



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Board of County Commissioners**

February 1, 2011  
9:30 A.M.  
Commission Chamber

Charles Anderson, CPA  
Commission Auditor  
111 NW First Street, Suite 1030  
Miami, Florida 33128  
305-375-4354

**Miami-Dade County Board of County Commissioners  
Office of the Commission Auditor**

**Miami-Dade County Board of County Commissioners  
Meeting Agenda**

**February 01, 2011**

Written analyses and notes for the below listed items are attached for your consideration:

**Item Number(s)**

7B
7H
8K1A
8L1A
8L1B
8L1C
8L1D
8L1E
8O1G
8Q1A
11A6
11A7
11A8
11A9
11A13
12A2

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

**Agenda Item:** 7(B)  
**File Number:** 102733  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** January 28, 2011  
**Type of Item:** Ordinance Pertaining to Zoning – Adult Day Care Centers  
**Prime Sponsor:** Commissioner Jose “Pepe” Diaz

**Summary**

This proposed ordinance provides for Adult Day Care Centers in the following zoning districts: Residential Use (RU), Business Use (BU), Office Park District (OPD), and Industrial Use (IU) by amending Miami-Dade County Code.

This item allows for on-site supportive and optional services such as speech, occupational and physical therapy but does not allow for regular physician visits or skilled nursing care; therefore, special-needs elderly who require regular physician visits or skilled nursing care cannot be at this facility.

Currently, the State of Florida mandates the licensing procedures for Adult Day Care Centers. Pursuant to State law, a copy of the license, registration or certificate is necessary prior to the issuance of a Certificate of Use.

This ordinance codifies the use of Adult Day Care Centers in defined zoning districts and does not change or mandate new licensing procedures.

**Miami-Dade County’s Current Policy**

According to the Department of Planning and Zoning (DP&Z), Adult Day Care Centers are not currently addressed in Miami-Dade County’s Zoning Code. Currently, they are reviewed on a case-by-case basis to determine whether the use is substantially similar to another use permitted in the Zoning District, such as a Child Day Care Center.

According to DP&Z, the proposed ordinance will address the current deficiency in the Zoning Code which does not address Adult Day Care Centers. In addition, the proposed ordinance will establish standards for Adult Day Care Centers (in §33-124 of the Code).

Furthermore, the proposed ordinance would allow for Adult Day Care Centers in the following zoning districts: RU-5, RU-5A, BU-1, BU-1A, BU-2, BU-3, IU-1, IU-2, IU-C, and OPD. Of these Districts, according to DP&Z, a public hearing is currently only required in the IU-2 (Industrial, Heavy Manufacturing) and IU-C (Industrial, Conditional) zoning districts. **If the proposed ordinance is adopted, a public hearing would no longer be required for the use of an Adult Day Care Center in the IU-2 and IU-C zoning districts.**

Florida Statutes and Florida Administrative Code

<b>Adult Day Care Centers</b> <b>Chapter 429, Part III of the Florida Statutes</b> ss. 429.90-429.931	
Definition: Adult Day Care Centers	Any building, buildings, or part of a building, whether operated for profit or not in which is provided through its ownership or management, for a part of a day, <b>basic services</b> to three (3) or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services.
Definition: Basic Services	<p>Include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• Provides a protective setting that is as non-institutional as possible;</li> <li>• Therapeutic programs of social and health activities and services;</li> <li>• Leisure activities;</li> <li>• Self-care training;</li> <li>• Rest;</li> <li>• Nutritional services; and</li> <li>• Respite care.</li> </ul>
Facilities Exempt from Part III, Florida Statutes	<p>Any facility, institution, or other place that is operated by the Federal Government or any agency thereof.</p> <p>Any freestanding inpatient hospice facility that is licensed by the state and which provides day care service to hospice patients only.</p> <p>A licensed assisted living facility, a licensed hospital, or a licensed nursing home facility may provide services during the day which include but are not limited to social, health, therapeutic, recreational, nutritional, and respite care services to adults who are not residents. Such a facility need not be licensed as an adult day care center; however Statutes dictate monitoring and licensing standards (see s. 429.905(2) <i>f.s.</i>).</p>
License Requirements	<p>Licensing requirements are covered under the Health Care Licensing Procedures Act (ss. 408.801 – 408.832) of the Florida Statutes. In general, licensing requirements include but are not limited to the following:</p> <ul style="list-style-type: none"> <li>• The license must be displayed in a conspicuous place readily visible;</li> <li>• The license is valid only for the licensee, provider, and location for which the license is issued;</li> <li>• Licensure fees will be adjusted to provide for biennial licensure under agency rules and applies to each application;</li> <li>• The agency will annually adjust licensure fees, including fees paid per bed,</li> </ul>

	<p>by not more than the change in the Consumer Price Index based on the 12 months immediately preceding the increase;</p> <ul style="list-style-type: none"> <li>• An inspection fee must be paid as required in authorizing statutes; and</li> <li>• A level 2 background screening pursuant to chapter 435, Employment Screening, must be conducted through the agency on each of the following persons, who are considered employees.</li> </ul>
Staff Training	<p>Training includes but is not limited to Alzheimer's disease or dementia-related disorders, and management of problem behaviors.</p> <p>The Department of Elderly Affairs or its designee approves training provided to employees and direct caregivers.</p>
Emergency Management Plan	<p>Components of a comprehensive emergency management plan, developed in consultation with the Department of Health, the Agency for Health Care Administration and the Department of Community Affairs.</p>

<b>Adult Day Care and Health Care Licensing Procedures</b> <b>Chapters 58A-6 and 59A-35 of the Florida Administrative Code (F.A.C.)</b> Department of Elder Affairs	
Licensure Application Procedures	<p>The Agency for Health Care Administration (AHCA) grants a biennial license to an applicant center in compliance with the minimum standards set forth in the F.A.C.</p> <p>A license issued for the operation of a center, unless sooner suspended or revoked, expires two (2) years from the date of issuance.</p> <p>The AHCA will schedule and conduct an assessment and evaluation survey of the applicant center, in accordance with the F.A.C.</p>
Minimum Licensure Requirements	<p>A licensee must maintain proper authority for operation of the provider at the address of record. If such authority is denied, revoked or otherwise terminated by the local zoning or code enforcement authority, the Agency may deny or revoke an application or license, or impose sanctions.</p> <p>With the exception of federally authorized clinical laboratories, more than one license will not be issued to operate the same provider types at the identical physical or street address. Existing licensees must comply with this paragraph upon license renewal.</p>
Licensure Application Process	<p>Satisfactory inspection means no regulatory violations exist, or all prior violations found have been determined by the Agency to be corrected.</p> <p>A licensure inspection will not be authorized until the following has been satisfied:</p> <p>An application is considered complete upon receipt of:</p> <ul style="list-style-type: none"> <li>• All required documents and information and appropriate fee; and</li> <li>• All required background screening results.</li> </ul>

Included in this analysis is a section of a report by the U.S. Department of Health and Human Services, providing additional information on Florida's regulation of adult day care centers (see attachment).

