Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Budget, Planning & Sustainability Committee

June 9, 2009
2:00 P.M.
Commission Chamber

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Commission Auditor
111 NW First Street, Suite 1030
Miami, Florida 33128
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Miami-Dade County Board of County Commissioners
Office of the Commission Auditor

Legislative Notes
Budget, Planning & Sustainability Committee
Meeting Agenda

June 9, 2009

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

Item Number(s)

1(G)2	1(G)5
2(H)	3(C)
3(D)	3(E)
3(F)	3(H)
3(J)	3(L)

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

Acknowledgements--Analyses prepared by:
Elizabeth N. Owens, Legislative Analyst
Lauren Young-Allen, Legislative Analyst

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

Legislative Notes

Agenda Item: 1(G)2

File Number: 090795

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: June 5, 2009

Type of Item: Code Amendment

Prime Sponsor: Commissioner Joe A. Martinez

Summary

This ordinance amends the Code of Miami-Dade County (Code) to provide for permanent donation collection bins on improved property owned by a charity, providing for buffering, setbacks, and permit requirements.

Background and Relevant Legislation

Current Code

Presently under § 33-19 of the Code, donation collection bins are prohibited. A donation collection bin is defined as a receptacle designed with a door, slot or other opening which is intended to accept and store donation items. This definition does not include non-motorized vehicles which are permitted as a special exception.

Policy Change and Implication

The proposed additions to the Code define the parameters in which permanent donation collection bins are allowable in Miami-Dade County.

Comparison to Other Jurisdictions

Other jurisdictions which require collection bins to be permitted or registered include Chicago, IL, Woodbridge, NJ, Huntington, NY, Nashville, TN, and Milwaukee, WI.

A cursory review of other jurisdictions, found the following subject matters being addressed in their Code:

- The placement of the collection bin could constitute a health or safety hazard. Such hazards include, but are not limited to, the placement of a collection bin in parking spaces, in any area that interferes

with pedestrian or vehicular traffic, landscaping, or within 100 yards of any place which stores or sells large amounts of fuel or other flammable liquids/gases, or is likely to attract vermin or litter (sources: Borough of Edgewater Ordinance No. 1403-2009; Township of Bernards Ordinance No. 2042);

- Specify the number of collection bins allowed on the property;
- Mandate that all donations must be fully enclosed in the collection bin. Donations that are not fully enclosed in the collection bin are considered a public nuisance and subject to removal at the owner's expense (Milwaukee Code § 33.02); and
- Specify the material the collection bins can be composed of (ex. metal, steel, plastic).

In addition, this ordinance addresses common issues experienced in Miami Dade County and other jurisdictions, such as for-profit organizations setting up collection bins and the proliferation of unregulated collection bins.

According to the Office of Neighborhood Compliance, from January 2008 to April 2, 2009, they conducted a total of 32 investigations regarding illegal collection bins. Of the 32 cases, there have been 24 warning letters issued for the removal of collection bins and 3 notices of violation served. Two cases remain open.

Prepared By: Elizabeth N. Owens

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
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Legislative Notes

Agenda Item:	**1G5**
File Number:	**091641**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**June 5, 2009**
Type of Item:	**Annexation Application**
Sponsor/ Requester:	**Office of Strategic Business Management**
District:	**7**

Summary

This item is an annexation application submitted by the Village of Pinecrest which is seeking permission to expand its boundary lines by annexing 20 acres (or 0.03 square miles) of land bounded on the south by the Snapper Creek Canal, on the east by SW 67th Avenue (Ludlam Road) and on the west by South Dixie Highway (US1). The annexation area is fully developed and is contiguous to the northernmost boundary of the Village.

The Administration recommends denial of the application based on the findings and recommendations of the Planning Advisory Board which cites the annexation criteria set forth in Chapter 20 of the County Code. In general, the Administration bases its recommendation on "concerns of eroding the County's tax base, dividing the Dadeland Regional Activity Center, creation of an enclave and the cherry picking of commercial areas." Among the specific reasons cited for denial, the Administration notes the following:

- The proposed annexation may result in a net revenue loss to the USMA budget of approximately $77,000
- The annexation would divide the Glenvar Heights Census Designated Place, which is a historically recognized community
- The annexation would result in the creation of an unincorporated enclave
- The Snapper Creek Canal would act as a major barrier between the proposed annexation area and the Village of Pinecrest
- The compact urban form called for under the County's Master Plan of the annexation renders the proposed area less compatible with the low density and intensity of the land use and zoning that prevail in the Village of Pinecrest given its mostly suburban nature
- The annexation would split the County's designated Downtown Kendall Metropolitan Urban Center District and on the east side of US 1 the Dadeland Regional Activity Center

- The school attendance boundaries for the Village of Pinecrest's are not the same as the proposed annexation area.

