



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

Public Safety and Health Committee (PSHC)

May 9, 2018
1:30 P.M.
Commission Chambers

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Research Notes**

**Item No. 1G1
File No. 180148**

Researcher: JFP Reviewer: TD

ORDINANCE RELATING TO EMERGENCY MANAGEMENT AND EMPLOYMENT; CREATING SECTION 8B-11.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; MAKING IT UNLAWFUL FOR AN EMPLOYER TO RETALIATE OR THREATEN TO RETALIATE AGAINST A NON-ESSENTIAL EMPLOYEE WHO COMPLIES WITH COUNTY EVACUATION OR EMERGENCY ORDERS; PROVIDING EXEMPTIONS FOR CERTAIN GOVERNMENT EMPLOYEES AND CERTAIN OTHER ESSENTIAL EMPLOYEES; PROVIDING EXCEPTIONS; ESTABLISHING PENALTIES; PROVIDING FOR APPLICABILITY AND ENFORCEMENT; AMENDING SECTION 8CC; PROVIDING CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should create Section 8B-11.1 and amend Chapter 8CC of the County Code, making it unlawful for an employer to retaliate or threaten to retaliate against a non-essential employee who complies with County evacuation or emergency orders.

APPLICABLE LEGISLATION/POLICY

Chapter 8CC of the Code of Miami-Dade County governs code enforcement.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH8CCCOEN

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Sally A. Heyman, District 4

Requester/Department: None

The proposed Ordinance was deferred at the April 18, 2018 Public Safety and Health Committee meeting. Prior to this action, the item was adopted on first reading at the February 6, 2018 Board meeting.

FISCAL IMPACT

The implementation of the proposed ordinance will not have a fiscal impact on the County since it will not result in additional staffing needs or future operational costs.

ANALYSIS

The proposed Ordinance protects employees from employer-issued sanctions when complying with County-issued evacuation orders.

During a declared State of Emergency, mass transit options are often minimal and many are left without means of transportation. For individuals who comply with an evacuation order, getting to work is often difficult or impossible. The proposed Ordinance states that individuals who comply with a County-issued evacuation order during a declared State of Emergency shall not be subject to sanctions from their employer. Unlawful sanctions by an employer could result in civil penalties in the amount of \$500.

There is no Florida law directly barring employers from issuing sanctions to staff for evacuating during emergencies, even if the evacuation was mandatory. However, private employees can seek relief through civil action under Florida's private sector Whistleblower Act, which provides that an employer cannot take any retaliatory action, such as termination, against an employee who refused to participate in any activity that is in violation of a law, rule, or regulation, Sections 448.101-448.105, F.S. To prevail, a court would need to find:

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- The employer’s request to attend work under a mandatory evacuation order was a violation of a law, rule, or regulation;
- The employee refused to violate such law, rule, or regulation; and
- The employer took retaliatory personnel action against the employee

However a nursing home employee who sought relief through a Florida Whistleblower Act civil action as a result of being terminated by her employer after following mandatory evacuation orders was unsuccessful in her attempt to establish that a mandatory evacuation order was a law, rule, or regulation, *see Gillyard v. Delta Health Group, Inc.*, 757 So.2d 601, (Fla. 5th DCA 2000).

At the state level, SB 1828, similar legislation that would prohibit an employer from taking retaliatory personnel action against an employee who has left a place of employment to evacuate under a mandatory evacuation order, was introduced during the 2018 State Legislative Session. The bill died in the first of three committee stops.

Below are the proposed amendments, compared to the County Code as it currently reads:

Section 8B-11.1 of the Code of Miami-Dade County is Created to Read as Follows:

Sec. SB-11.1. Unlawful Retaliation Against Employees During Emergency Disasters.

(1) For purposes of this section,

a. "essential employee" shall mean any employee that is critical to the essential functioning of the following employers:

i.) hospital or health care provider;

ii.) public or private utility;

iii.) media;

iv.) government agency;

v.) government contractor;

vi.) public safety agency; and

vii) any other business that provides essential emergency related public safety supplies or services.

b. "unlawful retaliation" shall mean termination, demotion, or withholding or nonpayment of wages, salary, bonuses or benefits.

(2) Upon a declaration of a state of emergency applicable to any portion of Miami-Dade County, it shall be unlawful for any employer to retaliate or threaten to retaliate against any employee who is not an essential employee and who complies with County evacuation orders or other County Executive Orders issued during a declared state of local emergency.

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(3) To ensure that employees that rely on mass transit services are evacuated from vulnerable areas, for purposes of this section, any non-essential employee that depends on mass transit service to commute to work to an area that is subject to a County evacuation order shall comply with County evacuation orders prior to the suspension of transit services. No employer shall retaliate or threaten to retaliate against such an employee for complying with a County evacuation order.

