



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Board of County Commissioners**

February 15, 2011  
9:30 A.M.  
Commission Chamber

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

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

**February 15, 2011**

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

**Item Number(s)**

8F1A
8O1A
8R1A
8R1A Supp
Add-On

Acknowledgements

Bia Marsellos, Legislative Supervisor  
Michael Amador-Gil, Senior Legislative Analyst  
Elizabeth Owens, Legislative Analyst  
Mia Marin, Legislative Analyst

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



Legislative Notes

**Agenda Item:** 8(F)1(A), 8(R)1(A), & 8(R)1(A) Supp.

**File Number:** 102687, 110034, & 110131

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

**Date of Analysis:** February 9, 2011

**District:** 9

**Type of Item:** Resolution

Items 8(F)1A and 8(R)1(A) were deferred from the January 20, 2011 Board of County Commissioners (BCC) meeting in order for staff to provide specifics on expected revenues, projections, and the necessity of a new water plant.

**Summary**

Item 8(F)1(A) approves a *Lease Agreement* between Miami-Dade County and TOD-COR, LC., a Florida Limited Liability Company, for premises to be utilized by Miami-Dade Water and Sewer Department (MDWASD), as a temporary solution to *relocate* staff and equipment from the existing facility (South Miami Heights) to accommodate the construction of the new South Miami Heights Water Treatment Plant.

- Term of Lease: *five-year term with one additional five-year renewal option.*
- Total Cost to the County, first year: \$144,092.00.
- *If the County chooses to exercise the five-year renewal option, the total cost will not exceed \$1,717,466.59.*
- The County has no record of negative performance issues with TOD-COR, LC.
- **Funding Source:** Miami-Dade Water and Sewer Department operating budget.

*According to General Services Administration staff, the landlord (TOD-COR, LC.) agreed to freeze the escalation at four percent per year, including the renewal, provided that the Lease Agreement is presented to the Board of County Commissioners by the February 15, 2011 BCC meeting, in order to start paying rent on March 1, 2011.*

Item 8(R)1(A) awards construction Contract No. W-855(A) to John J. Kirlin, LLC totaling \$49,662,425.66 for a proposed 20 million gallons a day (MGD) South Miami Heights Water Treatment Plant located at 11800 S.W. 208 Street. This project is one in a series of projects under the 20-Year Water Use Permit (WUP) issued by the South Florida Water Management District (SFWMD).

## Background and Relevant Information

The MDWASD provides direct service to more than 440,000 customers with annual operating revenues of more than \$528 million. The department provides water and wastewater services to the unincorporated areas of Miami-Dade County, and wholesale water and wholesale wastewater services to several municipalities.

In April 2006, the BCC, through R-468-06, approved the Miami-Dade Water Use Efficiency (Five-Year Plan). One of the plan's objectives was for the MDWASD to develop more efficient water use practices and encourage County residents to save water.

In November 2007, MDWASD received a 20-year WUP from the SFWMD. The WUP addresses present and future water needs of the County while protecting natural resources, and requires the County to develop alternative water supply sources and continue with the implementation of the Water-Use Efficiency Program.

According to the 2007 Annual Report on MDWASD's 20-Year Water Conservation Plan, water savings goals were established at 963,000 gallons per day. ***This goal was exceeded by 193,446 gallons per day, for a total first year savings of 1,156,446 gallons per day.***

As a component of the Miami-Dade Efficiency Plan, the following projects were implemented by MDWASD staff with the assistance of 3-1-1 Answer Center, Consumer Services Department, and the Community Action Agency:

- The Showerhead Exchange and Retrofit Kit; Green Lodging and Restaurant Project; School Projects; Landscape Irrigation Evaluations; Senior and Low Income Retrofit; County Owned Facility Audits; and Water Restrictions Advisories.

