



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Board of County Commissioners

October 20, 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**

October 20, 2009

Item(s)

4(A)	8(O)1(A) Sub.
8(P)1(A)	8(P)1(B)
8(R)1(A)	9(A)1
9(A)2	9(A)3
14(A)3 Sub.	

If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Esq., 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: 4A

File Number: 092762

Committee(s) of Reference: BCC

Date of Analysis: October 16, 2009

Type of Item: Ordinance; Predator Residency Restrictions; Preemption

Sponsor: Commissioner Jose "Pepe" Diaz

Commission District: Countywide

Summary

This proposed ordinance amends the Miami-Dade County Sexual Offender and Sexual Predator Ordinance by: (1) repealing provisions which allowed municipalities to opt-out of the requirements set forth in the ordinance, (2) repealing provisions which permitted municipalities to establish more restrictive requirements, (3) repealing all municipal ordinances which established residency restrictions, (4) establishing a "child safety zone" which prohibits loitering or prowling near school, parks and bus stops, and (5) expanding sexual offenses to include sexual acts transmitted over a computer.

Background and Relevant Legislation

In November 2005, the Board of County Commissioners (BCC) enacted the County's Sexual Offender and Sexual Predator Ordinance which prohibits sexual offenders and sexual predators from living within 2,500 feet of schools, and restricts their access to parks and child care facilities. The ordinance applies to incorporated and unincorporated areas, and permits municipalities to adopt more restrictive requirements, but not less restrictive requirements than established by the County. The ordinance also permits municipalities to opt-out of the requirements set forth in the County ordinance provided the option was exercised within 90 days of the effective date of the ordinance.

As set forth in the recitals and legislative findings of the proposed ordinance, approximately 24 municipalities have enacted ordinances which generally prohibit offenders from living within 2500 feet of schools. However, certain municipalities have enacted ordinances which prohibit offenders from living within 2500 feet of other designated points such as bus stops, parks, daycare centers, playgrounds, and other locations where children congregate. By virtue of the more restrictive municipal provisions which extend the exclusionary zone to areas other than schools, offenders have in many instances been completely excluded from housing.

For purposes of addressing the unintended consequences which have resulted from the “patchwork” of varying municipal residency ordinances governing sex offenders and predators, and for purposes of addressing “at a regional level” a “regional problem,” the proposed ordinance repeals all municipal ordinances which establish residency restrictions, and establishes comprehensive countywide sexual offenders and predators zoning regulations.

In particular, §21-279(b) of the proposed ordinance addresses the unintended consequences by adding the following text:

“All municipal ordinances in Miami-Dade County establishing sexual offender or predator residency restrictions are hereby preempted and shall stand repealed. “

To “address new threats and circumstances that may arise,” the proposed ordinance also creates a “child safety zone” which prohibits convicted offenders from loitering or prowling within 200 feet of schools or parks, and within 100 feet of school bus stops with the intent to make sexual remarks, sexual gestures or give gifts to a child. The proposed provision imposes, as a penalty, a \$500 fine and/or imprisonment up to 60 days.

Policy Change and Implication

The proposed ordinance does constitute a policy change by proposing a countywide regulatory framework which preempts municipal laws governing sexual offenders and predators’ residency.

The County may through its Home Rule Charter powers enact regulatory legislation which imposes uniform land regulations applicable to all municipalities within the county. Article 1, §§1.01(A)(5) and (12) of Miami-Dade County’s Charter provides the BCC with the authority to establish and enforce comprehensive plans for the development of the county and to establish, coordinate and enforce zoning regulations. The supremacy clause set forth in Article 9, § 9.04 of the Charter provides that the County Charter and County ordinances supersede all municipal ordinances and charters that conflict. Read together, the BCC has the authority to enact comprehensive countywide zoning laws which supersede and preempt conflicting municipal zoning laws. Therefore, Miami-Dade County, under its home rule powers, is vested with the authority to preempt municipal laws governing sexual offenders and predators’ residency which are inconsistent with the County’s residency laws.

Accordingly, the County’s authority to enact uniform regulatory policies which preempts municipal ordinances does not constitute new policy. However, the proposed ordinance, establishing the authority to preempt residency restrictions, is a change in policy,

Budgetary Impact

Non-determinative at this time.