(4) This section shall not apply to any employer who has promulgated a written policy that

- a. defines essential and non-essential employees, and
- b. requires that only essential personnel report to the place of employment during a declared state of local emergency.

No policy shall be considered promulgated unless conveyed to all employees in writing at least 30 days prior to the declaration of local emergency and enforced by the employer.

(5) In addition to any remedies elsewhere provided in the County Code or under law, any employer who violates any provision of this section may be punished by a fine not to exceed \$500, or by imprisonment for not more than 60 days, or both. An employer who violates this section shall be subject to a separate violation for each employee unlawfully retaliated or threatened to be retaliated against.

(6) *Applicability and enforcement.* This section shall apply to both the incorporated and unincorporated areas, and in the unincorporated areas shall be enforced by the County and in the incorporated areas shall be enforced concurrently by the municipalities and the County.

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Chapter 8CC of the Code of Miami-Dade County as it currently reads:			Proposed amendment to Chapter 8CC of the Code of Miami-Dade County:		
Chapter 8CC Code Enforcement *** Sec. 8CC-10. Schedule of civil penalties ***			Chapter 8CC Code Enforcement *** Sec. 8CC-10. Schedule of civil penalties ***		
Code Section	Description of Violation	Civil Penalty	Code Section	Description of Violation	Civil Penalty
8AA-160(d)	Failure to maintain membership in Sunshine State One Call	\$100.00	8AA-160(d)	Failure to maintain membership in Sunshine State One Call	\$100.00
	All other Chapter 8AA, Article I violations	\$500.00		All other Chapter 8AA, Article I violations	\$500.00
8B-16	Failure to file or abide by Gas Station Emergency Plan	\$500	<u>8B-11.1</u>	<u>Unlawful Retaliation for Compliance With County Emergency Management Evacuation Orders</u>	<u>\$500</u>
			8B-16	Failure to file or abide by Gas Station Emergency Plan	\$500

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**Item No. 1G2
File No. 180383**

Researcher: JFP Reviewer: TD

ORDINANCE RELATING TO RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING AN EXCEPTION FROM COMMITTEE CONSIDERATION FOR SELECTION AND APPOINTMENT OF PERSONS TO SERVE AS MEMBERS OF THE PUBLIC HEALTH TRUST BOARD OF TRUSTEES AND THE JACKSON HEALTH SYSTEM GENERAL OBLIGATION BOND CITIZENS' ADVISORY COMMITTEE; PROVIDING AN EXCEPTION FROM COMMITTEE CONSIDERATION FOR NON-IMPASSE PUBLIC HEALTH TRUST COLLECTIVE BARGAINING AGREEMENTS; PROVIDING SEVERABILITY INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 2-1 of the Code, providing an exception from committee consideration for selection and appointment of persons to serve as members of the Public Health Trust Board of Trustees and the Jackson Health System General Obligation Bond (GOB) Citizens Advisory Committee, as well as an exception from committee consideration for non-impasse Public Health Trust Collective Bargaining Agreements.

APPLICABLE LEGISLATION/POLICY

Section 2-1 of the Code of Miami Dade County outlines the Rules of Procedure of the County Commission.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE

Chapter 25A of the Code of Miami Dade County governs the Public Health Trust.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH25APUHETR

Chapter 2, Article CL of the Code of Miami Dade County governs the Jackson Health System General Obligation Bond Program.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTCLJAHESYGEOBBOPR

Resolution No. R-636-14, adopted on July 1, 2014, directs the Commission Auditor to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations and/or appointments by the Board.

<http://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2014/R-636-14.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Sally A. Hayman, District 4

The proposed Ordinance was adopted on first reading and set for public hearing at the May 9, 2018 Public Safety and Health Committee meeting.

FISCAL IMPACT

The implementation of the proposed Ordinance will not have a fiscal impact.

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ANALYSIS

The proposed Ordinance amends Section 2-1 of the Code to provide the exceptions from committee consideration in the following instances: 1) for the selection of individuals to serve as members of the Public Health Trust Board of Trustees and the Jackson Health System General Obligation Bond Citizens Advisory Committee; and 2) non-impasse Public Health Trust Collective Bargaining Agreements.

As indicated by the Public Health Trust liaison, this item allows the selections and appointments to travel straight to the Board for consideration, bypassing the Public Safety and Health Committee, thus expediting the process.

It is unclear how this expedited process will affect the background research the Commission Auditor must complete on applicants being considered to serve on County Boards and Trusts that require nominations and/or appointments by the Board pursuant to Resolution No. R-636-14.

Below is the proposed amendment to Section 2-1 of the Code. Specifically, Part 4: Committees under Exceptions to Committee Requirement (changes underlined and in **bold**).