**Prepared by:** Elizabeth N. Owens

*Attachment 1:*

*U.S. Department of Health and Human Services, Regulatory Review of Adult Day Services: Final Report, August 26, 2005; pp. 2-37 to 2-40. <http://aspe.hhs.gov/daltcp/reports/adulthood.htm>*

# FLORIDA

Overview			
<p>The Agency for Health Care Administration (the Agency), Division of Health Quality Assurance (HQA) Health Facility Regulation licenses all adult day care centers (ADCCs) as defined in <i>The 2004 Florida Statutes</i>. The Department of Elderly Affairs, in conjunction with the Agency, has adopted rules as defined in the <i>Florida Administrative Code</i> to implement the statutory provisions for ADCCs. This profile contains both statutory and regulatory language. Providers of adult day health care services under a Medicaid waiver must meet general and service-specific Medicaid provider qualifications.</p> <p>Licensed assisted living facilities, licensed hospitals, and licensed nursing home facilities that provide adult day care services to adults who are not residents are exempt from licensure as an adult day care center, providing they do not hold themselves out to the public as an ADCC. However, the Agency must monitor the facility during the regular inspection and at least biennially to ensure adequate space and sufficient staff.</p>			
Licensure and Certification Requirements			
Licensure Only <input checked="" type="checkbox"/>	Certification Only <input type="checkbox"/>	Both Required <input type="checkbox"/>	Other <input type="checkbox"/>
Definitions			
<p><b>Adult day care</b> is a program of therapeutic social and health activities and services provided to adults who have functional impairments, in a protective environment that provides as noninstitutional an environment as possible. Participants may utilize a variety of services offered during any part of a day, but less than a 24-hour period.</p> <p><b>Adult day care center</b> or <b>center</b> means any building, buildings, or part of a building, whether operated for profit or not, in which is provided through its ownership or management, for a part of a day, basic services to three or more persons who are 18 years of age or older, who are not related to the owner or operator by blood or marriage, and who require such services. Any facility that comes within the definition of an adult day care center must be licensed by the agency as an ADCC.</p> <p><b>Adult day health care</b> is not defined in licensing or requirements; however, required and optional services are outlined.</p>			
Parameters for Who Can Be Served			
<p>No participant shall be admitted or retained in a center if the services required are beyond those that the center is licensed to provide. Admission is limited to adults with functional impairments in need of a protective environment and a program of therapeutic social and health activities and services.</p> <p>No participant who requires medication during the time spent at the center and who is incapable of self-administration shall be admitted or retained unless there is a person licensed according to Florida law to administer medications.</p> <p>Any participant who is diagnosed a having a communicable disease shall be excluded from participation until deemed noninfectious. However, participants who have human immunodeficiency virus (HIV) infection may be admitted to the center, provided that they would otherwise be eligible according to the Rule.</p> <p>Centers are not required to accept or retain any applicant or participant whose behavior and physical limitations are deemed hazardous to the safety of the individual or other participants, and such conditions shall constitute a basis for termination of center participation.</p>			

Inspection and Monitoring				
Yes <input checked="" type="checkbox"/>		No <input type="checkbox"/>		
<p>In addition to an initial licensure survey, a biennial license renewal survey, and a follow-up survey, the Agency shall conduct on-site surveys of ADCCs for the purpose of determining compliance with the relevant statutes and rules. The Agency may conduct an abbreviated biennial inspection of key quality-of-care standards, in lieu of a full inspection, of a center that has a record of good performance. However, the Agency must conduct a full inspection of a center that has had one or more confirmed complaints within the licensure period immediately preceding the inspection or that has a serious problem identified during the abbreviated inspection. The Agency shall develop the key quality-of-care standards, taking into consideration the comments and recommendations of the Department of Elderly Affairs and of provider groups. These standards shall be included in rules adopted by the Department of Elderly Affairs.</p>				
Required and Optional Services				
	Adult Day Care		Adult Day Health Care	
	Required	Optional	Required	Optional
Activities of Daily Living (ADL) Assistance	X		X	
Health Education and Counseling	X		X	
Health Monitoring/Health-Related Services		X	X	
Medication Administration		X	X	
Nursing Services		X	X	
Physical Therapy, Occupational Therapy, or Speech Therapy		X	X	
Skilled Nursing Services				
Social Services	X		X	
Transportation		X	X	
Provisions Regarding Medications				
<p>No participant who requires medication during the time spent at the center and who is incapable of self-administration shall be admitted or retained unless there is a person licensed according to Florida law to administer medications. A physician, advanced registered nurse (RN) practitioner, dentist, RN, licensed practical nurse (LPN), or physician's assistant can administer medications. Supervision of self-administered medication shall not be construed to mean that a center shall provide such supervision to participants who are capable of administering their own medications.</p> <p>No prescription drug shall be brought into the center unless it has been legally dispensed and labeled by a licensed pharmacist for the person for whom it is prescribed. Participants who can self-administer medications may bring and be responsible for their own medications, unless the preservation of medicines requires refrigeration; or medication is determined, and documented by the physician, to be hazardous if kept in the personal possession of the person for whom it was prescribed; or is a safety hazard to others at the center, in which cases the medications shall be centrally stored in a locked cabinet or container.</p>				
Provisions for Groups with Special Needs				
Dementia <input checked="" type="checkbox"/>	Mental Retardation/Developmental Disabilities <input type="checkbox"/>	Other <input checked="" type="checkbox"/> persons with physical disabilities		



### Staffing Requirements

**Type of staff.** The center shall employ qualified staff to provide the services, personal assistance, and safety measures required by the participants. The owner or operator may serve in a dual capacity as an RN, occupational therapist, physical therapist, speech-language pathologist, or social worker, if licensed as required by Florida law and qualified to provide such services. The owner or operator may be counted as one of the required staff members provided the owner or operator provides direct services and is included in the work schedule for the center. The designated responsible person shall be on the premises during the center's hours of operation.

If adult day health care services for aged persons or disabled adults are provided, the following staff members are required: (1) an *RN* or *LPN* on site during the primary hours of program operation and on call during all hours the center is open; (2) a *social worker* to supervise the provision of social services, including counseling for participants' families and caregivers and compilation of a social history and psychosocial assessment of formal and informal support systems and mental and emotional status; and (3) an *activity director* or *recreation therapist*, who may be retained as a consultant.

**Staffing ratios.** A minimum staff ratio of one staff member who provides direct services for every six participants shall be present in the center at all times. No fewer than two staff, one of whom has a certification in an approved first aid course and cardiopulmonary resuscitation (CPR), shall be present in the center at all times. At all times staffing shall be maintained to meet the needs of the participants as required by the participant file, including centers that serve persons with Alzheimer's disease and other dementias, persons with physical handicaps, or other special target populations. The owner or operator shall not be counted more than once in the staff-to-participant ratio, calculated on the basis of daily census.

### Training Requirements

Upon beginning employment with the facility, each employee must receive basic written information about interacting with participants who have Alzheimer's disease or dementia-related disorders. In addition, newly hired adult day care center personnel who are expected to, or whose responsibilities require them to, have direct contact with participants who have Alzheimer's disease or dementia-related disorders must complete initial training of at least 1 hour within the first 3 months after beginning employment. The training must include an overview of dementias and must provide instruction in basic skills for communicating with persons who have dementia.

In addition, an employee who will be providing direct care to a participant who has Alzheimer's disease or a dementia-related disorder must complete an additional 3 hours of training within 9 months after beginning employment. This training must include, but is not limited to, the management of problem behaviors, information about promoting the participant's independence in ADL, and instruction in skills for working with families and caregivers.

### Relevant Medicaid Contracting Requirements for Adult Day Services Providers

Adult day care centers that provide services under the Aged and Adult Disabled Waiver must be licensed in accordance with Chapter 400, Part V, *Florida Statutes* and must meet the general Medicaid provider qualifications contained in the *Florida Medicaid Provider General Handbook*, and the service requirements contained in the *Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook*.

