



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

**Board of County Commissioners**  
**Legislative Analysis**

July 21, 2009  
9:30 AM  
Commission Chamber

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

**Board of County Commissioners  
Meeting Agenda**

**July 21, 2009**

**Item(s)**

5(F)	5(F) Supp.
5(G)	5(H)
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5(K)	5(L)
5(M)	8(E)1(A)
8(E)1(B)	8(F)1(B)
8(G)1(A)	8(O)1(A)
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If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Chief Legislative Analyst, at (305) 375-5469.

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



Legislative Notes

**Agenda Item:** 5(F)  
**File Number:** 091927  
**Committee(s) of Reference:** BCC  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Transit Surtax Revenue Bonds  
**Sponsor/ Requester:** Finance Department

**Summary**

This proposed ordinance authorizes (1) the issuance of additional Florida Transit System Surtax Revenue Bonds (Transit Surtax Bonds), in an amount not to exceed \$500 million, for purposes of financing Miami-Dade Transit and Public Works capital improvement projects identified in Agenda Item 8E1B of the current BCC Agenda; and (2) an amendment to Ordinance No. 05-48 (the Master Ordinance) to allow for the issuance of Build America Bonds (BABs).

Proceeds derived from the Transit Surtax Revenues (i.e. transit system sales tax) will pay the bonds' debt service contingent upon passage of subsequent resolutions which will establish the financial terms of each series of Transit Surtax Bonds.

**Background and Relevant Legislation**

In March 2005, the Board of County Commissioners (BCC) enacted Master Ordinance No. 05-48 which authorized the issuance of Transit Surtax Bonds in an amount not to exceed \$500 million. The first and second series of Transit Surtax Bonds issued under the Master Ordinance were issued on April 27, 2006 and on June 24, 2008, respectively. To date, the total amount of Transit Surtax Bonds issued is \$461,000,000. The remaining amount authorized yet not issued is \$39 million.

Under the pending proposed ordinance, the Administration is requesting the BCC to supplement the Master Ordinance by authorizing the issuance of additional Transit Surtax Bonds in an amount not to exceed \$500 million. If approved, the BCC will have authorized the issuance of a total of \$539 million consisting of the remaining \$39 million Transit Surtax Bonds previously authorized, but not issued, and \$500 million in supplemental Transit Surtax Bonds.

The Administration is also seeking BCC's approval "to have the flexibility of issuing Build America Bonds." Build America Bonds are federally subsidized, taxable bonds issued by state and local governments to finance capital improvement projects for which tax-exempt bonds could have been

issued. Federal subsidies will be provided in the form of either tax credits provided to bondholders or direct payments to the issuer in an amount equal to 35% or 45% of the interest paid to investors. Build America Bonds, as authorized under the federal American Recovery and Reinvestment Act, were established to assist state and local governments in financing capital projects at a lower borrowing cost. As taxable bonds, they enable state and local governments to offer a higher interest rate to bond investors at an artificially, lowered minimum cost.

In conjunction with permission to issue BABs, the Administration is also seeking authorization to amend certain provisions of the Master Ordinance to

- (i) expressly provide for the issuance of BABs,
- (ii) include Federal Direct Payments received by the County in the definition of Pledged Revenues,
- (iii) provide for the deposit of Federal Direct Payments to the credit of the Revenue Fund; and
- (iv) provide that in computing the principal and interest requirements, interest shall be computed net of the Federal Direct Payments for the issuance of additional bonds -- upon approval of not less than 51 % in aggregate principal amount outstanding of the bonds then outstanding.

### **Policy Change and Implication**

Build America Bonds, as taxable bonds, would constitute a new financing tool for the County. These taxable bonds are designed to attract a broader pool of investors beyond the pool that typically invests in tax-exempt bonds (such as commercial banks, pension funds, insurance companies).

The Administration notes that the County's ability to ensure compliance with the IRS rules will be one of the factors in determining whether to issue a portion of the Transit Surtax Bonds in the form of BABs. Given some of the unresolved IRS questions surrounding the use of BABs, the Administration is not certain whether it will be fiscally prudent to move forward with this type of financing. Failure to comply with the IRS rules regarding BABs may result in the loss of the federal subsidy.

### **Budgetary Impact**

Transit System Surtax proceeds will be pledged to pay the debt service of Transit Surtax Bonds. The incremental annual debt service is forecasted to be \$36.325 million per year, based on a 30-year financing at 6 %.

Administration staff notes that issuing Build America Bonds have an indeterminate fiscal impact. Consideration will be based upon a comparison of tax-exempt interest rate costs versus taxable interest rate cost after computing the federal subsidy.

**Prepared By:** Lauren Young-Allen

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



Legislative Notes

**Agenda Item:** 5(F) Supplement  
**File Number:** 092120  
**Committee(s) of Reference:** BCC  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Report; House Bill 1205; Transit System Sales Surtax  
**Sponsor/ Requester:** County Manager

**Summary**

This item is a report on the passage of Florida House Bill 1205, governing Transit System Sales Surtax, and its effect of on Miami-Dade County.

**Background and Relevant Legislation**

House Bill 1205, effective July 1, 2009, requires all charter counties that have “entered into interlocal agreements for distribution of [Transit System Surtax] proceeds to one or more municipalities [to] revise such interlocal agreements . . . in order to include any municipalities that have been created since the prior interlocal agreements were executed.”

On November 5, 2002, Miami-Dade County voters approved the half-cent sales surtax to be used for the expansion and enhancement of the County’s transit and transportation network. The County agreed to dedicate 20% of the Transit System Surtax proceeds to municipal governments, and entered into interlocal agreements with 31 municipalities. Since that time, the cities of Doral (2003), Miami Gardens (2003) and Cutler Bay (2005) have incorporated. The County has not executed similar interlocal agreements with these newly-formed cities.

**Policy Change and Implication**

To be in compliance with the new state requirements, the County will be required to enter into interlocal agreements with the new municipalities which have incorporated after 2002. The Administration reports that revised interlocal agreements will be presented to the Board of County Commissioners for consideration. The agreements will expressly “add pro rata shares of surtax proceeds for new cities from within the existing 20%, in accordance with the newly adopted statutory provision.” In addition, the Administration notes that text referencing negotiations of pro rata shares, contained in the County’s surtax ordinance, will be deleted.

**Budgetary Impact**

It should be noted, the Administration further reports that failure to approve this revision would result in providing funding to new municipalities from the County's 80% share. Such payments will be made on a subordinate basis to the County's existing debt obligations secured by the surtax, including the additional \$500 million debt obligation proposed under Agenda Item 5(F).

**Prepared by:** Lauren Young-Allen

MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
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Legislative Notes

**Agenda Items:** 5(G), 5(H), 5(I) & 5(J)  
**File Number:** 091957, 091921, 091958 & 092044  
**Committee(s)  
of Reference:** Board of County Commissioners  
**Date of Analysis:** July 17, 2009  
**Commission District:** 2, 3, 5, & 12  
**Type of Item:** General Obligation Bond Program

**Summary**

Item 5(G) approves a significant modification to the Building Better Communities General Obligation Bond Program (BBC-GOB) Project No. 179 – Miami-Dade Plaza Security Operations Enhancements. The proposed significant modification changes the **original location** at 101 West Flagler Street, Miami, Florida to the future Integrated Command Facility at 11500 N.W. 25 Street, Doral, Florida. The original project description and allocation of \$600,000 remains unchanged.

**According to General Services Administration (GSA) staff:**

1. The Security Operations Center has been operating at the Cultural Center for approximately 20 years.
2. Buildings in downtown Miami are included in the evacuation order issued by the Mayor prior to hurricane landfalls. Due to poor storm water drainage systems around the Cultural Center, there is routine flooding during heavy rainfalls. Also, the Cultural Center is not rated to withstand Category 5 winds.
3. The Integrated Command Facility in Doral can withstand Category 5 winds.
4. GOB-BBC funding does not impact departmental operating funds.
5. The relocation will improve functionality, service delivery, survivability of critical services and allow the department to co-locate staff from related functions from separate facilities.
6. Relocating can be made without any disruptions to services.
7. GSA may experience some limited operating cost savings by reducing overtime at the new facility.
8. Security and survivability will allow GSA to monitor fire alarms internally rather than contracting out the services at a higher cost
9. Relocating is anticipated to be cost-neutral as it relates to building operating and maintenance costs.