***As a result of these conservation efforts in 2006 and 2007, the total consumption for retail system was reduced by 4,372,115,000 gallons and the wholesale by 1,982,675,000 gallons in 2007 for a total systemwide reduction in consumption of 6,354,790,000 gallons per year or 17,410,383 gallons per day.***

	FY 2006	FY 2007
<b>Retail (1,000 gallons)</b>		
Residential	34,922,823	32,179,105
Multi-Family	16,077,545	15,199,037
Non-Res	20,673,970	19,924,081
<b>Total</b>	<b>71,674,338</b>	<b>67,302,223</b>
<b>Wholesale</b>		
All Wholesale	27,501,438	25,518,763

**Source:** MDWASD 20-Year Water Conservation Plan Report, presented to the BCC on 6/3/08, Legislative File No. 083123

On December 21, 2009, the MDWASD submitted an application for a *permit* modification to the SFWMD. As result of the lower demands and updated population projections, MDWASD reevaluated the water demand projections originally submitted for the WUP, and the Alternative Water Supply Plan (AWS) projects and project schedules. The application for the permit modification reflects changes to the AWS plan.<sup>1</sup>

On June 8, 2010, the Government Operations Committee (GO) deferred an item establishing that retail and wastewater rates be adjusted by the Consumer Price Index-All Urban Consumers: Water and

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<sup>1</sup> MDWASD Consolidated PWS WUP Permit No. 13-00017-W, Compliance Highlights Report, January 2010

Sewerage Maintenance-U.S. City Average. *The MDWASD requested the adjustments to ensure adequate net revenues to pay for increase in operations and maintenance costs of the water and sewer system. The GO Committee withdrew the item on July 13, 2010.*

On November 1, 2010, the SFWMD approved an extension to the County's WUP because of the reduction in water demands. The permit is now extended until 2030.

- According to the County Manager's Supplemental Item to 8R1A, the administration projected rates would reach \$81.89 by FY 2010-11. However, because the County implemented efficiency practices to keep water rates less than that figure, MDWASD's capital investments still *requires sufficient revenues to support future debt-service payments.*

**The Office of the Commission Auditor compiled information pertaining to MDWASD's financial outlook and provides notes below from Volume 1, Page 99, Adopted FY 2010-11:**

- *The FY 2010-11 Adopted Budget includes various rate adjustments for the MDWASD effective October 1, 2010. The water and sewer rate adjustment includes a five percent increase to the average retail customer for FY 2010-11. Although operating and maintenance expenses are virtually flat, this adjustment is required to fund debt issuances needed to support the department's capital improvement plan. This five percent rate adjustment is almost one percent below the increase required to fund the Renewal and Replacement contribution and additional debt service requirements.*
- *The Department is proposing to issue new bonds of \$754 million in FY 2011-12, \$704.4 million in FY 2012-13, \$685.2 million in FY 2013-14, and \$680 million in FY 2014-15 to provide funding for planned capital projects.*
- *MDWASD is estimating that the payment schedule for these new bonds will require an additional \$12 million in FY 2011-12, \$53.6 million in FY 2012-13, \$92.2 million in FY 2013-14 and \$128.9 million in FY 2015-16.*
- *The financial outlook does not include the possible impact of funding the department's currently unfunded projects totaling \$6.5 billion, which includes \$2.4 billion for Ocean Outfall mandated projects, \$1.7 billion for 20-Year Water Use Permit projects, and \$2.4 billion for delayed and deferred infrastructure projects.*

**Questions Posed to MDWASD staff:**

- How much water has been saved through MDWASD's Water-Use Efficiency Projects?
- Is the County able to finance the South Miami Heights Water Treatment Plant without adjusting water rates?
- Do revenue estimates support future debt-service payments for the MDWASD without a rate adjustment?

The Office of the Commission Auditor conducted a survey of the top five counties in Florida to determine if water and wastewater rates were adjusted based on the average Consumer Price Index increases.

- The survey is provided as an attachment to the analysis.

