



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Board of County Commissioners

April 21, 2009

9:30 AM

Commission Chamber

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

**Legislative Analysis
Board of County Commissioners
Meeting Agenda**

April 21, 2009

Written analyses for the below listed items are attached for your consideration in this Legislative Analysis.

Item Number(s)

4(E)	8(D)1(G)
4(F)	8(F)1(A)
5(F)	8(M)1(A)
6(A)1	8(N)1(A)
8(D)1(F)	8(O)1(B)
	11(A)5

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

Acknowledgements--Analyses prepared by:
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**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 4(E)

File Number: 091090

Committee(s) of Reference: Government Operations

Date of Analysis: April 17, 2009

Type of Item: Code Amendment

Summary

This ordinance amends Article III, Section 4.44(d) of the Code of Miami-Dade County to provide that multiple certificates from one applicant providing non-emergency service be authorized through one resolution. The Code currently provides that each resolution may only authorize one non-emergency vehicle.

Background and Relevant Legislation

Non-emergency medical transportation service or nonemergency service is classified as the transportation of persons while on stretchers or wheelchairs, or whose handicap, illness, injury or other incapacitation makes it impractical to be transported by a bus or taxicab service, and the person is not in need of any medical attention while in route.

According to the Consumer Services Department, there are 31 companies providing non-emergency service and 152 vehicles currently in service.

Policy Change and Implications

On April 14, 2009, the Government Operations Committee was cancelled due to lack of quorum. There were ten (10) separate resolutions authorizing one certificate for a non-emergency vehicle per resolution by the same applicant. If this ordinance is adopted, multiple certificates by the same applicant could be approved under one resolution.

Budgetary Impact

None

Prepared by:

Tiandra D. Sullivan

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



Legislative Notes

Agenda Item: 4F

File Number: 090260

Committee(s) of Reference: Budget, Planning & Sustainability Committee

Date of Analysis: April 17, 2009

Type of Item: Code Amendment

Sponsor: Commissioner Barbara J. Jordan

Commission District: Countywide

Summary

This ordinance restores two cents (2¢) to the 1993 five cents (5¢) Capital Improvement Local Option Gas Tax (Capital Improvement Gas Tax).

Background and Relevant Legislation

On September 1, 1996, the Board of County Commissioners adopted Ordinance No. 96-101 which reduced the Capital Improvement Local Option Gas Tax from the maximum 5¢ per gallon of gasoline or diesel fuel to 3¢ per gallon. The downward adjustment was for purposes of reducing the impact of gasoline prices. The Capital Improvement Gas Tax is allocated for transportation capital projects (such as vehicles maintenance, road resurfacing), and unincorporated municipal service areas' (USMA) capital uses. The tax also pays a portion of the debt service on the Quality Neighborhood Improvement Bonds.

For Fiscal Years ending 2006, 2007 and 2008, the actual revenues generated under the 3¢ gas tax were \$20,353,000, \$18,717,000 and \$18,393,000, respectively. These figures reflect the County's proportionate share after the municipalities' statutory share and the state's administrative fee are deducted. (Source: OSBM)

Budgetary Impact

For Fiscal Year 2008-09, budget projections projected that each penny under the current 3¢ gas tax will generate \$6,636,000 or a total of \$19,910,000 by the end of the fiscal year. (Source: FY 2008-09 Adopted Budget, Estimated Gas Tax Revenues).

Based on computations provided by the OSBM, an increase in the Capital Improvement Gas Tax of 2¢ per gallon as of April 2009, will generate approximately \$9,178,000, which constitutes a 9-month yield. The total yield for FY 2010 is estimated to be \$12,237,000. (See below excel chart).

Public/ Private Sector Impact

The Administration has previously reported that downward adjustments to the gas tax will not necessarily have a significant impact on the price of gasoline since gas prices are driven by the availability of crude oil, external market conditions and consumer demand and trends. (County Manager's memo, Local Option Gas Tax information, 6/12/2007). Conversely an upward adjustment to the gas tax (i.e., restoring the tax to 5¢) may not necessarily have a significant adverse impact on County residents in light of the external factors.