Prepared by: Lauren Young-Allen

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



Legislative Notes

Agenda Item: 8(O)(1)(A) Substitute

File Number: 092796

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: October 16, 2009

Type of Item: Option-to-Renew Period for Non-Competitively Bid Contracts

Summary

This procurement package includes a total of three (3) non-competitively bid contracts containing options-to-renew (OTR) clauses which, if exercised, would bring the cumulative value of each contract in excess of \$100,000.

At the October 6, 2009, Board of County Commissioners (BCC) meeting, the original 801A Item was deferred by BCC to address the request to exercise multiple OTR periods for each of the non-competitive contracts. This substitute item is a request to authorize only one OTR under each contact.

Background and Relevant Legislation

Pursuant to Section 2-8.1 of the Code and Master Procurement Administrative Order AO 3-38, the BCC's authorization is required to direct the County Mayor or his designee to award contracts and to exercise options-to-renew (OTR) clauses which if exercised would bring the cumulative value of the contract in excess of \$100,000.

The Administration notes the following: (1) prior to this request to exercise the options period, market research was conducted to ensure that pricing and quality are competitive; and (2) the allocation represents the maximum spending authority based on past usage.

Policy Change and Implication / Budgetary Impact

Item No.	Contract Title and Funding Source	Initial Contract Term & Amount	Request to Exercise	Amount of OTRs	Vendor(s) / Performance Record
1	Transched Software Maintenance/Support	10/11/07 to 10/10/08	The 2 nd OTR for \$48,000.	1 st - \$40,000 2 nd - \$48,000	<ul style="list-style-type: none"> Transched Systems, LLC

Item No.	Contract Title and Funding Source	Initial Contract Term & Amount	Request to Exercise	Amount of OTRs	Vendor(s) / Performance Record
	<p>Agreement</p> <p><i>Funding Source: MDT Operating Funds.</i></p> <p>Question What were the actual expenditures under the initial contract and the 1st OTR?</p> <p><u><i>See Comments / Questions Section below chart.</i></u></p>	<p>\$47,000</p>	<p>Exercising the 2nd OTR will bring the cumulative value of the contract to \$135,000.</p>	<p>3rd - \$58,000 4th - \$69,000</p> <p>Each OTR is for a one-year term.</p> <p>The Total Value of this Contract with OTRs is \$262,000.</p>	<p>(non-local vendor)</p> <p><i>There are no performance or compliance issues with this firm.</i></p>
2	<p>Water and Sewer Billing System Professional Support Services</p> <p><i>Funding Source: WASD Proprietary Revenue.</i></p> <p>Question/Comment What was the actual expenditure under the initial contract?</p> <p>The annual amount under the initial contract is \$49,000 and for the first OTR is \$51,000.</p>	<p>11/02/07 to 10/31/09</p> <p>\$98,000</p>	<p>The 1st OTR period for \$51,000.</p> <p>Exercising the 1st OTR will bring the cumulative value of the contract to \$149,000.</p>	<p>1st - \$51,000 2nd - \$52,000 3rd - \$53,000</p> <p>Each OTR is for a one-year term.</p> <p>The Total Value of this Contract with OTRs is \$254,000.</p>	<ul style="list-style-type: none"> • Pitney Bowes Software, Inc. (non-local vendor). <p><i>There are no performance or compliance issues with this firm.</i></p>
3	<p>KeySecure 3 System</p> <p><i>Funding Source: MDFR District Funds.</i></p> <p>Question/Comment What was the actual expenditure under the initial contract?</p>	<p>02/01/08 to 01/31/10</p> <p>\$74,000</p>	<p>The 1st OTR period for \$39,000.</p> <p>Exercising the 1st OTR will bring the cumulative value of the contract to</p>	<p>1st - \$39,000 2nd - \$41,000 3rd - \$43,000</p> <p>Each OTR is for a one-year term.</p> <p>The Total Value of Contract with OTRs is \$197,000</p>	<ul style="list-style-type: none"> • Knox Associates, Inc. (Non-local vendor) <p><i>There are no performance or compliance issues with either firm.</i></p>

Item No.	Contract Title and Funding Source	Initial Contract Term & Amount	Request to Exercise	Amount of OTRs	Vendor(s) / Performance Record
	The annual amount under the initial contract is \$37,000 and for the first OTR period is \$39,000.		\$113,000.		

Comments/Questions

Item No. 1, on handwritten page 6, states that the second OTR’s value includes \$12,000 approved under delegated authority and the approval is recommended for the remaining \$36,000 that would bring the cumulative value over the delegated threshold for non-competitive contracts. However, this delegated authority is not utilized for Item Nos. 2 or 3.

