



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Board of County Commissioners

Legislative Analysis

April 3, 2012

9:30 A.M.

Commission Chamber

Charles Anderson, CPA
Commission Auditor
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Miami, Florida 33128
305-375-4354

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

April 3, 2011

Item Number(s)

7D
7E
8O3
8P1

Acknowledgements:

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

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



Legislative Notes

Agenda Item: 7D
File Number: 112543
Date of Analysis: March 16, 2012

Summary

This ordinance, relating to incorporation, repeals Ordinance No. 07-120 of Miami-Dade County, lifting the moratorium and deleting provisions that suspended processing and consideration of proposed incorporations.

On September 4, 2007, the Board of County Commissioners (BCC) adopted Ordinance No. 07-120, suspending the process and consideration of proposed incorporations until a report prepared by the County Manager was presented and considered by the BCC within 90 days.

The County Manager's Report was to indicate the following:

- Whether municipalities near unincorporated areas were interested in annexing such areas as the preferred method to pursue boundary changes and update financial information (*This report was deferred to no date certain at the December 11, 2007 Governmental Operations and Environment Committee meeting*); and
- Provide updated financial information relating to the North Central Municipal Advisory Committee (MAC) Study Area (*The financial impact information was forwarded to the BCC on September 21, 2007*).

If the BCC adopts the proposed ordinance, the current boundary change and incorporation procedures detailed under Chapter 20 of the Code of Miami-Dade County (Code) will resume.

Background and Relevant Legislation

Miami-Dade County's Incorporation and Annexation Policy¹

Incorporation is the process whereby a new city, town, or village is created upon the majority vote by the electorate contained within the area to be considered pursuant to requirements contained in the Code, Chapter 20 – Article II. The Code addresses petition requirements and considerations made by the Planning and Advisory Board (PAB) and the BCC. Upon these considerations the BCC determines if the incorporation is to be put to a vote by the electorate of the affected area.

Annexation is the process whereby an established municipality amends its boundaries by adding lands that were previously outside of its boundaries pursuant to requirements contained in the Code, Chapters 20 - Article I. The Code addresses petition requirements and considerations made by the Planning Advisory Board (PAB) and the BCC. Upon these considerations the BCC determines if the annexation is to be put to a vote by the electorate (if more than 250 electors reside in the boundaries) of the affected area.

¹ Websites: www.miamidade.gov/inc/incorp/incorp.asp and www.miamidade.gov/inc/annex/annex.asp

According to the County Manager's Report on Incorporation and Annexation dated July 11, 2006, there is no governmental process as complex or public policy issue as emotionally charged as that of municipal incorporation. Allowing citizens to exercise self-determination with regard to their municipal boundaries while ensuring the equitable delivery of both municipal services to Unincorporated Municipal Service Area (UMSA) residents and countywide services to all Miami-Dade residents is one of the most important challenges County government faces today.

Issues Underlying Municipal Incorporation

- Impacts of incorporation and annexation to the UMSA budget;
- Boundary disputes;
- Fiscal viability of proposed incorporations and enclaves,
- Incorporation or annexation of areas lying outside of the County's Urban Development Boundary (UDB);
- The scheduling of incorporation-related elections;
- Municipal budget authority during transitional periods;
- Opt-out provisions for areas not wishing to incorporate; and
- The application of and methodology for calculating financial mitigation for donor areas leaving UMSA.

Report on Interest of Municipalities to Annex Neighboring MAC Areas

On August 3, 2007, Administration sent letters to twelve (12) municipalities adjacent to the eight (8) MAC areas in order to gauge the interest of the municipalities in annexing the adjacent MAC areas. A response was requested by September 15, 2007. As of the date of the County Manager's Report, December 11, 2007, only nine (9) of the twelve (12) municipalities responded. The County Manager's Report provided the following summary of those responses.

Fontainebleau MAC

On June 4, 2002 and May 6, 2003, under Resolution No. 598-02 and Ordinance No. 04-104, respectively, the BCC created the Fontainebleau MAC. On January 10, 2005, at the public hearing before the PAB, the PAB recommended denial of the proposed incorporation. Some of the concerns expressed by the PAB included but were not limited to the following:

- The potential increase in taxes to area residents for the current level of services;
- The lack of community interest in incorporation, and
- The proposed municipal budget.

Subsequently, as required by Resolution No. 130-05, a third party consultant completed an independent financial analysis of the proposed municipal revenue and expenditures for Fontainebleau. The firm PMG Associates, Inc. (PMGA) concluded in its review that the proposed municipality of Fontainebleau did not provide for a viable municipality. Prior to the BCC public hearing for the proposed incorporation, Ordinance 05-192 suspended consideration of proposed incorporations and annexations.

As required by Ordinance 07-120, Administration sent letters to Doral and Sweetwater. The City of Doral requested additional information for the Fontainebleau area and the City of Sweetwater did not respond to the request.

North Central MAC

On December 18, 2001 and March 11, 2003, under Resolution 1225-01 and Ordinance No. 03-42, respectively, the BCC created the North Central MAC. On December 6, 2004, the PAB recommended denial of the proposed incorporation. Some of the concerns expressed by the PAB included but were not limited to the following:

- The fiscal viability of the proposed new city; and
- The majority of the public hearing speakers against the incorporation effort.

Subsequently, as required by Resolution No. 130-05, PMGA completed an independent financial analysis of the proposed municipal revenue and expenditures for North Central area, concluding that the proposed municipality did not provide for a viable municipality. Prior to the BCC public hearing for the proposed incorporation, Ordinance 05-192 suspended consideration of proposed incorporations and annexations.

As required by Ordinance 07-120, Administration sent letters to Hialeah, Miami, North Miami, and Opa Locka. The City of Miami has expressed interest in a portion of the MAC area and other UMSA areas, and the City of Opa Locka has expressed interest in a portion of the MAC area and other UMSA areas. The City of Hialeah has not responded to the request for interest.

