




Memorandum



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To: The Honorable Carlos A. Gimenez, Mayor, Miami-Dade County
The Honorable Chairwoman Audrey M. Edmonson
And Members, Board of County Commissioners

From: Felix Jimenez, Interim Inspector General 

Date: October 15, 2020

Subject: Proposed Interim Agreement for the Rapid Mass Transit Solution for the Beach Corridor Trunk Line – RFP-01353; Ref. IG19-0011-O

By way of this memorandum, the Office of the Inspector General (OIG) advises that we have been actively monitoring the procurement process for the “Rapid Mass Transit Solution for the Beach Corridor Trunk Line – RFP-01353” (Project). We would like to take this opportunity to share some of our observations on the proposed Interim Agreement, which is scheduled for consideration and recommendation by the Citizens Independent Transportation Trust on October 15, 2020, and by the Board of County Commissioners (BCC) on October 20, 2020. Our observations are intended to provide the Board of County Commissioners with additional background and insight from a procurement monitoring and contract oversight perspective.

The proposed Interim Agreement provides an 18-month period during which MBM Partners LLC (MBM) would have exclusive rights to continue negotiating with the County for the Project. Also, during this period, MBM would begin necessary pre-development work, begin design, and refine costs. Prior to the end of this period, if negotiations are successful and the County desires to continue with the Project, a negotiated Project Agreement will be presented to the BCC for approval.¹ The Interim Agreement also provides that it may be terminated by either party during the interim period for cause or convenience.

BACKGROUND

The OIG began monitoring and providing oversight of this procurement soon after May 2, 2019, when we became aware that the County received an unsolicited proposal (USP) for a P3 (Public Private Partnership) project for a monorail system to connect Miami to Miami Beach via the MacArthur Causeway. This transit corridor is one of six corridors identified in the County’s SMART Plan.² The proposal to design, build, finance, operate,

¹ BCC approval of the Project Agreement is also known as the Commercial Close.

² The Strategic Miami Area Rapid Transit Plan

and maintain a monorail system was submitted by a consortium of companies self-identified as the Miami Beach Monorail Consortium, consisting of Resorts World Miami LLC; Genting America, Inc.; BYD Motors, LLC; and Aqualand Development Ltd. Co. The Consortium asserted confidentiality of its USP and an exemption from public disclosure pursuant to Section 2-8.2.6(1) of the Code of Miami-Dade County and Section 255.065(15)(b)(1) of the Florida Statutes.³

Following the County Administration's favorable review⁴ of the USP, the Administration recommended that an RFP be issued for the same purpose. The BCC, on July 10, 2019, via Resolution R-761-19, authorized the preparation of the RFP. At the beginning of the discussion of this item, the Mayor stated his desire to clear the record of what he described as significant misinformation detrimental not only to the USP but also to the process. The Mayor announced that he had just received a limited waiver from the Consortium allowing him to disclose some exempt information. During that statement, the Mayor disclosed that the USP project cost estimate was approximately \$400 million.

Subsequently, on September 4, 2019, the BCC, via Resolution R-905-19, authorized the advertisement of RFP-01351 for a Rapid Mass Transit Solution for the Beach Corridor Trunk Line. The BCC directed that 180 days be provided to allow sufficient time for interested parties to respond. The RFP was issued on September 18, 2019 with proposals due on March 17, 2020. In the RFP, Section 3.2 stated that "The County will consider the following elevated technologies: monorail, light rail, and automated people mover. The County will consider the following at-grade technology: bus rapid transit (BRT) in a Dedicated Lane. Additionally, the County will consider other technologies that are capable of meeting the Technical Specifications, as applicable, via the ATC [Alternative Technical Concept] process outlined in Section 2.15."

When the RFP was released, the County's Project Development and Environment (PD&E) study for the Beach Corridor had not been finalized but had been previously released in draft format for discussion and review. On December 11, 2019, Addendum No. 7 to RFP-01353 was released. This Addendum did not add additional requirements but provided significant information to assist the interested parties. Included in Addendum No. 7 were the following:

- Exhibit 26: Tier One Evaluation Report, Miami Dade County Department of Transportation and Public Works Beach Corridor Rapid Transit Project – Parsons Corporation, Revised April 2018
- Exhibit 27: Miami Corridor Analysis Report for the Beach Corridor Rapid Transit Project, Project Development and Environment (PD&E) Study, Parsons Corporation, August 2018

³ At such time that the Mayor makes an award recommendation for RFP-01353, the unsolicited proposal would be subject to disclosure except for those portions designated as trade secrets.