Current	Proposed
<p>(2) Quasi-judicial items, special taxing districts, ordinances for first reading, consent agenda items, other than items related to certificates of transportation, district office fund allocations, special presentations, naming, renamings or codesignations of County roads, facilities or properties, approvals of naming, renaming or codesignations of federal, state or municipal roads, facilities or properties, citizens' presentations, bid protests, settlements, options to renew contracts, resolutions recommending the acceleration and deceleration of Building Better Communities General Obligation Bond Program funding of projects using unspent bond proceeds, including interest earnings and premium funds, notwithstanding Rule 4.01(d)(6), ordinances related to debt obligations, resolutions related to debt obligations, resolutions urging an entity or person to take stated action, resolutions taking a position or seeking direction from the Board on legislation or administrative action at the federal, state or local level, resolutions related to contract lobbyist conflict waiver requests and resolutions expressing intent shall be heard directly by the county commission, items awarding, granting, amending or relating to an award or grant of Targeted Jobs Incentive Fund, Qualified Targeted Industry Business incentives, property or utility tax exemptions in enterprise zones, or Brownfield Economic Development Initiative Loan Funds or similar incentives and tax exemption programs; provided, however, any such item relating to an award of Community Redevelopment Agency funding or Community</p>	<p>(2) Quasi-judicial items, special taxing districts, ordinances for first reading, consent agenda items, other than items related to certificates of transportation, district office fund allocations, special presentations, namings, renamings or codesignations of County roads, facilities or properties, approvals of namings, renamings or codesignations of federal, state or municipal roads, facilities or properties, citizens' presentations, bid protests, settlements, options to renew contracts, <u>selection and appointment of persons to serve as members of the Public Health Trust Board of Trustees and the Jackson Health System General Obligation Bond Citizens' Advisory Committee, non-impasse Public Health Trust Collective Bargaining Agreements</u> resolutions recommending the acceleration and deceleration of Building Better Communities General Obligation Bond Program funding of projects using unspent bond proceeds, including interest earnings and premium funds, notwithstanding Rule 4.01(d)(6), ordinances related to debt obligations, resolutions related to debt obligations, resolutions urging an entity or person to take stated action, resolutions taking a position or seeking direction from the Board on legislation or administrative action at the federal, state or local level, resolutions related to contract lobbyist conflict waiver requests and resolutions expressing intent shall be heard directly by the county commission, items awarding, granting, amending or relating to an award or grant of Targeted Jobs Incentive Fund, Qualified Targeted Industry Business incentives, property or utility tax</p>

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Development Block Grant funding or other funding administered by the Public Housing and Community Development department, or successor department, shall not be excepted from committee review by this subsection (j)(2). On such items, the public shall have the same rights to participate and be heard at the county commission as they would have received had the item been heard in committee.

exemptions in enterprise zones, or Brownfield Economic Development Initiative Loan Funds or similar incentives and tax exemption programs; provided, however, any such item relating to an award of Community Redevelopment Agency funding or Community Development Block Grant funding or other funding administered by the Public Housing and Community Development department, or successor department, shall not be excepted from committee review by this subsection (j)(2). On such items, the public shall have the same rights to participate and be heard at the county commission as they would have received had the item been heard in committee.

ADDITIONAL INFORMATION

The Public Health Trust Board of Trustees was created in 1973 by the Board as an independent governing body concerned with the County's most vital health care resource, Jackson Memorial Hospital. The Trustees establish policies that ensure Jackson Health System is responsive to community needs. They provide leadership for joint planning between Jackson Health System, the University of Miami Miller School of Medicine, Miami-Dade County and other private and community organizations.

In 2003, the Board amended Chapter 25A of the Miami-Dade County Code that governs the Public Health Trust. This amendment altered the composition and size of the Public Health Trust as well as the responsibilities for Countywide health care.

<http://www.jacksonhealth.org/trust.asp#gref>

In 2014, the Board passed an ordinance that created the Jackson Health System GOB Citizens Advisory Committee that is responsible for advising the public and elected leaders regarding Jackson's GOB program. At the time, Jackson had direct oversight provided by the Public Health Trust Board of Trustees, which is itself subordinate to the Board under the Miami-Dade County Code. The Advisory Committee is able to enhance the work of the Board and Trust Board by publicly reviewing and discussing the following: the use of bond program funds in Jackson's capital program; the bond program's contribution to completion of Jackson's capital projects funded in whole or in part by the GOB; performance and program achievement related to the bond program; citizens outreach efforts relating to GOB-funded capital projects; and preparation of regular reports describing the progress of the bond program. Additionally, a member of the Advisory Committee participates in monthly meetings of the Trust Board committee with jurisdiction over facilities and construction.

