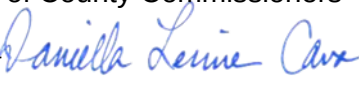


Date: October 1, 2024

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

From: Daniella Levine Cava 
Mayor

Agenda Item No. 8(P)(3)

Resolution No. R-868-24

Subject: Recommendation to Award Contracts for Odor Control Chemicals

Summary

This item will allow the Water and Sewer Department (WASD) and the Department of Solid Waste Management (DSWM) to purchase odor control chemicals. WASD uses the chemicals to neutralize and control the odor caused by organic sewage and processed wet and dry sludge at the wastewater treatment plants, while DSWM uses the chemical to counteract odor caused by landfill operations. Maintaining the current efforts by WASD and DSWM to neutralize and control the odor at their facilities is required to comply with the County's Environmental Protection Ordinance as stated in Chapter 24 of the Code of Ordinances and the regulations, guidelines, standards, and permits issued by the Florida Department of Environmental Protection (FDEP). The solicitation included two groups: Group 1 for the purchase of odor control chemicals, and Group 2 for the establishment of a prequalification pool for atomizing systems. This item is requesting approval for Group 1 only because Group 2 will be established under delegated authority.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve competitive contract awards, *Contract No. EVN0000700, Odor Control Chemicals and Atomizing Systems (Group 1)*, to ONM Environmental, Inc dba Odor No More (Line Items 3 and 4) in the amount of \$365,558; Pancar Industrial Supply Corporation (Line Item 2) in the amount of \$754,500; and Total Connection Inc. (Line Item 1) in the amount of \$1,577,708, which was for a total amount of \$2,697,766 for a five-year term for WASD and DSWM. These contracts will replace *Contract No. FB-01676*, which was approved by the Board on May 4, 2021 via Resolution No. R-415-21.

Background

An Invitation to Bid was issued under full and open competition on January 23, 2024. Upon advertisement of the solicitation, a total of 283 vendors were notified. On the closing date of February 14, 2024, the County received six bids, including three from certified Small Business Enterprise (SBE) firms. Outreach efforts included contacting vendors identified through market research, as well as notifying the incumbent vendors. Market research revealed limited local vendors and certified SBE firms who were able to provide the required chemicals in accordance with the specifications.

Upon review of the bids received, staff identified potential responsiveness issues from the two lowest bidders on certain line items and requested legal review of their bids on March 13, 2024 from the County Attorney's Office (CAO). On April 12, 2024, the CAO determined that the bids from ONM Environmental Inc. dba Odor No More for Line Items 1 and 2 and St. Martin's Chemical Inc. dba ChemStation of Florida for Line Item 2 were non-responsive because both failed to provide the items specified in the solicitation. A copy of the CAO's Responsiveness Opinion is attached hereto as Exhibit 1.

This item is only recommending awards, on a line item basis, under Group 1 for the purchase of odor control chemicals. Group 2, for the establishment of a prequalification pool for the purchase of atomizing equipment, related supplies, parts, installation, maintenance, and repair services on an as-needed basis, will be established under delegated authority for under \$500,000. The approval of the contracts for Group 1 will allow WASD and DSWM to maintain the current efforts to neutralize odor caused by

wastewater treatment plants and by the transfer stations and landfill operations to comply with Chapter 24 of the Code of Ordinances and the regulations, guidelines, standards, and permits issued by FDEP.

Scope

The scope of this item is countywide in nature.

Fiscal Impact/Funding Source

The fiscal impact for the five-year term is \$2,697,766. The current contract, Group 1, is valued at \$1,873,659 for a three-year and six-month term and expires on November 30, 2024. The allocation under the replacement contracts is lower than the current contract on an annualized basis due to the lower pricing offered by the lowest bidders for Line Items 2, 3, and 4. Both the current and replacement pools (Group 2) are valued under \$500,000.

Department	Allocation	Funding Source	Contract Manager
DSWM	\$1,641,870	Proprietary Funds	Karina Careaga
WASD	\$1,055,896	Proprietary Funds	Susan Pascul
Total	\$2,697,766		

Track Record/Monitor

Manuel Jimenez of the Strategic Procurement Department (SPD) 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 give notice of this award to the recommended vendors, issue the appropriate purchase orders to give effect to same and exercise all provisions of the contracts, including any cancellations or extensions, pursuant to Section 2-8.1 of the County Code and Implementing Order 3-38.

Vendors Recommended for Award

Pursuant to Resolution No. R-477-18, the lowest bidder for Group 1, Line Items 3 and 4, is being recommended in accordance with the method of award per the solicitation and is non-local.