Capital Improvement Local Option Gas Tax (3 cents per gallon)							
\$ in 000's	FY 2006	FY 2007	FY 2008	FY 2009	FY 2009	FY 2010	
Capital Improvement LOGT	Actual	Actual	Actual	Budget	Projection	Estimate	@ 95%
net deposit to county	20,353	18,717	18,393	19,910	19,131	18,356	
amount per cent	6,784	6,239	6,131	6,637	6,377	6,119	
All impositions and rate changes of the tax shall be levied before July 1, to be effective January 1 of the following year. (FS 336.025) (9 Months Yield)						\$9,178	
Annual yield on additional two cents						\$12,237	

(Source: OSBM)

Prepared by:

Lauren Young-Allen

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



Legislative Notes

Agenda Item: Item 5(F)

File Number: File No. 090963

Committee(s) of Reference: Recreation, Culture and Tourism

Date of Analysis: April 17, 2009

Type of Item: Bid Rejection/Contract Award

Commission District: 8

Summary

This resolution recommends the Board of County Commissioners (BCC) to reject all bids; authorize a Waiver of Bid Protest Process, authorize a Waiver of Competitive Bidding and to execute a Construction Contract between Solution Construction, Inc. (Solution) and Miami-Dade County for the Construction of the new Arcola Lakes Library in an amount not to exceed \$3,006,000.

Background and Relevant Legislation

The BCC approved Resolution No. 114-09 related to the Arcola Lakes Library which authorized the rejection of all bids, authorized a Waiver of the Bid Protest Process and authorize a Waived Competitive Bidding.

The resolution further authorized the County Mayor or his designee to execute a contract with the lowest responsive bidder resulting from the Best and Final Offer process (BAFO) between the following three lowest bidders: Zurqui Construction Service, Inc., Solution Construction, Inc., and Link Construction Group, Inc.

The BAFO process resulted in revised bids and rated Solution as the lowest responsive bidder.

During the November 20, 2008, BCC meeting, concerns were raised regarding Solution's open violations totaling \$175,000. Subsequent to this meeting, the Small Business Development Department (SBD) has received a Community Small Business Enterprise Make-up Plan submitted by Solution. As of March 31, 2009, Solution has an approved make-up plan.

According to the Florida Department of State Division of Corporations, Solution's status is active.

According to the Capital Improvements Information System (CIIS), Solution has been awarded fourteen (14) contracts whose total award value is \$8,540,497. Additionally, the CIIS Contractor Evaluation Report reflects six (6) evaluations with an average evaluation rating of 3.6 out of 4.

Legislation relating to the Arcola Lakes Library is as follows:

Resolution	Title
648-07	Government Facilities Hearing-Arcola Lakes Library
1021-07	Grant Application/Receipt for \$500,000 from Florida Department of State
114-09	Construction of Arcola Lakes Library: Rejection of all bids; Bid Protest Process Waiver; Competitive Bidding Waiver; Execute Contract from a Best and Final Bidding Process
380-09	Add Police to the Arcola Library in District 2-Economic Stimulus List

According to General Services Administration (GSA) staff, the Capital Asset Acquisition Bond 2007 Proceeds allocated to fund this project must be used entirely by May 2010. In order to meet this deadline and project schedule, it is crucial that the selected contractor be given a Notice to Proceed by May 2009.

Arcola Lakes Library Project Schedule

RCTC Meeting	4/13/2009
BCC Meeting	4/21/2009
Notice of Award	4/22/2009
Insurance Documents from Contractor	5/1/2009
Insurance Documents approved by Risk	5/6/2009
Pre-construction Meeting	5/11/2009
Notice to Proceed	5/15/2009
Construction start	5/18/2009
Construction Substantial Completion	9/15/2010
Preparation of Punch List	9/25/2010
Completion of repairs from Punch List	10/25/2010
Project Close-Out	11/25/2010

Budgetary Impact

As a result of the BAFO process, the lowest responsive bid was lower (\$263,329) than the original bid submitted in July 2008. The original bid was \$3,334,825 and the new bid is now \$3,050,604.

Arcola Library Expenditure Schedule

	Prior Years	2008-09	2009-10	2010-14	Future	Total
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Land/Building Acquisition	\$1,484,000	0	0	0	0	\$1,484,000
Planning and Design	500,000	0	0	0	0	\$500,000
Construction	\$1,195,000	\$2,867,000	\$720,000	0	0	\$4,782,000
Total Expenditures	\$3,179,000	\$2,867,000	\$720,000	0	0	\$6,766,000

The expenditure schedule for Library Capital Projects for FY2009-10 includes the following:

Library Branch	Expenditure	Total Project Budget	Description	Location
Arcola Lakes	\$720,000	\$6.7 M	Construction	District 2
Doral	\$1.9 M	\$9.0 M	Land/Building Acquisition	District 11
Hialeah Gardens	\$1.5 M	\$9.0 M	Land/Building Acquisition	District 12
Killian	\$1.988 M	\$9.0 M	Land/Building Acquisition	District 8
Coconut Grove	\$871,000	\$2.05 M	Construction	District 7
Coral Gables-Phase II	\$1.898 M	\$3.84 M	Construction	District 7
Coral Reef	\$110,000	\$570,000	Planning, Design and Construction	District 8
Culmer/Overtown-Phase II	\$435,000	\$575,000	Planning, Design and Construction	District 3
Kendall	\$1,697 M	\$3.41 M	Construction	District 8
Little River	\$766,000	\$4.0 M	Planning and Construction	District 3
Main Branch	\$125,000	\$1.76 M	Planning and Design	District 5
Miami Lakes	\$1.845 M	\$4.8 M	Construction	District 13
Northeast Regional	\$9.4 M	\$15 M	Construction	District 4
South Dade	\$151,000	\$205,000	Construction	District 8
South Miami-Phase II	\$288,000	\$1.269 M	Construction	District 8