Item 5(H) authorizes the following: (1) the use of **unallocated interest earnings** from the BBC-GOB Program to fund an estimated \$5 million budget shortfall for Project No. 300- Regional Head Start Center and Project No. 322. – Northside Police Station at the Arcola Complex, pursuant to Implementing Order 3-47 (IO); and (2) reflects a significant modification in funding capacity for both projects by amending Appendix A to the Authorizing Resolutions 915-04 and 919-04<sup>1</sup>. According to the cover memorandum accompanying the resolution, as of February 28, 2009, there was approximately \$8.6 million in BBC-GOB Program unallocated interest earnings available. If approved, the remaining unallocated balance will be approximately \$3.6 million. The Community Action Agency (CAA) regional Head Start facility will serve children throughout the County through the federally funded Head Start Program.<sup>2</sup>

The following questions were posed to Office of Capital Improvements (OCI) and GSA staff:

**Question:** Why is there a shortfall for Project Nos. 300 and 322?

**Question:** Which other funding source(s) may be applied to these projects?

Item 5(I) authorizes the following: (1) the **deletion** of BBC-GOB Project Nos. 181 –Miami-Dade County Courthouse HVAC Repairs totaling \$5.7 million; 184-Miami-Dade County Courthouse Electrical System Refurbishment totaling \$2.8 million; and 185-Miami-Dade County Courthouse Plumbing Riser Refurbishment totaling \$9.6 million from Appendix A to Resolution 915-04; (2) the **addition** of BBC-GOB project 181.1 – Miami-Dade County Courthouse Façade Restoration Project to Appendix A to Resolution 915-04 which includes a new project name, project number, project description and new allocation; (3) the **deletion** of BBC-GOB Project No. 181-Miami-Dade County Courthouse HVAC Repairs in Appendix A to Resolution 1154-08<sup>3</sup>; and (4) the **waiver** of the requirements of IO 3-47 Section C for the lack of quorum by the BBC-GOB Citizens’ Advisory Committee.

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<sup>1</sup> The BCC adopted eight resolutions (Authorizing Resolutions) on July 20, 2004 that approved a special bond election for the Building Better Communities Bond Program. All eight questions were approved by the electorate on November 2, 2004. As a result, on March 1, 2005, the Board enacted Ordinance No. 05-47 (Ordinance) that authorized the issuance of \$2,925,750,000 in general obligation bonds pursuant to the Authorizing Resolutions. To date, the County has issued \$712.2 million in bonds and spent \$383 million on 625 projects.

<sup>2</sup> According to FY 2009-10 Proposed budget, the CAA will transfer all Head Start and Early Head Start slots to delegate agencies. Because the cost per slot for delegate agencies is less than the cost for slots provided by CAA, additional slots may be funded beyond the 6,210 Head Start and 318 Early Head Start slots currently provided. Head Start facilities continue to be constructed; delegate agencies will be pursued to provide services in the facilities. Transportation services are eliminated and the nine neighborhood service centers are closed.

<sup>3</sup> Resolution 1154-08 authorized the issuance and sale (via a public sale or negotiated sale) of General Obligation Bonds (Series 2008B) in the amount of \$350 million. This resolution also authorized an amendment to the list of community projects previously approved by the electorate and authorized by the BCC in a series of resolutions adopted in 2004.

**According to GSA staff:**

1. A comprehensive capital replacement as contemplated in projects 181,184 and 185 will have to be deferred until an alternative capital funding program can be developed.
2. Should system failures occur in the interim at the courthouse, capital maintenance and repair work will have to be performed on an as-needed basis through a combination of Capital Outlay Reserve and operating funds.
3. Wiss, Janney, Elstner, Associates, Inc. (WJE) was paid \$266,219 in 1999. WJE was a sub-consultant to the prime firm MC Harry.
4. In 2002, WJE did not submit a comprehensive and detailed survey of the conditions and deteriorations of the exterior façade.
5. In 2008, WJE was the prime firm and was paid \$732,963.32 for performing a building conditions report for the courthouse. The work consisted of investigations, forensic analysis, and prepared construction documents for bidding.
6. A second opinion was not required, as the County and WJE concluded that a detailed study to include method of repairs was necessary in order to create construction documents for bidding.
7. Project breakdown:

Terra-Cotta Repairs:	\$22,280,244
Window Repairs:	\$1,008,453
Plaza Floor Repairs:	\$2,122,894
Architectural and Engineering Professional Services:	\$3,776,327
CM services:	\$1,500,000
Contingency/Escalation and unforeseen repairs:	<u>\$2,412,082</u>
Project total:	\$33,100,000

**Item 5(I) identifies a prior funding stream of \$15 million from the Capital Asset Acquisition Bond 2004B<sup>4</sup>.**

Item 5(J) authorizes the following: (1) the **deletion** of BBC-GOB Project No. 228 – Metro Flagler Building Refurbishments totaling \$2.7 million from Appendix A to Resolutions 917-04; (2) the **addition** of BBC-GOB Project No. 228.1-West Lot Multi-Use Facility to Appendix A to Resolution 917-04 which includes the original allocation from Project No. 228; (3) the **deletion** of BBC-GOB Project No. 228-Metro Flagler Building Facility Refurbishments in Appendix A to Resolution 1154-08; and (4) the **waiver** of the requirements of IO 3-47 Section C for the lack of quorum by the BBC-GOB Citizens’ Advisory Committee. BBC-GOB Project No. 228.1 shows the new project name and project description which includes the original proceeds from BBC-GOB Project No. 228.

The following questions were posed to OCI and GSA staff:

**Question:** Besides the Tax Collector’s Office, which other County departments may be relocating to the Metro Flagler building?

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<sup>4</sup> See FY 2008-09 Adopted Budget, Volume 3, Page 350

**Question:** What is the anticipated operating and maintenance costs for the new facility?

**Question:** May other alternate sites be used? Is there available space at the Overtown Transit Village?

**Questions:** Can the County lease the space at the Metro Flagler building? What is the estimated revenue from the sale of the Metro Flagler building?

**Item 5(J) states that future Capital Asset Acquisition Bond proceeds will provide the funding necessary for the completion of the West Lot Multi-Use Facility project.**

#### **Comments**

According to OCI staff, the new projects that are being added under Items 5I and 5J are not being added to Resolution 1154-08 (the Series 2008B and 2008B-1 bond sale) because these projects do not require funding from this bond sale. They are not accelerations. They have been added to the respective original 2004 authorizing resolutions because they are additions to the BBC-GOB Program and were not part of the original list of approved projects.

- **GSA and OCI staff do not state which funding source (Capital Asset Acquisition Bond and/or BBC-GOB) will be applied to cover the projected expenses in FY 2009-10, FY 2010-11 and FY 2012-13 for Items 5(I) and 5(J).**

According to the FY 2009-10 Proposed budget, a transfer of \$21.674 million was made from the emergency contingency reserve to the general fund to support capital projects in the Capital Outlay Reserve.

Due to the cancellation of the July 15, 2009 Transit Infrastructure and Roads Committee, the items mentioned above did not receive committee review. Also, a majority vote by the Board of County Commissioners (BCC) is required for these items, pursuant to the Authorizing Resolutions.

**Prepared by:** Michael Amador-Gil

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
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Legislative Notes

**Agenda Item:** 5(K) and 5(L)

**File Number:** 091751, 091996

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

**Date of Analysis:** July 16, 2009

**Type of Item:** Finding of Necessity and Amended Redevelopment Plan for Expanding the Boundaries of a Community Redevelopment Area

**Commission District:** 3 and 5

**Summary**

The Finding of Necessity (FON) and Amended Redevelopment Plan for the Southeast Overtown Park West (SEOPW) Community Redevelopment Areas are two elements required by the CRA and the City of Miami to submit to the Board for approval as required under R-1372. Additionally, R-1372 requires both the FON and the Redevelopment Plan to be approved by the Board of County Commissioners (Board) concurrently (The SEOPW FON was deferred at the June 30, 2009 County Commission Meeting so that it could be brought before the Board concurrently with the Redevelopment Plan).

**Background and Relevant Legislation**

The Southeast Overtown Park West (SEOPW) is one of three Community Redevelopment Agencies (CRA) within the City of Miami. The other two CRA's are OMNI and Midtown. On January 20, 1981, the Board of County Commissioners (Board) established the SEOPW CRA through Resolution R-39-81.

On July 29, 1982, the City of Miami Commission, by Resolution 82-755, approved the Southeast Overtown/Park West Community Redevelopment Plan and was subsequently approved by the BCC on December 7, 1982 through R-1677-82.

On March 31, 1983, the City of Miami and Miami-Dade County executed an Interlocal Agreement which provided for the delegation of redevelopment powers to the City and the establishment of the redevelopment fund to receive tax increment revenues through Ordinance 82-115. The CRA is required to submit an annual budget for County approval.