Vendor	Principal Address	Local Address	Number of Employee Residents	Principal	Items Awarded under Group 1
			1) Miami-Dade 2) Percentage*		
ONM Environmental, Inc. dba Odor No More	14921 Chestnut Street Westminster, CA	None	0	John R. Browning	3 and 4
			0%		
Pancar Industrial Supply Corporation (SBE)	6916 NW 46 Street Miami, FL	Same	3	Francisco Fletes	2
			100%		
Total Connection Inc. (SBE)	20451 NW 2 Avenue Miami, FL	Same	3	Joseph Orukotan	1
			75%		

*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
Maintenance Services 360 LLC	Yes	Higher than lowest bid for each line item
Weaver Consultants Group, LLC	No	
St. Martins Chemical, Inc. dba ChemStation of Florida	No	Deemed non-responsive for Line Items 1 and 2 by the CAO (attached). Higher than lowest bid for Line Items 3 and 4

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.

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 comments, and holding meetings and drafting sessions with the user departments. The scope of services was updated to include additional odor control chemicals under Group 1 and increase the estimated quantities for Line Item 1. Line Items 3 and 4 were added to the current contract after its implementation in late 2022 and were also included in the proposed contracts.

Applicability of Ordinances and Contract Measures

- The two percent User Access Program applies.
- The SBE measures and Local Preference applied where permitted by funding source.
- The Living Wage Ordinance does not apply.
- The Responsible Wages Ordinance applies.

Attachment



Jimmy Morales
Chief Operating Officer

Exhibit 1

Memorandum



Date: April 12, 2024

To: Marcelo Cam
Procurement Contracting Officer
Strategic Procurement Department

From: Jose I. Ortega
Assistant County Attorney
County Attorney's Office

Subject: Request for Responsiveness Determination on EVN0000700: Odor Control Chemicals and Atomizing Systems Items No. 1 and 2

This memorandum is prepared in response to your March 13, 2024, memorandum to Eduardo Gonzalez requesting a responsiveness opinion on the bid submittals received from ONM Environmental Inc. dba Odor No More Inc. ("ONM Environmental") and St. Martins Chemical Inc. dba ChemStation of Florida ("St. Martins Chemical") in response to Invitation to Bid No. EVN0000700 (the "Solicitation"). Following a review of the Solicitation and the information contained in your memorandum, I conclude that the bid submittals from ONM Environmental for Line-Items No. 1 and 2 and St. Martins Chemical for Line-Item 2 are non-responsive as the bidders offered substitute products when the County requested no substitutes for the line-items at issue. Please note that the below opinion is solely based on the information set forth in your memorandum and the Solicitation. If new or additional facts are discovered, this opinion is subject to alterations or retractions.

Background

Per your memorandum, on January 23, 2024, the Strategic Procurement Department solicited sealed bids via INFORMS under the Solicitation, on behalf of the Water and Sewer Department and the Department of Solid Waste Management. This is a hybrid solicitation, consisting of Group 1 with four line-items, all odor control chemicals, to be awarded to the lowest responsive and responsible bidder(s) on a line-by-line basis, and Group 2 for a prequalification pool of vendors. On February 14, 2024, six (6) bids were received.

The four line-items to be awarded for Group 1 were originally listed as follows in Section 4 of the Solicitation:

Line-Item No.	Estimated Quantity (5 Years)	Unit of Measure	Description	Unit Price
1	124,720	Gallons	Big D, Sewer-D, Odor Eliminator Concentrated in 5-gallon container as defined in Section 3.2.1 (NO SUBSTITUTES)	Unit Price for each line item to be provided in INFORMS
2	750	Drums	Pyranha-Odaway Odor Control Concentrate in 47.9-gallon drum, per specifications in Section 3.2.2 (NO SUBSTITUTES)	
3	35	275-Gallon Totes	Aero 4 Botanical Neutralizer in 275-Gallon Totes, per specifications in Section 3.2.3 (NO SUBSTITUTES)	
4	35	275-Gallon Totes	SL-4000 Neutralizer in 275-Gallon Totes, per specifications in Section 3.2.4 (NO SUBSTITUTES)	

Each line-item was originally accompanied by a notation stating, “NO SUBSTITUTES,” and with regards, to substitutions, the Solicitation stated the following in Section 3:

3.2 ODOR CONTROL CHEMICAL SPECIFICATIONS (GROUP 1)

The odor control chemicals to be purchased under Group 1 are as indicated below. No Substitution is allowed without the express consent of the County. If any Bidder provides a substitution for any item below, its offer may be deemed nonresponsive for that item.

On February 2, 2024, the above referenced sections were subsequently amended with Addendum 1 stating the following:

1. Pursuant to Section 3, Paragraph 3.2, Odor Control Chemical Specifications (Group 1), the first paragraph language is hereby Deleted in its entirety and Replaced with the following language, to allow substitution for the indicated items:

The odor control chemicals to be purchased under Group 1 are as indicated below. Substitution for Line-Items No. 3 and 4 may be considered by the County if the offered product(s) is considered an approved equal by the County. The County’s decision is to be final at its sole discretion and in its best interest. Approved Equal shall refer to products or chemicals considered equal or better in all characteristics and performance to those specified in the contract as approved by the County.