**Prepared by:** Michael Amador-Gil

**Water and Sewer Rate Adjustment Survey 2011**  
**Top Five Counties in Florida**

County	Does the County adjust their water and wastewater rates based on the average Consumer Price Index increases?	Source
Broward County	No	Director of Water and Wastewater Services  Revenue Protection Manager for Water and Wastewater Services <a href="http://www.broward.org/waterservices/Pages/Default.aspx">http://www.broward.org/waterservices/Pages/Default.aspx</a>
Palm Beach County	Yes	Budget Analyst <a href="http://www.pbcgov.com/waterutilities/">http://www.pbcgov.com/waterutilities/</a>
Hillsborough County	Yes	Beginning June 1, 2010, Water Resource Services customers will see changes in the rates they pay for water, wastewater and metered reclaimed water service.  In order to keep the utility financially sound, Hillsborough County Commissioners in May approved the implementation of "rate indexing." Rate indexing will allow us to make annual adjustments to rates based on an inflation factor established by the Florida Public Service Commission.  The rate indexing will be applied on usage beginning June 1, 2010. The rate adjustment for this year is 0.37 percent, amounting to an additional 22 cents per month on the typical household use of 6,000 gallons of water. Rate Adjustments Effective June 1, 2010.  <a href="http://www.hillsboroughcounty.org/water/accounts/rates.cfm">http://www.hillsboroughcounty.org/water/accounts/rates.cfm</a>
Orange County	No	Budget Analyst The Orange County Utilities Department's rates are adjusted consistent with and pursuant to Section 153.11 of Florida Statutes. The Board of County Commissioner (BCC) adopts annually effective on October 1 <sup>st</sup> of each year an automatic increase of 3% to all rates, fees and charges contained in the Water System charge Schedule. The automatic increase does not apply to the Water Capital Charge or Specific Service Charges.  The automatic increase of 3% does not apply if the BCC adopts a resolution to repeal the automatic 3% increase. For FY 2010-11, the BCC approved a resolution to repeal the automatic three (3%) percent increase for Reclaimed Water Rates for the commercial Citrus Growers. <a href="http://www.orangecountyfl.net/YourLocalGovernment/BudgetFinances/tabid/243/Default.aspx">http://www.orangecountyfl.net/YourLocalGovernment/BudgetFinances/tabid/243/Default.aspx</a>
Duval County	No	Major Accounts Manager for Jacksonville Electric Authority <a href="http://www.jea.com/index.asp">http://www.jea.com/index.asp</a>

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
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Legislative Notes

**Agenda Item:** 8(O)1(A)  
**File Number:** 101857  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** February 9, 2011  
**Type of Item:** Governmental Representation and Consulting Services

**Summary**

This resolution authorizes the County Mayor or his designee to execute agreements to obtain governmental representation and consulting services in Washington, D.C. by authorizing the following contracts: RFQ685a to Alcalde & Fay, RFQ685b to Patton Boggs, LLP, RFQ685c to Greenberg Traurig, P.A., and RFQ685d to Akerman, Senterfitt & Eidson P.A.

TERM: One (1) year with three (3), one-year options-to-renew (OTR).

CONTRACT AMOUNT: \$720,000 per year.

If the County exercises the three (3), one-year options-to-renew, the total contract value will be \$2,880,000.

FUNDING SOURCE: General Fund

In addition, this resolution waives the competitive bid process and bid protest procedures in order to award RFQ685d to Akerman, Senterfitt & Eidson P.A.

The following firms were not recommended for award: Cardenas Partners, LLC; Venable LLP, Foley & Lardner, LLP; Dutko Worldwide; Sandler, Travis & Rosenberg, P.A.; James Lee Witt Associates; The Ferguson Group, LLC; BGR Government Affairs, LLC; Akin Gump Strauss Hauer & Feld; and EOP Group, Inc.