On April 27, 1995, the Miami City Commission adopted Ordinance 11248 establishing the City of Miami as the governing body and the Miami City Commissioners as the Board of Directors of SEOPW CRA. This Ordinance provides for the following:

- The SEOPW-CRA may sell, lease, or transfer any real property it acquires, or it may keep such property for public use;
- The SEOPW-CRA may enter into contracts for residential, recreational, commercial, industrial, educational, or other uses in the property;
- The City Commission declares itself as the SEOPW-CRA Board of Directors and exercises supervisory control over the SEOPW director and staff of the agency.

On December 18, 2007, the Board approved an interlocal agreement between the City of Miami, the SEOPW CRA and the Omni CRA through R-1372. This resolution provides for the following: the expansion of the SEOPW Redevelopment Area, an extension of CRA duration to March 31, 2030, for the City and SEOPW to resubmit an updated Finding of Necessity for the expanded area and a Redevelopment Plan Amendment for Board approval.

Additionally, R-1372 also included a waiver by the County, to any claims the County may have to approve annual budgets for OMNI, SEOPW CRA's for fiscal years prior to October 1, 2008.

The SEOPW submitted its first annual budget for FY2008-09 to the Board. This is the first budget submittal by SEOPW CRA to the Board since it's inception in 1982 and it was approved on June 2, 2009 through R-682-09.

### **County Tax Increment Revenues**

The County Tax Revenue contribution for the existing boundaries and the proposed expanded areas are regarded separately since each area's base year calculations is different.

- The Annual County Tax Increment revenue contribution for FY2008-09 was \$2.7 million within the existing boundaries;
- County Tax Increment revenue contribution with the expanded area would generate \$150,000 through the year 2015 (6 annual payments of \$25,000);
- County Tax Increment revenue contribution of the expanded area and extended life of CRA until March 31, 2030 (Interlocal Agreement with County, City and CRA through R-1372) is \$2.4 million.
- The existing areas and the new areas collectively would generate approximately \$37 million through 2016 and \$212.9 million through March 2030.

Once the CRA term is expired all remaining tax revenues deposited in the CRA Trust Fund will be returned to each taxing authority on a pro-rata basis.

Approved CRA's include:

- 7th Avenue Corridor

- City of Homestead
- City of Miami Beach-City Center/Convention Center
- City of Miami-SE Overtown /Park West and Omni Districts
- City of Miami-Midtown and district
- City of North Miami
- City of North Miami Beach
- City of South Miami and district
- Florida City and district
- Naranja lakes and district
- West Perrine and district

Proposed CRA's include:

- 79th Street Corridor
- Goulds/Cutler Ridge and district

**Prepared by:**

Mia B. Marin

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



Legislative Notes

**Agenda Item:** 5(M)  
**File Number:** 091583  
**Committee(s) of Reference:** BCC  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Issuing Commercial Paper & Revenue Bonds; Water & Sewer  
**Sponsor/ Requester:** Water & Sewer Department

**Summary**

This ordinance (1) amends Ordinance No. 08-126 (enacted in November 2008) and (2) re-authorizes the issuance of \$400 million in Water & Sewer Commercial Paper Notes and \$800 million in Water & Sewer Revenue Bonds initially authorized under Ordinance No. 08-126. The amendment adds the option of using Lines of Credit as an alternative to Commercial Paper Notes provided the line of credit together with any commercial paper notes issued do not exceed \$400 million at any one time.

**Background and Specifics**

Under Ordinance No. 08-126 (enacted in November 2008 and referred to as Original Ordinance), the Board of County Commissioners (BCC):

- (1) authorized the issuance of Water & Sewer System Commercial Paper Notes, in one or more series, in an amount not to exceed \$400 million outstanding at any one time, as interim financing in anticipation of issuing Water And Sewer System Revenue Bonds;
- (2) authorized the issuance of Water And Sewer System Revenue Bonds, in one or more series, not to exceed \$800 million for purposes of repaying the interim financing previously issued, providing funds to pay the costs of the Capital Improvement Program Projects, funding a deposit, if any, to the Reserve Account; and
- (3) authorized the Finance Director to obtain proposals through a competitive bid process for selection of commercial paper dealer(s), issuing agent(s), pay agent(s) and credit provider(s) in connection with interim financing.

Under the pending ordinance, the Original Ordinance is amended to include Lines of Credit as another form of short term debt to be used in conjunction with Commercial Paper Notes, or as an alternative to Commercial Paper Notes.

Because the proposed amendment amends the Original (enabling) Ordinance to include Lines of Credit as a permissible, interim financing vehicle, the proposed ordinance also re-authorizes the issuance of

commercial paper and revenue bonds in the amounts previously authorized under the Original Ordinance, and for the purposes set forth in the provisions of the Original Ordinance.

### **Policy Change and Implication**

The proposed ordinance is consistent with the prior enacted master ordinances. In several legislative acts dating from 1993, the Board of County Commissioners authorized the issuance of Water & Sewer System bonds to finance the operation of water and sewer capital improvement projects, in general. The prior authorizations also included authority to issue Commercial Paper Notes and Revenue Bonds for the purpose of (1) paying a portion of the costs of the capital improvement projects; (2) paying notes and bonds previously issued pursuant to this Ordinance, (3) funding a deposit to the Reserve Account, and (4) for paying costs of issuance. Therefore, the proposed ordinance is consistent with the prior enacted master ordinances.

However, authorization to use Lines of Credits as another form of short-term debt would constitute a new County policy. (See Commission Auditor's analysis of Agenda Item 8(E)1(A) for a detailed discussion on the policy implications of using lines of credit as interim financing).

### **Research**

Independent research has revealed that many local governments and school boards throughout the country are using lines of credit to weather fluctuations in revenues and uncertainties attributable to the current financial crisis. However, the lines of credit have been limited to \$4 million or less. For instance, Quincy Illinois' Public School Board has borrowed \$2.4 million from its line of credit. Scott County, Tennessee's School Board pursued a \$4 million line of credit. The Lake Havasu Unified School District of Colorado will rely on a \$3 million line of credit with JP Morgan Chase Bank as a cushion in the event property taxes are lower than expected. It appears that Miami-Dade County's \$100 million line of credit is the largest line of credit sought by a local government or local governmental entity.

**Prepared By:** Lauren Young-Allen

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
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Legislative Notes

**Agenda Item:** 8(E)1(A)  
**File Number:** 092057  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 10, 2009  
**Type of Item:** \$100 Million Line of Credit with Regions Bank  
**Sponsor/ Requester:** Finance Department

**Summary**

This resolution authorizes the execution of a 2-year loan agreement with Regions Bank which will provide a revolving, line of credit, in an aggregate principal amount not to exceed \$100 million at any one time.

**Specifics**

The line of credit will be secured by a subordinate lien on the proceeds of Water & Sewer Department (WASD) revenue bonds, if authorized in a pending ordinance which is concurrently before the Board of County Commissioners (BCC) under Agenda Item 5M.

The line of credit is to serve as interim financing in anticipation of issuing Water & Sewer System Revenue Bonds. The line of credit will pay a portion of the costs of the Capital Improvement Program projects (listed in Exhibit A of Agenda Item 5M), including interest on the issuance of a separate, tax-exempt note documenting the County's obligations, and costs and expenses incurred in connection with the Regions Line of Credit.

The availability of the line of credit will expire on December 31, 2010. On or before August 3, 2011, the County will be obligated to repay any outstanding principal and interest. However, under the terms of the loan agreement, the County will have the option to convert the outstanding principal amount into a 3-year term loan to be secured by a subordinate lien on pledged revenues (i.e., operating revenues of WASD).

The County must close on or before August 3, 2009.

**Background**

Finance staff reports that recent market changes are the impetus for seeking a revolving line of credit as an alternative short-term form of interim financing. In particular, staff reports that the availability of

Letters of Credit, which are traditionally used as additional security for investors who purchase the County's Commercial Paper Notes, have dramatically shrunk. Therefore, costs and expenses incurred in connection with the issuance of letters of credit, which accompany the Commercial Paper Notes, have risen 100 basis points, i.e., 1.00%. As a result of a decline in the proportion of the market providing letters of credit, the Administration is recommending altering the County's short term debt financing structure to include revolving lines of credit.

Staff further reports that a utilization fee, pro-rated and computed based on the amount of money drawn from the revolving account and the amount not drawn, lowers the County's costs for issuing short term debt. Thus, the cost for issuing Commercial Paper Notes is or may be higher than drawing down on the revolving line of credit.