<http://jacksonhealth.org/library/notices/CAC%20Legislation.pdf>

A Scrivener's Error was found on the item: Chapter 2, **Article CXLIV** of the Code of Miami-Dade County should read Chapter 2, **Article CL** of the Code of Miami-Dade County. https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTCLJAHESYGEOBBOPR

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**Item No. 3A
File No. 180432**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT ISD CONTRACT NO. Z000149, BETWEEN MIAMI-DADE COUNTY AND PEREZ & PEREZ ARCHITECTS PLANNERS, INC. FOR ADDITIONAL FUNDS TO BE PROVIDED IN THE AMOUNT OF \$2,975,000.00 FUNDED FROM THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND FUNDS AND CAPITAL OUTLAY RESERVE FUNDS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAID AMENDMENT

ISSUE/REQUESTED ACTION

Whether the Board should approve Amendment No. 1 to the Professional Services Agreement (PSA) between the County and Perez & Perez Architects Planners, Inc. (Perez & Perez) to increase the PSA's value by \$2,975,000 for delivery of a design criteria package for the new civil and probate courthouse project.

APPLICABLE LEGISLATION/POLICY

Section 255.065 of the Florida Statutes (Public-Private Partnerships and Public Records and Public Meeting Exemptions) requires the provision of a design criteria package prepared by an architect or an engineer to enable private entities to prepare a bid or a response for solicited qualifying projects that include design work. The design criteria package must specify reasonably specific criteria for the qualifying project such as the legal description of the site, with survey information; interior space requirements; material quality standards; schematic layouts and conceptual design criteria for the qualifying project; cost or budget estimates; design and construction schedules; and site development and utility requirements. The licensed design professional who prepares the design criteria package shall be retained to serve the responsible public entity through completion of the design and construction of the project.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0200-0299/0255/Sections/0255.065.html

Ordinance No. 17-94, adopted by the Board on December 5, 2017, revises the County's policies and procedures regarding public private partnerships and unsolicited proposals to be consistent with state law. Under the ordinance, any publication and solicitation for a public private partnership qualifying project that involves architecture, engineering or landscape architecture, the County must select an architect, a landscape architect or a qualified engineer licensed in Florida to: (1) review the initial and subsequent proposals to ensure that the qualifying project meets certain quality standards, proper space utilization, proper budget estimates, reasonable design and construction schedules and sustainable design and construction standards consistent with public projects; and (2) prepare a design criteria package to be included in the RFP solicitation.

<http://intra/gia/matter.asp?matter=172928&file=false&yearFolder=Y2017>

Resolution No. R-151-15, adopted by the Board on February 3, 2015, directed the Administration to solicit proposals for a public private partnership to design, build, finance, operate and maintain County civil and criminal court facilities and jail facilities.

<http://intra/gia/matter.asp?matter=150167&file=true&yearFolder=Y2015>

Resolution No. R-708-16, adopted by the Board on July 19, 2016, approved a contract award to Ashurst LLP for delivery of legal services for the implementation of public private partnerships to develop County civil and criminal courts facilities.

<http://intra/gia/matter.asp?matter=161742&file=true&yearFolder=Y2016>

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Resolution No. R-706-16, adopted by the Board on July 19, 2016, approved a contract award to KPMG LLP for delivery of financial and public private partnership advisory services.

<http://intra/gia/matter.asp?matter=161687&file=true&yearFolder=Y2016>

Resolution No. R-1001-15, adopted by the Board on November 3, 2015, requires contracts with small business measures meet at least 85 percent of the small business goals applicable to the portion of the contract work performed to date before a change order or contract amendment be considered for Board approval.

<http://intra/gia/matter.asp?matter=151746&file=true&yearFolder=Y2015>

Resolution No. R-222-17, adopted by the Board on March 7, 2017, approved award of a PSA to Perez & Perez for revisions to the 2008 Eleventh Judicial Circuit-Wide Courts and the 2008 Correctional Facilities Master Plans in an amount not to exceed \$1,507,500 for a two-year term.

<http://intra/gia/matter.asp?matter=162918&file=true&yearFolder=Y2016>

Resolution No. R-82-15, adopted by the Board on February 3, 2015, approved a significant modification of Building Better Communities General Obligation Bond Program Project No. 180 (Additional Courtrooms and Administration Facilities) to reduce the allocation by \$30,000,000 and to add Project No. 351 (Emergency Capital Repairs to the County Courthouse) with an allocation of \$30,000,000 of surplus funds from Project No. 180.