**Background and Relevant Legislation**

Date	Legislation	Summary of Legislation
01/24/06	R-133-06	This resolution authorized execution of agreements to obtain governmental representation and consulting services in Washington, D.C. to the following firms:

		<ul style="list-style-type: none"> <li>• Q74a – Greenberg Traurig, P.A.;</li> <li>• Q74b – Alcalde &amp; Fay; and</li> <li>• Q74c – Tew Cardenas LLP</li> </ul> <p>TERM: one (1) year with three (3), one-year option to renew (OTR) period.</p> <p>CONTRACT AMOUNTS: Each contract was valued at \$200,000 annually, plus up to \$100,000 per contract annually for work orders. Each agreement also included payment for approved optional services or additional work orders, at the County's request, on an as-needed basis, in an amount not to exceed \$225,000 annually in the aggregate for all three contracts.</p> <p>This resolution was amended at committee to increase the allocation for optional services from \$75,000 to \$225,000 and to allow those funds to also be used for additional work orders.</p>
11/02/09	R-1286-09 (see report under File No. 091872)	<p>The Board of County Commissioners (BCC) authorized the Administration to advertise a Request for Qualifications (RFQ) to obtain proposals to provide representation and consulting services on behalf of the County before the executive and legislative branches of the federal government.</p> <p>Greenberg Traurig, P.A., Alcade &amp; Fay, and Tew Cardenas, LLP served as the County's federal lobbyists and consultants. The three contracts expired on February 5, 2010. The County had already exercised the three (3) one-year OTR.</p>
01/21/10	R-31-10	<p>BCC extended the three contracts for Greenberg Traurig, P.A., Alcade &amp; Fay, and Tew Cardenas, LLP for six (6) months until August 5, 2010 on a month-to-month basis in order to complete the solicitation process for the successor contracts.</p> <p>In addition, this resolution allocated \$100,000 to each firm as compensation for continuing to provide consulting services and governmental representation in Washington, D.C. beyond the contracts' termination dates.</p>
06/10/10	File No. 101048	<p>During the Health, Public Safety and Intergovernmental Committee (HPSI) meeting, it was recommended that the successor contracts be amended to include the following:</p> <ul style="list-style-type: none"> <li>• Award up to five (5) firms instead of three (3);</li> <li>• Requires the Mayor's recommendation to include a bid waiver (requires a two-thirds vote of the BCC);</li> <li>• Directs the Department of Procurement Management (DPM) to negotiate the contract amount not to exceed \$190,000 per contract per year with the additional firms to be added to this contract award; and</li> <li>• Directs DPM staff to locate additional funding necessary and if not successful then renegotiate with all five firms equally.</li> </ul>
07/20/10	File No. 101857	<p>This item was 4-day ruled. The current contracts were extended on a month to month basis until September 2010.</p>



09/21/10	File No. 101857	No action taken. The current contracts were extended until after the November 2010 elections.
12/07/10	File No. 101857	This item was deferred. The current contracts were extended until February 2011.

### **Additional Information**

On May 14, 2010, the Jackson Health System Governmental Relations unit provided the status of the State and Federal Lobbying contracts for the Jackson Health System / Public Health Trust. Although an update was requested, it was not received at the time of printing this analysis.

The following information was provided on May 14, 2010.

#### State Lobbying Contracts Totaling \$382,000

- **Akerman Senterfitt = \$136,000 per year**
  - Term: January 2007 to January 2010 for 3 years with 2 OTRs.
  - Effective November 1, 2009, Akerman Senterfitt accepted a 15% fee reduction, modifying contract from \$160,000 to \$136,000.
- **Ron Book = \$136,000 per year**
  - Term: December 2006 to December 2009 for 3 years with 2 OTRs.
  - Effective November 1, 2009, Ron Book accepted a 15% fee reduction, modifying contract from \$160,000 to \$136,000.
- **V.B. and Associates = \$60,000 per year**
  - Term: April 2009 to April 2010, 1 year.
- **Renier Diaz de la Portilla = \$50,000 per year**
  - Term: August 2009 to August 2010, 1 year.
    - On August 25, 2009, this contract was transferred from Gray Robinson to Renier de la Portilla.