Adult day health care services are provided 4 or more hours per day on a regularly scheduled basis, for 1 or more days per week, in an outpatient setting. Adult day health care services encompass both health and social services needed to ensure the optimal functioning of the recipient. The services can be authorized up to 10 hours per day. However, authorization of more than 8 hours would be unusual and requires extensive written justification.

#### Location of Licensing, Certification, or Other Requirements

1. [http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&URL=Ch0400/titl0400.htm](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=Ch0400/titl0400.htm)
2. <http://fac.dos.state.fl.us/faconline/chapter58.pdf>
3. <http://floridamedicaid.acs-inc.com/XJContent/Aged%20and%20Disabled%20Adult%20Waiver%20Services?id=000001429515>
4. <http://floridamedicaid.acs-inc.com/XJContent/Medicaid%20Provider%20General%20Handbook?id=000000182139>

#### Citations

1. *The 2004 Florida Statutes* (Chapter 400, Nursing Homes and Related Health Care Facilities, Part V--Adult Day Care Centers, 400.55 through 400.564).
2. *Florida Administrative Code* (Chapter 58A-6 Adult Day Care, 58A-6.001 through 58A-6.016). Department of Elder Affairs. [Updated 3/29/98 through 1/1/04]
3. *Aged and Disabled Adult Waiver Services Coverage and Limitations Handbook*, Agency for Health Care Administration. Florida Medicaid. [Effective 03/04, updated 01/05]
4. *Florida Medicaid Provider General Handbook*, Agency for Health Care Administration. Florida Medicaid. [Updated 01/05]

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

**Agenda Item:** 7(H)  
**File Number:** 110149  
**Committee(s)  
of Reference:** Board of County Commissioners  
**Date of Analysis:** January 26, 2011  
**Type of Item:** Ordinance amending an existing ordinance

**Summary**

This item makes numerous revisions to the current Targeted Job Incentives Fund (TJIF) program which is administered by the Office of Economic Development & International Trade (OEDIT). The program was approved by the Board of County Commissioners through Resolution 00-98 to incentivize business growth and development in Miami-Dade County. The Board of County Commissioners subsequently amended the program through Ordinances 02-251 and 05-91. The changes that are currently proposed are detailed in the County Manager's memo (Handwritten pages 2-5), and relate to:

- The definitions of the program,
- Updating eligible industries for the TJIF program,
- Ensuring that the TJIF companies pay all of their employees no less than the Living Wage Rate,
- Adjusts the way incentives are calculated, and
- Expands the TJIF program until Sept. 30, 2020.

**Committee Amendments**

When this item was heard at the Economic Development & Social Services Committee on January 12, 2011, the Committee amended the item:

- To change each occurrence of the incentive amount from 0.10% to 0.175 % for businesses within the Urban Targeted Area; and
- Change the incentive amount from 0.25% to 0.175% for green certified businesses.

**Current Business Incentive Programs Provided by the County and State:**

**Miami-Dade County Targeted Jobs Incentive Fund (TJIF)**

According to the OEDIT, the TJIF incentive is designed to attract new-to-market businesses and support local business expansions. The TJIF Program works by providing cash incentives to qualifying companies in selected industries that create new above average paying jobs and currently make a capital investment of at least \$3 million. OEDIT anticipated that the Board of County Commissioners would review this program and enact new processes to expand and improve the program.

### State of Florida Qualified Target Industry (QTI) Tax Refund

This State of Florida incentive is available for companies that create high wage jobs in targeted high value-added industries and may provide the company with a tax refund of up to \$3,000 per new job created. This program is funded by the State of Florida (80%) and Miami-Dade County (20%).

The QTI program requires the creation of at least 10 new fulltime jobs at salary levels equal to or exceeding 115% of the State annual average wage, or \$41,516. For businesses paying 150% of the State average annual wage, add \$1,000 per job; for 200% of the State average annual wage, add \$2,000 per job. For companies that locate or expand within any of Miami-Dade County's Enterprise Zones, this incentive is increased up to \$6,000 per new job created, and the minimum salary requirement may be waived. (Source: OEDIT)

### Information Regarding TGIF & QTI (Provided by OEDIT)

Date of Approval	QTI Resolution Number	TJIF Resolution Number	Comm. District (If Known)	Proposed Capital Investment	Total 6 Year Job Commitment	Total QTI Award	QTI County 20%	TJIF County Amount*	Total County Incentive Amount
4/8/2008	<a href="#">R-338-08</a>	-	12	\$14,836,770	245	\$980,000	\$196,000	\$0	\$196,000
7/21/2009	<a href="#">R-1019-09</a>	-	1	\$7,800,000	123	\$369,000	\$73,800	\$0	\$73,800
7/21/2009	<a href="#">R-1020-09</a>	<a href="#">R-1021-09</a>	12	\$8,090,000	25	\$75,000	\$15,000	\$87,500	\$102,500
10/8/2009	<a href="#">R-1197-09</a>	<a href="#">R-1198-09</a>	6	\$3,900,000	366	\$475,800	\$95,160	\$20,000	\$115,160
1/21/2010	<a href="#">R-29-10</a>	-	12	\$800,000	125	\$162,500	\$32,500	\$0	\$32,500
4/6/2010	<a href="#">R-350-10</a>	<a href="#">R-351-10</a>	13 or 1	\$230,000,000	150	\$900,000	\$180,000	\$3,929,119	\$4,109,119
5/4/2010	<a href="#">R-490-10</a>	<a href="#">R-491-10</a>	6	\$42,000,000	35	\$320,000	\$64,000	\$777,167	\$841,167
7/20/2010	-	-	6	\$4,600,000	180	\$900,000	\$90,000	\$0	\$90,000

Source: OEDIT, January 10, 2011

\*Multi-year General Fund disbursement contingent on documenting creation of new jobs and increased County-wide General Fund of actual disbursement.

### Additional Notes

According to OEDIT officials, the current TJIF ordinance expired on September 30, 2010. OEDIT has informed the Office of the Commission Auditor that OEDIT has been working with the Beacon Council and the Office of Sustainability, as well as the County Executive's Office, to bring forth the proposed revisions. According to OEDIT, the proposed ordinance simplifies and streamlines the TJIF process, calculates the incentives based on capital investment, and reduces the number of eligible industries

from 33 to 10. The minimum capital investment is set at \$3 million and the minimum number of jobs to be created is set at 10, according to OEDIT. These are policy recommendations, according to OEDIT, which the Mayor's Administration is making after consulting with the Beacon Council which is the agency responsible for attracting new businesses to Miami-Dade County.

**Prepared by:** Jason T. Smith

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

**Agenda Item:** 8(K)1(A)

**File Number:** 102793

**Committee(s) of Reference:** Board of County Commissioners

**Date of Analysis:** January 26, 2011

**Type of Item:** Resolution to Amend Action Plans for FY1998, FY2002, FY2003 and FY2005 through 2010

**Summary**

This resolution amends the Multi-Year Action Plans to Reprogram Community Development Block Grant (CDBG), Home Investments Partnership Funds (HOME) and Rental Rehabilitation Funds (RR) and Allocate Additional FY2010 Emergency Shelter Grants (ESG) Funds received from the United States Department of Housing and Urban Development (U.S. HUD).