<http://intra/gia/matter.asp?matter=142812&file=true&yearFolder=Y2014>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

The item was on the March 14, 2018 PSHC agenda and was three-day ruled by Commissioner Heyman. The item was on the April 18, 2018 PSHC agenda and was deferred, at the request of Committee Chairwoman Heyman, to the next committee meeting to afford the Administration time to comply with Board directives. The following discussion transpired at the April 18, 2018 meeting:

- Commissioner Heyman told the Administration to prioritize the civil courthouse project and use the available funding under the PSA for that purpose and to cease planned work on the corrections element of the PSA; she also expressed concern on a quarter of a million dollars being spent under the PSA in a single month and with the request to add \$2.9 million to the PSA, considering there is available funding to continue design work on the courthouse project.
- The ISD Director responded that the funds spent thus far under the PSA paid for work related to the criminal masterplan; the Director promised the committee that all future service orders will be geared toward the civil courthouse project and that the recommended amendment is to expedite design and technical work for the courthouse.
- The County Attorney's Office (CAO) clarified that the PSA service orders can be limited to just the civil courthouse project; CAO stated it would evaluate pending service orders to determine if they can be terminated or redirected to ensure funding is slated solely for the courthouse project.
- Deputy Mayor Marquez urged the committee to forward the item to the Board so there are no future funding issues and promised, to the extent legally possible, to prioritize the civil courthouse project.

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FISCAL IMPACT

The original PSA amount is \$1,507,500. The requested increase of \$2,975,000 results in an adjusted PSA amount of \$4,482,500, representing a 197 percent increase. The services under the PSA will be funded using Building Better Communities General Obligation Bond Program proceeds from Project No. 180 (Additional Courtrooms and Administration Facilities) and will also be funded through the Capital Outlay Reserve fund.

The portion of the work resulting from updating the 2008 Correctional Facilities Master Plan will be funded through BCC-GOB proceeds, GOB Project No. 194 (Construction of the new Krome Detention Center). Under Resolution No. R-222-17, the courthouse aspect of the project is valued at \$738,675, and the detention center aspect is valued at \$768,825.

Under the PSA, payment for basic services may be requested monthly in proportion to services performed during each phase of work. Payment for additional services may be requested monthly in proportion to the services performed.

ANALYSIS

This item is requesting Board approval to authorize an increase of \$2,975,000 to the PSA with Perez & Perez for revisions to the 2008 Eleventh Judicial Circuit-Wide Courts and the 2008 Correctional Facilities Master Plans. Specifically, the increase will pay for the delivery of a design criteria package for the courthouse project. The package is required for the County to comply with state and local laws governing public private partnership procurement, such as the courthouse project.

As shared in the Legislation Section above, the design criteria package must include (1) the legal description of the selected site; (2) survey information; (3) interior space requirements; (4) material quality standards; (5) schematic layouts and conceptual design criteria; (6) cost and budget estimates; (7) design and construction schedules and (8) site development and utility requirements. The same architect or engineer must be retained by the County through the design and construction of the project.

As stated in the mayoral memorandum, the PSA amendment will allow the County to receive a completed design package that complies with state and local requirements within six months while leveraging the work already performed by Perez & Perez in updating the County's Civil and Probate Courts Master Plan. Neither a copy of the updated plan nor a summary of the specific work phases completed thus far by Perez & Perez were provided with the agenda item.

The original PSA was adopted by the Board on March 7, 2017 pursuant to Resolution No. R-222-17 for a term of 730 calendar days for a total contract amount of \$1,507,500. The total time to complete the three phases is 270 calendar days. The remaining 460 calendar days were allotted to allow the County the option to retain the consultant's services at no additional cost to the County as it moves forward with the construction project. Under this amendment, "the County Mayor may extend the agreement on a year-to-year basis until completion and acceptance of the work by the owner."

Under the PSA, the scope of services consists of architectural and engineering design services for revisions to the 2008 Eleventh Judicial Circuit-Wide Courts and the 2008 Correctional Facilities Master Plans. The professional services are required to provide a study updating: (1) the 2008 Eleventh Judicial Circuit-Wide Courts Master Plan in order to assess future needs and provide design standards for the expansion of court facilities in Miami-Dade County's Eleventh Judicial Circuit Court and (2) the 2008 Correctional Facilities Master Plan. The scope applies to all criminal courts in the Eleventh Judicial Circuit of Florida, including the Public Defender's Office and the State Attorney's Office as well as correctional facilities.

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Under the PSA, Perez & Perez shall evaluate existing conditions and future needs for court and jail facilities; specific services are: (1) project orientation/direction, (2) survey and inventory and operating/space standard, (3) definition and evaluation of strategic alternatives, (4) recommended Master Plan, (5) detailed operational and architectural programming for new AOC MDCR facilities and (6) space standards and design guidelines.

The PSA includes three subconsultants: (1) Dan L. Wiley & Associates, Inc.; (2) Pulitzer, Bogard & Associates, LLC; and (3) CPM North America, PLLC. The SBE-A&E goal is 10 percent, an estimated value of \$145,750.