Prepared by:
Mia B. Marin

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

Legislative Notes

Agenda Item: 6(A)1

File Number: 091122

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: April 17, 2009

Type of Item: Discussion Item

Sponsor: Chairman Dennis C. Moss

Commission District : Countywide

Background and Relevant Legislation

On April 1, 2009, Governor Charlie Crist announced a scaled-down U.S. Sugar buyout of \$533 million for 72,500 acres of U.S. Sugar land in order to restore water flow to the Everglades National Park (Everglades). This is the third version of the U.S. Sugar buyout plan proposed by Governor Crist (see Chart below).

Restoration plans call for converting farm fields into reservoirs and pollution treatment marshes to resolve problems in the Everglades and Lake Okeechobee, allowing for the catching of more water, cleaning it and flowing it south into the marsh.

Under the U.S. Sugar buyout, the state will have a 10-year option to buy another 107,000 acres if the economy rebounds and the South Florida Water Management District (SFWMD) is in a stronger financial position.

In addition, U.S. Sugar will have a 7 year lease term to continue to farm on the 72,500 acres with an option to renew. U.S. Sugar will also continue to farm on the 107,000 remaining acres until the state exercises its option to purchase the land.

SFWMD will finance the agreement with bonds from the counties that make up the water district. The 16 counties within the water district – including Broward, Palm Beach and Miami-Dade counties – will pay for the deal.

Additional changes include tripling the rate at which it will lease back land to U.S. Sugar, to \$150 an acre. U.S. Sugar agreed to the change because the former rate under consideration was for \$50 an acre, about 1/4th of market price, and this became a sticking point during negotiations.

Concerns with the Buyout:

- Given the current financial situation of the state, there is concern in legislature that the state could not afford the original \$1.7 billion price tag.
- Environmentalists are in strong support of the new deal. The Nature Conservancy, a nonprofit organization, feel that the new terms are more targeted and economically feasible, while at the same time maintaining the governor’s vision of restoring water flow from Lake Okeechobee to the Everglades.
- Concerns over whether the SFWMD will exercise its options to buy more land in light of the economic crisis.
- The state is buying scattered tracts that do not create a “flow-way” between Lake Okeechobee and the Everglades. Some of the parcels are ideal for building estuaries that clean up farm runoff, while other tracts are better suited for reservoirs.

Three versions of the states proposed U.S. Sugar buyout highlights:

June 2008	October 2008	April 1, 2009
<p>\$1.75 Billion for U.S. Sugar, Corp. including land, sugar mills, and refinery, railroad, buildings or other facilities.</p> <p>187,000 acres of U.S. Sugar land.</p>	<p>\$1.34 billion for land only purchase.</p> <p>\$180,000 acres.</p> <p>U.S. Sugar will lease the land back at \$50 per acre and continue farming it until the state needs it for restoring the flow of water from Lake Okeechobee south to Everglades National Park. The 7 year lease is renewable.</p>	<p>\$533 million for land only purchase.</p> <p>72,500 acres of U.S. Sugar land.</p> <p>Option to buy 107,500 acres within 10 years at fair-market value at the time of acquisition.</p> <p>40,500 acres will be leased back to U.S. Sugar at \$150 per acre, allowing sugar farming to continue for at least 7 years.</p>

Additional highlights under the April 1st proposal include:

- Reducing the immediate public investment by 60 percent \$800 million;
- Reducing the annual debt service payments by an estimated \$65 million;
- Tripling the land lease rate to \$150 an acre to generate a minimum of \$40 million in revenue and avoid \$11 million in land management cost;
- If SFWMD elects to lease any citrus land and does not receive any responsive bids, U.S. Sugar agrees to manage the citrus properties at no cost to SFWMD;
- If acquisition on the remaining 107,500 acres is not closed by year 7, the US Sugar lease extends an additional 3 years at a continued rate of \$150/acre. If SFWMD does not exercise its option

on the remaining 107,500 acres by year 10, then US Sugar lease extends another 10 years at Market Rent as determined by the appraisal process;

- SFWMD may take up to 32,000 citrus acres with one year's notice after closing. In addition, SFWMD may take up to 10,000 acres of sugarcane property in the first ten years with two (2) year notification for Governing Board approved and funded project;
- SFWMD may also take up to a maximum of 3,000 acres of transition lands at any time for lands not planted in cane. Land with sugar cane will continue under lease agreement at existing lease rate. Lease will continue for a period of seven years for land with cane (Lease can only be terminated after 7 years if construction starts on a fully permitted and funded development project);
- Environmental remediation will be reduced from \$16.5 million to \$6.6 million; and
- Environmental basket and lease deposit reduced from \$10 million to \$4 million.