#### Federal Lobbying Contracts Totaling \$147,000

- **Akerman Senterfitt \$147,000 per year**
  - Term: February 2008 to January 2009 for 1 year with 2 OTRs
  - Effective November 1, 2009, Akerman Senterfitt accepted a 15% fee reduction, modifying contract from \$172,500 to \$147,000.

**Prepared by:** Elizabeth N. Owens

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** Add-on

**File Number:** 110202

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

**Date of Analysis:** February 7, 2011

**Type of Item:** Resolution Authorizing Substantial Amendment to FY2008-12 Consolidated Plan and 2010 Action Plan for Neighborhood Stabilization Program Round 3 Funds

**Summary**

This resolution authorizes the following:

- Approves the \$20,036,303 Neighborhood Stabilization Program Round 3 (NSP3) Plan as a Substantial Amendment to the County's FY 2008-2012 Consolidated Plan and FY 2010 Action Plan;
- Authorizes the County Mayor to submit the NSP3 Plan to the US Department of Housing and Urban Development (HUD) for approval by the March 1, 2011 due date; and
- Amends NSP Implementing Order (IO)2-11 to include the NSP3 allocation, NSP3 expenditures by activity, and allows for the selection of redevelopment projects for NSP3 funding.

**Background and Relevant Legislation**

According to the U.S. Department of Housing and Urban Development (HUD), the NSP was established to stabilize communities experiencing high rates of foreclosures and property abandonment. Initial NSP funds (or NSP1) funds were authorized under the Housing and Economic Recovery Act (HERA) of 2008, providing grants to all states and selected local governments on a formula basis.

In September of 2008, HUD distributed \$3.92 billion from HERA to 309 NSP1 grantees (55 states and territories and 254 local governments) in areas hardest hit by foreclosures and abandoned properties. Under NSP1, grantees have 18 months to obligate the funds (September 2010 due date) and four years to expend these allocations. **According to the August 2010 Miami-Dade County NSP report (File No. 102202), as of August 31, 2010, the County has obligated 100 percent of the total grant award (\$62.207 million). Additionally, in the November 2010**

**Miami-Dade County NSP report (File No. 110035), as of November 31, 2010, the County has spent \$17,755,999, or approximately 29 percent of the total grant.**

HUD has subsequently released additional funds NSP Round 2 (NSP2) and NSP Technical Assistance (NSP-TA). HUD has awarded a total of \$1.93 billion in NSP2 grants to 56 grantees. Additionally, HUD has awarded a \$50 million allocation made available to national and local technical assistance providers to support NSP-TA grantees.

Miami-Dade County has not received funds from NSP2 or NSP-TA.

On September 8, 2010, U.S. HUD announced the allocation of \$1 billion to provide a third round of neighborhood revitalization stabilization grants (NSP3) to all states and select governments on a formula basis. HUD will award grants to 270 states and selected local governments to mitigate the negative impact of the nation's economic decline and housing market collapse and to stabilize and revitalize communities/areas hit the hardest. Miami-Dade County was awarded \$20,036,303 in NSP3 funds.

According to the U.S. HUD website, NSP3 grantees have 2 years from the date HUD signed their grant agreements to expend 50% these funds and 3 years to expend an amount equal to these allocations.

#### NSP Funds and HUD allocations

NSP1	\$3.92 B
NSP2	\$1.93 B
NSP-TA	\$50.00 M
NSP3	\$1.00 B

NSP is a component of the Community Development Block Grant (CDBG). The CDBG regulatory structure is the platform used to implement NSP and the HOME program provides a platform for NSP affordability requirements.

Under the NSP1 program, NSP grantees develop their own programs and funding priorities. NSP grantees must use at least 25 percent of the funds appropriated for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of the area median income. In addition, all activities funded by NSP must benefit low- and moderate-income persons whose income does not exceed 120 percent of area median income. Activities may not qualify under NSP using the "prevent or eliminate slums and blight" or "address urgent community development needs" objectives.