Background and Relevant Legislation

Based on prior Board of County Commissioners' (BCC) deliberations, analyzing the appropriateness of a petition for boundary change, the BCC has considered, in general, the fiscal impact, growth management and service related impact of annexation. "Staff Reports for the Proposed Annexation," drafted by the Administration's staff, have served as a guideline. In this case, the staff report discloses the following information regarding the impact of the proposed annexation on County-provided services. The report reports: (1) there are no capital and infrastructure requirements, (2)there is no impact on the delivery of fire services or response time, (3) the Village of Pinecrest will provide police services, resulting in only a negligible reduction in County police services (4) the annexation will have no impact on Water & Sewer's ability to provide services to the remaining USMA area, (5)there is no immediate impact on the County's waste collection services, (6) the proposed area is within the County's water service area and existing water mains serve the area, (7) the proposed area is within the County's sewer service area, (8) DERM will continue to oversee and regulate stormwater runoff and residential flooding, (9) there are no parks within the proposed annexation area and therefore there is no impact to the Park & Recreation Department.

The above-listed factors suggest that the proposed annexation is compatible with existing land uses and the county's regulatory authority, even though the annexation application received a negative recommendation from the Planning Advisory Board.

Policy Change and Implication

Pursuant to Article 1, §20-7(B) of the County Code, "the County Commission, in the exercise of its discretion, may deny the requested boundary change." Accordingly, if the BCC elects to deny the annexation application, this would not constitute a change in policy.

However, a denial, based on "cherry picking" lucrative commercial areas to annex, may be interpreted as tantamount to creating an added criteria for denial, above the existing prescribed criteria which only requires the boundaries to be logical, provide for a cohesive and inclusive municipal community, and be consistent with the Comprehensive Development Master, among other things. (See Staff Report @ handwritten pp. 12-14,¶¶ 1(b), 1(d), (6)).

Budgetary Impact

The Administration reports that If the annexation application is approved, the annexation may result in a net revenue loss to the USMA budget of approximately $77,000 since the revenues attributable to the proposed annexed area will be retained by the Village of Pinecrest.

Prepared By: Lauren Young-Allen

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

Legislative Notes

Agenda Item:	**2H**
File Number:	**091608**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**June 5, 2009**
Type of Item:	**Directive**
Sponsor:	**Chairman Dennis C. Moss**

Summary

This resolution directs the County Mayor to conduct a feasibility study on the creation of a mega shopping district within the County, and to report all findings to the Board of County Commissioners within 6 months from the effective date of the resolution. The feasibility report is to include:(1) proposed locations for a mega shopping district, based on considerations such as existing shopping centers, available land, land use regulations, and available transportation, including proximity to highways and airports; (2) proposed changes to land use regulations which may be necessary for the creation of a mega shopping district at those proposed locations; and (3) incentives that could be used in a mega shopping district, including incentives that have been used in other mega shopping districts such as Sawgrass Mills Mall.

Background and Relevant Legislation

Sawgrass Mills Mall is a high-traffic, outlet, shopping mall located in Sunrise, Florida and operated by the Simon Property Group - a real estate investment trust (REIT) which acquires, develops and manages shopping malls and outlet centers. (Source: www.simon.com). There are over 350 retail outlets and name brand discounters as anchors at the Sawgrass Mall including Off 5th Saks Fifth Avenue Outlet, Neiman Marcus, JC Penney Outlet, and Wannado City, to name a few. The mall also contains restaurants, eateries, a movie theater, and video arcades. (Source: www.sawgrassmills.com).

The mall consists of 4 million square feet of retail selling space, has an annual traffic of 28 million visitors, 11,300 parking spaces, approximately 5000 employees and 450 businesses. It is the second largest mall (in terms of retail floor space) in Florida (after Aventura Mall in Miami-Dade County), and the largest outlet mall in the southeastern portion of the U.S. The mall opened in 1990 and has been expanded three times, most recently in 2006. (Source: International Council of Shopping Centers' website - www.icsc.org). The site was chosen because of its intrinsic location value which included factors such as population shifts, suburban development, existing traffic arteries, large tracts of land, existing infrastructure, and neighboring population density. (Source: www.simon.com).

Policy Change and Implication

While the County does map certain geographical areas as commercial business zones for large scales uses such as regional malls and office parks, there is no specific zoning category or classification for mega shopping malls. Establishing mega malls as a permitted use would require changes to the existing zoning regs. This would entail the enactment of a zoning ordinance. Presently, under the County Code, regional shopping centers and other large scale commercial facilities are permissible uses in districts zoned as BU-2 zones. However, regional shopping centers are not synonymous with mega malls. The scale of a mega mall is designed to exceed or surpass typical regional malls. The term "mega mall" usually references shopping malls with a total area of leased floor space (consisting of retail shops, consumer services, and entertainment, restaurants; but excluding mall offices, utility areas, storage, rest rooms, interior plazas, and other non-revenue producing spaces) exceeding 2 million square feet of gross leasable space and containing as many as 500 stores. (Source: International Council of Shopping Centers' website - www.icsc.org).

Budgetary Impact

Minimal cost will be incurred for staff-hours to conduct the study.

Prepared By: Lauren Young-Allen

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

Legislative Notes

Agenda Item:	**3C**
File Number:	**091430**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**June 5, 2009**
Type of Item:	**Special Obligation Bonds Ordinance (Series 2009)**
Sponsor/ Requester:	**Finance Department**

Summary

This proposed ordinance authorizes the issuance of Special Obligation Bonds (Series 2009), in one or more sub-series, in an aggregate principal amount not to exceed $165 million for the purpose of financing:

(1) the acquisition, construction and/or renovation of Seaport capital projects,
(2) the acquisition, construction and/or renovation of Public Health Trust projects,
(3) the upgrade of the County's technology infrastructure,
(3) various causeway projects,
(4) the close-outs costs of on-going projects,
(5) reimbursements to the County for prior expenditures advanced by the County,
(6) a cash debt service reserve, and
(7) the costs associated with issuing the bonds.