Northeast MAC

On April 8, 2003 and May 11, 2004, under Resolution No. 341-03 and Ordinance No. 04-104, respectively, the BCC created the Northeast MAC. On August 8, 2005, the PAB recommended approval of the incorporation. Subsequently, as required by Resolution No. 130-05, PMGA completed an independent financial analysis of the proposed municipal revenue and expenditures for Northeast area, concluding that the proposed municipality provides for a viable municipality. Prior to the BCC public hearing for the proposed incorporation, Ordinance 05-192 suspended consideration of proposed incorporations and annexations. On May 8, 2007, the incorporation and annexation suspension was lifted, and on September 4, 2007, the BCC adopted Ordinance Ordinance 07-120 suspending consideration of incorporation.

As required by Ordinance 07-120, Administration sent letters to Aventura and North Miami Beach. The City of Aventura has expressed interest in approximately half of the Northeast MAC study area. The City of North Miami Beach expressed interest in the remaining MAC area.

Redland MAC

On May 23, 2000 and June 5, 2001, under Resolution 529-00 and Ordinance No. 01-100, respectively, the BCC created the Redland MAC. On July 25, 2001, the PAB recommended approval of the proposed incorporation. On November 20, 2001, the BCC held a public hearing regarding the proposed incorporation of the Redland area. Based on testimony from Goulds and Princeton area residents regarding boundary disputes with the proposed Redland area incorporation, the BCC deferred the proposed incorporation indefinitely in order to give the MAC and its neighboring communities the opportunity to resolve the boundary disputes.

On January 20, 2004, the BCC adopted Resolution No. 116-04 directing the County Manager to enter into agreement with the FCRC to assess the use of a collaborative process to resolve the boundary issues of incorporation proposals in South Miami-Dade County. Between August and October 2004, the FCRC focused its mediation efforts on issues between Redland, PLANT, and Goulds MACs. In late October 2004, the mediation efforts were placed on hold to allow the PLANT AND Goulds MACs time to understand the implications of a petition for incorporation filed with the Clerk of the Board by the Friends of Redland. The petition sought to incorporate boundaries that were part of the mediation process. From November 2004 through May 2005, there was a pause in the mediation efforts, creating an indefinite impasse. On November 28, 2005, the FCRC submitted a final report identifying a change in the willingness of key parties to engage in a mediation resolution process. As a result, the existing boundary disputes have not been resolved.

The Redland area is outside of the UDB and is not adjacent to any municipality; therefore, no letter was sent out as required by Ordinance 07-120. Subsequently, on June 2, 2009, under Ordinance No. 09-46, the BCC dissolved the Redland MAC, along with the PLANT and Goulds area MAC.

Goulds MAC

On May 6, 2003 and July 27, 2004, under Resolution 519-03 and Ordinance No. 04-148, respectively, the BCC created the Goulds MAC. As stated above, the FCRC was contracted to mediate the boundary issues between the Goulds, PLANT, and Redland MACs.

As required by Ordinance 07-120, Administration sent a letter to the Town of Cutler Bay. The Town of Cutler Bay did not respond. Subsequently, on June 2, 2009, under Ordinance No. 09-46, the BCC dissolved the Redland MAC, along with the PLANT and Goulds area MAC.

PLANT MAC

On May 6, 2003 and July 13, 2004, under Resolution 518-03 and Ordinance No. 04-136, respectively, the BCC created the PLANT MAC. As stated above, the FCRC was contracted to mediate the boundary issues between the Goulds, PLANT, and Redland MACs.

As required by Ordinance 07-120, Administration sent a letter to the City of Homestead. The City of Homestead responded to the request by stating that it would be interested in annexing unincorporated areas adjacent the City, but no further detail was provided. Subsequently, on June 2, 2009, under Ordinance No. 09-46, the BCC dissolved the Redland MAC, along with the PLANT and Goulds area MAC.

Biscayne Gardens MAC

On September 9, 2003 and July 27, 2004, under Resolution No. 974-03 and Ordinance No. 04-142, respectively, the BCC created the Biscayne Gardens MAC. As of December 11, 2007, the MAC has not produced a final report to the BCC.

As required by Ordinance 07-120, Administration sent letters to the Cities of Opa Locka, North Miami, North Miami Beach, and Miami Gardens. The City of Opa Locka has not requested an area of the Biscayne Gardens MAC study area in its response, the City of North Miami is interested in a portion of the MAC study area, the City of North Miami Beach is interested in another portion of the MAC study area and the City of Miami Gardens has requested additional information on the MAC area but has not officially responded with their interest.

Fisher Island MAC

On July 13, 2004 and October 18, 2005, under Resolution No. 838-04 and Ordinance No. 05-185, respectively, the BCC created the Fisher Island MAC. The MAC created a pro forma budget for the proposed municipality. As required by Resolution No. 130-05, PMGA completed an independent financial analysis of the proposed municipal revenue and expenditures for Fisher Island, stating that the proposed municipality of Fisher Island can meet its obligations to provide the necessary services as expressed in the pro forma budget. On September 4, 2007, the BCC adopted Ordinance 07-120 suspending consideration of incorporation.

As required by Ordinance 07-120, Administration sent letters to the Cities of Miami and Miami Beach. Both cities have responded that they would be interested in annexing the MAC study area.