Lastly, staff reports that the line of credit may be necessary in the event of a failure to achieve a timely remarketing of the CP Notes or an inability of the County to issue its revenue Bonds when required to repay the principal and interest on the CP Notes.

### **Budgetary Impact**

#### Interest Rates & Adjustments

The interest rate on the revolving line of credit will be a variable interest rate equal to 63.7% of the one-month London Interbank Offering Rate (LIBOR), plus 1.30 % on the portion drawn and 0.20 % (per year) on the portion not drawn. The current 1 month LIBOR, as of 7/15/2009 is 0.29%. (Source: Bankrate.com).

If the line of credit is converted to a 3-year term loan, the interest rate on the principal amount will be a variable interest rate equal to 100% of the one-month LIBOR plus 2.50 %. The County will repay the term loan in 36 equal monthly payments.

If during the term loan period, the underlying long term ratings of the bonds are downgraded, the loan interest rate shall be increased by 0.15% for each Notch Downgrade below A1 or A+, plus an additional 1.00% should any rating agency withdraw or suspend its underlying long-term rating of the bonds.

#### Fees & Expenses

Under the terms of the Line of Credit, the County will be obligated to pay the Bank a monthly fee calculated at 0.20% per year based on the difference between the committed amount and the amount of credit actually used. The County will also be obligated to repay the Bank for expenses incurred including attorneys' fees (not exceeding \$45,000) and filing and documentation fees. Plus, the County must deposit \$25 million in an interest earning account with Regions.

### **Policy Change and Implication**

In prior ordinances authorizing the issuance of revenue bonds, the BBC has authorized, as additional security for Revenue Bonds: bond insurance, letters of credit, a stand-by bond purchase agreements, lines of credit, a revolving credit agreements with a bank or other financial institutions in which the proceeds drawn from such transactions are applied to pay the of principal of and interest on the revenue bonds. (See, e.g. Ordinance 08-121). However, these optional transactions are referred to as additional security and credit enhancements designed to guarantee that the issuer will pay interest and principal on the bonds. The enhanced security increases the credit worthiness of the bonds. Such transactions differ from interim financing, which is the mechanism proposed under the pending resolution. Under interim financing, short term debts or loans are used to take advantage of fluctuating

market conditions enabling the County to meet projected cash-flow needs to fund capital projects during a period in which interest rates on long-term debt are high. Therefore, the role of the proposed line of credit is to finance capital projects to avoid the cost of higher interest rates, and not to guarantee payment of bonds. Therefore, the pending resolution, authorizing the use of a line of credit, as an interim financing vehicle, would constitute a policy change.

**Prepared By:** Lauren Young-Allen

**MIAMI-DADE COUNTY  
BOARD OF COUNTY COMMISSIONERS  
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Legislative Notes

**Agenda Item:** 8(E)1(B)  
**File Number:** 092058  
**Committee(s) of Reference:** BCC  
**Date of Analysis:** July 17, 2009  
**Type of Item:** \$350 Million Transit Surtax Revenue Bonds  
**Sponsor/ Requester:** Finance Department

**Summary**

This resolution authorizes the issuance and negotiated sale of tax-exempt, fixed rate, Transit System Sales Surtax Revenue Bonds (Transit Surtax Bonds), in one or more series (or tranches within a series), in an amount not to exceed \$350 million, with maturity dates not to exceed 40 years.

These bonds, referenced as Series 2009 Bonds, will be issued for purposes of paying all or a part of the cost of certain Transit and Public Works' transportation-related projects specified in Exhibit A of this item, such as

- (1) the Orange Line project, phase 1 – MIC/ Earlington Heights Project
- (2) rail vehicle replacement projects
- (3) the Fare collection project
- (4) a new 4-lane road project
- (5) a bridge construction project
- (6) road widening projects
- (7) traffic signal projects, and
- (8) street light projects.

The Series 2009 Bonds are also being issued for the purposes of funding the Reserve Account, paying interest accrued during the first 2 years of construction (i.e., funding capitalized interest), and paying the costs of issuing the Series 2009 Bonds including the costs of any of any premiums or fees charged by Credit Facilities and Reserve Account Credit Facilities (i.e., underwriters). (See: The Proposed Resolution –Sect. 3(a)).

This resolution also authorizes the Finance Director to: (1) determine the terms of the Bonds (such as amounts, dates, redemption provisions), (2) designate a Paying Agent, Registrar, after a competitive process; (3) secure bond insurance and/or Reserve Account Credit Facilities for the Bonds, if deemed advisable; (4) award the bonds; (5) negotiate and execute certain agreements including a Bond Purchase

Agreement with underwriters named in the Bond Purchase Agreement; and (6) to issue bonds as Build America Bonds in the event they are issued. (See: The Proposed Resolution –Sects. 3(b) and 14(b) re: Build America Bonds).

### **Background and Relevant Legislation**

Generally, this resolution delineates the terms and forms of the bonds; the security pledged, redemption policies; covenants; the creation and use of accounts; specifies defaulting events and remedies; specifies maturity schedules, principal amounts and interest rates; provides for the appointment of Paying Agent and specifies other particulars pertaining to the preparation and sale of the bonds. Passage of this resolution is contingent upon passage of Agenda Item 5(F), the enabling ordinance that authorizes the issuance of additional Transit Surtax Revenue Bonds in an amount not to exceed \$500 million.

### **Funding Allocation**

The total dollar amount need to fund the projects listed in Exhibit A of Series 2009 Bonds, is \$270 million. Of this amount, \$162 million is allocated for Transit projects and \$108 million is allocated for Public Work transportation related projects. In addition, approximately \$24.1 million is allocated to fund a cash Reserve Account, if deemed advisable, \$10.2 million to pay the costs of issuance of the Series 2009 Bonds including the underwriters' commission and the premium for a bond insurance policy, and \$34.7 million to pay interest during the first two years (capitalized interest) during the construction phase, when the 2009 Projects are not producing revenue.

### **Policy Change and Implication**

None.

### **Budgetary Impact**

The Series 2009 Bonds are special and limited obligations of the County payable solely from and secured by a prior lien upon and a pledge of the Pledged Revenues. The bonds do not constitute a debt of the County or a pledge of the faith and credit of the County. Therefore, the issuance of Series 2009 Bonds does not obligate the County to pledge ad valorem taxes as security.

The Administration reports that based on current market conditions (calculated at a true interest cost of 5.94 percent) and a 30-year maturity, the debt service on a \$350 million bond issuance is estimated to be \$15.8 million and \$18.9 million for the first 2 years, respectively. For the next 27 years (years 3 to 29), it would be \$24.1 million annually, and \$53.6 million in the 30th and last year (the average estimated annual debt service for the life of the Bonds based on these assumptions is \$24.8 million).

The Administration further reports that the delegation parameter in the Series 2009 Resolution is recommended at a true interest cost of 7.0 % calculated net of any federal subsidy associated with the issuance of Build America Bonds.

Principal amortization of the Series 2009 Bonds is projected to start in FY 2012.

**Prepared By:** Lauren Young-Allen

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



Legislative Notes

**Agenda Item:** 8(F)1(B)  
**File Number:** 092019  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 9, 2009  
**Type of Item:** Settlement Agreement

**Summary**

This resolution approves a Settlement Agreement and Mutual Release between Miami-Dade County (County) and C.G. Chase Construction Management, Inc. (Chase) in the amount of \$56,465. The proposed settlement agreement is for work performed by Chase in connection with the construction of the Naranja Prototype Branch Library.

Approval of this settlement agreement will prevent future litigation between the County and Chase regarding monetary disputes as it relates to the Naranja Library Construction Project.

**Background and Relevant Legislation**

Chase was contracted by the County for the construction of the Naranja Prototype Branch Library. The settlement is to adjust the contract amount for additional labor and materials due to scope changes. The dispute arose when County staff was not in agreement with the amounts submitted by Chase for the additional scope changes.

The scope changes were regulatory changes, user agency requests and County requests that totaled \$56,465. The total County requested changes amounted to \$44,230 which is 78% percent of the total cost of the project.

Construction of this project is 100% complete. The placement of interior furniture, computers, books and materials is currently at 80%. The Library Department is responsible for the work pending.

A soft opening for this library is expected on July 13, 2009.

## **Questions**

(Answers provided by General Services Administration)

What is the difference between a regular library and a prototype library?

*The prototype refers to the building design that was done to be reproduced at various sites. The use of a prototype design allows the County to save monies allocated for design for the construction of new libraries. Regardless of the type of building, all library services are the same throughout the County.*

How many existing prototype libraries do we have?

