



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Airport & Seaport Committee

March 11, 2010

9:30 A.M.

Commission Chamber

Charles Anderson, CPA
Commission Auditor
111 NW First Street, Suite 1030
Miami, Florida 33128
305-375-4354

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

**Legislative Notes
Airport & Seaport Committee
Meeting Agenda**

March 11, 2010

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

Item Number(s)

1(E)1
3(A)
3(B)

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

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



Legislative Notes

Agenda Item: 1(E)1
File Number: 100037
Committee(s) of Reference: Airport and Seaport Committee
Date of Analysis: March 8, 2010
Type of Item: Ordinance Amending Chapter 25 and Chapter 8CC of Miami-Dade County Code

Summary

The proposed ordinance amends Chapter 25- Aviation Department Rules and Regulations and Chapter 8CC- Code Enforcement of Miami-Dade County Code. The amendments are necessary so that violations of Chapter 25 can be enforced through Chapter 8CC's civil monetary enforcement procedure.

Section 25-1.7- Penalties, states that any person in violation of Chapter 25 is subject to punishment by a fine, imprisonment or both. However, if a County ordinance is specifically listed in Chapter 8CC and is violated, then the person is subject to a civil offense.

By including an ordinance in Chapter 8CC, the County can then determine whether to enforce the ordinance under the criminal enforcement mechanism provided or through the civil offense procedure that results in charging the violator with a monetary fine.

Background and Relevant Legislation

Currently, Code Inspectors are able to issue civil violation notices (CVNs) for the violation of any County ordinance listed in Section 8CC-10. Penalties for violations of the ordinances that are enforced by Chapter 8CC are listed in the schedule of civil penalties in Section 8CC-10. A violator receiving a CVN is required to pay the indicated fine or can ask for a hearing before a Hearing Officer.

Code Inspectors are appointed by the County Manager however, the proposed ordinance provides that the Aviation Director will designate Aviation Department employees as Code Inspectors for airport activities.

The Airside Operating Area (AOA) has a very high incidence of Chapter 25 violations, the Miami Dade Aviation Department (MDAD) has developed an informal "Safety Violation Notice" (SVN) procedure

enforced by MDAD employees. The most frequent violations are by employees of airlines and other airport users who improperly drive motor vehicles on the ramp areas. When MDAD issues a SVN, it simply advises the employee of the violation but does not subject the violator to any particular criminal or monetary penalty.

- **From January 1, 2008 to December 31, 2008, a total of 576 SVNs were issued.**
- **From January 1, 2009 to December 31, 2009, a total of 1,547 SVNs were issued.**

MDAD feels that by including the provisions of Chapter 25 in Chapter 8CC, a CVN could be issued to the violator, requiring the violator to pay the indicated monetary penalty.

MDAD will participate in the training process for existing or new Hearing Officers as well as, Code Inspectors, to familiarize them with the working operation of the airports and the nature and seriousness of Chapter 25 violations.

Budgetary Impact

The Code Inspectors will mostly be the same MDAD employees currently issuing the SVNs and the staff currently responsible for enforcing Chapter 8CC. If a violator requests a hearing before a Hearing Officer, the hearing will be held in the facilities currently used for Chapter 8CC violations, with MDAD bearing an appropriate portion of the costs associated with such use.

Any expenses MDAD incurs are available in the Aviation Department budget.

Prepared by: Bia Marsellos

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



Legislative Notes

Agenda Item: 3(A)

File Number: 100462

Committee(s) of Reference: Airport and Seaport Committee

Date of Analysis: March 8, 2010

Type of Item: 5th Amendment to the Professional Services Agreement with Perez and Perez Architects Planners, Inc., Increasing the Contract by \$802,000

Summary

This resolution approves the 5th Amendment to the Professional Services Agreement (PSA) between Miami-Dade County (County) and Perez and Perez Architects Planners, Inc. (Consultant) for Supplemental Architectural/Engineering Services for the MIA South Terminal Expansion Program. **The 5th Amendment to the PSA increases the contract by \$802,000 for an adjusted agreement amount of \$16,140,250.** The **original PSA** was approved on November 6, 2003 via R-1262-03 in an amount of **\$5,062,500** for a term of five (5) years with three (3) one-year renewal options.

The memorandum states that there is work that has been performed but uncompensated since 2004.

- Why has this never been discussed in the previous four amendments that came to the BCC?
According to MDAD, the Claim was filed by Borrelli, Mateu, Carreno and Rizzo JV (BMCR) in June 2008 and is not directly related to Perez and Perez. BMCR is a sub to Perez and Perez.

No evaluations are available in the CIIS database regarding this firm.