2. Pursuant to Section 4, Bid Submittal Form, Line-Items No. 3 and 4 are Revised as indicated below, to allow substitution:

Line-Item No.	Estimated Quantity (5 Years)	Unit of Measure	Description	Unit Price
3	35	275-Gallon Totes	Aero 4 Botanical Neutralizer in 275-Gallon Totes, per specifications in Section 3.2.3 <u>(NO SUBSTITUTES); or Approved Equal Product.</u>	Unit Price for each line item to be provided in INFORMS
4	35	275-Gallon Totes	SL-4000 Neutralizer in 275-Gallon Totes, per specifications in Section 3.2.4 <u>(NO SUBSTITUTES); or Approved Equal Product.</u>	

Further, Addendum 1 answered the following question:

Question 4: In Group 1, Would you consider an alternative, equal, or better product? We can deliver samples for trial testing.

Answer: See Revisions to Bid Document above, Item No. 1. **Substitutes are not accepted for Line-Items No. 1 and 2.**

(emphasis added). Per your memorandum, for Line-Items No. 1 and 2, the lowest bidders—ONM Environmental and St. Martins Chemical—provided substitute products:

Line-Item No. 1 (Big D, Sewer-D)

Ranking	Bidder	Product Offered
1	ONM Environmental Inc. dba Odor No More Inc.	CupriDyne Clean (Pages 78 thru 117)
2	St Martins Chemical Inc. dba ChemStation of Florida	ChemStation 8185 (Pages 118 thru 173)

Line-Item No. 2 (Pyranha-Odaway Odor Control)

Ranking	Bidder	Product Offered
1	ONM Environmental Inc. dba Odor No More Inc.	CupriDyne Clean (Pages 78 thru 117)

Discussion

“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)). See also Glatstien v. City of Miami, 399 So. 2d 1005 (Fla. 3d DCA 1981) (a deviation in a bid renders such bid nonresponsive if it: (1) would deprive the County of the assurance that the contract would be entered into, performed and guaranteed according to its specific requirements; and (2) adversely affect competitive bidding by placing a proposer in a position of advantage over other proposers).

Here, both bidders have not offered to perform, without exception, the exact thing called for in the Solicitation by not offering to provide the type of product that the Solicitation requested for Line-Items No. 1 and 2, which explicitly called for “NO SUBSTITUTES.” Because both vendors materially deviated from the terms and conditions of the Solicitation and placed their bids in a position of potential advantage over other bidders, the bid submittals from ONM Environmental for Line-Items No. 1 and 2 and St. Martins Chemical for Line-Item 2 are non-responsive.



Jose I. Ortega

Memorandum



Date: March 13, 2024

To: Eduardo Gonzalez
Assistant County Attorney
County Attorney's Office

From: Marcelo Cam
Procurement Contracting Officer
Strategic Procurement Department

Subject: Request for Responsiveness Determination on EVN0000700: Odor Control Chemicals and Atomizing Systems Items No. 1 and 2.

Mr. Gonzalez, the Strategic Procurement Department (SPD) is respectfully requesting a County Attorney's Opinion for responsiveness for the following bid submittals as described below:

On January 23, 2024, the SPD solicited sealed bids via INFORMS under solicitation No. EVN0000700, on behalf of the Department of Water and Sewer (WASD) and the Department of Solid Waste Management (DSWM). This is a hybrid solicitation, consisting of Group 1 with four line-items to be awarded to the lowest responsive and responsible Bidder(s) on a line-by-line basis, and Group 2 for prequalification pool of vendors. On February 14, 2024, six (6) bids were received for the subject solicitation and subsequently reviewed for responsiveness and responsibility.

On page 17, Section 3, paragraph 3.2, of the solicitation (first paragraph) was revised to allow substitutions for Line-Items No. 3 and 4, as indicated on Addendum No. 1, Part A, for Section 3, paragraph 3.2 as follows:

"The odor control chemicals to be purchased under Group 1 are as indicated below. Substitution for Line-Items No. 3 and 4 may be considered by the County if the offered product(s) is considered an approved equal by the County. The County's decision is to be final at its sole discretion and in its best interest. Approved Equal shall refer to products or chemicals considered equal or better in all characteristics and performance to those specified in the contract as approved by the County."