*There are four existing prototype libraries (Naranja, Golden Glades, International Mall, and Kendale Lakes).*

How many future prototype libraries are planned to be built?

*There are two libraries planned to be built (Arcola Lakes and Hialeah).*

Why are we building prototype libraries rather than regular libraries?

*The use of the Prototype design allows the County to save time and money for the construction of new libraries.*

Why is this not a change order?

What liability is CG waiving?

## **Company History**

According to the Office of Capital Improvements Information (OCI) System, Chase has been awarded two (2) contracts, including the Naranja Library project. The two awards total \$7,769,973.

The OCI Contractor Evaluations Report reflects an evaluation count of three (3) with an average evaluation of 3.3 out of 4.

## **Budgetary Impact**

According to the General Services Administration, the budget for this project does not increase since there was no interruption in construction and the availability of unused monies budgeted from the dedicated allowances.

The budget for the Naranja Branch Library is \$7.036M (\$1.281M for Planning/Design and \$5.775M for Construction).

The estimated annual operating impact is \$966,000.

The funding source will come from the Miami-Dade Library Taxing District.

**Prepared By:** Mia B. Marin

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



Legislative Notes

**Agenda Item:** 8(G)1(A)  
**File Number:** 092005  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Amendment to Professional Services Agreement

**Summary**

This resolution amends the Professional Services Agreement between Miami-Dade County and Housing Opportunities Projects for Excellence, Inc (HOPE) to extend the contract until December 31, 2009.

**Background and Relevant Legislation**

In 1987, a federal lawsuit was filed by several community activists alleging that Miami-Dade County discriminated against Black residents by failing to maintain the County's predominantly Black public housing developments in the same condition as the County's predominantly non-Black Section 8 housing, and by relegating Blacks to the County's public housing developments to the exclusion of the County's Section 8 program and other federally assisted housing.

The County settled the case in 1998 and was mandated by the Court to desegregate Public Housing, Section 8 and other County housing programs through establishing guidelines to give Blacks who qualify for subsidized housing preference for vouchers. It also ordered the County to increase its offers of public housing to non-Blacks.

Some of the guidelines that were mandated by the Court in a consent decree, required that when filling vacancies at public housing developments in which the Black population is less than 35 percent or more than 65 percent, the County shall make only desegregative offers (i.e., offers exclusively to applicants whose race does not predominate at the development) for the first 15 days after a unit is ready for occupancy, or, at the County's election, for the first 20 days after a unit is habitable. Other mandates included providing referrals for vacancies at Mod Rehab and participating privately owned HUD-assisted developments in which the Black population is less than 35 percent or more than 65 percent.

**Fiscal Impact**

The contract extension will not increase the value of the contract. There is an unpaid balance of \$704,448 remaining to be paid on the HOPE contract.

What is the original amount of the HOPE contract?

How much has been paid to HOPE for this contract?

**Prepared By:** Tiandra D. Sullivan

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



Legislative Notes

**Agenda Item:** 8(O)(1)(A) and 8(O)(1)(A) Supplement

**File Number:** 092135 and 092136

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

**Date of Analysis:** July 17, 2009

**Type of Item:** Execution of an Agreement

**Summary**

This resolution authorizes the County Mayor or his designee to execute an Agreement with **Aramark Correctional Services, LLC (Aramark)** to obtain inmate commissary and banking services, under Contract No. RFP 649, for the Miami-Dade Corrections and Rehabilitation Department (MDCR).

In addition, there is a supplemental item on the bid protest filed by Keefe Commissary Network (KCN).

**Background and Relevant Legislation**

KCN is the current vendor for this contract. The current contract will expire in October 2009.

On June 24, 2009, the Hearing Examiner heard KCN's protest to the County Manager's award of this contract to Aramark. The Hearing Examiner recommended in favor of KCN, finding that KCN's failure to sign Form A-1, cover page of the proposal as a minor irregularity; therefore, according to the Hearing Examiner's recommendation, the County Manager's recommendation to award this contract to Aramark should be rejected.

Based on the determination from the County Attorney's Office (CAO) that KCN'S proposal is non-responsive due to the lack of a signature, the Department of Procurement Management (DPM) did not score the proposal from KCN or include it in the evaluation process.

**Note: This agenda includes another item, the Employee Group Dental Insurance Program (Item No. 8O1E). All of the responses submitted for the pre-paid plans under the Employee Group Dental Insurance Program were also deemed non-responsive by the CAO for lack of signatures.**

Inmate Commissary and Welfare Fund - Florida Statute 951.23(9) / 2009 Florida Model Jail Standards

Florida Statute 951.23(9) and the 2009 Florida Model Jail Standards authorize the operation of a commissary in detention facilities throughout the State of Florida and mandate the following:

- If a commissary is established, then inmate welfare funds must also be established. **Note: By statute, a commissary in a detention facility is not a requirement.**
- The commissary or canteen cannot sell foods that compete with the detention facility food program.
- A shopping list shall be developed and printed for the information of all inmates with the prices and special conditions governing each sale shown clearly on such a list.
- Prices will be set so as not to exceed the fair market value for comparable products sold in the community where the facility is located.
- Profits from the commissary shall be used for overall inmate welfare, and an inmate welfare fund committee recommends what expenditures are to be made. Activities of the committee will be reviewed by the officer in charge who has final authority on expenditures. It is recommended that the jail chaplain be a member of the committee.
- Expenses involved in the commissary operation, including compensation for commissary employees and gratuities for inmates who may assist such employees, may be paid from the profit.

**Policy Change and Implication**

The commissary services include supplying items such as stationary, snacks, toiletries and clothing. In addition, Aramark will provide and maintain computer hardware and software to have an integrated financial system tracking the inmates' accounts. Banking services include maintaining accounts for inmates' personal property and funds and for invoicing of medical services. The banking system allows for funds to be deposited to an inmate trust fund account for funds to be available for purchases. An Automated Self-Service Solutions and Kiosks System will be provided at in the lobby of 5 facilities at no cost to the County. The five facilities are:

- Pretrial Detention Center - 1321 NW 13 St Miami FL (Civic Center Area)
- Women's Detention Center - 1401 NW 7 Ave. Miami FL (Overtown area)
- Training and Treatment Center - 6950 NW 41 St. Miami FL (Airport area)
- Turner Guilford Knight Center - 7000 NW 41 St. Miami FL (Airport area)
- Metro West Detention Center - 13850 NW 41 Street, Miami, FL (Doral West)

The terms of the contract are as follows:

TERM: four years with six, one-year options-to-renew (OTR).

AMOUNT: This is a revenue generating contract. \$4.4 million in revenue to the County for the initial 4 year term of the contract. If the County exercises the six, one-year OTR, the total contract revenue is projected to be \$11 million. This item includes the cost and amortization schedule of the Kiosk Hardware and other equipment. Aramark is responsible for the cost, value, maintenance, repair, and/or replacement of all equipment.

PREVIOUS CONTRACTOR: According to KCN, the current vendor, in the 10 years that they have had the contract, they have generated approximately \$11 million in commissions to the County.

METHOD OF AWARD: This contract is being awarded under a full and open competitive request for proposal (RFP).

VENDOR INFORMATION: There are no known performance / compliance issues with Aramark.

BID PROTEST:

**What documents must be signed by the bidder? Has the County allowed bidders in the past who have not signed the proper documents to go back and sign them?**

**Budgetary Impact**

This is a revenue generating contract. The commissary and banking services are provided at no cost to the County.

**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:** 092100  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Award of Contract

**Summary**

This resolution authorizes the County Mayor or his designee to award specific projects totaling \$7,154,000 by accessing Contract No. 250-000-09-1(A), a competitively established contract awarded by the State of Florida Agreement for Information Technology Hardware Network Infrastructure equipment.

**Background and Relevant Legislation**

On June 2, 2009, the Board of County Commissioners (BCC) bifurcated the original item from the Competitive Contracts Package. That item sought an additional spending allocation in the amount of \$22.342 million to be distributed among eight departments for unspecified projects without requesting additional time. BCC did not vote on the item due to a lack of a second on the motion.

The current item, as amended, has deleted projects that were deemed not critical or urgent based on a review of the project, funding source, and impact to the core operations of the County. According to the Department of Procurement Management (DPM), **the departments are assessing the deleted projects, which, may come before the BCC at a later date.**

According to the County Manager, this resolution amends the original item by:

- Reducing the scope to include only the most critical and time sensitive projects;
- Reducing the amount sought to be authorized from the original \$22,342,000 to \$7,154,000;
- Providing a description of the specific projects sought to be authorized under the item; and
- Contains an itemization of the budget years in which the expenditures will be made, thereby addressing the concerns expressed by the BCC in its discussion of the prior item.