The recapture and reallocation of fund amounts are categorized as follows:

- CDBG - \$1,685,990;
- HOME - \$3,501,176;
- RR - \$1,000,000;
- ESG - \$28,237

**Background**

The Department of Housing and Community Development (DHCD) monitors all activities funded through CDBG, HOME, RR and ESG. CDBG, HOME and RR funds are being recaptured and reallocated to public facilities, economic development and housing activities that serve Neighborhood Strategy Revitalization Areas (NRSA's) and other eligible geographic areas throughout Miami-Dade County. One of the previous challenges faced by Miami-Dade County (County) was the need to comply with U.S. HUD requirements.

On June 19, 2009, the U.S. HUD Office of Inspector General issued an audit citing the County for failure to report CDBG financial and program information according to federal requirements. Additionally, the audit identified that the County failed to meet national objectives and performance goals and also failed to recapture CDBG funds for cancelled activities that did not meet national objectives in its CDBG Program (U.S. HUD OIG Audit Report No. 2009-AT-1008).

Based on the results of the audit, the DHCD's detailed assessment of reporting requirements, and discussions with U.S. HUD's Miami Office, the DHCD took steps in June 2009 to improve oversight and administration of the CDBG Program.

### Relevant Legislation

The following is a list of previous Action Plans approved by the Board of County Commissioners and their respective amendments (reflecting agency recaptures and reallocations):

R-1222-07	Resolution approving the Five-Year Consolidated Plan for 2008 - 2012 including the FY 2008 funding recommendations
R-489-08	Resolution authorizing the Mayor to amend the FY 2008 Action Plan to reflect the reallocation of FY 2000, 2002, 2003, 2004, 2005, 2006, 2007 and 2008 Community Development Block Grant Funds, in the amount of \$4,726,901.10 and HOME and HODAG funds in the amount of \$4,601,699.49
R-491-08	Resolution authorizing the Mayor to amend the FY 2007 Action Plan to reflect the reallocation of \$5,950,464 of Community Development Block Grant Funds
R-1127-08	Resolution approving the FY 2009 Action Plan funding recommendations
R-914-09	Resolution amending the FY 2009 Action Plan to reflect the reallocation of FY 2000, 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 Community Development Block Grant Funds, in the amount of \$4,713,093.22 and HOME and Rental Rehabilitation funds in the amounts of \$5,475,940.79
R-1284-09	Resolution approving the FY 2010 Action Plan funding recommendations
R-1285-09	Resolution amending the FY 2009 Action Plan to reflect the reallocation of FY 2002, 2003, 2004, 2005, 2006, 2007, 2008 and 2009 Community Development Block Grant Funds, in the amount of \$3,428,313.91 and HOME funds in the amount of \$500,000
R-111-10	Resolution authorizing the Mayor to amend the FY 2007, 2008, and 2009 Action Plans to reflect the reallocation of Community Development Block Grant Funds (CDBG) funds in the amount of \$555,000, and also amending the same Action Plans to include refinancing guidelines for CDBG and Home Investment Partnerships Program (HOME) affordable housing projects
R-489-10	Resolution authorizing the Mayor to amend the FY 2010 Action Plan to reflect the reallocation of FY 2008, 2009 and 2010 Community Development Block Grant Funds, in the amount of \$2,528,920 and home investment partnership funds in the amount of \$200,000
R-980-10	Resolution authorizing the Mayor or Mayor's designee to amend the FY 2010 Action Plan to reflect the allocation of FY 2010 Community Development Block Grant Funds, in the amount of \$2,770,870

Source: County Executive Office, January 7, 2011

### Comments

On January 20, 2011, the Board of County Commissioners (BCC) adopted R-19-11, File No. 102804, approving a reimbursement plan in the amount of \$3,632,636 to U.S. HUD for failure to meet national objectives, performance goals and failure to recapture CDBG funds for cancelled activities that did not meet national objectives in its CDBG Program. During the January 20, 2011 BCC meeting, there was concern expressed as to the use of General Fund proceeds for the repayment plan. As a result, this item was amended to include that the initial repayment installment by the County to U.S. HUD be derived

from General Fund dollars, however, subsequent payments to U.S. HUD be derived from County resources other than the General Fund.

**Additional Information**

On August 25, 2008, Certified Public Accountant, KPMG, LLP, issued a report to the County, entitled *“Compliance with Requirements Applicable to Each Major Federal Program and State Project and on Internal Control over Compliance in Accordance with OMB Circular A-133, Section 215.97, Florida Statutes and Chapter 10.5050, Rules of the Auditor General of the State of Florida”*, based on audited financial statements of Miami-Dade County, for the year ending September 30, 2007. KPMG, LLP, stated, the County did not comply with requirements regarding activities allowed or unallowed and subrecipient monitoring applicable to the following:

- U.S. HUD, Community Development Block Grant/Entitlement Grants;
- Reporting applicable to its U.S. HUD, Supportive Housing Program; and
- Eligibility, subrecipient monitoring, and special tests and provisions applicable to U.S. HUD, HOME Investment Partnerships Program.

KPMG, LLP, opined, that except for the noncompliance as previously described, the County complied in all material respects, with the requirements applicable to each of its major federal programs and state projects for the year ending September, 30, 2007.

**Prepared by:** Mia B. Marin



**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
OFFICE OF THE COMMISSION AUDITOR**



**Legislative Notes**

**Agenda Item:** 8(L)1(A), 8(L)1(C), 8(L)1(D), 8(L)1(E),  
**File Number:** 102682, 110024, 110025, 110033  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** January 26, 2011  
**Type of Item:** Resolutions Approving the Proposed Budgets for Fiscal Year 2010-11 for Community Redevelopment Agencies (CRA)  
**Commission Districts:** 1, 2, 3, 4, 7, 8 and 9

**Summary**

These resolutions approve the FY2010-11 Proposed Budgets for the following four (4) CRA's:

<b>BCC item</b>	<b>CRA</b>	<b>FY2010-11 Proposed Budget</b>
8(L)1(A)	Naranja Lakes	\$4,328,535
8(L)1(C)	North Miami Beach	\$7,268,387
8(L)1(D)	South Miami	\$3,712,553
8(L)1(E)	North Miami	\$5,926,880

Additionally, the Naranja Lakes CRA item authorizes the CRA to obtain a \$7.5 million loan to reimburse the County for the outstanding balance on two State Sunshine Loans.

**Background and Relevant Legislation**

Each CRA is required to submit an annual budget to the Board of County Commissioners for approval.

The following provides the approved budgets for the last three years:

**Naranja Lakes CRA**

<b>Approval Date</b>	<b>Item Number</b>	<b>Fiscal Year</b>	<b>Resolution Number</b>	<b>Budget Amount</b>
12/1/2009	092862	2009-2010	1361-09	\$6,146,744
12/2/2008	083117	2008-2009	1326-08	\$7,068,989
1/10/2008	073519	2007-2008	26-08	\$12,425,665

#### North Miami Beach CRA

Approval Date	Item Number	Fiscal Year	Resolution Number	Budget Amount
6/3/2010 <sup>1</sup>	102741	2009-2010	607-10 <sup>2</sup>	\$8,962,689
3/3/2009	090200	2008-2009	189-09	\$9,450,231
1/10/2008	073520	2007-2008	27-08	\$9,405,454

#### South Miami CRA

Approval Date	Item Number	Fiscal Year	Resolution Number	Budget Amount
2/2/2010	093326	2009-2010	112-10	\$2,617,787
1/22/2009	083482	2008-2009	39-09	\$3,147,600
2/5/2008	080081	2007-2008	108-08	\$3,258,466

#### North Miami CRA

Approval Date	Item Number	Fiscal Year	Resolution Number	Budget Amount
9/10/2010	101587	2009-2010	886-10	\$10,859,999
1/22/2009	083480	2008-2009	38-09	\$14,290,323
2/19/2008	080365	2007-2008	185-08	\$14,253,424

**The Administrative Expenditures for FY2010-2011 Proposed Budget for all four CRA's are as follows:**

CRA	Administrative Expenditures	Total Increment Revenue	Percentage of Administrative Expenditures from Total Increment Revenue
Naranja Lakes	\$176,000	\$944,168	18.6%
North Miami Beach	\$185,141	\$1,138,889	16.3%
South Miami	\$237,049	\$1,292,225	18.3%
North Miami	\$432,818	\$2,483,452	17.4%

The administrative expenditures for all four CRA's fall within the 20% cap as prescribed by each CRA in their interlocal agreement with Miami-Dade County.