Financial Impact Information relating to the North Central MAC Study Area

On September 21, 2007, as directed by Ordinance No. 07-120, the financial impact information regarding the North Central MAC Study Area was forwarded to the BCC. The County Manager’s memo provided the requested information regarding the North Central MAC area impacts to Unincorporated Municipal Services Area (UMSA) estimate for FY 2006-07:

- On December 18, 2001, the North Central MAC was created by Resolution No. 1445-01.
- On March 11, 2003, the North Central MAC was re-created under Ordinance No. 03-42 because the North Central MAC did not finish its study within one (1) year of its creation.
- On June 30, 2004, the North Central MAC completed its report and conceptual agreement; and subsequently, was scheduled to be considered by the Boundaries Commission.
- On September 29, 2004, the Boundaries Commission met and approved Resolution 12-04, recommending denial of the proposed incorporation.
- On December 6, 2004, the PAB met, and also recommended denial of the proposed incorporation.

PMG Associates, Inc. the independent auditor engaged to provide analysis, estimated that based on the FY2002-03 budget, the budget produced by the MAC does not provide for a viable municipality.

The impact to UMSA is not a municipal budget, nor is it a measure of how a new municipality will perform financially if the area is incorporated. Developing a municipal budget is a process dependent on many factors such as the level of service the area residents would like to receive balanced with the revenues available to provide those services.

Additional Information

Approval Date and Reso/Ord No.	Previous Legislation Impacting Incorporation and Annexation Issues/Policy/Code <i>Cursory Review of Legislative Actions</i>
June 18, 1991 Ord. No. 91-66	Metropolitan Dade County Stormwater Utility Ordinance The BCC adopted this ordinance, establishing the Metropolitan Dade County Stormwater Utility as a County-wide utility. Through this ordinance the utility is authorized to adopt and collect stormwater utility fees sufficient to plan, construct, operate and maintain stormwater management systems on a County-wide basis.
Oct. 17, 1995 Ord. No. 95-195	Opt-out Provision from the Stormwater Utility Ordinance The BCC amended §24-61.2 of the Code, allowing for exemption from the provisions of the Metropolitan Dade County Stormwater Utility Ordinance for municipalities.
Dec. 2, 1997 Ord. No. 97-211	Moratorium This ordinance relating to annexation and incorporation, amended §20-4.1 and 20-21.1 of the Code of Miami-Dade County to provide that no annexation or incorporation request will be filed or considered by the BCC prior to December 1, 1998. This ordinance permitted applications filed prior to the moratorium to be processed by staff up to the point of consideration by the county commission, which at that time, required a two-thirds vote for approval, and any new applications required a two-thirds vote to begin processing.
Dec. 2, 1997 File No. 974214	Committee of the Whole Workshop Materials presented to the BCC included: <ul style="list-style-type: none"> • A list of policy options which includes continue ad hoc (case by case) incorporation and annexation – with or without additional changes to the Code, develop a plan for total incorporation through the creation of multiple new municipal units and annexations, and consolidation which involves either the retention or dissolution of existing cites and the incorporation or a combination of annexations and a single new incorporation.

	<ul style="list-style-type: none"> • A chronology of issues related to incorporation and annexations since the inception of the Home Rule Charter; and • A compilation of the various incorporation studies that have been made.
Oct. 23, 2001 Ord. No. 01-168	The BCC amended §20-1, 20-3, 20-4, 20-9, 20-20, 20-21 and 20-22 of the Code, shifting certain responsibilities pertaining to annexation and incorporation from the Department of Planning and Zoning to the Office of Management and Budget.
Dec. 18, 2001 Ord. 01-218	This ordinance prohibited placing agenda items relating to proposals for annexations or incorporations before the BCC or other County board or committees until implementation of comprehensive guidelines and policies. This ordinance did not apply to proceedings related to the annexation of the area known as Coral Waterways to the City of Coral Gables.
Jan. 29, 2002 R-53-02	This resolution, relating to incorporation and annexation policies directed the County Manager and County Attorney to take certain actions regarding the creation of townlets. This resolution authorizes the County Manager to process requests for limited purpose municipal governments and determine the appropriate vehicle for the creation of townlets as outlined in the July 12, 2001, <i>Incorporation and Annexation Report and Policy Recommendations</i> .
Jan. 27, 2005 R-130-05	Resolution establishing the County policy regarding the provision of independent budget and service impact analyses for proposed municipalities, directing the Manager to retain services of a consultant or organization to review County impact statement and MAC budgeting and service impact analyses, and requiring new municipality to reimburse County for the fees and costs associated with the consultant's services.
May 3, 2005 Ord. No. 05-86	This ordinance relating to annexation and incorporation deleted references to the Boundaries Commission. This ordinance modified the process for the review of proposed annexations and incorporations by removing the Boundaries Commission from the process and creating a committee within the PAB that has responsibilities similar to those of the Boundaries Commission.
Sept. 8, 2005 R-1051-05	<p>The BCC directed staff to conduct a study analyzing the service delivery impacts of incorporations and annexations authorized since the year 2000.</p> <p>In addition, this resolution directed staff to provide updates regarding the status of boundary dispute resolution negotiations undertaken by the Florida Conflict Resolution Consortium and the financial analysis of proposed municipal incorporations by independent consultant, as well as an inventory of existing and potential enclaves resulting from prior and proposed incorporations and annexations.</p>
Nov. 1, 2005 Ord. No. 05-192	<p>Moratorium</p> <p>This ordinance suspended consideration of certain proposed incorporations and annexations until receipt of the County Manager's report on the effects of incorporations and annexations as required by Resolution No. 1051-05.</p> <p>This ordinance stopped the processing of proposed incorporation/annexation applications, pending completion of the study, with the exception of the Cutler Ridge and Sweetwater applications.</p> <p>Subsequently, this moratorium was extended through Ordinance 07-120.</p>
March 21, 2006 R-342-06	<p>The BCC established the Mitigation Adjustment Policy Review Task Force (Task Force) to advise the BCC on proposed policy regarding the adjustment of mitigation paid by municipalities as a condition of incorporation.</p> <p>The Task Force was established in fulfillment of an agreement between municipal, County and State elected officials regarding the withdrawal of legislation proposed during the 2006 State legislative session that sought to foreclose the County's right to impose mitigation as a condition for incorporation. The agreement was based on the understanding that the issue should be resolved at the local level.</p>