Additionally, on page 15, Section 4, Bid Submittal Form, Paragraph 4.1, Pricing (Group 1), for Line-Items No. 1 and 2 under the description indicates "NO SUBSTITUTES" as follows:

Line-Item No.	Estimated Quantity (5 Years)	Unit of Measure	Description	Unit Price
1	124,720	Gallons	Big D, Sewer-D, Odor Eliminator Concentrated in 5-gallon container as defined in Section 3.2.1 (NO SUBSTITUTES)	Unit Price for each line item to be provided in INFORMS
2	750	Drums	Pyranha-Odaway Odor Control Concentrate in 47.9-gallon drum, per specifications in Section 3.2.2 (NO SUBSTITUTES)	
3	35	275-Gallon Totes	Aero 4 Botanical Neutralizer in 275-Gallon Totes, per specifications in Section 3.2.3; or Approved Equal Product.	
4	35	275-Gallon Totes	SL-4000 Neutralizer in 275-Gallon Totes, per specifications in Section 3.2.4; or Approved Equal Product.	

Upon reviewing the bid submittals for Line-Items No. 1 (which belongs to WASD and DSWM) and 2 (which belongs to DSWM), it was noticed that the top lowest bidders for these line-items (ONM Environmental Inc. dba Odor No More Inc. and St Martins Chemical Inc. dba ChemStation of Florida, see Tally), provided the following products as substitutes as indicated below:

Line-Item No. 1 (Big D, Sewer-D)

Ranking	Bidder	Product Offered
1	ONM Environmental Inc. dba Odor No More Inc.	CupriDyne Clean (Pages 78 thru 117)
2	St Martins Chemical Inc. dba ChemStation of Florida	ChemStation 8185 (Pages 118 thru 173)

Line-Item No. 2 (Pyranha-Odaway Odor Control)

Ranking	Bidder	Product Offered
1	ONM Environmental Inc. dba Odor No More Inc.	CupriDyne Clean (Pages 78 thru 117)

Please review and advise if ONM Environmental and St Martins Chemical are responsive for Line-Item No. 1 and ONM Environmental for Line-Item No. 2. The total value of this solicitation is over \$1M and will require Board approval.

If you have any questions, please contact me at (305) 213-8262. Thank you for your attention to this matter.

Attachments:

Solicitation EVN0000700

EVN0000700 Tabulation Packet with Bid Submittals

Tally for EVN0000700



MEMORANDUM

(Revised)

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

DATE: October 1, 2024

FROM: 
Glen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(P)(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 ____, majority plus one ____, 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) ____, 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)(3)
10-1-24

RESOLUTION NO. _____ R-868-24

RESOLUTION APPROVING AWARD OF CONTRACT NO. EVN0000700 (GROUP 1, LINE ITEMS 3 AND 4) TO ONM ENVIRONMENTAL, INC. DBA ODOR NO MORE IN AN AMOUNT NOT TO EXCEED \$365,558.00, CONTRACT NO. EVN0000700 (GROUP 1, LINE ITEM 2) TO PANCAR INDUSTRIAL SUPPLY CORPORATION IN AN AMOUNT NOT TO EXCEED \$754,500.00 AND CONTRACT NO. EVN0000700 (GROUP 1, LINE ITEM 1) TO TOTAL CONNECTION INC. IN AN AMOUNT NOT TO EXCEED \$1,577,708.00 FOR ODOR CONTROL CHEMICALS FOR THE WATER AND SEWER DEPARTMENT AND THE DEPARTMENT OF SOLID WASTE MANAGEMENT IN A TOTAL AMOUNT NOT TO EXCEED \$2,697,766.00 FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD TO THE RECOMMENDED VENDORS, ISSUE THE APPROPRIATE PURCHASE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACTS, INCLUDING ANY CANCELLATIONS OR EXTENSIONS, 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. EVN0000700 (Group 1, Line Items 3 and 4) to ONM Environmental, Inc. dba Odor No More in an amount not to exceed \$365,558.00; Contract No. EVN0000700 (Group 1, Line Item 2) to Pancar Industrial Supply Corporation in an amount to exceed \$754,500.00; and Contract No. EVN0000700 (Group 1, Line Item 1) to Total Connection Inc. in an amount not to exceed \$1,577,708.00 for odor control chemicals for the Water and Sewer Department and the

Department of Solid Waste Management in a total amount not to exceed \$2,697,766.00 for a five-year term; and authorizing the County Mayor or County Mayor's designee to give notice of this award to the recommended vendors, issue the appropriate purchase orders to give effect to same and exercise all provisions of the contracts, including any cancellations or extensions, pursuant to section 2-8.1 of the Code of Miami-Dade County, Florida and Implementing Order 3-38. Copies of the contract documents are on file with and available upon request from the Strategic Procurement Department.

The foregoing resolution was offered by Commissioner **Juan Carlos Bermudez** , who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

	Oliver G. Gilbert, III, Chairman	aye	
	Anthony Rodríguez, Vice Chairman	absent	
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Roberto J. Gonzalez	absent	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 1st day of October, 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.

SED

Jose I. Ortega
Sarah E. Davis