- Why is this delegated authority not used for all OTRs?

A cursory review of Broward and Palm Beach County’s procurement practices for the renewal of contracts that exceed the administrative award authority found the following:

- The Board of County Commissioners (Board) is authorized to renew the contract;
- The request that comes before the Board is only for the next OTR in the succession; and
- As a practice, multiple OTRs are not awarded unless the Board specifies it.

Prepared by: Elizabeth N. Owens

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



Legislative Notes

Agenda Item: 8(P)(1)(A) & 8(P)(1)(B)
File Number: 092401 & 092411
Committee(s) of Reference: Board of County Commissioners
Date of Analysis: October 15, 2009
Type of Item: Joint Participation Agreement
Commission District: 3 & 4

Summary

Item 8(P)(1)(A): This resolution approves a Joint Participation Agreement (JPA) between Miami-Dade County and the City of Miami-Beach (CMB) for the Venetian Causeway Streetscape Project. The CMB will provide the County up to \$1,564,179 in City of Miami Beach General Obligation Bond proceeds (limited for above-ground enhancements) and a transfer of up to \$1,000,000 in Federal Surface Transportation Enhancement Program proceeds.

Item 8(P)(1)(B): This resolution approves a JPA between Miami-Dade County and the City of Miami (COM) for the Venetian Causeway Streetscape Project. The COM will provide up to \$1,900,000 in COM Street Bond Program Funds, and the reimbursement of \$296,465 from COM Street Bond Program/FDEP Funds/ Sunshine State Loan for design and construction costs. The JPA also includes a transfer to the County of up to \$1,000,000 in Federal Surface Transportation Enhancement Program Funds.

Background and Relevant Information

The Venetian Streetscape Project was originated more than 10 years ago by the COM and the CMB. Residents of these communities have worked with representatives from the Florida Department of Transportation (FDOT), the Metropolitan Planning Organization (MPO), Public Works Department, and County and Municipal officials to address the need for roadway improvements. This project is a joint effort between the three (3) entities to provide improvements along the Venetian Causeway.

According to a memorandum dated September 16, 2009 from Jorge M. Gonzalez, City of Miami Beach Manager to Mayor Matti Herrera Bower and Members of the City Commission, construction activities contemplate the removal of forty-seven (47) invasive and prohibited species, such as Australian Pines, Banyan Trees, Brazilian Pepper, Ficus, and Seaside Mahoe. They will be replaced with two-hundred eighty-five (285) species of trees. In addition, twenty-five (25) tree/palms will be relocated within the public right-of-way to accommodate the proposed work.

The work is anticipated to be completed within twelve months.

The following questions were answered by Public Works Department staff:

- What are the most current O&M costs?
Operations Cost: \$56,719
Maintenance Cost: \$75,900.22
- Current RIF commitments to the project and left over balances.
The RIF District 8 Commitment to this project is \$550,000 after that, RIF District 8 will have a balance of approximately \$3,100,000.
- What are the most current causeway revenue figures? *Actual 2008/09*

Venetian revenue: \$2,101,220

Rickenbacker revenue: \$7,117,740

Total \$9,218,960

Prepared by: Michael Amador-Gil

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



Legislative Notes

Agenda Item: 8(R)(1)(A)
File Number: 092345
Committee(s) of Reference: Board of County Commissioners
Date of Analysis: October 15, 2009
Commission District: 3

Summary

This resolution authorizes the use of Miami-Dade Water and Sewer Department (MDWASD) in-house forces to expedite the replacement of the existing 10-inch water main and installation of a 12-inch water main for a MDWASD project along NE 2 Avenue between NE 57 and NE 69 Streets, and waives the requirements of Resolution 120-83¹. The project is estimated to cost \$1.2 million.

The MDWASD project mentioned above is related to the City of Miami's Roadway Project B-78508 which is divided into five (5) segments and consists of roadway reconstruction.

Legislative History

On September 8, 2009, the Government Operations Committee members forwarded the item with a favorable recommendation.

The Board of County Commissioners has directed the administration in the past to evaluate projects that may be suitable for County employees to perform versus retaining outside vendors, which cost the County large amounts of monies.²

Prepared by: Michael Amador-Gil

¹ Resolution 120-83 requires that construction of public improvements is provided by private industry through competitive bid.