Contract 250-000-09-1 was awarded by the State of Florida as a replacement to the previous IT Hardware contract# 250-000-03-01. The previous contract's term was from November 2, 2002 to July

31, 2008. It was approved by the BCC on October 24, 2002, under Resolution No. R- 2053-02, in the original amount of \$33 million. The contract was modified and prorated as extensions were approved by the State for a final contract amount of \$204,781,778.89. That contract was all inclusive and allowed for the purchase of all IT equipment such as computers, servers, laptops, network equipment, and telephony equipment.

The State has broken up the replacement to contract # 250-000-03-01 into three separate agreements to align the scope of work with the appropriate business needs and vendors. Currently, the County is only accessing two of these agreements: 250-000-09 Network Infrastructure Equipment Services and 730-000-09 Telephony Equipment and Services. According to State of Florida Invitation to Negotiate (ITN) for Contract No. 250-000-09-1, the following items are excluded from this contract:

- Telephony Equipment;
- PCs, Laptops, Monitors, and Printers (Production / Workstation);
- Other office technology equipment (copiers, radios, facsimile machines, calculators, paper shredders, typewriters, scanners, multifunctional devices, etc.);
- IT profession and consulting services (except training included with purchase); and
- IT application and database software (unless it is integral to the operation of the equipment to be purchased and included at no additional charge).

Resolution No. 1425-08 established this contract to be utilized primarily by the Enterprise Technology Services Department (ETSD) to procure IT network equipment as well as design, implementation, and vendor management services in support of departmental requests to implement changes, maintain, and/or upgrade the current information technology network infrastructure throughout the County. It allows ETSD to issue spot market bids to obtain competitive price quotations. The infrastructure included file services, data terminals, thin clients (PCs/laptop work stations), local area and wide area networks (LAN/WAS), firewall security, disk and tape data storage, uninterrupted power supply, power surge suppression and battery back-up. However, the ITN as previously noted, excludes PCs and Laptops.

#### **Policy Change and Budgetary Impact**

According to DPM, this resolution only authorizes allocations for projects that were previously approved under the budget process.

Furthermore, at the time this contract was established under Resolution No. 1425-08, only five of the 42 main contractors established by the State of Florida, complied with County requirements. This resolution includes 25 additional contractors that comply with County requirements.

This resolution provides the following departments with access to a State of Florida contract for IT projects that currently only ETSD has access to under this contract:

<b>Department</b>	<b>Allocation Request</b>	<b>Funding Source</b>	<b>Projects</b>
Police	\$1,258,000	General Fund, State, Federal Grants	<ul style="list-style-type: none"> <li>• Server Replacement and Maintenance</li> <li>• Data Backup and Disaster Recovery</li> <li>• Network, Firewall, &amp; Server Maintenance</li> <li>• Law Enforcement Records Management System (LRMS) – Byrne-Jag Grant</li> <li>• Disk Storage Hardware Project</li> </ul>
Transit	\$1,600,000	Operating Revenue, FDOT Funds, Local Gas Tax	<ul style="list-style-type: none"> <li>• Payment Card Industry Compliance and Security Improvement</li> <li>• Disaster Storage Recovery Project</li> </ul>
Aviation	\$ 75,000	Operating Revenue	<ul style="list-style-type: none"> <li>• Active Directory/Exchange System Upgrade</li> </ul>
General Services	\$1,500,000	Internal Service Funds, State Grants	<ul style="list-style-type: none"> <li>• Uninterrupted Power Supply (UPS) Upgrade</li> </ul>
Library	\$ 800,000	Library Taxing District	<ul style="list-style-type: none"> <li>• Server Replacement for End-of-Life Servers</li> <li>• Bluecoat Packet Shaper including Maintenance and Support</li> <li>• Juniper Data Compression Hardware and Support Maintenance</li> </ul>
Environmental Resource Management	\$ 481,000	Internal Funds	<ul style="list-style-type: none"> <li>• NetApp Backup System and HP Servers Maintenance Fees</li> <li>• End-of-Life Server Replacement</li> <li>• Tape Backup System Replacement with Disc-to-Disc Backup</li> </ul>
Water and Sewer	\$1,440,000	Proprietary Funds	<ul style="list-style-type: none"> <li>• Replacement and Upgrade of Servers, Terminals, and Thin Clients</li> <li>• Local Area Network and Wireless Area Network Infrastructure Equipment Replacement and Upgrade</li> <li>• Storage, Tape, and Virtual Tape Infrastructure Upgrade</li> <li>• Uninterrupted Power Supply (UPS), Surge Suppression, and Battery Replacement</li> </ul>
<b>TOTAL ALLOCATIONS FOR PROPOSED PROJECTS = \$7,154,000</b>			

Questions

The County Manager’s memo states that grant funds will be lost if these items are not approved. How much in grant funding will be lost?

For the Police and General Services, how much in federal grant funds does the County still have pending (funds that have not been allocated, waiting for the application to be approved, etc.)?

**Prepared by:** Elizabeth N. Owens

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



Legislative Notes

**Agenda Item:** 8(Q)3(A) & Supplement  
**File Number:** 091728 & 09115  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 16, 2009  
**Type of Item:** Contract Award Recommendation  
**Commission District:** District 5

**Summary**

This item approves a construction contract award to Central Florida Equipment Rentals, Inc. (CFER) in the amount of \$6,812,911.10 to build 758 feet of bulkhead wall at the Port of Miami.

**Background and Relevant Legislation**

On May 20, 2008, the Board of County Commissioners approved a terminal agreement with Seaboard Marine, LTD to operate a marine terminal at the Port of Miami (Resolution R-599-08).

As part of the agreement, the County committed to complete construction of a bulkhead adjacent to Seaboard's terminal area between bays 155 and 160 by December 31, 2010. **According to the agreement, if the bulkhead project is not completed by June 30, 2011, the County would face penalties such as an increase in its maximum \$21 million contribution for certain capital improvements.**

**Contract Terms**

The contract award for the bulkhead project is for a term of 365 days, with a CSBE goal of 10% valued at \$676,291.11. The Community Workforce Program measure on this project is 10%, which represents 12 new hires.

- The subcontractors and suppliers for this project are listed as: Maytin Engineering Corp; Misener Marine Construction; and Skyline Steel LLC.

### **Central Florida Equipment Rentals, Inc.**

CFER is an active Florida for-profit corporation according to the Florida Department of State, Division of Corporations. The principal address is 9300 N.W. 97 Terrace in Medley. The principal agent is Jim Baer, 7960 S.W. 120 Place, Miami, Fl.

According to the Department of Small Business Development, this firm has one closed violation for failure to submit payrolls. This violation was closed in 2006.

### **Bid Protest**

While CFER was found to be the lowest responsible bidder on this contract, a bid protest was filed by the second lowest bidder, American Bridge Company (ABC). A bid protest hearing was held on June 23, 2009. The hearing examiner denied ABC's bid protest and upheld the County's recommendation to award the contract to CFER.

The hearing officer found that County adequately responded to ABC's four arguments in its bid protest:

- 1) ABC argued that CFER's bid package was incomplete and should be deemed unresponsive because it did not include Form DBD 400. The hearing officer found that ABC based its allegation on information it received as a result of a public records request. The County showed that the form was not included in the public records request, but it was included in CFER's original bid package.
- 2) ABC alleged that CFER's bid package was incomplete because CFER did not include a complete list of subcontractors. The hearing office found that ABC based its argument on correspondence between the Port of Miami and CFER. The hearing officer found that the correspondence was not indicative of an incomplete bid package.
- 3) ABC also argued that, based on its estimation, CFER would not be able to perform at least 25% of the work with its own organization (which is a contract requirement). The hearing officer found that ABC presented "inadequate" testimony to sustain the allegation.
- 4) ABC also asserted that CFER would not be able to perform the work stipulated in the contract. The hearing officer found that the County has broad discretion and latitude in determining the capabilities and qualifications of contractors.

### **Budgetary Impact**

The contract value is \$6,812,911.10, and will be funded as follows:

- Florida Department of Transportation   \$2,000,000.00
- Capital Acquisition Bonds               \$2,155,993.10
- FEMA funds                                 \$2,656,918.00

**Prepared By:** Jason T. Smith

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



Legislative Notes

**Agenda Item:** 8(R)1(A) & 8(R)1(C)  
**File Number:** 091846 & 091845  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Joint Funding Agreement

**Summary**

Item 8(R)1(A) approves a Joint Funding Agreement (JPA) between Miami-Dade County and the United States Geological Survey (USGS) to complete hydraulic tomography testing at the County's North District Wastewater Treatment Plant as a condition of the operating permit issued by the Florida Department of Environmental Protection (FDEP) to operate the inject wells at the plant.