⁴ "The County evaluated the proposal in accordance with Section 2-8.2.6 of the County Code. At the conclusion of its evaluation, County staff determined that the unsolicited proposal was financially viable and offered a transportation solution that is consistent with the Strategic Miami Area Rapid Transit Plan (SMART Plan) previously adopted by the Board." Mayor's Memorandum, July 10, 2019

Between November 2019 and January 2020, as provided for in the RFP, the County received and reviewed preliminary ATCs from four interested parties. Three of the four ATC proposals received authorization to continue the process with their proposed concept. The fourth was not approved as it presented traffic and safety concerns from FDOT and the County.

On January 30, 2020, the Transportation Planning Organization Governing Board (TPO) selected elevated rubber tire technology as the Locally Preferred Alternative.⁵ The County's Metromover is a type of elevated rubber tire technology. The USP's monorail proposal was also a type of elevated rubber tire technology, as is the proposal under consideration in the Interim Agreement.

Six weeks prior to the proposal due date the global concern regarding the coronavirus disease (COVID-19) escalated such that on January 31, 2020, the World Health Organization declared a Global Health Emergency. On March 9, 2020, Florida's Governor issued Executive Order 20-52 declaring a state of emergency. On March 12, 2020, five (5) days before the proposal due date, the County Mayor declared a local state of emergency for all of Miami-Dade County. On March 13, 2020, the President of the United States of America declared the novel coronavirus a national emergency.

On March 17, 2020, the due date for proposals, the County received a single proposal from MBM Partners LLC (MBM). On May 15, 2020, the County Administration sought the direction of the BCC on this procurement due to the fact that only one proposal was received. As explained in the Mayor's Memorandum, dated May 11, 2020:

"Prior to the proposal due date, staff was notified by a potential proposer that due to dissolution of their project team late in the process, they would be unable to submit a proposal by the due date. Following the proposal submission deadline, a communication was received from another potential proposer stating that they had opted not to provide a proposal based upon concerns regarding additional time needed to prepare a proposal and a concern related to the disclosure of information."

Anecdotally, it was also verbally stated that the COVID-19 situation in Europe had made it extremely difficult for the former proposer to put together a new team.

On May 15, 2020, the BCC voted to accept the Mayor's report and provided direction to move forward with an evaluation of the single proposal received and come back to the Board with a recommendation.⁶

⁵ TPO Resolution #30-2020, which states in part: "Section 1. For the Beach Corridor Trunkline, which extends from the existing Downtown Metromover Omni Extension along MacArthur Causeway to 5th Street near Washington Avenue, the selected technology is elevated rubber tire vehicles."

⁶ This item was on the BCC agenda of June 2, 2020 for reconsideration, which was then deferred to June 16, 2020. Subsequently, on June 16, after much discussion, the BCC rejected the Mayor's report, however, the Mayor advised the BCC that he would continue with the prescribed process of evaluating the single proposal received and coming back to the Board with a recommendation.

THE SINGLE PROPOSAL RECEIVED BY MBM PARTNERS LLC (MBM)

MBM proposed an approximately 3.5-mile fixed dual guideway monorail from mainland Miami to Miami Beach. Some highlights of the proposal include:

- Miami monorail station will be located adjacent to a new Metromover station on Herald Plaza near I-395
 - Includes relocating the Omni Bus Terminal to the new multi-modal center and requires a land swap with Resorts World Miami
- Miami Beach monorail station located in the median of 5th Street between Lenox and Michigan Avenues
- Optional monorail station on Watson Island may be negotiated during the interim period (no cost estimate at this time)
- Option to extend the monorail to a station at 5th Street and Washington Avenue on Miami Beach (approximately a quarter mile further) (no cost estimate at this time)
- Vehicle Maintenance Storage Facility to be located on Watson Island
- Two (2) x 3-car monorail trains travelling on dual fixed guideways
- Monorail trip time between stations is 4 minutes 30 seconds
- Headway between monorail trains is 5 minutes (round trip is 10 minutes)
- Passenger capacity per train is 300 passengers (pre-COVID)
- Passengers per hour per direction per train is 3,600 (pre-COVID)
- Jacobs Engineering is identified as the lead designer, Engineer of Record, for the Project.
- CBNA⁷ is identified as the construction contractor for Project
- The proposal did not identify an entity as the Operator
- Maximum Project cost is \$585,500,000 (per Interim Agreement, but with only the two locations, options not included)