<p>March 29, 2007 Incorporation / Annexation Workshop Special Item No. 1 File No. 070911</p> <p>Mitigation Workshop Special Item No. 1 File No. 070916</p>	<p>At the July 11, 2006 INLUC meeting, staff was directed to prepare a workshop with policy recommendations to be considered by the BCC that addressed issues relating to incorporation, annexation and mitigation (see below).</p> <p>Policy recommendations to address enclaves and annexations:</p> <ul style="list-style-type: none"> • Lift the current suspension on incorporations and annexations; <ul style="list-style-type: none"> ○ Amend the Code to bar proposed incorporations or boundary change applications from omitting existing enclaves or creating new enclaves. ○ Eliminate the required evidence of consent from materially affected municipalities and instead require the PAB to consider the concerns of such municipalities and to include recommendations to the BCC on how to address the concerns expressed during the public hearing process. • Provide opt-out procedures for incorporations; <ul style="list-style-type: none"> ○ Amend the Code to allow dissenting residents to present a petition to the Clerk of the Board specifying the boundaries and the signature of 25% of the registered voters of the area seeking to opt out. • Revise elections and clarify ballot language; <ul style="list-style-type: none"> ○ In order to increase voter turnout, incorporation elections should coincide with countywide elections. ○ Ballot language associated with any incorporation should include a statement that an increase in the millage rate of the proposed municipality may be required in order to maintain existing service levels. • Improve the MAC process; <ul style="list-style-type: none"> ○ Adopt a policy requiring that new and existing MACs conclude the MAC feasibility study within 24 months. If the study is not completed within that time frame, then the MAC automatically sunsets. ○ The MAC would be required to include in its report to the BCC findings of fiscal feasibility, evidence of desirability, and a plan for the development of a viable community. ○ The practice of requiring an independent financial review of the MAC pro-forma budgets to be codified in Chapter 20 of the Code. • Establish a process for the resolution of boundary disputes; <ul style="list-style-type: none"> ○ Those MACs which participated in the Florida Conflict Resolution Consortium (FCRC) mediation efforts be dissolved since an agreement on boundaries was unsuccessful. ○ If future incorporation efforts present boundary disputes that the County retain the services of a third party to arbitrate boundary disputes. If the dispute is not resolved within 180 days of the mediation process, then the associated MACs will be dissolved. If the dispute is resolved and the areas incorporated, then the arbitration cost will be reimbursed by the future municipalities. ○ If there are boundary disputes in future annexation applications among two or more municipalities, those municipalities are directed to seek third party arbitration at their own expense. Applications reflecting mutually agreed boundaries must re-submit for processing within 6 months after referral to a third party arbitrator. If the application is not re-submitted within that time frame, then the application will be considered formally withdrawn. • Clarify UDB regulatory control; • Strengthen police contracts; • Improve the incorporation transition process; • Revise fiscal and budgetary impact analyses; and • Address mitigation policies.
<p>April 30, 2007</p>	<p>The BCC expressed its intent to phase out mitigation.</p>

R-508-07	
<p>Sept. 4, 2007 Ord. 07-120</p>	<p>Moratorium The BCC suspended the process and consideration of proposed incorporations until a report prepared by the County Manager was presented and considered by the BCC within 90 days.</p> <p>The Report was to indicate the following:</p> <ul style="list-style-type: none"> • Whether municipalities near unincorporated areas were interested in annexing such areas as the preferred method to pursue boundary changes and update financial information; and • Provide updated financial information relating to the North Central MAC Study Area (provided to the BCC on September 21, 2007).
<p>Dec. 11, 2007 GOE Committee meeting Report File No. 073498</p>	<p>The Report on Interest of Municipalities to Annex Neighboring MAC areas was presented to the GOE Committee meeting. Consideration of the Report was deferred to no date certain.</p>

Prepared by: Elizabeth N. Owens

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



Legislative Notes

Agenda Item: 7E – Community Periodical Advertising Program

File Number: 120428

Date of Analysis: March 29, 2012

Summary

This ordinance enacts §2-2011 through §2-2023 of the Code of Miami-Dade County, concerning the Community Periodical Advertising Program.

According to the Department of Community Information and Outreach, not all departments utilize the Community Periodical Advertising Program. The following departments utilize this program and have the following allocations: BCC (\$13,000), Transit (\$10,000), Parks (\$30,500), CITT (\$75,000), Finance (\$12,000), and Aviation (\$30,000).

Although these amounts are allocated under Community Periodical Advertising this does not mean it has to be spent on participants of the program; there are other community periodicals in Miami-Dade County that are not participants in the program but departments can advertise based on their target audience.

There is \$375,000 allocated from the General Fund for this program this year which is what the Ordinance is addressing, which is required to be used for advertising on the qualified participants. In general, the Community Periodical Advertising Program allocation is used to promote county services and programs; primarily citizen-facing departments such as Library, Parks, Animal Services, WASD, Community Action & Human Services, 3-1-1, etc.

In addition, the County does not solicit based on Small Business or Minority qualifications. In the past, periodicals that wish to participate, apply for the program and if they qualify they are added to the list of participants.

The following Chart provides the Fiscal Year (FY) 2010-11 qualified participants in the Community Periodical Advertising Program and the amount received from the County under this program.

Community Periodical Advertising Program¹				
<i>FY 2010-11 qualified participants</i>				
Periodicals	Language	Frequency	Geographic Area	Amount Receive from Program
America Hoy	Spanish	Weekly	Downtown, South Beach, Surfside, Aventura, Hialeah, Westchester, Coral Gables	\$3,310.00
Art Deco Tropical	Spanish	Monthly	South Beach, North Miami Beach, Little Havana	\$16,500.00
Avance Semanal	Spanish	Monthly	West Dade, Westchester, East Hialeah	\$29,150.00

¹ Information provided by the Community Information and Outreach.

