTY OF Miami-Dade

Before me personally appeared Scott Alfele, as President, to me well known or has presented _____ as

(Type of Identification)

identification and Matthew Shiring, as Secretary, to me well known or has presented _____ a

(Type of Identification)

identification and known to me to be the individuals described in and who executed the foregoing instrument as Scott Alfele President and Matthew Shiring Secretary of the above named Ebsary Foundation Co. a Corporation, and severally acknowledged that they executed such instrument as President and _____ Secretary, respectively, of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority, and said instrument is the free act and deed of said corporation.

CONTRACT/PROJECT NO. 2010-051.06

JANUARY 2024

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USDOT (MARAD) NSFHP GRANT NO. 693JF72040008

CONSTRUCTION CONTRACT

MDC010

SUBSCRIBED AND SWORN TO (or affirmed) before me on 4/1/24
(Date)

by Scott Aifele/Matthew Shining He/She is personally known to me
(Affiant)

or has presented _____ as identification.
(Type of Identification)

Magaly Lizano
(Signature of Notary)

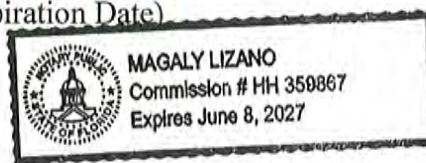
(Serial Number)

Magaly Lizano
(Print of Stamp Name of Notary)

June 8, 2027
(Expiration Date)

Notary Public Florida
(State)

Notary Seal:



When Contractor is a joint venture:

(printed name of joint venture)

(business address of joint venture)

Note: Complete in accordance with Article 18 of the Instructions to Bidders.



MEMORANDUM

(Revised)

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

DATE: July 2, 2024

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(J)(2)

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(J)(2)
7-2-24

RESOLUTION NO. R-586-24

RESOLUTION APPROVING CONTRACT AWARD TO
EBSARY FOUNDATION COMPANY FOR SOUTH
BULKHEAD REPAIRS BAYS 165-177, CONTRACT NO. 2010-
051.06, IN AN AMOUNT NOT TO EXCEED \$17,518,350.00;
AUTHORIZING THE COUNTY MAYOR OR COUNTY
MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR
AND ON BEHALF OF MIAMI-DADE COUNTY AND TO
EXERCISE ALL RIGHTS CONTAINED THEREIN

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 the execution of Contract No. 2010-051.06 to Ebsary Foundation Company in substantially the form attached hereto, in a total amount not to exceed \$17,518,350.00, for South Bulkhead Repairs Bays 165-177; and authorizes the County Mayor or County Mayor's designee to execute same and to exercise all rights contained therein. A copy of the entire contract documents are on file with the Seaport Department and available upon request.

The foregoing resolution was offered by Commissioner **Danielle Cohen Higgins** , who moved its adoption. The motion was seconded by Commissioner **Kionne L. McGhee** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of July, 2024. 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: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MAG

Miguel A. Gonzalez