



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Legislative Analysis**

**Board of County Commissioners**

March 01, 2011  
9:30 A.M.  
Commission Chamber

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Commission Auditor  
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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**

**March 01, 2011**

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

**Item Number(s)**

8J1B
8M1A
8M1B
11A4
11A7

Acknowledgements

Bia Marsellos, Legislative Supervisor  
Jason Smith, Senior Legislative Analyst  
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(J)1(B)

**File Number:** 110068

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

**Date of Analysis:** February 25, 2011

**Type of Item:** Resolution Authorizing Acceptance of Grant Funds from the Federal Government to Benefit the Miami-Dade Transit Agency

**Summary**

This resolution would allow Miami-Dade County to accept grant funds from the United States Department of Transportation and the Federal Transit Administration. The total amount of grant funds the County is seeking is \$64.6 million. The amount of requested grant funds includes \$42.28 million from FY 2010 Section 5307 formula grant funds, and \$15.34 million in FY 2010 Section 5309 Fixed Guideway Modernization grant program funds.

**Additional Information**

**Section 5307 formula grant funds**

The Urbanized Area Formula Funding program (49 U.S.C. 5307) makes Federal resources available to urbanized areas for transit capital and operating assistance in urbanized areas and for transportation-related planning.

Eligible activities include planning, engineering design and evaluation of transit projects and other technical transportation-related studies; capital investments in bus and bus-related activities such as replacement of buses, overhaul of buses, rebuilding of buses, crime prevention and security equipment and construction of maintenance and passenger facilities; and capital investments in new and existing fixed guideway systems including rolling stock, overhaul and rebuilding of vehicles, track, signals, communications, and computer hardware and software. All preventive maintenance and some Americans with Disabilities Act complementary paratransit service costs are considered capital costs.

For urbanized areas with 200,000 in population and over, funds are apportioned and flow directly to a designated recipient selected locally to apply for and receive Federal funds.

### **Section 5309 Fixed Guideway Modernization grant funds**

A "fixed guideway" refers to any transit service that uses exclusive or controlled rights-of-way or rails, entirely or in part. The term includes heavy rail, commuter rail, light rail, monorail, trolleybus, aerial tramway, inclined plane, cable car, automated guideway transit, ferryboats, that portion of motor bus service operated on exclusive or controlled rights-of-way, and high-occupancy-vehicle (HOV) lanes.

Eligible activities are capital projects to modernize or improve existing fixed guideway systems, including purchase and rehabilitation of rolling stock, track, line equipment, structures, signals and communications, power equipment and substations, passenger stations and terminals, security equipment and systems, maintenance facilities and equipment, operational support equipment including computer hardware and software, system extensions, and preventive maintenance.

### **FTA Audit Findings**

On January 7, 2011, the U.S. Department of Transportation, and Federal Transit Administration issued a Financial Management Oversight Draft Report on Miami-Dade County Transit (MDT) and American Recovery and Reinvestment Act Projects for Municipalities. MDT had been expecting the report since the Nov. 5, 2010, verbal exit conference.

The Federal government found "significant deficiencies" in a number of areas related to MDT's financial controls, personnel turnover rate, the recording of fixed assets, and others. The draft audit report also found "material weaknesses" in MDT's quarterly reporting practices, collection and receipt of fare box revenues, and MDT's unauthorized draw-downs of Federal funds from the Federal government's on-line grant system called ECHO.

As a result of the draft audit findings, the County has been barred from drawing down Federal funds from the ECHO system. The Federal government's action amount to a "funding freeze" when it comes to Federal dollars intended for MDT.

On Feb. 4, 2011, MDT responded to the Federal government's findings with a 7-page letter detailing the corrective actions the County has implemented since originally learning of the preliminary audit findings.

As of Feb. 25, 2011, the Federal funding freeze was still in place.

### **Questions**

#### **Are the grants listed in Item 8(J)1(B) impacted if the FTA freeze is not lifted?**

During the Regional Transportation Committee meeting of Feb. 7, 2011, the County Manager's office stated that the current freeze prevents the grant funds from being disbursed to the County. The FTA cannot obligate these funds to the County until the freeze is lifted.

## **Comments, continued**

### **Can the grants be drawn on if the FTA freeze is not lifted?**

According to the County Manager's office, these funds cannot be drawn down until the funding freeze is lifted. (Source: Testimony of Assistant County Manager Ysela Llorca, during the Feb. 7, 2011, Regional Transportation Committee meeting.)

### **How will the continuing funding freeze impact the required state match of \$16.15 million from the Florida Department of Transportation?**

### **What is the current status of the FTA freeze and the estimated date of removal?**

The Office of the Commission Auditor posed this question to the County Manager's office. However, as of this printing, the Office of the Commission Auditor has not received a response to this question. This question was also posed to the Miami-Dade Transit, but the Office of the Commissioner Auditor was directed by MDT to contact the County Manager's Office for all FTA-related questions.