ADDITIONAL INFORMATION

There was a discussion item at the Board's April 10, 2018 Board meeting regarding the status of the procurement for the civil courthouse project. Specifically, the discussion addressed the evaluation of the unsolicited proposal for the development of the courthouse and the appropriate procurement method for the courthouse project. The Board directed the administration to (1) take no action on the unsolicited proposal; (2) continue the RFQ process for the courthouse project, as recommended by the Mayor; and (3) allow the unsolicited proposer to submit qualifications under the RFQ.

<http://intra/gia/matter.asp?matter=180911&file=false&yearFolder=Y2018>

The Florida DBPR website (State of Florida Department of Business and Professional Regulation) shows Perez & Perez as a licensed "Architect Business" that is current and active with an address of 2121 South Douglas Road, Miami, Florida.

<https://www.myfloridalicense.com/LicenseDetail.asp?SID=&id=D55EB663255308939A50D37FFC5098C3>

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**Item No. 3B
File No. 181034**

Researcher: BM Reviewer: TD

RESOLUTION AUTHORIZING WAIVER OF BID PROCEDURES BY A TWO-THIRDS VOTE OF THE MEMBERS PRESENT PURSUANT TO SECTION 5.03(D) OF THE COUNTY CHARTER AND SECTION 2-8.1 OF THE COUNTY CODE AND APPROVING AWARD OF CONTRACT NO. SS9862-0/23 TO ARROW INTERNATIONAL, INC. FOR INTRAOSSEOUS INFUSION SYSTEMS AND RELATED ITEMS FOR THE MIAMI-DADE FIRE RESCUE DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$800,000.00 FOR THE FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should waive competitive bidding procedures and approve award Contract No. SS986-0/23, *EZ-IO Intraosseous Infusion Systems and Related Items*, to Arrow International, Inc. (Arrow) for intraosseous infusion systems for the Miami-Dade Fire Rescue Department.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Section 2-8.1(b)(3) of the County Code sets forth procedures for authorizing a designated purchase; under this section, designated Purchase shall mean a purchase within the scope of this section when the purchase through the use of formal sealed bids is not practicable, including, but not limited to: (1) sole source purchases, (2) services where no competition exists such as public utility services, (3) where purchases or rates are fixed by law or ordinance, (4) unique professional or artistic services not governed by the Consultants' Competitive Negotiations Act, section 287.055, Florida Statutes, (5) purchases of goods and services necessary to address an emergency, or where additional formal competition would not be practicable, and (6) solicitations where only a single proposer has responded to a competitive solicitation but such response contains material defects and the County still desires to enter into a contract with such proposer.

Any recommendation by the Mayor for the award of a Designated Purchase shall at a minimum: (1) provide a written explanation of why the purchase through formal sealed bids would not be practicable under the circumstances and is in the best interest of the County, (2) provide a written explanation of the process followed resulting in the recommendation for a Designated Purchase, and (3) provide a written description of any informal competition conducted and any and all efforts to obtain a valuation of the recommended purchase. The Board of County Commissioners shall adopt any resolution authorizing a Designated Purchase by a two-thirds vote of the members present.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

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Section 5.03(D) of the Home Rule Charter of Miami-Dade County governs contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids.

<http://www.miamidade.gov/charter/library/charter.pdf>

Implementing Order No. 3-38 sets forth the County’s processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-140-15, adopted on February 3, 2015, directs the County Mayor or County Mayor’s designee to conduct a full review, prior to re-procurement of replacement contracts for goods or services of the scopes of services or goods requested to ensure such contracts reflect the current needs of the County, to include information in recommendations to the Board, and to consult with the Small Business Development Division regarding solicitation and contract language.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

Resolution No. R-1011-15, adopted on November 3, 2015, directs the County Mayor or County Mayor’s designee to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ; and directed the County Mayor or County Mayor’s designee to include such information in a memorandum to the Board pertaining to a vendor being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

This item has no procedural history.

FISCAL IMPACT

The fiscal impact for approving award Contract No. SS986-0/23, *EZ-IO Intraosseous Infusion Systems and Related Items*, for a five-year term is \$800,000 based on anticipated expenditures.

A search on the Bid Tracking System on May 8, 2018, as it relates to contract SS9862-0/18, resulted in the following information: \$435,000 has been allocated to the contract’s Blanket Purchase of which \$434,971 has been released, leaving a balance of \$29. The contract currently has a cumulative value of \$435,000 and expires on July 26, 2018. The table below illustrates the annualized cost allocation of either contract. When calculated at an annualized basis, the proposed allocation is lower than the current contract by approximately \$41,000.