The specific projects are delineated in Exhibit A of the proposed bond ordinance.

The proposed bond ordinance limits the maximum maturity to 40 years and the form of the bonds to tax-exempt or taxable bonds or a combination of both. The principal and interest and costs associate with issuance of the proposed bonds will be paid from available non-ad valorem revenues, from revenues of authorized funds, from debt service reserves, and from the funds of each department benefitting from the projects financed with the Bonds. Specifically, Seaport Operating Revenues, Public Health Trust (PHT) Operating Revenues, Causeway Revenues and the Capital Outlay Reserve will be pledged. The bonds will not be secured by the taxing power of the County or obligate the County to levy ad valorem taxes to pay the principal, premium, interest or costs incident to the bonds.

The details of the bonds, such as interest rates, denominations, method of sale (competitive versus negotiated), amortization schedule, debt service and the like are set forth in Item 3C of this committee

agenda. However, the BCC must initially grant authorization to issue the pending Special Obligation Bonds before considering Item 3C.

Policy Change and Implication

The Administration notes that it is altering its funding mechanism. Until recently, the County issued commercial paper as short term debt (with a maximum maturity date of 270 days) to fund many of the named capital projects. By issuing commercial paper, the County's borrowing and transactional costs are lower. Plus the short term maturity allows the County to meet immediate needs and to expedite projects. A prerequisite, under the terms of the County's Commercial Paper Program, is the execution of a line of credit agreement with a financial institution that can provide financial liquidity (i.e., sufficient funds to repay the principal and interest upon each maturity date) in the event there are no new investors to whom the notes could be remarketed. Due to the current market condition/ credit crisis and a down-grade of many credit facilities' ratings, many line of credit facilities have either exhausted their financial capacity or credit reserves, or have questionable credit strength, in effect, diminishing accessibility of the commercial paper financing mechanism and escalating commitment fees. As a result, the Administration is primarily reducing its commercial paper program and relying on long-term debt, i.e., bonds.

It should be noted that the proposed bond ordinance also provides the County with the flexibility of using hedge arrangements (i.e. interest rate swaps) with the Bonds. However, a final determination regarding any hedge arrangement will be presented to the BCC in subsequent resolutions.

Prior BCC Action

A number of the projects delineated in Exhibit A of the proposed bond ordinance pertaining to various seaport capital improvements, previously appeared before the BCC for funding, and have been approved for funding from the 2005, 2006 and 2009 Sunshine State Government Loan proceeds. Given that these projects appear once again before the BCC, it appears that these projects are still pending.

What is the status of the committed funds and the seaport capital projects?

Prepared By: Lauren Young-Allen

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

Legislative Notes

Agenda Item:	**3D**
File Number:	**091430**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**June 5, 2009**
Type of Item:	**Capital Asset Acquisition Special Obligation Bonds; $188 million**
Sponsor/ Requester:	**Finance Department**

Summary

This resolution authorizes the issuance and negotiated sale of Capital Asset Acquisition Special Obligation Bonds (Series 2009) in one or more tranches (subseries) in an amount not to exceed $188 million. These bonds will finance capital projects identified in the accompanying ordinance, referenced as Item 3C on this agenda, namely . . . .

(1) the acquisition, construction and/or renovation of Seaport capital projects,
(2) the acquisition, construction and/or renovation of Public Health Trust projects,
(3) the upgrade of the County's technology infrastructure,
(3) various causeway projects,
(4) the close-outs costs of on-going projects,
(5) reimbursements to the County for prior expenditures advanced by the County,
(6) a cash debt service reserve, and
(7) the costs associated with issuing the bonds.

The Series 2009 Bonds are also being issued for the purposes of paying or reimbursing the County for the costs of certain capital asset acquisitions of the County, paying the cost of a reserve fund surety, and paying the costs of issuance of the Series 2009 Bonds and the cost of municipal bond insurance, if any. (Proposed Resolution -Art III, §3.02; Art IV, §4.08).

This resolution also authorizes the Finance Director to: (1) determine the terms of the Bonds, (2) designate a Paying Agent, Registrar and, as necessary, any other agents; (3) secure Credit Facilities and/or Reserve Facilities for the Bonds, if deemed advisable; (4) negotiate and execute certain agreements including a Bond Purchase Agreement with Raymond James & Associates, Inc., and other underwriters named in the Bond Purchase Agreement; and (5) to issue bonds as Build America Bonds or Recovery Zone Economic Development Bonds or a combination of both.

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 3C, the enabling ordinance that authorizes the issuance of $165 million of Special Obligation Bonds.

It should be noted that although, the enabling bond ordinance only authorizes the issuance of $165 million in Special Obligation Bonds, a portion of the funds remaining under the 2007 Special Obligation (enabling) Ordinance will finance the remaining balance provided the aggregate total will not exceed $188 million.

Policy Change and Implication

None.