NSP funds may be used for activities which include, but are not limited to:

- Acquire foreclosed or abandoned homes and residential properties;
- Rehabilitate homes and residential properties;

- Demolish blighted structures;
- Redevelop demolished or vacant properties;
- Establish land banks; and
- Establish financing mechanisms to assist low- and moderate-income homebuyers

### **Differences between NSP1 and NSP3**

According to the NSP (NSP1) October 2010 Report (File No. 102633), County staff reviewed the U.S. HUD Notice on NSP Round 3 and noted some differences in approved activities from the NSP1 program. The approved activities for NSP3 program include the following:

- 1) 50 percent of the funds must be expended in two years with the balance being spent in three years;
- 2) Funds are for housing activities only;
- 3) Only ten percent of the grant can be used for demolition, unless a waiver is received;
- 4) Funds cannot be used to demolish public housing;
- 5) Self-Assessments will be required of grantees to demonstrate capacity;
- 6) The target area(s) utilizing the HUD mapping tool must demonstrate neighborhood stabilizing impact; and
- 7) Procedures are required to create preferences for affordable housing rental developments

### **Miami-Dade County Proposed NSP3 Activity**

The proposed NSP3 expenditures by activity and recommended target areas for Miami-Dade County are as follows:

<b>Proposed NSP3 Activity</b>	<b>Proposed Budget</b>	<b>Percentage of Total NSP3 Allocation</b>	<b>Target Areas</b>
Acquisition and rehabilitation of multi-family residential properties to provide affordable rental housing	\$2,592,985	12.94%	Brownsville, Florida City, Liberty City and Opa-locka
Neighborhood redevelopment of affordable multi-family rental housing on vacant property. Activity targets developers with vacant land to offer the ability to leverage other funding in order to achieve results. The County will provide NSP3 funding to augment other funding sources or to provide short-term construction loans	\$15,239,688	76.06%	Brownsville, Florida City, Liberty City and Opa-locka
Demolition of blighted structures to address public health and safety problems in negatively impacted neighborhoods	\$200,000	.99%	Florida City, Opa-locka and South Miami
Administration	\$2,003,630	9.99%	Not applicable
<b>Total Allocation</b>	<b>\$20,036,303</b>		

**NSP Legislation**

The following is a list of previous approved NSP legislation by the Board of County Commissioners to include the following:

R-1151-08	Substantial Amendment to Miami-Dade County's FY2008-2012 Consolidated Plan and FY2008 Action Plan for Neighborhood Stabilization Program Funds
R-312-09	Resolution authorizing the Implementation Order (IO) 2-11 from the Miami-Dade County Neighborhood Stabilization Program (NSP)
R-732-09	Resolution directing the Mayor or the Mayor's designee to prepare a report with proposed uses of Round 2 of Neighborhood Stabilization Program funds
R-1058-09	Resolution approving amendments to Implementing Order IO-2-11 for the Neighborhood Stabilization Program
R-916-09	Resolution authorizing Submission of the Competitive Application for Neighborhood Stabilization Program 2 Funds
R-183-10	Resolution approving amendment to the Miami-Dade County Neighborhood Stabilization Program and Implementing Order pursuant to Federal Regulations
R-562-10	Resolution approving amendments to the 2008 Action Plan previously approved for the Neighborhood Stabilization Program
R-297-10	Resolution authorizing the sale of twenty-five (25) properties as affordable housing units as part of the Neighborhood Stabilization Program
R-710-10	Resolution authorizing the sale of eighteen (18) properties as affordable housing units as part of the Neighborhood Stabilization Program
R-1127-10	Resolution authorizing the sale of seven (7) properties as affordable housing units as part of the Neighborhood Stabilization Program

**Prepared By: Mia B. Marin**