<sup>1</sup> This item is the amended version. The original item is under file no. 10075. According to the Miami-Dade Legislative Information System, under the original file no. 10075, it shows this item was amended to provide a legible handwritten page 17 and was subsequently assigned a Resolution No. 607-10 on June 3, 2010. On January 6, 2011, the Office of Commission Auditor (OCA) contacted the Office of Strategic Management and Budget (OSBM) to inquire about the update to this assignment since it is not reflected on the Miami-Dade Legislative Information System. OSBM is aware that a permanent resolution has not been assigned to this item and they are coordinating with County staff to have this corrected.

<sup>2</sup> *ibid.*

The Tax Increment Financing Committee (comprised of County administrative staff to provide increment financing recommendations) reviewed the four (4) CRA budgets with a recommendation for BCC approval on the following dates:

- Naranja approved on November 8, 2010;
- North Miami Beach approved on December 13, 2010;
- South Miami approved on December 13, 2010; and
- North Miami approved on December 13, 2010

Currently, there are twelve (12) approved CRA's: 7<sup>th</sup> Avenue, City of Homestead, City of Miami Beach, City of Miami, Omni, City of Miami Midtown, City of North Miami, City of North Miami Beach, City of South Miami, Florida City, Naranja Lakes, and West Perrine.

Additionally, there is legislation seeking to declare an additional geographical area within Miami-Dade County to be included in the N.W. 7<sup>th</sup> Avenue Corridor Community Redevelopment Area (File No. 102740) also to be considered for Board approval at the February 1, 2011 Board of County Commissioners meeting.

Furthermore, there are two (2) proposed CRA's waiting for approval: 79<sup>th</sup> Street Corridor and Goulds/Cutler Ridge.

The CRA approval process includes the following steps:

- Adopting the Finding of Necessity (FON);
- Establish CRA Board;
- CRA Board to develop Community Redevelopment Plan (CRP);
- CRA along with the local planning advisory boards approve CRP;
- Public Hearing;
- County approval; and
- Creation of Redevelopment Trust Fund (CRATF) to facilitate the increase in real property tax revenues into the targeted area.

## **Comments and Questions**

### Naranja Lakes CRA

The Naranja Lakes CRA Proposed FY2010-11 Budget reflects significant total tax increment revenue (UMSA Tax Revenue and County Tax Revenue) loss from total tax increment revenues received in FY2009-10 (See below).

	FY2009-10 Actual	FY2010-11 Proposed	Percentage Change
UMSA Tax Increment Revenue (TIR)	\$563,155	\$281,487	-50.0%
County Tax Increment	\$1,362,855	\$662,681	-51.4%

Revenue			
Total	\$1,926,010	\$944,168	-51.0%

#### South Miami CRA

The South Miami CRA Proposed budget for FY2010-11 reflects an increase in debt service payments from FY2009-10 of 288%. The FY2009-10 debt service payment was \$297,774 compared to the FY2010-11 proposed debt service payment of \$1,156,367. The reason for this increase is to accelerate the payments on a long term loan acquired in FY2006-2007 that will mature on June 1, 2020 (R-931-06) with a current outstanding loan amount of \$2.1 million. After this accelerated payment, the balance will be \$1.03 million.

- Accelerating the payments will shorten the length of the loan by how many years?

#### North Miami CRA

North Miami CRA Proposed Budget reflects a carryover balance in FY2010-11 without previous year cash position (Revenues-Expenses) balance from FY2009-10.

- Where does this carryover balance come from?

However, the other CRA Proposed budgets (Naranja, North Miami Beach, and South Miami) reflect a cash position balance (Revenues-Expenses) from FY2009-10 that is then shifted to FY2010-2011 to reflect a proposed carry over from the prior years.

#### **Additional Information**

The Office of Commission Auditor, is providing additional information regarding recent legislation relating to CRAs.

Included in the February 1, 2011, Board of County Commission Agenda, Item 5B, seeks approval for the expansion of the N.W. 7<sup>th</sup> Avenue Corridor Redevelopment Area. According to the item, if the expanded area is approved by the Board of County Commissioners, it is estimated that it would generate approximately \$4.9 million in revenue through year 2033.

Additionally, this item includes a Finding of Necessity Report (FON) prepared by Keith and Schnars, P.A which concludes that slum and blight exists in this expansion area and if included in the CRA's boundaries, the CRA will aim to support strategic public and private redevelopment projects that will enhance the health and vitality of the area.

Furthermore, the FON compares Taxable Value of Real Property (data collected from Miami-Dade Property Appraiser) between the expansion area and Miami-Dade County for years 2004 to 2009 and it reflects the expansion area with a higher average annual rate change percentage of 12.6% compared to Miami-Dade County Real Estate Values average annual rate change of 9.2%.

However, the Miami-Dade FY2010-11 Adopted Budget Volume 1, page 89, estimates that the property tax roll is expected to drop an additional five percent in FY2011-12, flat in FY2012-13 and three percent positive growth in subsequent years.

- What have been the rates of the proposed expanded area since 2009?
- What are the projected rates in the next couple of years for that proposed area?
- Will the rates affect the CRA's ability to gather sufficient revenues in the future?

On January 20, 2011, the Board of County Commissioners (BCC) adopted R-19-11, File No. 102804, approving a reimbursement plan in the amount of \$3,632,636 to U.S. HUD for failure to meet national objectives, performance goals and failure to recapture CDBG funds for cancelled activities that did not meet national objectives in its CDBG Program. According to R-19-11, the funding source for this repayment is to come from general fund reserve set aside for community redevelopment studies since staff does not anticipate the creation of any community redevelopment areas this fiscal year. However, this resolution was amended at the January 20, 2011 meeting to include the use of General Fund proceeds for the initial repayment installment and subsequent payments to U.S. HUD be derived from County resources other than the General Fund.

- Will this impact the proposed expansion of the boundaries for the 7<sup>th</sup> Avenue CRA currently pending BCC approval?

Additionally, there are two proposed CRAs pending approval, the 79<sup>th</sup> Street Corridor and Goulds/Cutler Ridge.

- Will this impact the pending CRAs?

### **Proposed CRA Oversight Legislation**

At the January 11, 2011, Internal Management & Fiscal Responsibility Committee meeting, concern was expressed about Miami-Dade County's role in the CRA process and how Florida State Law allows the CRA to spend funds even if the BCC does not adopt the CRA's budget. County staff explained to the committee members that they will be presenting legislation that will urge the State of Florida legislature to consider amending laws governing CRA's that would give greater oversight and control over CRA's to local governments.