² See Resolution 1204-05

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



Legislative Notes

Agenda Items: 9(A)1, 9(A)2 , & 9(A)3
File Number: 092710, 092711, & 092712
Committee(s) of Reference: Board of County Commissioners
Date of Analysis: October 15, 2009
Type of Item: Resolution of Impasse
Commission District: Countywide

Summary

Items 9(A)1, 9(A)2, and 9(A)3 resolve an impasse between the Board of County Commissioners (BCC) and the American Federation of State, County and Municipal Employees, Local 199, General Employees; American Federation of State, County and Municipal Employees, Local 1542, Solid Waste Employees; and American Federation of State, County and Municipal Employees, Local 3292, Aviation Employees, pursuant to Fla. Stat. 447.403, *Resolution of Impasse*. **The bargaining units mentioned above waived the appointment of a special magistrate, and proceeded directly to resolve the impasse.**¹

The BCC deferred the impasse items on September 15, 2009 and October 6, 2009. The Rules of Procedure (Rule 5.07) referring to an agenda item being withdrawn upon its third deferral would not apply, as state law would supersede local provisions.

This resolution provides that Local 199, Local 1542, and Local 3292 will:

- Accept any freeze or suspension of merit increases and longevity bonuses in FY 2009.
- Accept wage increase of one (1) percent in FY 2010.
- Accept wage increase of two (2) percent in FY 2011.
- Accept suspension of progression from any one pay step to the next pay step.
- Accept the elimination of flex dollar benefits² and the \$50 biweekly pay supplement prior to the end of the first fiscal year of the successor agreement.

If the collective bargaining agreements are not ratified by the bargaining units mentioned above, pursuant to the provisions of section 447.403, the action taken in these resolutions will take effect as

¹Nothing in Fla. Stat. 447.403 precludes the parties from using the services of a mediator at any time during the conduct of collective bargaining.

² The County's Group Medical Insurance will include a Point of Service Manages Health Care Group Insurance Plan versus the current language which mentions will be a POS.

of the date of the resolutions and will be effective for the first fiscal year that was the subject of negotiations (October 1, 2008 to September 30, 2009).

Background and Relevant Legislation

On July 23, 2009, the Board of County Commissioners Special Meeting approved two (2) Collective Bargaining Agreements (CBAs) resulting in new three-year agreements effective October 1, 2008 through September 30, 2011.³

The following unions have not agreed to waive a hearing before a special magistrate:

- Transit Workers United Local 291
- AFSCME, Local 121, Water and Sewer
- Police Benevolent Association Rank and File
- Law Enforcement Supervisory

The International Association of Fire Fighters (IAFF), Local 1403 has not been resolved.

Florida Trends

According to a report by **Research Institute for Social and Economic Policy**⁴ dated April 2009, in Florida, 6.4% of workers belonged to a union in 2008, but the public sector is unionized at a much greater rate than the private sector. Twenty-eight percent of public sector (government) workers were union members in 2008, compared with only 2.3% of private sector workers. Because Florida is a so-called “Right to Work” state, workers can be covered by a union contract even if they are not official dues-paying union members. Almost 8% of the Florida workforce is covered by a union contract even though only 6.4% are dues-paying members.

Union Membership and Covered by Union Contract, Florida Wage Earners, 2008					
Sector	Employment	Union members	Covered by union contract	Percent Union Members	Percent Covered by Union Contract
Total	7,572,946	482,329	600,511	6.4%	7.9%
Private	6,370,895	146,346	192,747	2.3%	3%
Public	1,202,051	335,983	407,764	28%	33.9%

One of the key advantages of union membership is the ability to negotiate a contract with an employer for fair wages and benefits. Because of this, union members and those covered by union contracts typically earn more than those not covered by union contracts. **In Florida, the union hourly wage premium (the percent that union members earn above what non-members earn) is an average of 8.3%, meaning that the average union member earns 8.3% more than the average non member.**

National Trends

In October 2008, the National Association of Counties (NACo) conducted a survey⁵ of 17 counties, all with populations above 500,000 to determine the impact of the downturn on their budgets as well as the actions they are taking in response. The results of the survey reveal that local governments are making some tough decisions about how they will be running their governments.

³ See Resolutions 1062-09 and 1063-09.