Aventura News	English	Weekly	Aventura	\$7,200.00
Biscayne Bay Tribune	English	Monthly	Coconut Grove, Key Biscayne	\$7,210.00
Caribbean Today	English	Monthly	Miami Gardens, South Dade, Coral Gables, East Kendall, South Miami	\$20,902.00
Ciudad Doral Newspaper	Spanish	Bi-weekly	Doral Area	\$4,375.00
Coral Gables News Tribune	English	Bi-weekly	Coral Gables	\$6,765.00
Discount Magazine	Spanish	Monthly	Miami, Westchester, Hialeah, Kendall, Carol City, Miami Gardens, Miami Lakes	\$7,100.00
Doral Tribune	English	Monthly	Doral area up to 58St.	\$4,325.00
El Avisador	Spanish	Monthly	City of Miami, Sweetwater, Coral Gables, Allapattah	\$18,750.00
El Centroamericano Prensa Libre	Spanish	Monthly	City of Miami, Sweetwater, Hialeah, Kendall, Carol City, Doral	\$31,800.00
El Colombiano	Spanish	Weekly	Sweetwater, Kendall, Doral, Hialeah	\$10,869.00
El Colusa News	Spanish	Weekly	Doral, West Miami, Kendall, Hialeah, Miami Beach	\$8,600.00
El Nuevo Universal	Spanish	Monthly	City of Miami, Hialeah, Sweetwater	\$18,800.00
El Venezolano	Spanish	Weekly	Doral, West Miami, Hialeah	\$14,400.00
Enfoque 3	Spanish	Monthly	Hialeah, Westchester, City of Miami, Kendall	\$9,270.00
Haitian American Business News and Haitian American Business News (Special)	English	Monthly	North Miami, Little Haiti, Miami Shores, El Portal, North Miami Beach	\$23,700.00
Hola Amigos	Spanish	Monthly	Miami Beach, Downtown, North Bay Village, Coral Gables, Aventura	\$20,500.00
Hola Miami	Spanish	Monthly	Westchester, Hialeah, Kendall, Homestead	\$9,500.00
Horizonte	Spanish	Monthly (eff. 9/15/09)	Sweetwater, Little Havana, West Miami, Homestead	\$20,400.00
Kendall Gazette	English	Weekly	Kendall up to 152nd Ave.	\$4,650.00
Kiskeya Herald and Kiskeya Herald (Special)	Creole	Monthly	Little Haiti, Miami Gardens, Miami Shores	\$28,800.00
La Prensa Centroamericana	Spanish	Monthly	Sweetwater, City of Miami, Westchester	\$9,720.00
La Prensa del Sur	Spanish	Monthly	Homestead, Cutler Ridge, Palmetto Bay, Florida City	\$33,085.00
La Verdad	Spanish	Bi-Weekly	City of Miami area only	\$16,500.00
La Voz de la Calle	Spanish	Bi-Weekly	Hialeah, SW Miami, Sweetwater, City of Miami, Miami Lakes, NW Miami	\$20,575.00
La Voz de Miami Beach	Spanish	Monthly	South Beach, Miami Beach, N.Miami Beach, Hialeah, Little Havana, City of Miami	\$20,500.00
Libertad	Spanish	Monthly	Hialeah, City of Miami, Westchester	\$9,900.00
Libertad News	Spanish	Monthly	City of Miami, Little Havana, Hialeah, West Dade, Coral Gables	\$23,437.50
Link My Web	Spanish	Monthly	Kendall, Westchester, Sweetwater	\$21,125.00

Los Tiempos	Spanish	Monthly	Sweetwater,Kendall,Downtown	\$18,200.00
Miami Laker	English	Bi-weekly	Town of Miami Lakes,also zip codes 33015 & 33018	\$4,683.00
Miami Today and Miami Today (Special)	English	Weekly	Brickell, West Dade, Doral, Miami Lakes, Coral Gables, Downtown, Miami Beach	\$10,315.00
Miami-Dade Calle Ocho	Spanish	Bi-weekly	City of Miami,Coral Gables,Westchester,West Dade	\$6,426.00
Noticias del Social Security & Medicare	Spanish	Monthly	Hialeah, Little Havana, Westchester, South West Dade	\$16,075.00
Noticias Miami-Dade News	Spanish	Monthly	Hialeah, City of Miami	\$17,000.00
Palmetto Bay News	English	Weekly	Palmetto Bay	\$4,650.00
Pinecrest Tribune	English	Bi-weekly	City of Pinecrest	\$7,500.00
Semanario Argentino	Spanish	Weekly	South Beach, Surfside, Aventura, Downtown, Little Havana, Westchester	\$9,480.00
South Florida Internet Index	English	Monthly	City of Miami, Carol City, Doral, Hialeah, Kendall	\$29,810.00
South Miami News	English	Weekly	City of South Miami	\$4,650.00
Spotlight Internacional	Spanish	Monthly	City of Miami, Westchester, Sweetwater, Hialeah	\$29,600.00
Sunny Isles Beach Sun	English	Bi-weekly	Sunny Isles (East of N. Miami Beach)	\$7,200.00
The Total Leader	English	Weekly	Homestead, Florida City	\$8,051.40
Tiempo Nuevo	Spanish	Monthly	South Beach,Miami Beach,North Miami Beach,City of Miami	\$7,500.00
YA!	Spanish	Bi-weekly	City of Miami, Westchester, Coral Gables, Sweet Water, Doral,Hialeah, South Miami	\$16,900.00
• TOTAL				\$679,758.90

Prepared By: Elizabeth N. Owens



Agenda Item: 803

File Number: 120425

Date of Analysis: March 9, 2012

Summary

This resolution approves Supplemental Agreement No. 1 to Professional Service Agreement (PSA) for Contract No. NFP003-TR07-FD1, Design of Pedestrian Overpasses at South Miami and University Metrorail Station, between Miami-Dade County and H.J. Ross Associates, Inc. to provide the following:

- Extend the contract duration by 1,095 calendar days (Currently the contract expires on April 10, 2012);
- Exercise the option to provide Post-Design Service for the Pedestrian Overpass at University Metrorail Station;
- Delete the scope of work remaining for the Pedestrian Overpass at South Miami Metrorail Station; and
- Authorize the use of Charter County Transportation Surtax (Surtax) Funds.