**Prepared by: Jason T. Smith**

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 8(M)1(A) and 8(M)1(B)

**File Number:** 110017 and 110019

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

**Date of Analysis:** February 23, 2011

**Type of Item:** Resolution Authorizing a Property Exchange and Approving an Amended and Restated License Agreement

**Summary**

It is recommended that the Board authorize resolutions relating to the Gold Coast Museum Park that include the following:

1. Gold Coast Railroad Museum Park (GCRMP) Property Exchange in Support of Zoo Miami Entertainment Area between U.S. Department of Justice, Bureau of Prisons and Miami-Dade County.
2. Amended and Restated License Agreement for the operation, maintenance and Improvements of certain lands within the GCRMP.

**License Agreement**

The County entered into the GCRMP License Agreement on December 2, 1986 for the operation and use of designated land (R-493-85).

The terms of the agreement under R-493-85 include the following:

- License Agreement term is for thirty-five (35) years ending on December, 31, 2022;
- Authorizing the Gold Coast Railroad Museum, Inc (GCRMI) to develop, install and operate its facilities on the described property located at 12450 S.W. 152 Street, Miami, FL;
- Percentage Fee Guaranty by GCRMI to the County of adjusted gross receipts beginning with five percent (5%) in the first twelve (12) months of the agreement and ending with eight percent (8%) after the seventy-second (72) month through the end of the agreement.

The General Plan for the GCRMP was revised and approved on February 2, 2010 (R-182-10). The General Plan revision extended the entertainment areas of the Zoo (Zoo Miami Entertainment Area); revised and modernized the Gold Coast Railroad Museum Project and added the adjacent Military Museum of South Florida (Richmond Naval Air Station).

The proposed GCRMP Amended and Restated License Agreement retains the same term as the existing Agreement but conforms to the changes of the revised GCRMP General Plan approved through R-182-10.

***The percentage of adjusted gross receipts has been eight (8%) since 1993 (18 years), why has the percentage of gross receipts not been adjusted in the Amended and Restated License Agreement to reflect current market conditions and to reflect the future improvements associated with the Zoo Miami Entertainment Area?***

**MDPR Staff Response:**

- ***The fee has not been adjusted because GCRMI is a 503© non-profit corporation that is responsible for paying all operations, maintenance and certain capital costs involved in the license area (without cost to the County);***
- ***The fee is designed to later transition into a parking fee once a developer of the Entertainment Area is selected and a contract is negotiated;***
- ***Once the Entertainment Area is developed, the County will amend the license agreement to establish a parking fee projected to be higher than what is received in gross receipts.***

#### **Property Exchange**

The proposed Property Exchange between U.S Department of Justice, Bureau of Prisons (BOP) and Miami-Dade County requires the County to do the following:

- Submit application through the U.S. Department of interior for conveyance of approximately five acres of federal property from the U.S. Department of Justice, BOP;
- Accept the conveyance of five acres of federal property;
- Convey approximately five acres of Zoo Miami land;
- Convey two emergency access easements to BOP;
- Comply with the terms of the application of Federal Surplus Property; and
- Authorize the use of Building Better Communities General Obligation Bond funds for the construction of a moat crossing on one of the access easements in the amount of \$100,000, if funds are not provided by Zoo Miami Entertainment Area developer by June 2015.

This property exchange impacts GCRMP because the BOP property is situated between S.W 137<sup>th</sup> Avenue on the west, Larry and Penny Thompson Park on the south, Zoo Miami and GCRMP on the east and the U.S. Army on the north. The land acquisition from BOP is expected to address future overflow parking needs created by the Zoo Miami Entertainment Area.

The following questions regarding the proposed property exchange have been submitted to the Park and Recreation Department (MDPR) staff followed by their responses:

- What is the value of the property being conveyed to Bureau of Prisons?  
***The value of the property is \$100,000; however, because of its location (zoo), configuration and size, the area has no developable value.***
- What is the value of the federal property being conveyed to Miami-Dade County?

***The value of the property is in excess of \$300,000.***

- Who is responsible for the emergency access easements currently?

***The County is currently responsible for the easements.***

- What is that cost of maintaining those easements?

***Once the easements are established, there is no ongoing cost to maintain easements.***

- Once the easements are conveyed to BOP, who will be responsible?

***Once the land is conveyed to BOP it will be the responsibility of BOP to maintain the property.***

- What is the fiscal impact for conducting the property exchange between Miami-Dade County and BOP? ( budget breakdown to include title search cost, legal filings, administrative costs and other)

***The associated costs for the property exchange are estimated at \$62,120 to include staff support, perimeter fence, gravel addition over railroad track and long term egress easement improvements.***

- The cost of operating and maintaining the parking lot once the County has received the BOP property?