Current Contract: SS9862-0/18	New Contract: SS9862-0/23
\$435,000, for a two-years, and two-month term	\$800,000, for a five-year term
Yearly cost allocation: \$200,770	Yearly cost allocation: \$160,000

**PSHC Meeting: May 9, 2018
Research Notes**

ANALYSIS

The proposed Contract No. SS986-0/23, EZ-IO Intraosseous Infusion Systems and Related Items, is for a five-year term, at a value of \$800,000 and awarded to Arrow. The contract provides the Fire Rescue Department with intraosseous infusion systems used to provide direct access to veins located in bone marrow for delivery of fluids and medication.

Fire Rescue is the busiest emergency medical services provider in the State of Florida. Fire Rescue handles over 240,000 emergency calls yearly when patients are in need of life-saving treatments, and IV access is not possible. The use of the EZ-IO intraosseous vascular access system option is necessary because it offers a fast access option that avoids unnecessary central line placement and the risk of central line infections. Use of EZ-IO devices, allow for a 20% reduction of time for IO access.

The recommended vendor, Arrow, is the incumbent vendor under the current contract. According to the contract, Arrow is to provide for the purchase of the Arrow EZ-IO Intraosseous Infusion System and related items. Furthermore, they are to provide training, parts, accessories, and disposables for EZ-IO systems.

Pursuant to Section 2-8.1(b)(3) of the County Code, recommendations by the Mayor shall provide a written explanation of why the purchase through formal sealed bids would not be practicable under the circumstances. The Mayoral memo states that the EZ-IO products utilize a proprietary, patented needle and power driver technology for which Arrow is the sole manufacturer that can provide both components. However, the Fire Rescue Department will continue to research the market for future comparable, suitable products.

Pursuant to Resolution no. R-1011-15, below is a summary of the recommended awarded vendor information as it relates to local address and percentage of employee County residents:

Vendor	Local Address	Number of Employees in Miami-Dade
Arrow International, Inc.	No	None

A search of the Miami-Dade County Small Business Enterprise Certified Firms list, on May 8, 2018, resulted in the following firms under commodity code no. 47500 – Hospital, Surgical, and Medical Related Accessories:

- Advanced Care Medical Supplies, Inc.
- Century Medical Supplier LLC
- CMS International Group, Corp.
- District Healthcare & Janitorial Supply
- Health Medical Equipment, Inc.
- Hillusa Corporation
- Inversiones IGMC, LLC
- Medical Equipment Solutions Corp.
- Medtek Medical Solutions LLC
- Morph Medical, LLC
- Total Connection Inc.

Per the information on the Bid Tracking System, on May 8, 2018, none of the firms found in the SBE list have submitted a bid proposal for consideration for inclusion into the prequalification pool. However, per the Mayoral memo, the EZ-IO products utilize a proprietary, patented needle and power driver technology for which Arrow is the sole manufacturer that can provide both components.

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ADDITIONAL INFORMATION

OCA searched on the Florida Department of State Division of Corporations website (Sunbiz.org) for the registration status and determined that Arrow International, Inc. currently registered and active to conduct business in the state of Florida.

[http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquiryType=EntityName&directionType=Initial&searchNameOrder=ARROWINTERNATIONAL%20Q130000000690&aggregateId=agent-q13000000069-876cbb33-57a3-45d3-bb39-](http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquiryType=EntityName&directionType=Initial&searchNameOrder=ARROWINTERNATIONAL%20Q130000000690&aggregateId=agent-q13000000069-876cbb33-57a3-45d3-bb39-7509322859e1&searchTerm=arrow%20international%20inc.&listNameOrder=ARROWINTERNATIONAL%204000350)

[7509322859e1&searchTerm=arrow%20international%20inc.&listNameOrder=ARROWINTERNATIONAL%204000350](http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquiryType=EntityName&directionType=Initial&searchNameOrder=ARROWINTERNATIONAL%20Q130000000690&aggregateId=agent-q13000000069-876cbb33-57a3-45d3-bb39-7509322859e1&searchTerm=arrow%20international%20inc.&listNameOrder=ARROWINTERNATIONAL%204000350)

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Research Notes**

**Item No. 3C
File No. 181043**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-00567 FOR PURCHASE OF EMERGENCY MEDICAL SERVICES BILLING FOR THE FIRE RESCUE DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$12,000,000.00 OVER THE INITIAL FIVE-YEAR TERM AND ONE, FIVE-YEAR OPTION TO RENEW TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should award a contract to Advanced Data Processing, Inc. for Emergency Medical Services (EMS) Billing for the Fire Rescue Department for a five-year term, including a five-year option to renew, for an estimated cumulative value of \$12,000,000.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Section 2-8.1(j) of the County Code sets forth the County's policy relating to electronic commerce, electronic signatures, and online procurement of goods and services, authorizing the County Mayor to pursue electronic commerce and online procurement of goods and services through the use of electronic means including the use of electronic signatures. Procurement by electronic means includes, but is not limited to, the advertising and receipt of competitive sealed bids, competitive sealed proposals and informal quotations, reverse auctions, vendor registration and any other current or future procurement method or process.

https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Resolution No. R-1011-15, adopted by the Board on November 3, 2015, directs the County Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ and include such information in memorandum to the Board pertaining to vendor(s) being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

Resolution No. R-140-15, adopted by the Board on February 3, 2015, directs the County Mayor to conduct a full review, prior to the re-procurement of replacement contracts for goods or services of the scope of services or goods requested to ensure such contracts reflect the current needs of the County and include such information in recommendations to the Board.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

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Resolution No. R-716-12, adopted by the Board on September 4, 2012, requires identification of a firm's small business enterprise program certification in any procurement item submitted for Board approval.