The supplemental agreement deletes the scope of work remaining for the Pedestrian Overpass at South Miami Metrorail Station and requests the use of the remaining contract value to cover the cost of Post Design Services¹ for the Pedestrian Overpass at University Metrorail Station which was not included in the original contract amount, extends the contract in order to update the plans and requests the right to exercise the option to retain H. J. Ross to perform the Post Design Services for the Pedestrian Overpass at University Metrorail Station.

Background and Relevant Legislation

University Pedestrian Overpass²

MDT moved forward with this overpass at Mariposa Court and US-1, the preferred alternative indicated in the March 2006 University Metrorail Station Conceptual Study. This low profile pedestrian bridge structure will be comprised of two vertical circulation towers providing access/egress to the pedestrian bridge that spans across US-1/South Dixie Highway.³

Miami-Dade County in coordination with Florida Department of Transportation (FDOT) and the University of Miami took short term correction actions beginning the middle of 2006. Safety improvements included installing a fence to channel pedestrians to the signalized crosswalk to cross US-1, additional signage on the Metrorail parking lot side of the fence to direct pedestrian to the safe crossing location, and backplates on the traffic signal at the safe crossing location to bring more attention to the drivers, as well as modifying the traffic signal phasing at the Mariposa/US-1 intersection to provide a pedestrian crossing phase prior to the westbound left turn phase.

¹ Post Design Services include, but are not limited to; attending construction meetings, providing inspections, reviewing shop drawings, resolving design related issues during construction, responding to Request for Information (RFI) and providing scheduling and cost control assistance.

² 2011-12 PTP Five (5) Year Implementation Plan Update and Recommendations (DRAFT), pp. 20, 106-107.

³ Transit Development Plan FY 2012-2021, Annual Administrative Update, Sept. 2011, pp. 4-4.

In September 2008, one-hundred percent (100%) of planning and approximately forty percent (40%) of final design phases (approximately 45% of the overall project) were complete for the overpass when it was placed on-hold due to reductions in FDOT funding sources and fiscal challenges faced by MDT.

In April 2010, MDT in cooperation with FDOT has been able to reprogram funds for this project. The amount estimated for completion of this project is approximately \$5.862 million (February 2014 – scheduled implement date), with \$766,000 expended of current estimated \$6.3 million (reduced from the previous \$7.5 million estimate). The proposed new funding sources are as follows: 66% Federal, 17% State and 17% Local. This includes October 2010 Transportation Improvement Program (TIP) Amendments transferring funding from three other overpasses (South Miami and the two at Dadeland). Revised funding sources and estimated cost will be reflected in next year’s Capital Plan.

FTA approval/concurrence of the re-evaluation of the project’s 2007 Categorical Exclusion was received in February 2011. This allows MDT to apply for the federal component of funds. Design/permitting expected to be completed by September 2012, Right of Way Acquisition by October 2012, Construction by February 2014 (indicated as December 2013 in last year’s Plan).

South Miami Pedestrian Overpass⁴

MDT moved forward with the overpass at its optimum location at SW 72nd Street/Sunset Drive and US-1, as identified by the study performed by the City of South Miami in 2001 and confirmed by the 2006 MDT Conceptual Study. Design Notice to Proceed and coordination with various entities began in April 2007; however, this location became no longer feasible in December 2007 when the property identified for acquisition was deemed historical by the City of South Miami Commission.

Other locations within the area were analyzed in coordination with the City of South Miami. None were found to be effective. Design activities were placed on-hold in September 2008, like the University Overpass due to reductions in FDOT funding sources and fiscal challenges faced by MDT.

The City of South Miami began evaluating intersection improvements along US-1 including SW 72nd Street/Sunset Drive. FDOT is currently working with the City to gain a full understanding of the scope and cost for the proposed intersection improvements and evaluate other funding options that may be appropriate and available. The South Miami Pedestrian Overpass previous scope was estimated at \$4.18 million and is not currently a funded project under the Miami-Dade County Capital Plan. MPO amended the TIP in October 2010 to transfer funding for this project to the University Overpass.

Total expenditures related to PTP Pedestrian Overpasses are \$1.495 million (\$766,000 University, \$729,000 all other such as South Miami). Funding has been primarily PTP (\$1.166 million) with the balance FDOT and FTA.

Legislative History for the University Pedestrian Overpass		
<u>Date</u>	<u>Resolution</u>	<u>Legislation</u>
Oct. 7, 2003	R-1154-03	The BCC approved the inclusion of four (4) Pedestrian Overpasses along US-1 to the People’s Transportation Plan (PTP) by the Citizens’ Independent Transportation Trust (CITT).

⁴2011-12 PTP Five (5) Year Implementation Plan Update and Recommendations (DRAFT), pp. 20, 106-107.