- During the consideration of the 4th Amendment to the PSA in March 2008, MDAD stated that the department had failed to update its database. Why hasn't MDAD updated the CIIS database?

Background and Relevant Legislation

The **1st Amendment to the PSA** prepared by Dade Aviation Consultants (DAC) was approved on May 3, 2005 via R-471-05 **increasing funding in the amount of \$2,531,250 for an adjusted Agreement amount of \$7,593,750.** This amendment was a 50% modification to the original PSA.

The **2nd Amendment to the PSA** prepared by DAC was approved on July 6, 2006 via R-809-06 **increasing funding in the amount of \$1,428,750 for an adjusted Agreement amount of \$9,022,500.** This amendment was a 78% modification to the original PSA.

The **3rd Amendment to the PSA** prepared by DAC was approved on March 6, 2007 via R-314-07 increasing funding in the amount of **\$3,508,750** for an adjusted Agreement amount of **\$12,531,250** and modified contract measures reducing CBE-A/E participation to **10% from 24%**.

The **4th Amendment to the PSA** was approved on April 8, 2008 via R-406-08 increasing the funding in the amount of **\$2,807,000** for an adjusted Agreement amount of **\$15,338,250** and further reduced the contract measures to **8% from the previously amended 10% (originally 24%)**.

The following was pending during the 4th Amendment in 2008:

The South Terminal has opened with the exception of certain areas. Punch listing and commissioning continues in the terminal. Additionally, the Airport has made commitments to the Authority Having Jurisdiction (AHJ) to make life safety changes after the original construction contract which is designed by the original Engineer of Record (EOR). Also, the support of the original EORs will be required to deal with the claims which the South Terminal Construction Manager @ Risk has advised are forth coming.

Remaining efforts are categorized into three lists:

- *The "A" List- This list is developed by the AHJ and includes approximately 450 items. MDAD is in the process of setting a value for these items.*
 - *The "B" List- This list is all other requested work including Proposed Work Orders (PWOs) and Field Change Requests (FCRs) that were never started or executed. Includes approximately 160 items which MDAD is in the process of setting a value for these items.*
 - *The "C" List- Consists of 13,500 punch list items for which the base contractor will either complete or an equitable value be established as a credit to MDAD.*
-
- **Now that the South Terminal is fully operational, what is the current status of the A, B and C Lists of pending items?**

According to MDAD, the items on the "A" and "B" lists totaled 937. Of the 937 items, 530 have been completed by MDAD or their subs. There are 389 which work is underway or will commence in the near future. There are 15 items that are still in the design phase and 3 which have either been deferred or deleted as they are no longer required. From the "C" list of pending items there are only 10 items remaining which are being worked on by POJV. All other items have either been performed by the contractor or have been negotiated for a credit to MDAD.

Prepared by: Bia Marsellos

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



Legislative Notes

Agenda Item: 3(B)
File Number: 100469
Committee(s) of Reference: Airport and Seaport Committee
Date of Analysis: March 8, 2010
Type of Item: 1st Amendment to Development Lease Agreement with Carrie Meek Foundation

Summary

This resolution approves the First Amendment to the Development Lease Agreement between Miami-Dade County and the Carrie Meek Foundation, Inc. (CMF), to extend CMF's development schedule and rent payments by thirty (30) months for premises at Opa-Locka Executive Airport (OPF).

The amendment refers to Article 1.02 (A) of the Development Lease to extend the time for the development schedule and the time at which rent payments for such parcels are due by thirty (30) months.

Background and Relevant Legislation

On July 17, 2008, the Board of County Commissioners (BCC) adopted R-836-08 approving the Development Lease Agreement (Lease) between Miami-Dade County and CMF for 121+/- acres located at OPF for a term of not more than 64 years (inclusive of a nine year development period). The Lease Commencement Date was August 4th, 2008.

The Lease required a minimum investment by CMF of \$110 million within nine years (development period) of the Commencement Date.

- \$18 million by the end of the fourth year; **1st Amendment extends to 6 ½ years;**
- \$63 million by the end of the sixth year; **1st Amendment extends to 8 ½ years;**
- Not less than \$110 million by the end of the ninth year; **1st Amendment extends to 11 ½ years.**

Pursuant to the Lease, CMF is required to distribute surplus revenues in the following manner:

- 20% to programs resulting from a Request for Proposal Process initiated by Lessee to qualified businesses and community organizations specifically engaged in job creating, job training, and business development;

- 10% to the City of Opa-Locka to be spent on programs of the City specifically designed for job training and business skills development; and
- 70% for Lessee to use in other programs and methods of its choosing, to promote economic empowerment in the community.

Budgetary Impact

MDAD has received \$44,168.64 to date from CMF.

Prepared by: Bia Marsellos