Included in the February 1, 2011, Board of County Commissioners Agenda, Item 11(A)23, File No. 110123, Urges the Florida Legislature to pass legislation providing local governments with greater oversight and control over CRA's. This resolution provides the following authority for local governments:

- To approve CRA budgets,
- Retain surplus Tax Increment Financing (TIF) funds at the end of each CRA's fiscal year; and
- To terminate CRA's

**Pending West Perrine CRA Proposed Budget for FY2010-11**

On February 1, 2011, the Board of County Commissioners is scheduled to recess and reconvene as the Board of Commissioners of the West Perrine CRA and approve the West Perrine CRA Budget for FY2010-11 (File No. 110026). Pursuant to Resolution 745-07, the Board of County Commissioners appointed itself as the West Perrine CRA Board.

According to the West Perrine Proposed Budget for FY2010-11, the CRA's budget includes revenues and expenditures of \$1,624,958. Additionally, the Administrative Expenditures for the CRA total \$80,120 and represents 4.9 percent of total expenditures which fall within the 20% cap as prescribed by each CRA in their interlocal agreement with Miami-Dade County.

One of the West Perrine CRA Proposed FY2010-11 operating expenditure activities includes \$200,000 (13% of total operating expenditure) for motorized security patrols. At the January 11, 2011, Internal Management Fiscal Responsibility Committee meeting, County staff explained that although neighborhood policing is an allowable use of funding for the CRA's it raises the question as to whether this activity reduces slum and blight.

This proposed CRA budget has not yet been reviewed by the Tax Increment Financing and Coordinating Committee.

**Prepared By:**

Mia B. Marin and Ines Beecher

MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 8(L) 1(B)  
**File Number:** 102835  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** January 26, 2011  
**Type of Item:** Resolution Approving Implementing Order

**Summary**

This resolution approves the Implementing Order which would create the fee schedule for the Miami-Dade Fire Rescue (MDFR) Training Center, 9300 N.W. 41st Street, Doral, Florida.

**Background and Relevant Legislation**

The Miami-Dade Fire Rescue Training Center is a multi-use, state-of-the-art complex built on 11 acres south of MDRF's headquarters building. According to information provided by the Miami-Dade Fire Rescue Department, the Training Center provides numerous training and development opportunities for MDRF personnel as well as public safety personnel from across the South Florida region, the nation, and the globe.

The Training Center's primary focus is to enhance MDRF's response capabilities and serve to assist other public safety departments in the region. The Training Center is also designed to provide a wide range of courses that deal with both public and private emergency response and preparedness.

**Budgetary Impact**

This Implementing Order is necessary to approve the fees associated with using the Training Facility. As noted in the Manager's Memo which is attached to the Implementing Order, the establishment of fees for the Training Facility was approved by the Board of County Commissioners with the adoption of the FY 2010-11 County Budget. **However, County staff failed to include the actual fee schedule in the budget ordinance.**

When the budget was adopted, it was anticipated that \$400,000 would be generated from Training Facility fees for the fiscal year which began on Oct. 1, 2010.

The Commission Auditor's Office questioned whether the three-month delay of the approval of the fee schedule would negatively impact the projected earnings of \$400,000 for FY 2010-11. The Department

has assured the Office of the Commission Auditor that the \$400,000 budget projection was calculated using a January 1, 2011 adoption date of the Training Facility fees.

**Comments**

According to MDFR officials, the lack of a fee schedule currently limits the County's ability to market the Training Facility since potential clients cannot be told how much services at the Training Facility will cost. However, the Department has identified potential clients which could utilize the services offered by the Training Facility. The Department is focusing on attracting clients from Central America and the Caribbean as well as local fire-fighting agencies.

The Department recently hosted its first international class of firefighters from Ecuador, according to Department officials. The group, which used the Training Facility, was charged using the proposed fee schedule.

**Marketing**

How will MDFR market the Training Facility; will word-of-mouth be used or will national and international advertising be purchased, and if so, at what cost?

**Prepared by:** Jason T. Smith



**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 8(O)1(G)  
**File Number:** 110027  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** January 28, 2011  
**Type of Item:** Competitive Contract Package

**Summary**

This Competitive Contracts Package includes a total of eight (8) procurement actions totaling \$13.396 million.

**Budgetary Impact**

**Competitive Contract:**

**Item 1.1 – Uniforms for Miami-Dade County Public Safety Departments**

This item awards a contract to five (5) vendors for the purchase of uniforms used by various County departments. The cumulative contract total is \$12.911 million for a five (5) year term with no subsequent options to renew (OTRs).

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.1	\$12,911,000 for 5 years.	\$2,582,200	\$2,137,000 for 1 year.	\$2,137,000

The various County departments include Miami-Dade Corrections and Rehabilitation (MDCR), Miami-Dade Fire Rescue (MDFR), Miami-Dade Police (MDPD), Miami-Dade Park and Recreation (MDPR), and Port of Miami (POM).

According to the Department of Procurement Management (DPM), this contract consolidates six (6) previous contracts (see below).

Contract No.	Value
IB5992-2/10-1: Leather Accessories	\$ 15,000

6182-3/09-3: Uniforms and Accessories for MDR	\$1,202,320
IB7050-3/12-1: Swimwear (Lifeguard)	\$ 24,000
8317-4/12-2: Uniforms for MD Corrections Dept.	\$ 93,000
8492-4/12-1: Uniforms for MDPD	\$ 565,540
8600-4/13-1: Pants and Battle Dress Uniforms	\$ 236,154
<b>TOTAL</b>	<b>\$2,136,014</b>

#### Questions

- How many uniform contracts do we have and is it possible to consolidate additional contracts?
- In total, how much do we spend annually on uniforms?
- Will this contract have any CPI increases in the years?

#### Contract Modifications:

Item No.	Contract Title and Modification Reason	Initial Contract Amount	Modified / Extended Term	Increased Allocation	Record of Vendors' Performance
3.1	<b>Portable Ladders-Metal, Fiberglass and Aluminum</b>  <u>Reason:</u> Transfers an allocation to be funded by Miami-Dade Transit (MDT) Operating Funds to allow MDT to purchase portable ladders to support routine service and repairs. Surtax Funds are a component of MDT Operating funds.	\$48,000 in Unallocated Funds.	No Change.	\$17,000 transferred to MDT leaving \$31,000 in Unallocated Funds.	There are no compliance or performance issues reported for A&B Hardware Inc., or American Fasteners Corp.
3.2	<b>Automotive Parts Washer Machine Lease/Maintenance</b>  <u>Reason:</u> Additional spending authority to allow MDT to lease washer parts. Surtax funds are a component of MDT Operating funds.  <u>Question:</u> <i>Has a market analysis been conducted to compare the cost of leasing to the cost of purchasing?</i>	\$102,000 for two (2) years.	No Change.	\$42,000	There are no compliance or performance issues reported for Safety-Kleen Systems.