⁴ http://www.risep-fiu.org/wp-content/uploads/2009/05/benefits_of_unionization_fl.pdf

⁵ National Association of Counties, State of the County Economy Survey-October 2008

- Of the 17 counties with populations of more than 500,000 that were interviewed for the survey, all but one reported that the current economic crisis was having a negative effect on their budgets, with 87 percent anticipating revenue shortfalls and 27 percent expecting increased expenses. **Also, while only five counties said they planned to implement layoffs or furlough employees in response to this fiscal year's budget shortfalls, that number doubled for respondents saying they would have to take those steps next fiscal year, and three other counties said they would renegotiate their labor contracts.**

Which of the following actions has your county taken to address its revenue shortfalls?			
No.	Answer	Response	%
1	Service delivery cutbacks	8	73%
2	Budget cuts	10	91%
3	Employment freezes	10	91%
4	Salary freezes	4	36%
5	Labor contract renegotiations	3	27%
6	Furloughs	3	27%
7	Layoffs	7	64%

In June 2009, NACo conducted another survey⁶ of nearly 300 counties, all with a population above 100,000 to determine the impact of the economy on their budgets and actions they are taking. Of the 300, 59 counties responded.

Fiscal Year Begins January –June

Which of the following actions has your county taken to address its revenue shortfalls?			
No.	Answer	Response	%
1	Increased property taxes	4	18%
2	Increased local option sales tax rate	0	0%
3	Increased borrowing	1	5%
4	Employee travel restrictions	10	45%
5	Service delivery/availability cutbacks	8	36%
6	County fleet reorganization	4	18%
7	Hiring freeze	12	55%
8	Salary/pay freeze	8	36%
9	Benefits cutbacks	3	14%
10	Four day work week	2	9%
11	Furloughs of employees	3	14%
12	Layoffs of employees	6	27%
13	Labor contract renegotiations	1	5%
14	Other (please explain)	10	45%

Fiscal Year Begins July –December

Which of the following actions has your county taken to address its revenue shortfalls?			
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⁶ How are Counties Doing? An Economic Survey, July 2009. NACo

shortfalls? # Re%			
No.	Answer	Response	%
1	Increased property taxes	3	8%
2	Increased local option sales tax rate	1	3%
3	Increased borrowing	2	6%
4	Employee travel restrictions	27	75%
5	Service delivery/availability cutbacks	18	50%
6	County fleet reorganization	8	22%
7	Hiring freeze	24	67%
8	Salary/pay freeze	26	72%
9	Benefits cutbacks	8	22%
10	Four day work week	4	11%
11	Furloughs of employees	5	14%
12	Layoffs of employees	11	31%
13	Labor contract renegotiations	10	28%
14	Other (please explain)	6	17%

Other surveys conducted on a national level reveal the following:

According to a survey conducted by the National League of Cities⁷, cities are facing a national economic recession driven by declining housing values, restrictive credit markets, slowed consumer spending and rising unemployment. Overall, the fiscal condition of the nation's cities continues to weaken in 2009.

Among the findings in the annual survey of city finance officers are:

- Nearly nine in 10 (88 percent) city finance officers report that their cities are less able to meet fiscal needs in 2009 than in the previous year;
- Property tax revenues increased by 6.2 percent in 2008, reflecting rising housing values in previous years, but are predicted to slow to 1.6 percent growth by the close of 2009;
- City sales tax revenues (-3.8 percent) and income tax revenues (-1.3 percent) are predicted to decline through to end of 2009;
- **To cover budget shortfalls and balance annual budgets, cities are instituting hiring freezes and laying off personnel, as well as delaying or cancelling planned infrastructure projects.**
- Orlando, Florida, 88 employees in the mayor's office will take a one-week unpaid furlough. The city's appointed officials are also subject to a salary freeze;
- Dallas, Texas, the city has implemented a mandatory furlough program in response to significant reductions in the city's revenue as a result of the nation's economic downturn. To maximize the energy and personnel cost savings, the city has scheduled furlough days to coincide with holiday weekends. The furloughs, which close all city offices, are expected to save the city \$2.6 million in the current fiscal year;

⁷ The City Fiscal Conditions Survey is a national mail survey of finance officers in U.S. cities. Surveys were mailed to a sample of 1,055 cities, including all cities with populations greater than 50,000 and, using established sampling techniques, to a randomly generated sample of cities with populations between 10,000 and 50,000. The survey was conducted from April to June 2009. The 2009 survey data are drawn from 379 responding cities, for a response rate of 36.0 percent. Also see *Cities Look for Ways to Cut Cost*.