***It is expected that the fees collected from visitors will cover the cost of operating and maintaining the parking lot.***

- Is the \$100,000 cost for the moat, a new construction or improvements to an existing moat?

***The \$100,000 will cover the construction of a new moat.***

#### **Fiscal Impact**

The construction of a moat on one of the access easements is needed to facilitate overflow parking for the Zoo Entertainment Area. According to the item, funding for the moat is estimated at \$100,000 and will be provided by the developer. Miami-Dade County will fund the construction of the moat using General Obligation Bond (GOB Project No. 48-Zoo Miami Funds) funds if a developer has not been selected by 2015 and then require reimbursement from the developer no later than June 2017.

**Prepared by:** Mia B. Marin



MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 11(A)4

**File Number:** 110242

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

**Date of Analysis:** February 23, 2011

**Sponsor:** Vice Chairwoman Audrey M. Edmonson

**Summary**

This resolution directs the County Mayor or the Mayor's designee to negotiate Change Order No. 3 to Miscellaneous Construction Contract No. MCC-7-05 with Mike Gomez Construction Consulting, Inc. (Gomez), extending the contract until the issuance of a successor contract or until no later than September 30th, 2011, *and increasing the contract amount in an amount not to exceed \$10 million dollars*; additionally authorizes the County Mayor or his Designee to execute such change order without need for subsequent Board of County Commissioners (BCC) action; and waive formal bid procedures.

*The proposed resolution would bring the total contract amount for Miscellaneous Construction Contract No. MCC-7-05 to \$70,125,000.*

**Background and Relevant Legislation**

A cursory review of the legistar system shows the following legislation pertaining to Gomez:

Date	Legislation Action
9/12/06	Gomez was recommended for the MCC-7-05 totaling \$50,125,000, for five (5) year term. The MCC contract includes minor renovations, refurbishments, repairs, modifications, upgrades, installation of landscaping and related lighting, irrigation and maintenance work, and various types of emergency and periodic maintenance for various airport facilities. The MCC contract allows Gomez to enter into subcontractor agreements; develop, implement and monitor specific measurable programs with methods, procedures and time frames for subcontractor participation; increase the overall level of certified CSBEs participation; provide full scope management and administrative services on all awarded projects; and make available this MCC contract to other County departments.(See R-955-06)
5/06/08	The BCC, through R-459-08, approved Change Order No. 1 to MCC Contract MCC-7-05 to revise the CSBE goal participation and to incorporate mandatory provisions for federally funded projects. The Review Committee changed the project goal from 35 percent to 23 percent based on \$11,737,895. Pursuant to R-459-08: The goal is based on the aggregate of the Part 1, Part 2, and Part 3 Construction Management services of work, not on contract as a whole. The contractor may satisfy this goal in a manner of its choosing, subject to approval of SBD and consistent with the Special Provisions of the contract. <b>Question: What is the current status of the CSBE goals?</b>
5/04/10	The BCC, through R-472-10, approved Change Order No. 2 to increase the contact amount by \$10 million for a total of \$60,125,000. Pursuant to R-472-10: The justification for the change order was the MCC-7-05 contract has already committed to projects worth more than \$49 million, leaving approximately \$1 million available for bidding and award of additional projects. MDAD has identified projected valued at \$10 million for bidding through the MCC-&-05 contract. Some of the projects with crucial time constraints, as well as tenant relocation projects, maintenance projects, and projects for preservation of existing facilities. Federally mandated airfield safety projects including lighting, signage and markings as well as energy reduction projects such as shifting from incandescent to low energy diode LED are also potential candidates for MCC projects.

**Mike Gomez Construction Consulting, Inc.**

The Office of the Commission Auditor conducted a review of the firm's history with Miami-Dade County below.

This review included a company profile, list of principals, recent and previous contracts with Miami-Dade County, performance evaluations, change orders, settlement agreements, and history of violations. The review also includes the compliance history of contracts awarded to Gomez, as well as Gomez's current status with the Responsible Wages and Benefits Ordinance. The Department of Small Business Development (SBD) is responsible for monitoring compliance with the County's small business programs for construction services. SBD monitors the CSBE Program, the Responsible Wages and Benefits Ordinance, and conducts audits throughout the term of each contract. The Responsible Wages and Benefits requirements are included in all solicitation documents.

**Company Principals and Place of Business**

According to the Florida Department of State, Division of Corporations, the registered agent and principal place of business for Mike Gomez Construction Consulting, Inc. is Jesus M Gomez; and place of business is 1301 West 68<sup>th</sup> Street, Hialeah, Florida 33014.

**Previous Contracts with Miami-Dade County**

The Office of Capital Improvement's Capital Improvement Information System (CIIS) list MCC-7-05 for Mike Gomez Construction Consulting, Inc. No performance evaluation is provided in the CIIS for this firm by the Miami-Dade Aviation Department.