		<p>The Pedestrian Overpasses identified along US-1 were at the following Metrorail Stations: Dadeland South, South Miami, University and Coconut Grove for a total value of \$10 million.</p> <p>In 2006, Miami-Dade Transit (MDT) proceeded with conceptual studies to evaluate alternative to determine the optimum location and configuration for the pedestrian structures over US-1. The preliminary cost estimates as part of these studies indicated the funding required was approximately three times (3x's) the PTP amendment budgeted amount.⁵</p> <p>In 2007, MDT completed a warrant and prioritization study, the "Pedestrian/Bicycle Crossing Study – Metrorail Stations along US-1 Corridor". The study established screening criteria including pedestrian counts and vehicle speeds to identify intersections that may justify the investigation of a pedestrian overpass as possible solutions to provide more pedestrian friendly crossing opportunities. Of the five locations studied, Dadeland South, Dadeland North, South Miami, University and Coconut Grove, only University and South Miami met the criteria. The other three (3) did not and are currently not funded to move forward.⁶</p>
Mar. 6, 2007	R-230-07	<p>The BCC authorized execution of the original PSA between Miami-Dade County and H.J. Ross Associates, Inc. to provide Final Design Services for the Pedestrian Overpasses at South Miami and University Metrorail Stations (Contract No. NFP003-TR07-FD1).</p> <p>AMOUNT: Not to exceed \$781,650.40</p> <p>PROJECT DESCRIPTION: PSA to design and prepare a set of biddable construction documents for each new pedestrian overpass at the following locations: U.S.-1 at the South Miami Metrorail Station and U.S.-1 University Metrorail Station.</p>
Nov. 6, 2007	R-1218-07	<p>The BCC approved execution of a JPA with the FDOT to provide State funding in the amount of \$2.045 million for the University Metrorail Station Pedestrian Overpass. The funding was programmed in FY 2010 for \$1 million and FY 2011 for \$1.045 million.</p> <p>The County will utilize Surtax funds in the amount of \$2.045 million to provide the required local match for this JPA.</p>
Jan. 10, 2008	R-38-08	<p>The BCC authorized the acquisition of land and temporary construction easement needed for this Project.</p> <p>The Project required a partial taking of approximately 1,364 sq. ft. parcel and 2,052 sq. ft. temporary construction easement from a 137,991 sq. ft. parent tract located at 1250 South Dixie Highway. However, due to fiscal challenges and FDOT's reduction in several million dollars in State Block Grant funding, the Project was placed on-hold indefinitely in September 2008 at approximately 45% completion final design phase.</p> <p><i>Subsequently, in 2009, MDT de-funded the Project due to local fiscal constraints. To preserve the State funding, the \$1 million was re-programmed to the Earlington Heights/Miami Intermodal Center Connector project and the Project was removed from the FY 2010-11 Capital budget.</i></p>
June 15, 2010	R-686-10 ⁷	<p>The BCC authorized the execution of a Supplemental Joint Participation Agreement with the FDOT to re-program funds from the University Pedestrian Overpass (\$1,000,000) and the 7th</p>

⁵ 5 Year Implementation Plan of the People's Transportation Plan, FY 2011-2016, pp. 89-90.

⁶ *Ibid.*

⁷ In 2010, MDT re-programmed \$3.862 million in federal funds from three other pedestrian overpasses which will not be constructed to the University Pedestrian Overpass Project. The Metropolitan Planning Organization (MPO) at its October 21, 2010 meeting and the State have amended and approved the FY 2011 Transportation Improvement Program (TIP) and State Transportation Improvement Program (STIP) to include this Project (MPO Resolution No. 36-10). This Project is also included in the proposed Capital budget for FY 2011-12.

		<p>Avenue Transit Hub (\$319,928) projects to the Miami Intermodal Center/Earlington Heights (MIC/EH) Connector project in the amount of \$1,319,928.</p> <p>An equal match of \$1,319,928 will be provided from existing local funding allocated for the MIC/EH Connector project from the Surtax.</p> <p><i>The plans for University Overpass were stopped at conceptual design completion.</i></p>
Feb. 1, 2011	R-85-11	<p>The BCC directed the County Mayor or his designee to apply for \$1 million in Charter County Transportation Surtax Funds towards the design and construction of a pedestrian overpass at or near the University Metrorail Station.</p>
May 3, 2011	R-314-11	<p>The BCC authorized the execution of a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT) to provide State funding in the amount of \$1 million for the construction of a pedestrian overpass at the University Metrorail Station. In addition, this resolution authorized the following:</p> <ul style="list-style-type: none"> • The receipt and expenditure of funds as specified in the JPA; • The use and expenditure of any additional funds should they become available; and • The use of charter county transportation system surtax funds to serve as the local match. <p><i>This JPA is a multi-year agreement, which will provide State funding in the amounts of \$750,696 in FY 2011, \$48,902 in FY 2012, and \$200,402 in FY2013 for a total of \$1,000,000.</i></p> <p>The funds authorized through this resolution will be used for final/post design services; construction engineering and inspection (CEI); right-of-way acquisition; and construction of the pedestrian overpass.</p>
June 7, 2011	R-440-11	<p>The BCC authorized the following actions for costs related to the construction of the pedestrian overpass at the University Metrorail Station:</p> <ul style="list-style-type: none"> • Filing of a grant application for fiscal year (FY) 2011, \$5307 - Congestion Mitigation Air Quality (CMAQ) flexible funding with the United States Department of Transportation Federal Transit Administration (FTA) in the amount of \$3.862 million; • Execution of the grant agreement pursuant to such application; • Receipt and expenditure of funds pursuant to such application and agreement; • Receipt and expenditure of any additional agreement funds should they become available; and • Use of State Toll Revenue Credits (TRC) totaling \$965,500 to serve as a “soft match” for this Project. <p>Funding applied for through the FTA Urbanized Area Formula Grant Program (\$5307) can be utilized towards planning, design, permit costs, right-of-way engineering/acquisition, utility relocation, construction, and design services during construction of the Project.</p>

Measures

The Disadvantaged Business Enterprises (DBE) goal established for this contract is 20%, or (\$151,330.08). Since the contract was placed on hold during conceptual design, the DBE sub-consultants have not had an opportunity to carry out project work. Subsequent to the approval of this Supplemental Agreement, the sub-consultants will be assigned work and be eligible for project payment.