In August 2008, the FDEP required that Miami-Dade Water Sewer (MDWASD) conduct a study of the injection of treated wastewater in the Boulder Zone, a porous geologic region approximately 900 meters below ground. The USGS is assisting MDWASD with the study. The FDEP agreed to modify the August 2008 permit to indefinitely delay the \$2 million Floridian Aquifer monitoring well if MDWASD collects data and conducts analyses to refine existing knowledge related to the Boulder Zone, Avon Park Permeable Zone and Upper Floridian Aquifer. **MDWASD will fund the testing from operating revenues in the amount of \$437,888.**

Item 8(R)1(C) approves a JPA between Miami-Dade County and the USGS to develop a graphical software package that will allow County staff to simulate groundwater flows to optimize water resource management as required by the FDEP for the County's Integrated Water/Wastewater Reuse Master Plan due in 2013. The timeframe is based on 48 months and assumes that the USGS will receive a signed agreement in time to start the project at the beginning of the first quarter of Fiscal Year 2010. The USGS is developing an integrated model of surface and groundwater flow for the County. The USGS proposes to extend the usability of the integrated model by developing a graphical software package that will allow users to build model input data sets. **According to USGS, the software package will be developed for County technical staff, consultants, as well as modelers. MDWASD will fund the development of the graphical software package from operating revenues in the amount of \$565,037.**

**Previously approved Joint Funding Agreements between Miami-Dade County and the USGS**

<b>County Department</b>	<b>Resolution No.</b>	<b>Funding Amount</b>	<b>Funding Source</b>	<b>Requirement</b>	<b>Scope of Work</b>
MDWASD & DERM	169-09	MDWASD \$431,387 & DERM \$250,650	Not available	MDWASD Permit Requirements	USGS provide services for continuing equipment maintenance and data collection related to groundwater elevations and saltwater intrusion.
MDWASD & DERM	1046-08	\$990,000 (Of this amount, \$240,000 was funded by DERM)	Wastewater Connection Chagres and MDWASD operating revenues	Requirement of the County's 20-Year Water Use Permit	USGS analyze organic wastewater compounds, antibiotics, hormones and pharmaceuticals in wastewater, drinking water, canals and groundwater.
MDWASD & DERM	112-08	\$2,769,512 (Cost split between MDWASD & DERM)	MDWASD's revenues and DERM's proprietary funds	Requirement of the County's 20-Year Water Use Permit	Develop an integrated model of surface and groundwater flow for evaluations the effects of competing water demands.
MDWASD & DERM	15-08	\$525,244 (Cost split between MDWASD and DERM)	Not available	South Florida Water Management District Consumptive Use permits	Continuing maintenance of equipment and the data collection of groundwater elevations and saltwater intrusion
MDWASD	1321-07	\$1,825,764	MDWASD's renewal and replacement funds and water connection charges	Requirement of the County's 20-Year Water Use Permit	USGS main objective is to identify the present location of seawater-freshwater interface be using the County existing monitoring wells and newly installed monitoring wells.

**The Board of County Commissioners has approved several USGS surveys since December 1998. The Office of the Commission Auditor only included the most recent JPAs.**

**Question:** Can MDWASD staff conduct some of these surveys with in-house staff and still fulfill their requirements mandated by the South Florida Water Management District and the FDEP?

**Prepared by:** Michael Amador-Gil

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



Legislative Notes

**Agenda Item:** 9(A)1  
**File Number:** 092051  
**Committee(s) of Reference:** BCC  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Industrial Development Revenue Bond; Port of Miami Tunnel  
**Sponsor/ Requester:** Industrial Development Authority  
**Commission District:** 5

**Summary**

This resolution authorizes the re-approval of the issuance of Industrial Development Transportation Revenue Bonds by the Industrial Development Authority for MAT Concessionaire, LLC.

**Background and Relevant Legislation**

On July 1, 2008, the Board of County Commissioners (BCC) adopted Resolution R-770-08 which approved the issuance of \$980 million in Industrial Development Transportation Revenue Bonds to be issued by the Industrial Development Authority to MAT Concessionaire, LLC. MAT Concessionaire (formerly Miami Access Tunnel, LLC) was selected by Florida Department of Transportation (FDOT) in 2007 to design, build, operate and maintain for 35 years the Port of Miami Tunnel and its access roads for an estimated cost of \$980 million. However, the bonds approved by BCC to fund the project were not issued within 1 year of the date of approval due to the potential retraction of financial support by FDOT and the delay of the project pending resolution of state funding. As a result, BCC's approval for financing expired. This resolution re-approves the issuance of the Industrial Development Transportation Revenue Bonds.

**Industrial Development Transportation Revenue Bonds**

Traditionally, Industrial Development Revenue Bonds are issued as tax-exempt bonds by the Industrial Development Authority to improve civic services such as airports, mass transit, and in this instance a port tunnel. The bonds are repaid from revenue derived from the project for which the bond proceeds were used. However, Administration staff reports that revenues derived from tolls will not be applied as repayment of the bonds.

According to the Concession Agreement between FDOT and the Concessionaire, the Concessionaire will receive \$100 million in construction progress payments from the State; a \$350 million milestone payment when construction is completed; and annual availability payments of \$32.5 million per year for 30 years subject to satisfactory operating and maintenance performance.

As stated in the Manager's memo, the bonds will be loaned to the Concessionaire who will then repay the loan by 1) milestone payments and availability payments made from FDOT to the Concessionaire; 2) equity contributions from the Concessionaire; 3) proceeds from the Bond offering; and 4) insurance payments.

### **Policy Change and Implication**

This item is consistent with the Board's previous policy of supporting the advancement of the Port Tunnel project. The Board of County Commissioners approved the Master Agreement for the Port Tunnel on July 24, 2007 (Resolution R-889-07). The Master Agreement is between the County, the City of Miami and the State of Florida. The County has also obligated more than \$100 million to the Port Tunnel project from the General Obligation Bond program.

### **Budgetary Impact**

The County serves as a pass-through for these revenue bonds, and passage of this item does not create any financial liability relating to the repayment of the bonds. Passage of this item will allow the concessionaire to access up to \$980 million in industrial revenue bonds and therefore meet its commitment of constructing the tunnel; however, the Industrial Development Authority does not anticipate that the Concessionaire will use its full bonding capacity.

Neither the Industrial Development Authority nor Miami-Dade County is liable for the repayment of the bonds. The repayment of the bonds is the sole responsibility of MAT Concessionaire.

While this item does not create any financial liability for the County, the County has previously committed to providing \$402.5 million to the Port Tunnel project. The County's contribution includes \$50 million in right-of-way transfers; \$100 million from "Building Better Communities" General Obligation Bond proceeds; \$114 from the state-imposed gas taxes; \$43 million from the Port of Miami; and \$100 million of the County's contribution come from contingencies set aside for risks.

### **Toll Revenue**

When the Master Agreement was approved by the Board in 2007, the possibility of imposing tolls for tunnel access was discussed. The tolls could only be imposed subsequent to approval by the Federal government and the Board of County Commissioners. Any toll revenue would be used to support the County's contingency reserve fund for the project. According to Port of Miami officials, if the tunnel construction progresses smoothly and the contingency reserves remain untapped, then the Port of Miami does not anticipate imposing tolls. According to Port officials, other options would be considered prior to the imposition of tolls including an increase in surcharges at the Port – tolling would be reserved as a last option.

According to the Administration, if a toll is imposed the toll fee would likely be between \$2 - \$3 for cars and \$5 - \$7 for trucks. This estimation was calculated using the value of the dollar in the year the tunnel would open, and is based on current traffic levels.

**Prepared by:** Lauren Young-Allen and Jason T. Smith

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



Legislative Notes

**Agenda Item: 9(A)3**

**File Number: 091888**

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

**Date of Analysis: July 9, 2009**

**Type of Item: Grant**

**Summary**

This resolution approves twenty-six (26) grant awards for a total of \$216,890 from the FY 2008-09 Tourist Development Grants Program.

**Background and Relevant Legislation**

The Tourist Development Council Grants Program (TDC) provides support to significant cultural and/or special events, including sports activities and television/film origination projects that promote Miami-Dade County's appeal as a tourist destination.