Budgetary Impact

The Administration reports that the estimated average annual debt service payment resulting from the issuance of the Series 2009 Bonds is $12 million calculated at a true interest cost of 5.21% for a 30-year maturity term. However, a true interest cost parameter for tax-exempt bonds is 7.5%, and 8% for taxable bonds. The principal amortization is projected to start in FY 2010.

Prior BCC Action

A number of the projects delineated in Exhibit A of the proposed accompanying bond ordinance (Item 3C) pertaining to various seaport capital improvements, previously appeared before the BCC for funding, and have been approved for funding from the 2005, 2006 and 2009 Sunshine State Government Loan proceeds. Given that these projects appear once again before the BCC, it appears that these projects are still pending.

What is the status of the committed funds and these seaport capital projects?

Prepared By: Lauren Young-Allen

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

Legislative Notes

Agenda Item:	**3E**
File Number:	**091481**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**June 5, 2009**
Type of Item:	**Public Facilities Revenue Bonds (Series 2009)**
Sponsor/ Requester:	**Finance Department**

Summary

This proposed ordinance authorizes the issuance of additional Public Facilities Revenue Bonds (Series 2009), in one or more sub-series, in an aggregate principal amount not to exceed $177 million.

If authorized, the Public Facilities Revenue Bonds (also referred to as the Jackson Health System Revenue Bonds) will:

(1) finance remaining outstanding Public Facilities Revenue Bonds and outstanding Public Facilities Revenue Refunding Bonds;
(2) finance the acquisition, construction, equipping and renovation of certain Jackson health care facilities and capital additions which includes, but is not limited to: air conditioning components, electrical systems, elevators, IT networks, plumbing, roofs, tanks, building operating systems and contingency reserves;
(3) reimburse the Public Health Trust;
(4) fund the Debt Service Reserve Fund, or provide a Reserve Facility; and
(5) pay costs associated with the of issuance of the Bonds, including the cost of a Credit Facility and Reserve Account Credit Facility (i.e., the commitment fees of underwriters who agree to pay the principal and interest on bonds in the event the County is unable to when due), if any.

Under the proposed ordinance, the Bonds will be special and limited obligations bonds, secured by and payable from the gross revenues of the Public Health Trust and other money or investments on deposits established under Ordinance 05-49, the Master Ordinance. The bonds will not be secured by the taxing power of the County or obligate the County to levy ad valorem taxes to pay the principal, premium, interest or costs incident to the bonds.

Of the $177 million in bonds, approximately $151 million will be allocated towards the costs of the above identified capital projects, $26 million will be allocated to pay the costs of issuance of each series, and the remainder will fund the debt service reserve.

The specific terms and conditions of the bonds, such as interest rates, denominations, method of sale (competitive versus negotiated), amortization schedule, debt service and the like are set forth in Item 3F of this committee agenda, which should be considered subsequent to any authorization by the Board of County Commissioners to issue the pending bonds.

Background and Relevant Legislation

In several legislative acts dating from 1983, the Board of County Commissioners authorized the issuance of public facilities revenue bonds to finance the operation of healthcare facilities and healthcare capital improvement projects, in general. The prior authorizations also included authority to refinance outstanding debt, reimburse the Public Health Trust, fund the debt service reserve fund, and pay the costs of issuance, bond insurance and any Reserve Facility. The current revenue bonds are consistent with the prior enacted master ordinances.

The Administration anticipates the 1st series of bonds will cover expenditures through the end of FY 2010, and the 2nd series will provide funds through the end of FY 2011.

Policy Change and Implication

None

Prepared by: Lauren Young-Allen

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
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Legislative Notes

Agenda Item:	**3F**
File Number:	**091656**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**June 5, 2009**
Type of Item:	**Florida Public Facilities Revenue Bonds; $87 million**
Sponsor/ Requester:	**Finance Department**

Summary

This resolution authorizes the issuance and negotiated sale of Florida Public Facilities Revenue Bonds, in one or more series, in an amount not to exceed $87 million for purposes of financing the Jackson Health System. In particular, the bond proceeds will be used: (1) to reimburse the Public Health Trust for costs of all or a portion of the 2009 Projects identified in Agenda Item 3E and Exhibit A of this resolution (hand written page 40); (2) to make a deposit to the Debt Service Reserve Fund, including deposits into a Reserve Account, if any; and (3) to pay the costs of issuance of the Series 2009 Bonds, including insurance premiums for Credit Facility and/or Reserve Facility entities which guarantee the principal and interest on the bonds when due.

This resolution also delegates to the County Finance Director the authority to: (a) determine the terms of the Series 2009 Bonds; (b) execute certain agreements, instruments and certificates in connection with the Series 2009 Bonds including entering into a Bond Purchase Agreement with Morgan Keegan & Company; and (c) secure a Credit Facility and/or a Reserve Facility, if advisable.

Lastly, the resolution provides the County with the option to issue federally subsidized taxable bonds which the federal government will subsidize(in the form of a tax credit or a direct payment to the issuer) 35% and 45% of the interest payable on the bonds; thereby lowering the interest costs.

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 3C, the enabling ordinance that authorizes the issuance of $177 million of Florida Public Facilities Revenue Bonds.

Policy Change and Implication
None

Budgetary Impact
The Administration reports that the estimated average annual debt service payment resulting from the issuance of the Series 2009 Revenue Bonds is $6.2 million calculated at a true interest cost of 6.20% for a 30-year maturity term. However, a true interest cost parameter for tax-exempt bonds is 7.5%, and 8% for taxable bonds. The principal amortization is projected to start in FY 2010.