Prepared By: Elizabeth N. Owens

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



Legislative Notes

Agenda Item: 8P1 (Rejecting All Bids Received)

File Number: 120418

Date of Analysis: March 28, 2012

Summary

This resolution rejects all bids received for construction Contract No. S-845A (A). *This project is one in a series of projects under the County's 20-Year Water Use Permit (WUP) issued by the South Florida Water Management District (SFWMD) on November 15, 2007.*

In order to avoid more than \$300 million dollars in capital costs, the Water and Sewer Department (WASD), with the approval of the SFWMD revised its capital plan and canceled the construction of this 42-inch reclaimed water main pipeline and the associated South District Water Reclamation Plant Project. (See below for additional information)

The water reclamation facility would have been the water source for the 20 million gallons per day South Miami Heights Water Treatment Plant. Instead, the 20 million gallons per day South Miami Heights Water Treatment Plant will be supplied raw water from the Floridian aquifer and Biscayne aquifer pending approval from the SFWMD.

In response to a question by the Office of the Commission Auditor, MDWASD staff provided the following information:

- What happens if the SFWMD does not approve supplying water from the Floridian aquifer and Biscayne aquifer? What alternatives does the MDWASD have? *WASD has completed the ground water modeling for approval of the Floridian aquifer allocation and District staff has not raised any technical questions. It should be noted that there are no constraints on withdrawals from the Floridian aquifer as there are from the Biscayne aquifer.*

If the request is denied by the District, WASD could consider going back to the Biscayne replenishment and withdrawal approach, look at the feasibility of storing Biscayne water in the Floridian during the wet season for use in the dry season, or take salt water from the Boulder Zone 3000 feet down. These would all be more expensive options.

Contract Activity Related to the South Miami Heights Water Treatment Plant

The Office of the Commission Auditor reviewed the contracts related to the South Miami Heights Water Treatment Plant and provides the following notes:

Date	BCC Action	Comments
12/15/09 R-1432-09	The BCC awarded Contract No. W-857(A) "South Miami Heights Water Treatment Plant Reservoir and High Service Pump Station" to Poole and Kent Company of Florida in the amount of \$16,287,364.16.	The Notice-to-Proceed was issued on March 31, 2010.
02/15/11	WASD withdrew a related contract award recommendation for the construction of the South Miami Heights Water Treatment Plant,	The request to withdraw the contract award recommendation for the South Miami Heights Water Treatment Plant, Contract No. W-855 (A)

Date	BCC Action	Comments
	Contract No. W-855(A).	<p>was based on the need for WASD to review a less expensive option, specifically, the option of using the Floridian Aquifer as a source of water supply instead of the Biscayne Aquifer.</p> <p>According to staff, although the award recommendation for the construction of the South Miami Heights Water Treatment Plant, Contract No. W-855(A) was withdrawn, <i>the scope of work under construction of Contract No. W-857(A) for the South Miami Heights Water Treatment Plant Reservoir and High Service Pump Station remains as a necessity.</i></p> <p><i>As the community in the southern service area expands, the peripheries of the service area have become increasingly difficult to serve.</i></p>
03/6/12 R-225-12	The BCC approved Change Order No. 1 for Contract No. W-857(A) entitled "South Miami Heights Water Treatment Plant Reservoir and High Service Pump Station" to increase the total contract price by \$461,670, from \$16,287,364.16 to \$16,749,034.16.	The increase consists of: 1) an additional \$248,070 for the equipment and materials needed to construct a chemical feed station, 2) \$213,600 for a 178-day compensable time extension for the construction management of the installation of the chemical feed station, and 3) replenishment of the time allowance account by 55 days for unforeseen field conditions.

Legislative History on the County’s Water Use Permit

On November 15, 2007, the SFWMD issued Water Use Permit No. 13-00017-W to the County.

On March 3, 2009, the BCC, through R-226-09, directed the County Mayor to review the assumptions used to develop water supply forecasts, prepare a revised forecast and develop and recommend modifications to the schedule of water supply projects for submittal to the SFWMD.

On December 21, 2009, the WASD submitted the application for the modified WUP to the SFWMD.

In response to the directive on R-226-09, the County Manager, through a memo, dated, February 11, 2010, provided a revised forecast regarding the Schedule of Water Supply projects associated with the County’s Water Use Permit.

The revised forecast was based on updated population projections obtained from the Department of Planning and Zoning, updated per capita water consumption data, and adjustments for other factors such as system pressures, rainfall totals, and imposed water restrictions.

Based on these projections, the WASD revised the *water supply capital plan* to include the following changes:

- Cancellation of the Floridian Aquifer Blending Project due to water quality issues.
- Defer the project completion deadline of the South District Water Reclamation Plant Project by 1 year due to reduced water demands.
- Defer the project completion deadlines of Phase 2 and Phase 3 for the West District Reclamation Plant Projects by 1 year.
- Defer the construction of the reuse projects for the Central District and North District Water Reclamation Plant Projects to the compliance dates in the Ocean Outfall Legislation by 2025.

- Defer the Notice to Proceed for Phase 1 and the project completion date of the Hialeah Reverse Osmosis Plant Project by 1 year.
- Defer Phase 2 and Phase 3 of the Hialeah Reverse Osmosis Plant Projects to 2027.

According to WASD staff, on November 1, 2010, the SFWMD approved WASD's 12/2009 request to revise the water supply project requirements and extended the permit until 2030.

Prepared by: Michael Amador-Gil