Prepared by:

Elizabeth N. Owens and Mia B. Marin

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



Legislative Notes

Agenda Item: 8(D)1(F)

File Number: 090749

Committee(s) of Reference: Budget, Planning & Sustainability Committee

Date of Analysis: April 17, 2009

Type of Item: Agreement with Miami River Fund, Inc.

Sponsor/ Requester: DERM

Commission Districts: 2, 3, 5, and 7

Summary

This resolution authorizes the Administration to execute an agreement with Miami River Fund, Inc. (MRF) for the purpose of removing and disposing of litter and debris from the Miami River's navigable waters (i.e., waters used for commercial transportation) by or before the end of Fiscal Year 2008-09.

Background and Relevant Legislation

Under the provisions of the proposed agreement, the County will pay MRF \$100,000 to remove and dispose of any non-hazardous material floating within the first two feet of water such as aluminum cans, plastic bags, toys, vegetation, animal debris, wood, leaves, etc. MFR will serve as the coordinating authority responsible for carrying out or delegating this mission.

Pursuant to §163.06, Fla. Stat., MFR is a non profit corporation which serves as the official, coordinating clearinghouse for all public and private projects related to the Miami River. Its primary mission is to improve the 5.5-mile Miami River and its surroundings, including the 69-square-mile water basin that includes the City of Miami (City) and a portion of Miami-Dade County. MFR was instrumental in bringing to fruition the dredging of the river, development of the Miami River Greenway, storm water system retrofits, redevelopment/ creation of six new waterfront parks, increased tree canopy, removal of derelict vessels, and volunteer clean-ups.

The Administration notes that pursuant to Ordinance No. 08-105, and subsequent modification on February 17, 2009, the County has allocated \$100,000 in its Fiscal Year 2008-09 Budget to MFR for the specific purpose of removing litter and debris from the Miami River. The allocation is conditioned upon

written confirmation that the City, the MRF, or jointly the City and MRF are providing matching funds in the amount of \$100,000. Any funds provided by the County which remain unspent by MRF on September 30, 2009 (i.e., the end of the fiscal year and the termination date of the contract) are to be returned to the County.

Under the terms of the proposed agreement, a written report to the County is to be provided on or before October 31, 2009. The report is to document the volume or weight of the debris removed, the dates of collection, and the final costs incurred in the collection and disposal of litter and debris from the Miami River.

Policy Change and Implication

None

Budgetary Impact

\$100,000 one-time allocation

Prepared by:

Lauren Young-Allen

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



Legislative Notes

Agenda Item: 8(D)1(G)

File Number: 091121

Committee(s) of Reference: Budget, Planning & Sustainability Committee

Date of Analysis: April 17, 2009

Type of Item: Contract Award; Beach Re-nourishment Project; American Earth Movers, Inc.

Commission Districts: 4 and 5

Summary

This resolution authorizes the County to award and execute a contract, in the amount of \$2,433,887.50 to American Earth Movers, Inc. (AEM) for purposes of renourishing eroded portions of Miami-Dade County beaches between Government Cut and Sunny Isles.

Background and Relevant Legislation

At the March 10, 2009, Budget, Planning & Sustainability (BPS) Committee, the Administration sought authorization to waive the bid protest procedures and to reject the single bid submitted by AEM for the Beach Re-nourishment Project. The Administration also sought authorization to waive the competitive bid process and the authority to employ a 60-day expedited procurement process for advertising, awarding, and executing a new 2-year contract for the Beach Re-nourishment Project in an amount not to exceed \$4 million.

Previously, in December 2008, the Transit Committee had rejected an award recommendation which would have awarded a contract to AEM, citing AEM's history of CSBE program violations and documented non-compliance. The Transit Committee directed the Public Works Department to negotiate the bid and ultimately award the project to the second bidder. Subsequently, in January 2009, the Board of County Commissioners (BCC) adopted the recommendation of the Transit Committee and bypassed AEM, the first ranked bidder, and awarded the County contract to the second bidder.

The Administration recommended at the March 10, 2009 BPS committee meeting that the committee reject the bid submitted by AEM for the Beach Re-nourishment Project.