**Policy Change and Implication**

Of the twenty-six (26) grant awards for this program, the following are first time recipients:

- Dade Community Foundation f/a Miami Beach Gay Pride, Inc.
- Galata, Inc. f/a Haitian Historical Academy
- Ground Up & Rising, Inc.
- The Musical Arts Association of Miami, Inc.
- Nueva Entertainment, LLC
- United States Volleyball Association

**Budgetary Impact**

Funding for the TDC comes from the 2% Tourist Development Room Tax (TDT) Revenue and the 2% Hotel/Motel Food and Beverage Surtax (Tourist Development Surtax) Revenue.

On May 4, 2009, the County Manager issued a memo titled, Update on Tourist Taxes Report , which includes seven months of actual revenues distributed from the collection of these taxes. The tourism taxes collected include: Tourist Development Tax (2%), Tourist Development Surtax (2%), Convention Development Tax (3%), Professional Sports Facilities Franchise Tax (1%), and the Homeless Domestic Violence Tax (1%).

According to the Update on Tourist Taxes Report, the following data is reflected:

- County has collected 12.1% (\$51.386 million from \$58.474 million) below last year at the same time for all tourist taxes combined; and
- March 2009 monthly collection for all taxes combined were 19.1% less than collections from March 2008.

Additionally, the latest projected revenues for TDT and the Tourist Development Surtax have been provided in a Revenue Estimating Conference Report dated May 8, 2009, from the Office of Strategic Business Management which includes the following:

(\$ in 000's)

	Actuals FY07-08	Projected FY08-09	Projected Budget FY09-10	Percentage difference from FY07-08 Actual and FY08-09 Projected
<b>TDT</b>	\$17,723	\$13,824	\$13,133	-22%
<b>Tourist Development Surtax</b>	\$5,663	\$4,644	\$4,412	-18%

**Prepared By:** Mia B. Marin

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 9(A) 5  
**File Number:** 091690  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Resolution Rescinding Administrative Order 4-100

**Summary**

This resolution rescinds Administrative Order (AO) 4-100, policies and procedures, departmental responsibilities, fees and fines for parking spaces for persons transporting young children and strollers, and approving Implementing Order (IO) 4-100 to revise the fee and fines structure and departmental responsibilities.

**Background and Relevant Legislation**

Baby Stroller Permits are currently sold at the following Service Direct offices:

<b>Northeast</b> 1658 NE Miami Gardens Drive Miami, FL 33179	<b>Harry Zubkoff</b> 55 NW 199 Street Miami, FL 33169
<b>Dr. Martin Luther King Jr. Office Plaza</b> 2525 NW 62 Street Suite 1200 Miami, FL 33147	<b>Miami-Dade Permitting and Inspection Center</b> 11805 SW 26 Street 2nd Floor Miami, FL 33175
<b>South Dade Government Center</b> 10710 SW 211 Street Suite 101 Cutler Bay, FL 33189	

**Note:** According to Government Information Center (GIC), the Northeast location will be moving to the North Dade Justice Center located on 15555 Biscayne Boulevard, Miami, FL 33160 at the end of July.

According to the cover memorandum accompanying the resolution, the Implementing Order provides for the ability to expand the number of available locations and increase convenience for residents to

purchase a Baby Stroller Permit. According to the GIC, the IO will allow the department to expand the program by offering permits in non-County locations, most notably hospitals.

Ordinance 94-104 provides that one-third of fees collected for issuing parking permits for persons transporting young children and strollers shall be distributed to private non-for-profit non-denominational agencies providing services for severely abused or neglected children.

The most recent allocation was made on June 23, 2008. The Board of County Commissioners approved Resolution 677-08 authorizing the expenditure of fees collected for issuing permits for persons transporting young children and stroller to Charlee of Dade County, Inc. in the amount of \$25,000.

### **Policy Change and Implication**

The resolution approves an Implementing Order that allows the GIC to expand the number of available locations where Baby Stroller permits can be bought. It also proposes revisions to the existing fee structure and delegates the authority to GIC to sell Baby Stroller Permits and Gift Certificates.

### **Budgetary Impact**

N/A

**Prepared By:** Tiandra D. Sullivan

**MIAMI-DADE COUNTY  
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Legislative Notes

**Agenda Item:** 11(A)1  
**File Number:** 091826  
**Committee(s) of Reference:** Board of County Commissioners  
**Date of Analysis:** July 17, 2009  
**Prime Sponsor:** Commissioner Joe A. Martinez  
**Co-Sponsors:** Commissioners Dorrin D. Rolle and Senator Javier D. Souto  
**Type of Item:** Direction to the Mayor

**Summary**

This resolution directs the Mayor or his designee to conduct a feasibility study and report the findings to the Board of County Commissioners within 90 days. The report should include the following: (1) kinds of products that may be included in the program; (2) eligibility requirements and who determines those requirements; (3) implementation and enforcement standards; (4) identify funding sources; and (5) how eligible products could be identified through a Made in Miami-Dade sticker or list maintained on the County's website.

**Relevant Information**

According to the County's Agricultural Manager:

- Development of a brand for local agricultural products began in 2006;
- Local growers, packers/distributors and the Florida Department of Agriculture and Consumer Services (FDACS) developed the brand over a two year period
- The brand was designed to be a sub brand of the states *Fresh from Florida* program;
- FDACS operates the *Fresh from Florida* brand program, of which the vast majority of local growers, packers and shippers are members. This program provides licensing agreements, camera ready art work and cost share advertising dollars to grower members for only a \$50.00 per year membership fee;
- The *Redland Raised* concept program is now being marketed to local retail outlets for inclusion in their marketing programs;
- Some retail chains have expressed interest in moving forward with this promotion beginning with the fall harvest season; and
- The County's Agricultural Manager applied for a Specialty Crop Block Grant to the State on June 3, 2009 for the marketing of this brand.

**Prepared By:** Michael Amador-Gil

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



Legislative Notes

**Agenda Item:** 11(A)17  
**File Number:** 091991  
**Committee(s) of Reference:** BCC  
**Date of Analysis:** July 17, 2009  
**Type of Item:** Conflict Waiver Request  
**Sponsor:** Commissioner Jose "Pepe" Diaz

**Summary**

This resolution grants Becker & Poliakoff a limited waiver of the conflict-of-interest provisions set forth in a lobbying contract with the County.

Becker & Poliakoff, which currently serves as one of the County's state lobbyists, is requesting the Board of County Commissioners (BCC) to waive the provisions of the lobbying contract which incorporates County-enacted policy prohibiting County lobbyists from representing any client and/or issue that may be adverse to the County without first requesting and obtaining permission from the County. In this instance, the lobbying firm serves as surety counsel representing Fidelity & Deposit Co. of MD, the co-defendant of a construction suit captioned as Miami-Dade County v. Miri Construction, Inc. and Fidelity & Deposit Co. of MD. The lobbying firm is seeking a limited conflict waiver which would allow the firm to represent, on a limited basis, its client Fidelity & Deposit Co. of MD whose interests are adverse to the County and concurrently maintain representation of the County as a lobbyist.

**Background and Relevant Legislation**

As a county lobbyist, the firm is required to comply with the provisions of the County's Conflict-of-Interest ordinances and resolutions. The County-enacted policy requires County lobbyists to seek BCC approval to conduct specific lobbying activity which may conflict with county's interest. In such instances the BCC, in its discretion, may take any action regarding a waiver request, including but not limited to the following: (1) grant a waiver and allow the lobbyist, to continue to represent both the County and the other party; (2) refuse to grant a waiver and require the lobbyist to choose between representing the County or the other party, or to discontinue representing the other party; (3) refuse to grant a waiver and void its contract with the lobbyist; (4) grant a limited waiver and allow the lobbyist to

continue to represent both the County and the other party under whatever limitations or restrictions the County, in its discretion, determines to be appropriate.

In this case, Becker & Poliakoff is seeking a limited waiver which will allow the firm to represent Fidelity on a limited basis and simultaneously receive compensation from the County for lobbying on behalf of the County. The firm notes that it will limit its representation by not asserting any affirmative counterclaims against the County on behalf of Fidelity's surety defenses.

**Policy Change and Implication**

Granting a limited waiver would be consistent with prior action taken by the BCC provided the waiver delineates the specific adverse lobbying activities which will not be waived. Under R-249-03, the BCC granted a limited waiver of the conflict-of-interest proscriptions to the following County lobbying firms: (1) Ronald L. Book, P.A., (2) Pennington, Moore, Wilkinson, Bell & Dunbar, P.A. , and (3) Rutledge, Ecenia, Purnell & Hoffman, P.A.

**Budgetary Impact**

There will be little if any budgetary impact if the proposed waiver resolution is passed.

**Prepared by:** Lauren Young-Allen