3.3	<b>Ice Making Machines</b>  <u>Reason:</u> Additional time authorization of three (3) months to allow various departments to continue the purchase of ice making machines.  According to the County Manager's memo, the successor contract will be awarded before April 30, 2011.	\$342,000 for 30 months.	3 months from January 31, 2011 to April 30, 2011.	No Change.	There are no compliance or performance issues reported with Gulf Ice Systems, Inc.
3.4	<b>Audio Visual Equipment and Supplies</b>  <u>Reason:</u> Additional spending authority to allow the Building and Neighborhood Compliance Department access to the contract, and an additional allocation to the Library System.	\$7,760,000 for five (5) years.	No Change.	\$380,000	There are no compliance or performance issues reported for the 26 vendors listed.
3.5	<b>Wiping Cloths (Rags) and Fiber Wipes</b>  <u>Reason:</u> Additional spending authority to provide MDT an allocation funded by MDT Operating funds to purchase wiping cloths. Surtax Funds are a component of MDT Operating funds.	\$72,000 for one (1) year.	No Change.	\$21,000	There are no compliance or performance issues reported for Troy Industries, Inc.
3.6	<b>Maintenance, Service and Repairs for Vehicle Wash Facilities</b>  <u>Reason:</u> Additional spending authority to allow MDT maintenance, service, and	\$23,000 for one (1) year.	No Change.	\$42,000	There are no compliance or performance issues reported for Wash Plus, Inc.

	repair services for five (5) drive-through vehicle wash systems. MDT's vehicles are no longer covered by the manufactures warranty. Surtax funds are a component of the MDT Operating funds.				
3.7	<p><b>Route Work and Group Travel Services</b></p> <p><u>Reason:</u> Additional time for MDT to continue to purchase fixed-route services, semi fixed-route services and group travel services within Miami-Dade, Broward and Monroe Counties.</p> <p>According to the County Manager's memo, the successor contract is expected to be awarded by September 2011.</p>	\$12,501,000 for five (5) years.	6 months from March 31, 2011 to September 30, 2011.	No Change.	<p>There are no compliance or performance issues reported for the following vendors:</p> <ul style="list-style-type: none"> <li>• American Coach Lines of Miami Inc.,</li> <li>• J.G.T. Transportation Inc.,</li> <li>• Greyhound Lines, Inc. ,</li> <li>• Zuni Transportation Inc.,</li> <li>• Southern Shuttle Services, Inc.,</li> <li>• Unique Charters, Inc., and</li> <li>• Quality Transport Services, Inc.</li> </ul>

**Prepared by:** Elizabeth N. Owens

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Legislative Notes

**Agenda Item:** 8(Q)1(A)

**File Number:** 110107

**Committee(s)  
of Reference:** Board of County Commissioners

**Date of Analysis:** January 28, 2011

**Type of Item:** Resolution Approving and Authorizing an Amendment to the Design Agreement for the Port Deepening Project

**Summary**

This item approves an amendment to the Agreement between the County and the U.S. Department of the Army (DOA) to design the project to deepen the Port of Miami harbor, Phase III. This is the first amendment to the "Design Agreement" between the two entities, and it requires that the County pay an additional \$1 million to the Department of the Army to keep the design phase on track.

- What is the *status* of the design phase currently?

According to Seaport officials, this "Deep Dredge" project would make the Seaport one of only three seaports on the eastern seaboard which could accommodate the world's largest container vessels. Currently, the Port of Miami is the only port on the East Coast which is congressionally authorized to deepen its harbor to minus 50 feet.

The entire harbor deepening project is estimated to cost \$75 million. Funding for the entire project is contingent upon Congressional approval. As of January 28, 2011, Congress has yet to commit to fully funding this project.

**Note**

The Department of the Army has reiterated a contract provision in the Design Agreement which states that the DOA **has no obligation to reimburse the County the advance funds of \$1 million unless Congress fully-funds the Port Deepening Project. (See Article II, Section B, Item 2, of the adopted Design Agreement, R-203-09)**

**Background and Relevant Legislation**

The project to deepen the Port of Miami harbor to minus 50 feet was approved by the United States Congress as part of the Water Resource Development Act of 2007; however, Congress did not set aside the funding to fully complete the project at that time.

The Board of County Commissioners approved Resolution R-203-09, on March 3, 2009, which authorized the current Design Agreement between the County and the Department of the Army. According to R-203-09, the Army would pay 68.64% of the design costs for the project and the County would pay 31.36% because the County opted to adopt a Locally Preferred Plan (LPP) for the dredging project.

However, on March 3, 2009, a supplemental item to the original Design Agreement (see Legislative Item No. 090371) which was presented to the Board of County Commissioners which proposed various changes to R-203-09. The supplement reset the cost burden between the County and DOA to 25% (County) and 75% (DOA).

**In the proposed amendment (Legislative Item No. 110107), the County Executive Office states the County's share for the design cost of this project is 31.36% (Handwritten page 1). However, the Manager's Memo also states that the County's share of the design cost for this project is 25% (Handwritten page 2).**

- **Why is there a discrepancy of the County's contribution in the Manager's Memo?**

#### **Budgetary Impact**

As outlined in the Manager's memo and R-203-09, the total cost to design and engineer the project is \$3,890,000.

**However, due to the conflicting statements in the Manager's Memo (on Handwritten pages 1 and 2), the County's current obligation to this project is unclear.**

The DOA lacks the necessary funding to fulfill its share of the original agreement, thus through the proposed amendment the County would pay an *additional* \$1 million to continue the design and engineering portion of the project.

The Design Agreement and Amendment will be funded by the issuance of the 2010 Recovery Zone Economic Development bonds. (See R-1067-10)

#### **Comments**

Though the County's Federal lobbyists are working to secure full Federal funding of the Deep Dredge project, it is unknown if the Federal government will financially support the project.

If the Federal government fails to adequately fund the Deep Dredge project, the County will need to seek alternative funding to complete the project.

**Prepared by:** Jason T. Smith

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Legislative Notes

**Agenda Item:** 11(A)6, 11(A)7, 11(A)8, 11(A)9, and 11(A)13

**File Number:** 110008, 102900, 110084, 110094, and 102891

**Committee(s)  
of Reference:** Board of County Commissioners

**Date of Analysis:** January 28, 2011

**Districts:** 2, 6, and 9

BCC Agenda No.	11A6	11A7	11A8	11A9	11A13
District	2	9	9	9	6
Location	Trade Winds Affordable  1921 N.W. 79 Street	Villa Capri Apartments  14500 S.W. 280 Street	Richmond Place Townhome  11434 S.W. 148 Street	Senior Housing Project  11111 Kingston Drive	Multi-Purpose Facility located in City of Miami  455 N.W. 47 Avenue Kinloch Municipal Park
BBC-GOB Project No.	249	249	249	249	220
Proposed Resolution	<i>Cancels allocation of \$6.5 million to fund development of affordable housing component of Trade Winds Affordable Housing Project.</i>	<i>Lists this project in the next BBC-GOB series resolution as eligible for funding; funds Villa Capri in full amount of \$2 million for the development of approximately 220 units; and not make any adjustments to this funding for any reason, including cash flow revisions.</i>	<i>Lists this project in the next BBC-GOB series resolution as eligible for funding; funds the development and construction of Richmond Place Project in the full amount of \$500,000 for the development of approximately 12 units; and not make any adjustments to this funding for any reason, including cash flow revisions.</i>	<i>Lists this project in the next BBC-GOB series resolution as eligible for funding; funds the development and construction of the Senior Housing Project in the full amount of \$1 million for the development of approximately 79 units; and not make any adjustments to this funding for any reason, including cash flow revisions.</i>	<i>Allocates \$1.3 million for the construction of Project No. 220 "Acquire or Construct Multi-Purpose Facilities."</i>

Project No. 249—"Preservation of Affordable Housing Units and Expansion of Home Ownership": On May 6, 2008, the Board of County Commissioners (BCC), through Resolution 537-08, approved the allocation of \$10,592,307 to each Commission district for affordable housing projects. Project No. 249 was approved by voters with an original allocation of \$137.7 million and Resolution 537-08 divided the total allocation among the 13 Commission districts.