Pursuant to Small Business Development's firm history report shows an extensive amount of contracts awarded to subcontractors under the MCC-7-05 contract. Additionally, SBD staff confirmed that this vendor has no violations with the County.

**Additional Information**

In response to questions pertaining to whether the BCC has approved extending other MCC contracts similar to the Mike Gomez Construction Consulting contract, the Miami-Dade Aviation Department provided the information below:

- The BCC has approved contract extensions for some MCC contracts for MDAD (see below).

MCC-7-05	Mike Gomez Construction Consulting, Inc.
MCC-6-02	TGSV Enterprises, Inc.
MCC-5-97	Dacra/DMI/MG Joint Venture
MCC-4-93	TGSV/C2M/Sterling Joint Venture
MCC-3-91	Gerrits/Urban Joint Venture
MCC-2-88	CRSS Constructors, Inc.
MCC-1-86	Tatum, Gomez, Smith & Vitale Construction
- The MCC-4-93 contract above was a 4 year term (36 months for work and one year to complete = 4 years). Additionally, the two change orders referenced below extended that contract for 360 days (180 days per change order), essentially adding a year and making this a 5 year contract.
  1. Change Order 1 to MCC-6-02, approved by BCC 4/25/06, R-392-06 extended time 180 days  
Change Order 1 to MCC-4-93, approved by BCC 1/23/97, R-92-97 extended time 180 days
  2. Change Order 2 to MCC-4-93, approved by BCC 9/23/97, R-1024-07 extended time another 180 days

Questions posed to MDAD staff:

- Why does the item request an additional \$10 million until 9/30/11?
- Why does this resolution state to “negotiate” Change Order No. 3 rather than approve?

**Prepared by:** Michael Amador-Gil

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Legislative Notes

**Agenda Item:** 11(A)7

**File Number:** 110333

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

**Date of Analysis:** February 25, 2011

**Type of Item:** Resolution

**Summary**

This resolution, which was prepared by the Regional Transportation Committee, directs the County Mayor or the Mayor's designee to reinstate the Notice to Proceed (issued on Dec. 2, 2010) for the Radio Frequency Pilot Program and to suspend negotiations related to RFP No. 709 until the results of the pilot program are released.

**Background and Relevant Legislation**

Miami-Dade Transit (MDT) currently contracts Special Transportation Services to a private operator. The current contract with the STS vendor has been extended until September, 2011. The current vendor is Advanced Transportation Solutions.

In 2010, the Board of County Commissioners requested that the current contract be amended to allow the vendor to set up a pilot program to test a system that would improve accountability in the STS program. The pilot program was intended to test new technology in STS vehicles which would allow users to check in and check-out of vehicles through radio frequency identification. A **Notice to Proceed** on the pilot project was issued to the current vendor by MDT on December 2, 2010. That same Notice to Proceed was then rescinded by Miami-Dade Transit a month later on January 18, 2011.

However, the Department of Procurement Management had already issued an RFP in 2009 regarding a replacement contract for the STS system. The new RFP was titled RFP No. 709, and the first pre-proposal conference was held on December 2009, with proposals from potential vendors due on January 22, 2010. On March 29, 2010, the Department of Procurement Management issued an addendum to the RFP requiring the selected vendor to "purchase, install and maintain contactless smartcard read/writer hardware that integrates with the County's Automated Fare Collection System and EASY Card." In total, there were 11 addendums to RFP No. 709, most addressing various concerns presented by vendors (Source: DPM Website).

According to MDT, the pilot program can be completed in 2 months. Also, according to the Department of Procurement Management, the negotiations with the four highest ranked firms from RFP No. 709, and the BCC approval process could take up to 2 months to complete.

#### **Questions**

- Why was the original BCC request to establish the pilot program not followed in a timely fashion?
- Why was the BCC not informed that RFP No. 709 had been issued in 2009?
- Why was the Notice to Proceed on the Pilot Program rescinded?
- Is there an issue of “unfair competitive advantage” if all the vendors receive the results of the pilot program which will be provided by the current vendor, as proposed in this item?

#### **County Manager’s Memorandum Dated February 25, 2011**

In the memo, the County Manager states that his recommendation to the Board of County Commissioners is to allow County Administrators to continue negotiations related to RFP No. 709. The County Manager states that “allowing the pilot to be managed now by any company that is bidding for the successor contract under RFP No. 709 gives the appearance of an undue competitive advantage.”

The County Manager also states that an immediate initiation of the pilot program coupled with a temporary suspension of ongoing negotiations would “likely make it impossible for any non-incumbent proposer to receive an award in time to ensure an orderly transition by September.”

**Prepared by: Jason T. Smith**