A review of this proposed bond resolution's appendix, which sets forth an overview of the Public Health Trust and the Jackson Health System, discloses that the operating revenues for the Jackson Health System have increased during the last 3 fiscal years. However, the level of operating expenses have risen during the same period due to higher salaries and contractual services incurred. The operating loss experienced in 2008 was $426 million. Since a principal source of revenues are derived from charges for patient care which have been offset by higher operating expenses, this factor may affect the ability of the County and the Public Health Trust to make payments on the Series 2009 Revenue Bonds.

Prepared By: Lauren Young-Allen

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
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Legislative Notes

Agenda Item:	**3(H)**
File Number:	**091407**
Committee(s) of Reference:	**Budget, Planning & Sustainability**
Date of Analysis:	**May 5, 2009**
Type of Item:	**Replacement Contract; Bond Counsel Pool**
Sponsor/ Requestor:	**Department of Procurement Management**

Summary

This resolution would authorize the below pools of law firms, comprised of nationally recognized "Red Book" listed senior firms and local minority junior firms with gross annual revenues of $5 million or less, to be appointed as the County's Bond Counsel, Authority Counsel and Disclosure Counsel for a 7-year period.

The following law firm pools have been ranked as the top proposers meeting the required qualifications and are recommended for the Board of County Commissioners' (BCC) approval.

Bond Counsel

- Squire, Saunders & Dempsey, LLP as senior — KnoxSeaton d/b/a Y3K Holdings, Inc. as associate
- Greenberg Traurig, P.A. as senior — Edwards & Associates, P.A. as associate
- Hogan & Hartson, LLP as senior — Law Offices of Steve E. Bullock, P.A. as associate

Authority Counsel

- Bryant Miller Olive, P.A. as senior — Manuel Alonso-Poch, P.A. as associate
- Foley & Lardner, LLP as senior — Richard Kuper, P.A. as associate
- Akerman Senterfitt as senior — Law Offices of Michael Diaz as associate

Disclosure Counsel

- Hunton & Williams, LLP as senior — Law Offices of Thomas H. Williams, Jr. P.L. as associate
- Nabors, Giblin & Nickerson, P.A. as senior — Liebler, Gonzalez & Portuondo, P.A. as associate
- Edwards Angel Palmer Dodge, LLP as senior — Rasco Reininger Perez Esquenazi & Vigil P.L. - associate

Factors considered for selection consisted of: the methodology and management approach, qualifications and experience of principals and staff, financial stability, proposer's past performances of

similar scope and size, proposers' detailed plan of each task and activity, proposer's previous experience with the County, and a cost/revenue report.

Background and Relevant Legislation

In prior legislation adopted by the Board of County Commissioners (BCC) on January 22, 2009, the BCC authorized the Administration to extend for 6 months or less its contract with three pools of law firms which serve as the County's Bond Counsel, Authority Counsel and Disclosure Counsel. The existing pools were established pursuant to resolution R-1324-03 on February 3, 2004. The term of their contract was to expire in February 2009. However, due to a delay in finalizing and publishing the RFQ for each new pool, the selection process was not completed until April, 2009. This resolution awards the replacement contract.

This resolution also complies with the concerns expressed by members of the Budget, Planning & Sustainability committee on February 10, 2009, regarding substitution of counsel. At the February committee meeting, Item 2DD was presented which would have allowed the Administration to waive the competitive process governing the appointment of Bond Counsel in order to select a substitute senior firm to join an existing associate junior firm. The law firm of Holland & Knight, a senior firm, withdrew its services before the end of the contract period. As a result, the associated junior law firm was no longer eligible to serve as a member of the County's pool. The junior firm, however, had demonstrated that the termination of the contract was due to events beyond its control. Relying on County policy, the Administration, at its discretion, recommended replacing the senior law firm and allowing the existing junior law firm to enter into a new joint venture with the substitute senior firm. The committee, however, directed the Administration to not waive the competitive process noting the contract would soon expire, and for purposes of protecting the integrity of the process, among other things. Accordingly, this resolution, which is the replacement contract, complies with the committee's directive.

BCC Action

At the May 12, 2009 Budget, Planning & Sustainability Committee meeting, the Committee voted to defer this item pending further information from the Administration regarding the selection process. In particular, questions were raised regarding the filing deadline for submitting certain documentation (such as the vendors' registration forms), and whether all selected law firms' submissions were timely filed. Questions were also raised as to the methodology for applying the local preference score, and the composition of the selection committees. The Administration is to provide documentation verifying the actual filing dates of firms' submissions at the upcoming Budget, Planning & Sustainability Committee meeting.

Policy Change and Implication

None

Budgetary Impact

The recommended pools of bond counsel will earn or be allocated the following fees:

- Bond Counsel pool - $7 million
- Authority Bond Counsel Pool - $4.2 million
- Disclosure Counsel Pool - $4.9 million

Prepared by: Lauren Young-Allen

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

Legislative Notes

Agenda Item: 091642

File Number: 3(J)

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

Date of Analysis: June 8, 2009

Type of Item: Competitive Contract Package

Summary
This Competitive Contracts Package includes a total of sixteen (16) procurement actions.