The Office of the Commission Auditor conducted a cursory review of the BBC-GOB program and provides notes in the table below.

Date	Legislative Action
7/20/04	The BCC adopted eight (8) resolutions (Authorizing Resolutions) for a special election for the BBC Bond Program. The program included eight questions for voter approval to fund various community projects.
3/01/05	The BCC enacted Ordinance No. 05-47 authorizing the issuance of \$2,926 billion in general obligation bonds pursuant to the Authorizing Resolutions.
10/10/06	The BCC adopted R-1208-06 amending R-577-05 to add three projects <b>and to delegate to the County Manager the authority to amend the list of projects in the future as required, to maintain progress on the BBC program.</b>
2/6/07	Discussion at a BCC meeting during adoption of R-120-07, concerns were raised about the overall criteria and process being utilized to evaluate the acceleration of BBC-GOB projects and funding priorities per Commission districts. The County Manager noted that a structured process would be developed.
4/24/07	<p>The County Manager submitted a report, legistar no. 070641, providing information regarding the criteria and process being utilized to evaluate the acceleration of BBC-GOB projects as well as the Manager's recommendation for the use of premium and surplus funds and accrued interest.</p> <p>The report states that the primary decision factor in the determination to accelerate a BBC project is the concept of "project readiness." Additionally stated in the report, the BCC, previously authorized, through the adoption of R-1208-06, to amend the list of projects, <b>and to delegate to the County Manager the authority to amend the list of projects in the future as required, to maintain progress on the BBC program.</b></p>
01/10/08	<p>The BCC, through R-67-08, directed the Mayor to submit a report within 60 days recommending a process for the allocation of any surplus premium, interest earnings and other bond funds, if any, to eligible BCC-GOB program capital projects.</p> <ul style="list-style-type: none"> <li>The resolution requested the following information: (1) include if the identified proceeds will be used to cover funding gaps or to fund new projects; (2) whether the proceeds will fund projects that will positively impact or address the poverty level or crime in a given area; and (3) whether the proceeds should be accelerated for a given project based on the needs of the community.</li> <li><b>Amendments were made to the resolution, to include possibilities of using the additional proceeds to reduce debt.</b></li> </ul>
03/17/09	The BCC, through R-290-09, <b>rescinded Resolution 1208-06 referenced above</b> , and approved Implementing Order (IO) 3-47 <i>to provide a process for allocating BBC-GOB surplus funds, premium funds and unspent bond proceeds.</i>
07/08/10	The BCC, through R-754-10, directed the County Mayor to provide each Commissioner's office with notification and a copy of <i>all items that are to be presented to the BBC Citizens Advisory Committee (CAC)</i> prior to all such items being presented.



### **Development of BBC-GOB Projects List**

On July 11, 2010, the County Manager provided the BCC with a Memorandum, *Building Better Communities Project Lists* (Memo). The Memo provides three scenarios that illustrate the choices for the BBC bond sales in the next two fiscal years. In every scenario, the upcoming two sales are followed by a gap of nearly 24 months in which the County will not sell new bonds.

The Memo states that uncertainty surrounding our millage rates and property-tax roll have made useful projections almost impossible. The list of projects for the next two (2) bond sales was developed by the Office of Capital Improvements and the Office of Strategic Business Management in consultation with the County Executive Office, user departments and external stakeholders.

Additionally, the memo states that the BBC Citizens Advisory Committee (CAC) met on April 2010 and May 3, 2010, in both full session and in a sub-committee and held discussions about the process and provided input. At the May 3<sup>rd</sup> meeting the CAC endorsed the process by which the list was created.

- **Question:** Did the CAC provide the BCC an explanation as to their endorsement of the process by which the list was created?
- **Response:** *According to Office of Capital Improvements staff, CAC has the authority to communicate with the Board/Mayor/Manager in writing or orally at any time. In addition, Commissioners are free to discuss issues brought up at CAC meetings with their individual appointees. Although, the Committee did not instruct staff to prepare a written communiqué regarding their approval of the criteria for developing a list to be funded for the next bond sale, the Manager's office relayed the information to the Board in his July 11, 2010 memo. Also, the BCC is invited to all CAC meetings and their staffs often do attend. In addition, all meetings are publicly noticed with documented meeting minutes.*

The Memorandum provided on September 23, 2010, *Information for Second Budget Hearing*, states that the County Manager had visited each BCC member and reviewed a **draft list of BBC-GOB projects to be included in the next two bond sales and that a final list will be approved with the series resolution approving the bond sale.**

**Prepared by:** Michael Amador-Gil

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 12(A)2  
**File Number:** 110130  
**Committee(s)  
of Reference:** Board of County Commissioners  
**Date of Analysis:** January 28, 2011  
**District:** 9

**Summary**

This resolution approves an "Agreement to Purchase Development Rights/Conservation Easement" totaling \$1,600,000 for approximately 80 acres, located at S.W. 300 Street and S.W. 217 Avenue.

The Purchase Development Rights Program was established through Resolution 1036-07.

**Amendment:** *On January 12, 2011, during the Infrastructure and Land Use Committee meeting, a correction was made to handwritten page 1, paragraph 3, under the heading "Fiscal Impact/Funding Source," to reflect the estimated reduction in ad valorem tax payments to the County was \$2,328 per year across all taxing districts; including the Water Management District; and that the actual reduction was \$1,258 based on the 2010 values; and to correct the language on handwritten page 2, paragraph 2, line 5, to replace "first purchases" with "second purchases."*

**Background and Relevant Information**

On September 20, 2007, the Board of County Commissioners (BCC), through Resolution 1036-07, established Miami-Dade County's Purchase of Development Rights (PDR) Program. This program utilizes General Obligation Bond proceeds to preserve agricultural land; enables the County to purchase residential development rights from willing property owners; and ensures that related properties remain undeveloped and available for agricultural uses.

**Legislative History**

On July 21, 2009, the BCC, through Resolution 1016-09, modified the PDR. Specifically, the modification required the conservation easement to exist in perpetuity; thereby abolishing the concept of less-than-perpetuity easements as ostensibly implied in the September 2007 legislation. In essence, the modification expressly incorporated "in perpetuity" language to diminish any conception that the landowner's options to exchange or release the easements (under specified conditions), as set forth in the 2007 legislation, are an automatic right; or the easement conveyed will be less than permanent.

On July 21, 2009, the BCC, through Resolution 1017-09, authorized the County Mayor or his designee to enter into a Cooperative Agreement with the United States of America to receive funding from the Farm and Ranch Lands Protection Program for Miami-Dade County's PDR program.

On July 21, 2009, the BCC, through Resolution 1018-09, approved an “Agreement to Purchase Development Rights/Conservation Easement” totaling \$2,380,000 for approximately 85 acres.

**Additional Information**

According to the County’s Agricultural Manager, approximately 3,000 solicitations were sent out at the beginning of the program (to every owner of property receiving an agricultural classification from the Property Appraiser); and 64 applications have been received for a total of 4288.78 acres. To date, easements have been acquired on 85 acres and 12 applications totaling 189.45 acres were found not to have qualified for the program.

According to the Office of Capital Improvements staff, the PDR project is funded by the BBC-GOB program totaling \$30 million; this amount is for the entire 15-18 year life span of the BBC-GOB program.

- Overall, the County has spent \$1,253,634.72. The proposed project is currently listed in the Manager’s recommendation to be funded from the next bond sale. The funding to be provided within the next 45 months will reflect actual expenditures.

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