However, the BPS Committee voted to award the contract to AEM and directed the Administration to execute the necessary documents. This decision was based on number of factors. First, the committee expressed concern as to the terms of the Compliance Agreement between AEM and the County which sets forth the plan for AEM to correct, comply and achieve the CSBE participation make-up goals on

future contracts. In particular, the Committee noted that the agreement required the company to forfeit its right to protest and appeal adverse decisions, and obligated the company to be suspended from participating on any new contracts with the County for a 6-month period of time, which was deemed by the committee as an extensive period of time. Second, by virtue of the Administration's recommendation to not award the company the Beach Re-nourishment Project, this was tantamount to extending the suspension beyond the 6-month period agreed to under the terms of the Compliance Agreement. Third, in light of the length of time needed to competitively rebid and award the project, the committee expressed a desire to avoid further beach erosion which may result if the award is further delayed.

Based on the above and the committee's vote, the pending resolution awards AEM the Beach Re-nourishment contract at the bid price (of \$2,433,887.50) proffered by AEM. This amount is considerably lower than the County's original total estimate.

Supplemental Information

In a supplement to this item, the Administration notes that it has recently been apprised that American Movers, Inc. is currently under investigation by the Public Corruption Unit of Miami-Dade Police Department for allegedly participating in an organized scheme to defraud.

County Policy

For purposes of weighing the merits of adopting or rejecting the recommendation to award the pending project to AEM, the following County Code provisions set forth in Chapter 2, Art. 1 are pertinent.

- Section 2-10.4, governing procurement of professional services for capital improvement projects provides, in part, that the County Manager shall select and recommend firms identified by the competitive selection committee to be the most highly qualified to perform the required services after considering such factors as the ability of professional personnel, past performance (which includes past record and experience), willingness to meet time and budget requirements, the recent, current, and projected workloads of the firms, the affirmative action plan of the firm and the volume of work previously awarded to each firm by an agency.
- Section 2-8.4.1, County Code, governing contracts and purchases generally, provides that any individual or entity that attempts to meet contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred and the contract shall be terminated.
- Section 2-8.1.1.1 of the County Code, which includes provisions on sanctions for contractual violations of the Small Business Enterprise Program, provides a bidder's violation of or failure to comply with the Small Business Enterprise Program requirements may be subject to a work stoppage; or cancellation, termination or suspension of the contract. In the event a bidder attempts to comply with the provisions of this ordinance through fraud, misrepresentation, or material misstatement, the County shall, whenever practicable, terminate the contract.

Budgetary Impact

This project will be funded by the Building Better Communities General Obligation Bonds and the State Beach Erosion Grant in the amount of \$2,433,887.50. This amount, proffered by AEM, is considerably lower than the County's total estimate of \$4.4 million.

Additional information will be provided in a supplemental analysis on Monday, April 20, 2009.

Prepared by:

Lauren Young-Allen

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



Legislative Notes

Agenda Item: 8(F)1(A)

File Number: 090809

Committee(s) of Reference: Government Operations Committee

Date of Analysis: April 17, 2009

Type of Item: Conveyance of County – Owned Surplus Property

Commission District: 12

Summary

This resolution:

- (1) declares N.W. 166 Street, between 97 and 107 Avenue, as surplus County-owned property;
- (2) approves the conveyance of the 24 acres to the City of Hialeah (City) for a nominal price of \$10 in accordance with §125.38, Fla. Stat.; and
- (3) waives Administrative Order 8-4, requiring the proposed conveyance to be reviewed by the Planning Advisory Board.

Background and Relevant Legislation

In the 1930's, the County acquired 8 separate tracts of land which were sold by auction for failure to pay outstanding Everglades Drainage taxes. The property is located west of I-75, an area that remains predominantly undeveloped and zoned as agricultural. The property is also located in an area recently annexed by the City.

Initially, the County purchased the 8 tracts for purposes of constructing an expressway. However the expressway project never came to fruition. Recently, the County-owned property has been identified by the City and the Miami-Dade County Water and Sewer Department (WASD) as a suitable location to construct a Reverse Osmosis Water Treatment Facility. Under §125.38, Fla. Stat. the Board of County Commissioners (BCC) is authorized to convey property to a municipality of the state for a nominal value provided the property is not needed for County purposes and will be used for a public benefit. In this case, in the event the property is not developed with a reverse osmosis water treatment plant within 10 years from the date the deed is executed, the property will automatically revert to the County.

Policy Change and Implication

None

Budgetary Impact

The 2008 assessed value of the 8 parcels collectively is \$3,878,400.

Private Sector/ Public Sector Impact

County staff has determined that the 24-acre parcel is not needed for any County purpose.