Policy Change and Implication / Budgetary Impact

- **Eight (8) Competitive Contracts:**

Item 1.1 – Bakery Products
This contract is for the supply of bakery products to Miami-Dade Corrections and Rehabilitation (MDCR), Miami-Dade Fire Rescue (MDFR), and Human Services departments. This contract is for a five-year term in the amount of $5,250,618 with one, five-year OTR in the amount of $5,250,618 for a cumulative total of $10,501,236.

Questions and Comments
- This contract is $100,081 less per year than the current contract.
- Currently, the County is accessing a Miami-Dade Public School (MDPS) contract. On August 28, 2008, the Board authorized the time extension of this contract until June 20, 2009, and additional spending authority in the amount of $651,205. The current vendor is Flowers Baking Company of Miami, LLC.

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.1	$5,250,618 for 5 years	$1,050,124	$1,151,205 for 1 year	$1,151,205

Three County departments utilize this contract. The departments, their allocation and funding source (provided by DPM) are listed in the chart below.

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Corrections and Rehabilitation	General Fund	$ 5,010,618
Fire Rescue	Fire District Funding	$ 100,000
Human Services	General, State, Federal Funds	$ 140,000
		TOTAL: $ 5,250,618

Item 1.2 – Aqueous Ammonia

This contract awards a contract to Airgas Specialty Products, Inc. to supply and deliver aqueous ammonia to Miami-Dade Water and Sewer Department (WASD). This contract is for a one year term in the amount of $287,000 with four, one-year OTRs in the amount of $1,148,000 for a cumulative total of $1,435,000.

Questions and Comments

- Airgas is the current vendor.
- This contract is $239,622 less than the current contract which represents a 46% decrease from the current contract. According to the item there was a 37% decrease in the cost of the raw materials used to produce this chemical. This reduction is represented by the vendor offering a price of $660 per ton, a 44% decrease from the current price of $1,000 per ton.
- According to DPM, there was no change in scope. The only factor impacting the price of this contract was due to the current market pricing/conditions of the raw material.

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.2	$287,000 for 1 year with 4 one-year OTR.	$287,000	$526,622 for 1 year	$526,622

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Water and Sewer	Proprietary	$287,000

Source: DPM

Item 1.3 – Trash Compactors

This item awards a contract to Marathon Equipment Co. to purchase and install three trash compactors at the Northeast Transfer Station for the Department of Solid Waste Management (DSWM) at the contract value of $1,565,000. In addition, this contract includes an option to purchase and install two additional compactors for the amount of $1,043,000. **The total contract amount is $2,608,000 including the option to purchase the additional two compactors.** There are no OTRs under this contract.

Questions and Comments

- What is the life span of the trash compactors?
- The cost per compactor is $521,666.67 under the initial contract terms. Under the option to purchase the two additional compactors, each compactor cost $521,000. The two additional compactors will cost the County $1,333 less than the initial contract.

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.3	$1,565,000 for 5 years with the option of 2 additional compactors for $1,043,000.	$521,000	N/A	N/A

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
DSWM	Proprietary	$1,565,000

Source: DPM

Item 1.4 – Closed Circuit Television and Video Pipeline Inspection Equipment, Components, Repair Services and Supplies (Pre-qualification Pool)

This item awards a contract to establish a pool of prequalified vendors to supply Closed Circuit Television and Video Pipeline Inspection Equipment, Components, Repair Service, and Supplies for Miami-Dade Water and Sewer Department. **The total contract amount is $1,620,000 including subsequent OTRs.**

Comment

- The current vendor is Elxsi – d/b/a Cues.

Item No.	Contract Term & Amount	Amount per 6 months	Previous Contract Term & Amount	Previous Contract Amount per 6 month
1.4	$650,000 for 2 years with 3 one-year OTR.	$162,500	$162,500 for six months	$162,500

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Water and Sewer	Proprietary	$650,000

Source: DPM

Item 1.5 – Industrial Blowers, Fans, Air Curtains, Parts and Accessories (Pre-qualification Pool)
This item awards a contract to vendors to supply industrial blowers, fans, air curtains, and related parts and accessories for various County departments. **The total contract amount is $5,050,000 including subsequent OTRs.**

Questions and Comments

- **This contract is $744,000 more than the previous contract. According to the item, the increase will allow Miami-Dade Aviation Department to replace and/or repair 375 fans through the initial term of this contract.**
- What is the estimate for Aviation to replace the remaining 375 fans?
- The current vendors are: Barney's Pumps, Inc., Condo Electric Industrial Supply, Inc., Economic Motors, Inc., FPZ, Inc., Pats Pumps & Blowers, Inc., Sid Tool Co., Inc. d/b/a MSC Industrial Supply, S & R Sales, Inc., and WW Grainger, Inc.

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.5	$2,525,000 for 5 years with five one-year OTR.	$505,000	$1,781,000 for 5 years	$356,200

Three County departments utilize this contract. The departments, their allocation and funding source (provided by DPM) are listed in the chart below.