- **City of Seattle has proposed to the Coalition of City Unions a 10-day furlough program aimed at reducing the number of layoffs required in 2010. If approved by union membership, the city would extend the same program to non-represented city employees; and**
- **Anchorage, Alaska, the union representing about 640 municipal office workers approved wage concessions in the form of 56 hours of unpaid furlough.**

Legislative History (Flex Benefits)

In May 1989, BCC adopted resolution R-447-89 which approved a consulting services contract with A. Foster Higgins and Company, Inc. (Higgins) to review the structure of the County's Group Health Insurance Plans and provide suggestions as to how the County could improve its healthcare costs. The County also utilized Higgins to design and implement its Flexible Benefits Program, which was introduced in 1990. (See R-643-96).

For the years 1990 and 1991 (the first two years that the Flexible Benefits Program was in place), the County reported saving \$1 million and \$1.5 million respectively in Social Security Costs. (See R-308-92). The savings were realized due to IRS regulations regarding Flexible Benefits Plans. (See R-308-92). The legislative record is unclear as to the structure of the initial Flexible Benefits Program, and does not contain information regarding the benefits in the early program.

According to a 2001 County Manager's report, "flex dollars" were intended to help offset the cost of dependent healthcare premiums. (See File No. 011592). The legislative record suggests that for many years prior and up until 2001, all Miami- Dade County employees received an annual allowance of \$400 in flex dollars, or \$15.38 bi-weekly. Employees could also receive an additional \$260 annually (\$10 bi-weekly) if they chose as their healthcare provider the HMO with the lowest dependent premiums. (See File No. 011592).

Beginning in 2001, the BCC approved language in each collective bargaining agreement increasing the amount of flex dollars provided to employees. The \$400 contribution that the county provided to employees was to increase \$600 in Jan. 2003, to \$800 in Jan. 2004, and to \$1,000 in Jan. 2005. (See R-796-01). The increase in flex dollars was uniform in every collective bargaining agreement since 2001. This increase has also been applied to the Flex Benefits of those employees not covered by the collective bargaining agreements, however no BCC-approved policy can be found to support this practice.

Currently, the County provides \$1,000 in flex dollars to every County employee eligible for benefits. The County also provides an extra \$130 in annual flex dollars (\$5 bi-weekly) for employees enrolled in the AvMed High Option or JMH High Option HMO. Employees enrolled in the AvMed Low Option or JMH Low Option HMO received an extra \$260 in annual flex pay (\$10 per pay period). (See 2009 Flexible Benefits Plan, <http://enet.miamidade.gov>). If employees choose not to use their flex dollars on purchasing healthcare, then the funds can be converted to taxable income.

Prepared by: Michael Amador-Gil

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



Legislative Notes

Agenda Item: 14(A)(3) Substitute
File Number: 092814
Committee(s) of Reference: Board of County Commissioners
Date of Analysis: October 16, 2009
Type of Item: Option-to-Renew Period for Competitively Bid Contracts

Summary

This procurement package includes a total of four (4) competitively bid contracts containing options-to-renew (OTR) clauses which, if exercised, would bring the cumulative value of each contract in excess of \$1 million.

At the October 6, 2009 Board of County Commissioners (BCC) meeting, the original 801B Item was bifurcated. This competitive bid package includes only those contracts bifurcated and deferred by BCC on October 6, 2009. In addition, this substitute item is a request to authorize only one OTR period under each of the remaining contracts instead of the multiple OTR periods originally requested. The initial contract value of Item No. 2 is increased from \$850,000 to \$941,000 to reflect the actual expenditures authorized under the initial term of this contract.

Background and Relevant Legislation

Pursuant to Section 2-8.1 of the Code and Master Procurement Administrative Order AO 3-38, BCC's authorization is required to exercise such OTR clauses when the combined value of the contract's initial term and the option-to-renew exceed \$1 million.

The Administration notes the following: (1) The initial term for the contracts in this package were awarded prior to the implementation of BCC approval for contracts with the combined value exceeding \$1 million; (2) prior to this request to exercise the options period, market research was conducted to ensure that pricing and quality are competitive; and (3) the allocation represents the maximum spending authority based on past usage.

Policy Change and Implication / Budgetary Impact

Item No. 1 – Printed Case File Folders

This item authorizes the County Mayor or his designee to exercise the second OTR periods to purchase printed case file folders for the Clerk of Courts.