EVALUATION OF THE SINGLE PROPOSAL

On May 26 & 27, 2020, the Competitive Selection Committee⁸ (CSC) held Kick-Off meetings.⁹ On June 10, 2020, the CSC discussed, evaluated, and scored the technical portion (Criteria 1 through 6) of the proposal resulting in a cumulative score of 3,521 out of a possible 4,200 points.¹⁰ It was noted during the meeting that cumulatively, the

⁷ CBNA was the construction contractor for the PortMiami Tunnel project.

⁸ The CSC consisted of seven voting members whose affiliations are as follows: Department of Transportation and Public Works (2 members), County Finance Department (1), Water and Sewer Department (1), Florida Department of Transportation (1), City of Miami (1), and City of Miami Beach (1).

⁹ All CSC meetings and the resulting negotiation meetings were conducted via Zoom®.

¹⁰ The CSC members noted that the proposal did not identify the entity that would be responsible for operating and maintaining the monorail system. In response, they were instructed to evaluate and score the technical criteria accordingly.

proposal scored 83.8 percent, placing it in the category of Good (70% - 89%) and therefore eligible for further consideration.¹¹ Table 1 below displays the CSC members combined scores for each technical criteria.

Table 1 – Evaluation of the Technical Criteria

Technical Criteria	Maximum Points Available	Total Points Awarded	Percentage of Maximum	Rating
C1 - Qualifications and Capabilities	1,400	1,143	81.6%	Good
C2 - Technical Proposal	875	743	84.9%	Good
C3 - Project and Solution Approach	875	720	82.3%	Good
C4 - Solution Security	350	302	86.3%	Good
C5 - Interim Agreement	350	288	82.3%	Good
C6 - Local/Small Business Participation	<u>350</u>	<u>325</u>	92.9%	Excellent
Total Technical Points	4,200	3,521	83.8%	Good

Compiled by OIG from individual CSC member scoresheets

On June 17, 2020, the CSC met to review the financial portion of the proposal and complete the scoring for that portion. During the discussion, the County's financial consultant presented its evaluation of the financial proposal and noted that the CSC would be evaluating only the first Price Criteria (Proposed Transaction Structure). For Price Criteria 2 (Proposed Pricing), the proposal would be awarded the entire 300 points per voting member since it was the only proposal.

Table 2 – Evaluation of Pricing Criteria and Total Score

Pricing Criteria	Maximum Points Available	Total Points Awarded	Percentage of Maximum	Rating
P1 - Proposed Transaction Structure ¹²	700	640	91.4%	Excellent
P2 - Proposed Pricing ¹³	<u>2,100</u>	<u>2,100</u>	100.0%	Excellent
Subtotal	2,800	2,740	97.9%	Excellent
Technical Points (from Table 1)	4,200	3,521	83.8%	Good
Total Points	<u>7,000</u>	<u>6,261</u>	89.4%	Good

¹¹ IO 3-34 *Formation and Performance of Selection Committees* provides scoring guidelines for members of the committee as illustrated below:

Rating	Score as a percentage of Total Available Points for Criteria	Guidelines
Excellent	90 – 100%	The expectations for this criteria are clearly met or exceeded.
Good	70 – 89%	Most of the expectations are met for this criteria.
Fair	50 – 69%	Few expectations are demonstrated to be met for this criteria.
Poor	49% or below	Does not demonstrate ability to meet expectations for this criteria.

¹² Proposed Transaction Structure: Evaluation of this criteria shall be based upon Proposer's responses to Questions No. 48 through 53 in the Proposer Information Section.

¹³ The Proposal was awarded the maximum number of points as it was the only proposal evaluated.