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Aviation	Department Revenue Fund	$ 1,000,000
Fire Rescue	Fire District Funding	$ 75,000
Water and Sewer	Proprietary	$ 1,450,000
		TOTAL: $ 2,525,000

Item 1.6 – Moving of Office Furniture and Equipment (Pre-qualification Pool)
This item awards a contract for pre-qualified vendors to provide moving services for office furniture, equipment, and supplies for various County departments. **The total contract amount is $2,243,000**

Questions and Comments

- Human Services and MDHA are requesting the following additional allocations: Human Services - $316,665 and MDHA - $200,000. Even with the additional allocations, this contract is $14,997 less than the previous contract.
- The current vendors are: Nava Express Inc., Wegman Associates of Georgia, Inc., and Taylor Concepts Co.
- Is Transit utilizing PTP funds?

Item No.	Contract Term & Amount	Amount per month	Previous Contract Term & Amount	Previous Contract Amount per month
1.6	$1,243,000 for five years with one, five-year OTR	$20,717	$250,000 for 7 months	$35,714

Eleven departments utilize this contract. The departments, their allocation and funding source (provided by DPM) are listed in the chart below.

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Administrative Office of Courts	General Fund	$ 63,430
Clerk of Courts	General Revenue	$ 75,000
Fire Rescue	Fire District Funding	$ 277,200
General Services Administration	Internal Service Funds	$ 264,400
Human Services	General, State, Federal Funds	$ 316,665
Metro Miami Action Plan	Proprietary	$ 15,000
Police	General Funds	$ 6,000
Public Housing Agency	Federal Funds	$ 200,000
South Florida Workforce	Federal Funds	$ 12,500
Transit	MDT Operating	$ 2,666
Water and Sewer	Proprietary	$ 10,000
	TOTAL:	**$ 1,243,000**

Item 1.7 – Landscaping and Lawn Maintenance Services

This item awards a contract to vendors to provide landscaping and lawn maintenance services to Miami-Dade Public Housing Agency. **The total contract amount is $2,547,000.**

Questions and Comments

- This contract is $190,600 less per year than the previous contract.
- The current vendors are: A & K Kleeberg LLC, Bannerman Landscaping, Inc., Carswell Property Maintenance, Inc., James Lester, Pro-Plus, Inc., Sonnys Total Landscaping, Inc., and Thomas Maintenance Service, Inc.
- Both Howards Lawn and Maintenance Services, Inc. and McIntyre Maintenance, Inc. have past performance issues. Neither firm is being used as primary under this contract.

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.7	$2,547,000 for 5 years	$509,400	$1,283,334 for 22 months	$700,000

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Public Housing Agency	Federal Funds	$2,547,000

Source: DPM

Item 1.8 – Printed Multiple Part Forms

This item awards a contract to vendors to provide/supply printed multiple part forms and printing services for various County departments. **The total contract amount including the subsequent OTRs is $5,042,000.**

Questions and Comments

- This contract is $31,623 less per year than the previous contract award.
- The current vendors are M P E Business Forms Inc, and Southland Business Forms Inc.
- The type of forms printed under this contract are multiple part forms with two to five parts, providing duplicate, carbonless printout of the data needed. Examples include: Building Permit application, Police Citations.
- Groups 1-15 are based on the size of each form and the quantity per size. The groups provide a means of specifying the most used quantities (80%) from the minimum usage (5%).
- Group 16 is composed of only Tiger and Eastern as vendors. There are no sub-contractors listed.
- Only Group 16 allows for additional vendors to be added. Once firms are pre-qualified they are added to the pool by the administration. Additional vendors will not increase the amount of this contract.
- Has the County considered options for eliminating the use of multiple part forms, such as electronic based (Post Office) or e-forms (Fed Ex.), thermal forms (restaurants), in-house printing of the forms, etc.?
- Is Transit utilizing PTP funds?

Pros for the Use of Printed Multiple Part Forms

- Brand recognition containing colorful logos and creative fonts
- High-quality
- Color accuracy
- Standard signatures from various parties
- Design efficiencies

Cons for the Use of Printed Multiple Part Forms

- The current decrease demand for multiple part forms.

(source: Capturing the Look, Print Professional Magazine, November 1, 2006)

Item No.	Contract Term & Amount	Amount per year	Previous Contract Term & Amount	Previous Contract Amount per year
1.8	$2,521,000 for 5 years	$504,200	$1,160,950 for 26 months	$535,823

Ten departments utilize this contract. The departments, their allocation and funding source (provided by DPM) are listed in the chart below.

DEPARTMENTS	FUNDING SOURCE	INITIAL TERM ALLOCATION
Clerk of Courts	General Revenue	$ 200,000
Corrections	General Fund	$ 180,000
Finance	General Fund	$ 90,000
Fire Rescue	Fire District Fund	$ 50,000
GSA	Internal Service Funds	$ 700,000
Park and Recreation	General Fund	$ 50,000
Police	General Fund	$ 800,000
Seaport	Proprietary	$ 125,000
Transit	MDT Operating	$ 125,000
Water and Sewer	Proprietary	$ 200,666
	TOTAL:	**$ 2,521,000**

- **Seven (7) Contract Modifications:**

Item No.	Contract Title and Modification Reason	Initial Contract Term & Amount	Modified / Extended Term	Increased Allocation	Record of Vendors' Performance
2.1	Elevator Maintenance Services Reason: Additional spending authority and time to allow various County Departments to continue to purchase elevator maintenance services and due to the change in the scope of services. Comment: The specification for the new solicitation of this contract is being finalized for approval.	$1,834,500/ 18 months	6 months	$611,500	No Compliance / Performance Issues reported for this firm.
2.2	Safety Equipment and Supplies	$1,376,450 / 1 year	No change	$500,000	No Compliance / Performance Issues