The vendor, Advanced Filing System Inc., is local vendor with the following principals: Jan and David Stoutamire.

DOLLAR AMOUNT EXPENDED UNDER CONTRACT		
	Blanket Purchase Order (BPO)	Total Releases
Initial Term	\$327,715.99	\$209,401.56
First OTR	\$343,774.08	\$217,890.97
• TOTAL	\$671,490.07	\$427,292.53

Information provided by Finance

Item No.	Initial Contract Term & Amount	Request to Exercise and Funding Source	Amount of OTRs	Previous Contract Amount per year
1	11/28/07 to 11/27/08 \$328,000 Comment The initial allocation amount was for \$178,000; however, due to the increase in the number of foreclosure filings, the contract amount was modified, increasing the initial amount to \$328,000.	The 2 nd OTR for \$344,000. <i>Funding Source: Clerk's Revenue</i> Exercising the 2 nd OTR will bring the cumulative value of the contract to \$1,016,000.	1 st - \$344,000 2 nd - \$344,000 3 rd - \$344,000 4 th - \$344,000 Each OTR period is for a one-year term. The Total Value of this Contract with OTRs is \$1,704,000.	<ul style="list-style-type: none"> Advance Filing System, Inc. <p><i>There are no performance or compliance issues with this firm.</i></p>

Item No.2 – Financial Advisory Services (General Segment)

This item authorizes the County Mayor or his designee to exercise the first OTR period to provide financial advisory services for the Finance Department for those departments that are not covered under the Aviation and Enterprise Segment agreements.

The vendor, Public Financial Management, Inc., is a non-local vendor with headquarters in Philadelphia, Pennsylvania. The following individuals serve as principals: John F. White (PCEO), Marty Margolis (VPT), Barbara Bisgaier (S), Glen Williard (MD), Keith Curry (MD).

DOLLAR AMOUNT EXPENDED UNDER CONTRACT		
	Blanket Purchase Order (BPO)	Total Releases
Initial Term	\$850,000.00	\$0
• TOTAL	\$850,000.00	\$940,049.81

Information provided by Finance

Item No.	Initial Contract Term & Amount	Request to Exercise and Funding Source	Amount of OTRs	Previous Contract Amount per year
2	<p>11/02/06 to 11/01/09</p> <p>\$941,000</p> <p>Comments The initial allocation amount was \$850,000; however, due to the instability of the financial market and increase in bond activity, the contract value was increased to \$941,000 to account for the increased usage.</p> <p>The annual amount under the initial contract is \$313,667 and under each of the OTR periods is \$283,500.</p>	<p>The 1st OTR period for \$567,000.</p> <p><i>Funding Source: Bond Proceeds and Bond Administration Funds</i></p> <p>Exercising the 1st OTR will bring the cumulative value of the contract to \$1,508,000.</p>	<p>1st - \$567,000 2nd - \$567,000</p> <p>Each OTR period is for a two-year term.</p> <p>The Total Value of this Contract with OTRs is \$2,075,000.</p>	<ul style="list-style-type: none"> Public Financial Management <p><i>There are no performance or compliance issues with this firm.</i></p>

Item No. 3 – Financial Advisory Services (Enterprise Segment)

This item authorizes the County Mayor or his designee to exercise the first OTR period to provide financial advisory services for the Finance Department to assist the Seaport, Solid Waste, Transit, and Water and Sewer departments.

The vendor, Public Resource Advisory Group, Inc. is a non-local vendor with headquarters in St. Petersburg, Florida. The following individuals serve as principals: William W. Cobbs (P), Wesley C. Hough (VP), and Steven Peyser (ST).

DOLLAR AMOUNT EXPENDED UNDER CONTRACT		
	Blanket Purchase Order (BPO)	Total Releases
Initial Term	\$850,000.00	\$0
• TOTAL	\$850,000.00	\$846,182.76

Information provided by Finance

Item No.	Initial Contract Term & Amount	Request to Exercise and Funding Source	Amount of OTRs	Previous Contract Amount per year
3	11/02/06 to 11/01/09 \$850,000 Comment The annual amount under the initial contract is \$283,333 and under each of the OTR periods is \$283,500.	The 1 st OTR period for \$567,000. <i>Funding Source: Bond Proceeds and Bond Administration Funds</i> Exercising the 1 st OTR will bring the cumulative value of the contract to \$1,417,000.	1 st - \$567,000 2 nd - \$567,000 Each OTR period is for a two-year term. The Total Value of this Contract with OTRs is \$1,984,000.	<ul style="list-style-type: none"> Public Resource Advisory Group, Inc. <p><i>There is no performance or compliance issues with this firm.</i></p>

Item No. 6 – Towing Services (County Vehicles)

This item authorizes the County Mayor or his designee to exercise the first OTR period to purchase towing services for several County departments including Aviation, Fire Rescue, GSA, Housing, Police, Park and Recreation, Transit, and Water and Sewer.