<http://intra/gia/matter.asp?matter=121265&file=true&yearFolder=Y2012>

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-229-17, adopted by the Board on March 7, 2017, authorized a designated purchase, awarding additional time of up to 12 months and additional expenditure authority in a total amount of up to \$1,500,000 for the purchase of emergency medical services billing and collections from Advanced Data Processing, Inc.

<http://intra/gia/matter.asp?matter=170223&file=true&yearFolder=Y2017>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

Implementing Order No. 2-13 sets forth guidelines and procedures regarding legal opinions with respect to County competitive processes.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO2-13.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

FISCAL IMPACT

The fiscal impact for the five-year term is \$6,000,000. If the one, five-year option to renew is exercised, the cumulative contract value is estimated to be \$12,000,000. The current contract is valued at \$8,503,703.70 for a term of six years and 10 months.

The table below has been taken from the replacement contract's price schedule and shows the rates for all billing and collection services.

Item	Description	Cost
1	Percentage fee charged by contractor for all collections except Medicaid	2.45%
2	Flat fee charged by contractor for each Medicaid eligible account	\$12.25
3	Liquidated returns	\$30,000
4	Bonus	\$30,000

**PSHC Meeting: May 9, 2018
Research Notes**

ANALYSIS

This item is requesting Board approval of a replacement contract for EMS billing for the Fire Rescue Department for a five-year initial term plus a five-year option term for a cumulative value of \$12,000,000 to Advanced Data Processing, Inc., the incumbent vendor. The replacement solicitation was advertised on July 10, 2017 and four proposals were received in response to it.

Advanced Data Processing, Inc. marked significant portions of its proposal “confidential and proprietary” and failed to sign the RFP’s Confidentiality Waiver. Regarding this issue, a responsiveness opinion from the County Attorney’s Office (CAO) was sought. That opinion is attached to the agenda item and concludes that the proposal sections submitted by Advanced Data Processing, Inc. that have been marked confidential and proprietary must be returned and not evaluated; “if after doing so, there is insufficient information for the County to evaluate, Advanced Data Processing’s proposal is nonresponsive.” It has been deduced that there was sufficient information left for the County to evaluate Advanced Data Processing’s proposal as the firm is the recommended awardee.

The Fire Rescue Department transports patients from incidents to health care facilities in its emergency medical transport vehicles. Under the contract, Advanced Data Processing will use the information collected from Fire Rescue’s Electronic Patient Care Report, hospitals and other sources as the basis for billing the transported patients, Medicare, Medicaid and insurance companies. Advanced Data Processing will make every effort to bill other appropriate third party payers for services provided to patients and must assess service levels prior to billing and classifying services into levels that meet Medicare and Medicaid transport criteria. The service levels may, in limited cases, differ from what is indicated on internal documents based upon interpretation and must be brought to Fire Rescue’s attention on a monthly basis to determine whether changes are necessary.

Patient billing is performed through different payer categories (financial classes), such as self-pay accounts, Medicaid, Medicare, and Private insurance. EMS currently provided by Fire Rescue include: Advanced Life Support and Basic Life Support. The current transport fees and related fees for each service are as follows.

EMS Rate Schedule	
Transport/Service	Fee
Basic Life Support	\$800
Advanced Life Support 1	\$800
Advanced Life Support 2	\$900
Specialty Care Transport	\$900
Ground Mileage	\$15
Oxygen	\$30
IV/IO Solutions	\$25
Cardiac Monitoring	\$25
Cervical Collar	\$25
Backboard	\$25

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ADDITIONAL INFORMATION

A May 8, 2018 search on sunbiz.org (Florida Department of State, Division of Corporations website) for Advanced Data Processing, Inc. listed the vendor as an active foreign for-profit corporation with a principal address of 6451 N. Federal Highway, Suite 1000, Fort Lauderdale, Florida.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=ADVANCEDDATAPROCESSING%20F020000051510&aggregateId=forp-f02000005151-1462997c-941c-48fa-a43c-e81669defa6d&searchTerm=Advanced%20Data%20Processing&listNameOrder=ADVANCEDDATAPROCESSING%203069780>