The total scoring for this proposal, as illustrated in Table 2, was 6,261 or 89.4 percent of a maximum total of 7,000 points for all seven members combined. If the 2,100 points for Proposed Pricing was backed out (because the proposal automatically received all of the possible points), then the adjusted score would be 85 percent based on the adjusted total of 4,900 points.¹⁴

As the proposal fell into the range of Good, the CSC voted to recommend moving on to negotiations. This recommendation was accepted by the Mayor (Mayor's designee) with authorization to proceed to negotiations. The OIG observed no exceptions with the evaluation process; it followed and complied with the process published within the RFP.

NEGOTIATIONS AND THE INTERIM AGREEMENT

During July, August, and September, the OIG attended numerous weekly virtual negotiation meetings for the Interim Agreement; these included both internal County strategy meetings and negotiation meetings between MBM and the County.¹⁵

As detailed in the Interim Agreement, as pre-development work progresses during this period, the County would be obligated to make payments up to \$8 million for the successful completion and delivery of work as outlined in Exhibit C. The accepted work products would become the property of the County whether or not the Project proceeds or is terminated. The County would be free to use these work products, as it sees fit, in the future. If the Project is terminated during the interim period, under certain conditions, the County would be obligated to reimburse MBM up to \$6 million for work not compensated as part of pre-development work. This would be the first \$4 million for documented work performed and fifty percent (50%) of the second \$4 million for work performed and not compensated as above. This \$6 million represents the maximum at-risk cost to the County should there not be a Project Agreement. In sum, the County's total financial exposure pursuant to the Interim Agreement is \$14 million.

During this period, there are also County obligations that would need to be met. One very important obligation involves developing a plan for acquiring the necessary rights-of-way. Section 12.2 of the Interim Agreement requires that the County, prior to the approval of the Project Agreement by the BCC and execution of the Project Agreement by the County (i.e., the Commercial Close)

. . . shall, at its cost and expense, develop a right-of-way acquisition plan (the "ROW Plan") reasonably acceptable to the Concessionaire, to acquire all County-Obtained ROW, including such rights as are necessary for the Concessionaire to design, build, finance, operate and maintain the Project in accordance with the Project Agreement.

¹⁴ 4,161 out of a possible 4,900 points

¹⁵ The County's team included representatives from third party financial consultants (IMG Rebel) and technical consultants (Parsons Technology Group).

Should the County not be able to deliver the ROW Plan, MBM would have cause to terminate the Interim Agreement.¹⁶ The OIG notes that as the interim period progresses, so does the volume of pre-development and other work performed by MBM and obviously the associated expenses would increase. Thus, the later in the interim period that the IA is terminated, the greater will be the County's financial exposure.

OIG OBSERVATIONS AND QUESTIONS

The OIG notes that this Project, linking the mainland to the barrier island, is a major component of the County's SMART Plan. We also recognize the desire of our public officials to stop "kicking the can down the road" and address the County's transportation needs now. Unfortunately, the County only received a single proposal submitted in response to the RFP. Upon review and evaluation, the single proposal was rated "Good" based on the County's scoring guidelines as contained in IO 3-34.

The OIG recommends that the BCC should carefully understand the "Good" technical aspects of the single proposed Project to ensure that it will satisfy the requirements of the County's SMART Plan. Many more questions need to be asked that can only be answered with more information. Similar to past OIG memoranda issued on prospective agenda items, we suggest some questions that the BCC may wish to consider asking.

- Who will operate and maintain the monorail system?

The proposal does not identify an entity that would operate and maintain the monorail system.

- Are you satisfied with the locations of the monorail stations on Miami and Miami Beach?

The monorail stations will be located in Miami on the Herald Plaza site and in Miami Beach on the 5th Street median between Lenox Avenue and Michigan Avenue.

The Miami site requires a land swap with Resorts World Miami and a relocation of the Omni Bus Terminal to this new location. A new Metromover station will be located adjacent to the Miami Monorail station to allow rider transfers.

¹⁶ While the Interim Agreement only requires the development of a ROW Plan acceptable to MBM, the OIG emphasizes the importance of this Plan and the eventual land acquisition necessary for the Project's completion, as delays in land acquisition by the Maryland Transportation Authority was a significant factor involved in a two-year delay and substantial cost overruns of the Purple Line Project in Montgomery and Prince George's counties. Purple Line Transit Partners (the P3 developer, which includes Meridiam) recently prevailed in a court decision ruling that it may unilaterally terminate its contract with the Maryland Transit Authority. The Purple Line was one of five rapid transit projects featured in MBM's response to the proposal.