The eight (8) vendors are all local and do not have compliance issues. They include the following companies:

Westbrook Motors, Inc.

- Principals include Raul Suarez (PD), Raul Suarez Jr. (VPD), and Gretel Gonzalez (ST).
- Performance Issues**
 - During this contract’s current term, this company had performance issues regarding their invoicing procedures.
 - On RFQ 97, Towing Services for the Miami-Dade Police Department (MDPD), this firm did not have sufficient inside storage space.
 - Both issues have been resolved.

Blanco Towing, Inc.

- Principals include Zeida Blanco (PS), Mario Blanco (T), and Manuel Blanco (V).

Banos Towing Services

- Principals include Domingo Banos (PTD) and Emelia Banos (SD).

Excalibur Towing Services

- Principals include Ramon Crego (P) and Maria C. Crego (S/T).
- **Performance Issues**
 - During this contract's current term, this company had performance issues regarding their invoicing procedures.
 - This issue has been resolved.

Kauff's of Miami, Inc.

- Principals include Francis G. Russell (PD) and Monica D. Russell (STD).
- **Performance Issue**
 - On RFQ 97, Towing Services for MDPD, this firm was overcharging citizens for towing services and failed to follow notification procedures.
 - This issue has been resolved.

Midtown Towing of Miami

- Principals include Lauraine Lichtman (PTD).
- **Performance Issues**
 - During this contract's current term, this company had performance issues regarding their invoicing procedures.
 - This issue has been resolved.

A-1 Redland Economy Tow

- Principals include Sandra L. Vanderford (DPT) and Hollis R. Vanderford (DS).
- **Performance Issue**
 - On RFQ 97, Towing Services for MDPD, this firm was overcharging citizens for towing services.
 - This issue has been resolved.

Southwest Transport, Inc.

- Principals include Peter F. Hernandez (P) and Robert J. Muriedas (VP).

Comments/Questions

The unallocated amount of \$169,000 may be used to supplement department allocations in order to satisfy service requirements.

According to the Department of Procurement Management, (DPM) no citations were issued to any of the vendors or their drivers for the performance issues noted above.

This contract consolidates the Transit contract for towing buses (Contract No. 7001) which had different terms and higher prices. The Transit contract had divided the County into two zones; this contract (Contract No. 8736) divides the County into eight zones, thereby providing lower prices. However, the towing requirements (industry standards) are the same on both contracts. According to DPM, by consolidating these contracts, the County experiences a 40% savings.

DOLLAR AMOUNT EXPENDED UNDER CONTRACT		
	Blanket Purchase Order (BPO)	Total Releases
Initial Term	\$1,465,005.00	\$498,140.88
• TOTAL	\$1,465,005.00	\$498,140.88

Information provided by Finance

Item No.	Initial Contract Term & Amount	Request to Exercise and Funding Source	Amount of OTRs	Vendor (s) / Performance Record
4	12/15/08 to 11/30/09 \$1,467,000	The 1 st OTR period for \$1,467,000. <i>Funding Sources: Proprietary Revenue, Fire District Fund, Internal Service Funds, Federal Funds, General Fund, and MDT Operating Fund.</i> Exercising the 1 st OTR will bring the cumulative value of the contract to \$2,934,000.	1 st - \$1,467,000 2 nd - \$1,467,000 3 rd - \$1,467,000 4 th - \$1,467,000 5 th - \$1,467,000 Each OTR period is for a one-year term. The Total Value of this Contract with OTRs is \$8,802,000	<ul style="list-style-type: none"> • Westbrook Motors, Inc. • Blanco Towing, Inc. • Banos Towing Services • Excalibur Towing Service • Kauff's of Miami, Inc. • Midtown Towing of Miami • A-1 Redland Economy Tow • Southwest Transport, Inc. <p>Several vendors had performance issues (see above); however, none had compliance issues.</p>

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