Prepared by:

Lauren Young-Allen

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

Legislative Notes



Agenda Item: 8(M)1(A)

File Number: 090985

Committee(s) of Reference: Recreation, Culture and Tourism

Date of Analysis: April 17, 2009

Type of Item: Interagency Agreement

Commission District: 8

Summary

This resolution approves an interagency agreement (IA) with the South Florida Water Management District (SFWMD) for the Deering Rehydration Addition/Deering Estate Flow Way Project (Hydration Project) and granting of a temporary construction and access easement for SFWMD.

Background

SFWMD has identified the Deering Rehydration Addition/Deering Estate Flow Way as important components in restoring Biscayne Bay hydrolic flows. The SFWMD has demonstrated strong support and commitment to this hydration project. All capital and operating costs will be provided by the SFWMD under agreement with the United States Army Corps of Engineers (USACE) as part of the Comprehensive Everglades Restoration Project (CERP).

One of the components of the CERP is the Biscayne Bay Coastal Wetlands Project (BBCW). BBCW and CERP were approved by Congress as part of the Water Resource Development Act (WRDA) of 2000.

Phase 1 of the BBCW includes the Deering Rehydration Addition and Deering Estate Flow Way (Phase 1 project).

Approval of the IA and easement to SFWMD will allow for the construction of the necessary facilities for the success of Phase 1 project

The land acquisition for the Phase 1 project site was funded by the Trust for Public Lands and Miami-Dade County.

The original funding for the land acquisition was obtained through the Safe Neighborhood Parks Bond Program, Environmentally Endangered Lands Program and the County's Wetland Trust Fund.

The land acquisition cost for the site is \$1.4 million. Forty percent (40%) of the original acquisition cost will be reimbursed by the Florida Communities Trust-Florida Forever Program.

According to the SFWMD, this project redirects water from the C-100 canal to the Coastal Wetlands on the north end of the Biscayne Bay.

Currently, water goes down the C-100 canal and bypasses the targeted wetlands in Biscayne Bay. The new flow way will redirect some of these waters to restore the quality, quantity, timing and distribution of fresh water to the Coastal Wetlands.

Additional Notes

This Phase 1 project (as designed) will take water from the C-100 Canal system during peak flows and move through the Powers Property on the west side of Old Cutler Road (rather than having it move out to the Bay through the S-123 Structure at the south end of the Deering Estate). A pump station and 2-acre educational wetlands will be built on the Powers property.

The peak flow water will be pumped from the Powers property under Old Cutler Road and directed into a spreader canal that will run north to south along the east side of Old Cutler Road.

This water will be used to re-hydrate the remnants of the historic Cutler Slough, which ran east to west through the Dering Estate.

In order to proceed with the Phase 1 project, SFWMD must obtain permits from USACE to start. The SFWMD needs the executed easements and the IA from the County to access to the property.

According to the Park and Recreation Department, the estimated timetable for this construction projects is 18 months from the time the Notice to Proceed is initiated.

Budgetary Impact

- No County funding will be utilized;
- Estimated cost of the project is \$5.6 million;
- This is a CERP project and funding will be provided by SFWMD; and
- Maintenance of the structure will be the responsibility of the SFWMD.

Prepared by:

Mia B. Marin

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



Legislative Notes

Agenda Item: 8(N)1(A)

File Number: 091044

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: April 17, 2009

Type of Item: Interlocal Agreement

Commission District : Countywide

Summary

This resolution authorizes the Mayor or his designee to execute the Interlocal Agreement for Public School Facility Planning between Miami-Dade County (County) and Miami-Dade County Public Schools (MDCPS). This resolution, as amended, supersedes Resolution No. R-734-08.

Background and Relevant Legislation

Timeline

- 2003 - The Board of County Commissioners (BCC) establishes a coordination process utilized by the County, the non-exempt municipalities in the County and MDCPS.
- 2005 - The State amends Chapters 163 and 1013 of the Florida Statutes, requiring school boards and local jurisdictions to adopt public school elements and implement a concurrency management system for public school facilities.
- 2007 – Draft Interlocal Agreement (ILA) transmitted to the Florida Department of Community Affairs (DCA) and adopted by the MDCPS; however, the Governmental Operations and Environment Committee (GOEC) defers the ILA and an amended version to address several issues.
- January 1, 2008 – DCA deadline for ILA submittal.
- January 18, 2008 –The GOEC forwarded the Substitute ILA with a favorable recommendation to the February 5, 2008 BCC meeting where it was adopted as **Resolution No. 144-08 (BCC R-144-08)**.