- Is DTPW contemplating other connectors from the Miami Beach station (at 5th Street and Lenox/Michigan Avenues) to further mobility to other points of interest, such as South Pointe Park, Miami Beach Convention Center, Lincoln Road shopping district, Ocean Drive/beaches? How will the lack of connectors to these points of interest affect ridership?

There have been no discussions, that the OIG is aware of, regarding other transit connectors on the Miami Beach side.

- Would the monorail service be competing with bus routes that not only go across the MacArthur Causeway but also continue to other destination points?

Bus Route M – after crossing the MacArthur Causeway travels south to South Pointe Drive, then heads north along Alton Road to the Lincoln Road shopping district and then nears the Miami Beach Convention Center before traveling north along Collins Avenue through Sunny Isles and ending at Aventura Mall.

Bus Route S – does not travel to South Pointe Drive but follows the same path towards the Lincoln Road shopping district and Miami Beach Convention Center before traveling north ending at Mt. Sinai Hospital.

- Should the County wish to exercise the option for an additional station on Miami Beach at 5th Street and Washington Avenue or an intermediate station on Watson Island, what will be the approximate price tag?

TPO Resolution #30-2020, which selected elevated rubber tire technology as its preferred transit solution, also identified the Miami Beach stop at 5th Street near Washington Avenue (see footnote 5). As presented, extending the line an extra quarter mile and adding a stop at or near 5th Street / Washington Ave. is an option with an additional costs. Should this extension, as well as an extra stop of Watson Island, be beneficial to the Project's success in attracting increased ridership, then decision makers should know what will be the outer ranges of the Project's cost.

- How will the system design and station locations affect rider satisfaction?

A commuter using Metrorail would require multiple transfers for a Miami Beach destination; i.e. 1) Metrorail to Metromover; 2) Metromover to monorail; and 3) monorail to local transportation.

- What are the reasons behind a significant cost difference between the monorail systems proposed in the unsolicited proposal (submitted by Miami Beach Monorail Consortium) and that proposed in the Interim Agreement?

Both the unsolicited proposal and proposal submitted by MBM Partners rely on the same rail technology (albeit different train manufacturers) and the same two monorail stations (same locations). During the June 10, 2020, BCC meeting the

Mayor stated that the cost for the monorail system in the unsolicited proposal was approximately \$400 million. The monorail system contemplated in the Interim Agreement will cost no more than \$585.5 million (without the Watson Island and Washington/5th Street option).

- What federal funding might be available?

While sufficient information may not be available to immediately answer these questions, the OIG believes that the sooner they are answered to the satisfaction of the BCC, the better it will be for the County to reduce its financial exposure through entering into or terminating the IA. The OIG cannot over-emphasize the importance of accurate, complete, and timely information to assist the BCC to competently decide if this Project will fully satisfy the needs of the community at an affordable price.

RESPONSE FROM COUNTY ADMINISTRATION

This memorandum, as a draft, was provided to the County Administration for review. The OIG received the following response:

Thank you for the opportunity to review your draft memorandum. It provides valuable information for the CITT and the BCC to have as they consider the proposed interim agreement. The questions posed at the end of the document will all be the subject of the negotiations authorized and defined by the interim agreement. Other documents and studies such as the Beach Corridor Locally Preferred Alternative (LPA) provide information regarding the placement of stops, impacts to riders and transportation options at each end of the proposed line that will be utilized in those negotiations. The interim agreement provides a foundation upon which to have constructive negotiations regarding a transit corridor to best provide service to the riders. Thank you again for the opportunity to review the document.

The OIG wishes to express our appreciation and thanks to County staff of the Internal Services Department and the Department of Transportation and Public Works, the County Attorney's Office, the County's technical and financial consultants, and MBM Partners LLC for the cooperation and courtesies extended to us.

Cc: Joe Curbelo, Chairperson

And Members, Citizens Independent Transportation (CITT)
Javier A. Betancourt, Executive Director, CITT
Abigail Price-Williams, County Attorney
Geri Bonzon-Keenan, First Assistant County Attorney
Edward Marquez, Deputy Mayor
Jennifer Moon, Deputy Mayor
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