- May 21, 2008 - MDCPS Board revises BCC R-144-08 and adopts the revised, proposed ILA which was placed on the June 19, 2008 GOEC Special Meeting agenda.
- June 19, 2008 – GOEC recommends adoption of the ILA (approved by MDCPS) with modifications.
- July 1, 2008 - BCC adopted ILA with GOE recommendations – **Resolution No. R-734-08**. CDMP amendments sent to DCA for compliance determination.
- DCA cannot review the adoption package because no jointly executed agreement was sent. DCA does not accept transmittal of residential components of Comprehensive Development Master Plan (CDMP).
- July 15, 2008 – MDCPS rejects any changes to the May 21, 2008 agreement. This item addresses those issues.
- March 3, 2009 – County receives Notice to Show Cause, as to why sanctions should not be enforced for failure to enter into an approved ILA. Agreement was due January 1, 2008.
- March 13, 2009 – Joint response sent to with response to DCA letter.
- March 23, 2009 – DCA response that the County and MDCPS will be sanctioned if they fail to adopt an ILA.

Policy Change and Implication

This item includes the following amendments as outlined as in the six (6) outstanding issues between the County and MDCPS:

Non-exempt municipalities (Issue #1) - The non-exempt municipalities are not a party to this Agreement; however, the word , “cities” has been reinstated in many instances to reflect that their participation is necessary to maintain a uniform district-wide concurrency management system.

District Facilities Work Program into CDMP (Issue #2) – Modified to tract the statute clarifying that the “Capital Improvements Elements of the CDMP must have a financially feasible school capital facilities plan.

Concurrency Service Area (CSA) (Issue #3) – A CSA is allowed to shift its impacts of development to any contiguous CSA, regardless of geographical areas, when a School Board action reduces student stations that cause the CSA to exceed its LOS standard.

Takings (Issue #4) – Language is included in the item.

ILA’s with Municipalities (Issue #5) – Original language reinstated. Municipalities who have executed ILA’s are in compliance with DCA. **However, once the County / MDCPS ILA is adopted, those municipalities will have to amend their version to be consistent with the County /MDCPS version.**

Future Amendments without School Board Participation (Issue #6).

Comments

Charter Schools have been removed from the ILA. However, they can be included as a Proportionate Share Mitigation at sole discretion of MDCPS. The building industry is in opposition of the removal of Charter Schools because it impairs their ability to offer Charter Schools as a concession during the developmental process for residential applications.

The deadline for the required amendments to be transmitted to DCA was January 1, 2008. The County did not meet the DCA transmittal deadline; therefore, the residential components of the CDMP amendments are prohibited. In addition, the County is facing sanctions by DCA. The Office of Strategic Business Management (OSBM) has estimated that the sanctions could potentially cost the County \$33 million.

The County has the right to appeal the implementation of such sanctions through an administrative hearing process at the state level.

The Office of Commission Auditor will provide a chart comparing the three different versions of the ILA as a supplemental analysis on May 20, 2009.

Prepared by:

Elizabeth N. Owens

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

Legislative Notes



Agenda Item: 8(O)1(B)

File Number: 091085

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: April 21, 2009

Type of Item: Procurement – Options-to-Renew Package

Commission District: Countywide

Summary

This procurement package includes six (6) competitive bid contracts contain options-to-renew clauses which, if exercised, would bring the cumulative value of each contract in excess of \$1 million.

Background and Relevant Legislation

Pursuant to Chapter 2, Article 1, Section 2-8.1(b) and Master Procurement Administrative Order AO 3-38, the Board of County Commissioners' authorization is required to exercise such options-to-renew clauses when the combined value of the contract's initial term and the option-to-renew exceed \$1 million. The Administration notes: (1) prior to exercising the options period, market research will be conducted to ensure that pricing and quality are competitive; and (2) the allocation represents the maximum spending authority based on past usage.

Policy Change and Implications / Budgetary Impact

Each item is approving the remaining OTRs, which cumulatively approves each item for multiple years instead of just the next OTR in succession.

Item No.	Contract Title	Initial Contract Term & Amount	Option Period	O-T-R \$ Amount	Vendor(s) / Performance Record
1	Padlocks and Other Security Hardware (Pre-qualification Pool)	5/1/08 to 4/30/09 \$747,000	1 st , 2 nd , 3 rd , & 4 th OTRs (one-year terms)	\$747,000 for each OTR. Total Contract	There are no performance or compliance issues with the 11 firms.

				with OTRs = \$3,735,000	
2	Agricultural, Garden, and Industrial Tools	5/1/07 to 4/30/07 \$283,000	1 st , 2 nd , 3 rd , & 4 th OTRs (one-year terms).	1 st - \$308,000 2 nd - \$308,999 3 rd - \$320,405 4 th - \$320,405 Total Contract with OTRs = \$1,553,214.	Rider Distributor, Inc communication issues and failure to deliver tools in accordance with terms of contract. Plan of corrective action submitted. No performance issues with other 5 firms. No compliance issues with 6 firms.
3	Courier Services (Pick-up and Delivery)	6/1/06 to 5/31/07 \$219,500	1 st , 2 nd , 3 rd , & 4 th OTRs (one-year terms).	1 st - \$219,500 2 nd - \$277,000 3 rd - \$277,000 4 th - \$277,000 Total Contract with OTRs = \$1,270,000	There are no performance or compliance issues with the 3 firms.
4	Hydraulic Parts and Repairs for Mobile Equipment (Pre- qualification Pool)	6/1/08 to 5/31/09 \$544,500	1 st , 2 nd , 3 rd , 4 th , & 5 th OTRs (one- year terms).	\$544,500 for each OTR. Total Contract with OTRs = \$3,267,000	There are no performance issues with the 7 firms. August 2005, Hydraulic Technicians, Inc. had a compliance issue for underpayment of an employee. This violation has been resolved. There are no compliance issues with the other 6 firms.
5	Operation and Maintenance of Landfill Gas Control Systems	5/1/07 to 4/30/08 \$320,892	1 st , 2 nd , 3 rd , & 4 th OTRs (one-year terms).	\$334,370 for each OTRs. Total Contract with OTRs = \$1,658,372	There are no performance or compliance issues with this firm.
6	Rifles	6/25/08 to 6/30/09 \$581,728	1 st & 2 nd OTRs (one- year terms).	\$581,728 for each OTRs. Total Contract with OTRs = \$1,745,184.	There are no performance or compliance issues with this firm.

Prepared by:
Elizabeth N. Owens

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



Legislative Notes

Agenda Item: 11(A)5

File Number: 090984

Committee(s) of Reference: Government Operations Committee

Date of Analysis: April 17, 2009

Type of Item: Resolution Amending Town of Cutler Bay Charter

Prime Sponsor: Commissioner Katy Sorenson

Commission District: 8

Summary

The resolution approves a proposed amendment to the Town of Cutler Bay's (Town) Charter allowing for modification of qualifying dates for candidates running for the Office of the Mayor, Vice-Mayor or Council Member by ordinance.

Background and Relevant Legislation

The Town's Charter was adopted by referendum on November 8, 2005 and became effective on November 9, 2005.

According to the Town's Charter, candidates for mayor, vice-mayor or council member will qualify for election by filing a written notice of candidacy with the town clerk. The notice should be filed: (1) no earlier than 75 days prior to the election date scheduled by the Miami-Dade County Supervisor of Elections for the first Tuesday following the first Monday in November (the "Election Date"); and (2) no later than 60 days prior to the election date (the "qualifying date"). A qualifying fee of \$100.00 and any additional fees required by Florida Statutes.

Pursuant to Article V of the Miami-Dade County Home Rule Charter, any modifications to this section should reflect municipal charter requirements and approval by an affirmative vote of 2/3rds of the members of the Board of County Commissioners (BCC) then in office, prior to a vote of qualified municipal electors.

The Miami-Dade County Supervisors of Elections Office has requested that the Town change the qualifying periods for its elections to accommodate state law requirements for sending out absentee and early voting ballots.

On March 30, 2009, the Town passed Resolution No. 09-26 which provides for a special election on proposed amendments to the Town Charter to be held on June 25, 2009. The Town will consider revising the Town's specialized police services contract with Miami-Dade County.

Policy Change and Implication

The amendment to the Town's charter will allow the Town to modify any aspect of the qualifying period for an election or run-off election by ordinance if such modification is necessary in order to accommodate a request by the Miami-Dade County Supervisor of Elections office or successor entity or to comply with state or Federal Law without first seeking the BCC's approval or without the amendment going before the municipal electorate.

Budgetary Impact

According to a memorandum from the Town Manager, the County has agreed to underwrite the costs of the Town election to amend the Town Charter and eliminate the requirement regarding the provision of specialized police services. The Town has chosen to add the aforementioned qualifying date amendment to the same ballot to avoid any fiscal impact to the Town.

Question

What is the fiscal impact to underwrite the costs of the Town's special election?

Procedural Posture

The Town's Charter provides that Charter amendments regarding qualifying dates can only be changed if approved by an affirmative vote of two-thirds (2/3) of the members of the Board of County Commissioners. The proposed amendment then has to be voted on by the electorate of the Town of Cutler Bay through a special mail ballot election on June 25, 2009.

This resolution has been waived on from the April 14, 2009, Government Operations Committee due to the lack of a quorum.

Prepared by:

Tiandra D. Sullivan