	Reason: Additional spending authority to allow emergency contingency funds allocated to departments in the event of emergency events. Question: Is Transit utilizing PTP funds?				reported for the 13 firms.
2.3	Rental of Trailers, Trucks and Vans (Pre-qualification Pool) Reason: Additional spending authority to allow the Miami-Dade County Elections Department to purchase truck and trailer rental services. Question: Is Transit utilizing PTP funds?	$696,000 / 5 years	No Change	$2,000,000	No Compliance / Performance Issues reported for the four firms.
2.4	Transit Performance Audit Services Reason: Additional time to allow the Miami-Dade Transit Department to purchase auditing services for transit bus operator performance and compliance with American with Disabilities Act regulations. Question: Is Transit utilizing PTP funds?	$150,000 / 28 months	4 months	No Change	No Compliance / Performance Issues reported for the firm.
2.5	Caster and Industrial Wheels Reason: Retroactive approval for 1st OTR period. Question: Is Transit utilizing PTP funds?	$6,000 / 1 year	August 1, 2008 to July 31, 2009	$6,000	No Compliance / Performance Issues reported for the 2 firms.
2.6	Inventory Services Reason: Approval to activate the 1st OTR period. Question:	$65,373/ 1 year	August 1, 2009 to July 31 2012.	$65,373	No Compliance / Performance Issues reported for the firm.

	Is Transit utilizing PTP funds?				
2.7	Repair Services for Metrorail, Metromover, and Other Rail Vehicles and Rail Systems (Pre-qualification Pool) Reason: Retroactive approval to activate the two remaining OTR. Question: Is Transit utilizing PTP funds?	$500,000 / 6 months	January 1, 2009 to June 30, 2009	$500,000	No Compliance / Performance Issues reported for the 5 firms.

- **One (1) Purchase Made Under Competitively Awarded Contract of Other Governmental Entity:**

Item No.	Contract Title and Modification Reason	Initial Contract Term & Amount	Modified / Extended Term	Increased Allocation	Record of Vendors' Performance
3.1	Microsoft Licenses, Support, and Professional Reason: Approval to access a competitively established State of Florida contract for Microsoft software licenses, maintenance support, and professional services. Comment: The previous contract allocation was $29,298,580 for 8 years.	$15,400,000 / 32 months	None	None – new contract.	No Compliance / Performance Issues reported for the 2 firms.

Prepared by: Elizabeth N. Owens

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

Legislative Notes

Agenda Item: 091680

File Number: 3(L)

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

Date of Analysis: June 5, 2009

Type of Item: Employee Group Dental Insurance Program

Summary

This resolution authorizes the County Mayor or his designee to reject proposals received for the Request for Proposals to obtain Employee Group Dental Insurance Program (the Program), RFP No. 673.

RFP No. 673 solicited a voluntary multi-option, fully-insured Program utilizing both prepaid and indemnity plan designs. Under this RFP, employees and retirees of Miami-Dade County, Public Health Trust/Jackson Health System, Industrial Development, Miami-Dade Expressway Authority, and the Town of Miami Lakes receive group dental insurance with competitive rates, professional plan administration and the flexibility to select a host of participating dental providers.

The terms of the proposed RFP are as follows:

- 3 years with 3, one-year options to renew (OTR); and
- $22 million per year depending upon enrollment.
    - $5.6 million from Public Health Trust / Jackson Health System; and
    - $16 million from Miami-Dade County.
        - County - $8 million
        - Employees/Retirees - $8 million

A full and open competitive RFP was utilized to solicit proposals. On February 18, 2009, the Review Committee recommended no measures for this contract as the funding source includes employee contributions.

In essence, this resolution does the following:

- **Rejects all the proposals for the Program;**
- **Authorizes an extension of the current agreements for the Program to continue the dental insurance coverage for one year at the current rates offered under Plan Year 2009; and**

- **Allows the County, in light of so many proposals being deemed non-responsive, to re-design the procurement process for this solicitation.**

Background and Relevant Legislation
Pursuant to the Department of Procurement Management (DPM) Guidelines, a bid may be rejected when adverse conditions exist such as the proposal not conforming to the specifications and/or solicitation documents, insufficient financial resources, technical ability, physical capacity and/or skill of the vendor, unfair and unreasonable pricing, insufficient competition and for any other cause in the best interest of the County.

Policy Change and Implication
This item provides a summary along with attachments of the opinions from the County Attorney's Office (CAO), deeming several of the proposals as non-responsive.

Prior Program Awards
On September 21, 2004, under Resolution No. 1154-04, the BCC authorized the execution of the present Program, offering Miami-Dade County and Public Health Trust employees and retirees dental plans. The current providers include Metropolitan Life Insurance Company for the indemnity plan (Contract No. RFP421c) and Compbenefits Corporation for the two prepaid plans (Contract Nos. RFP421a and RFP421b, respectively). The current terms are for three (3) years with two (2), one-year OTRs, at approximately $19 million per year depending upon enrollment. This Program was awarded under a competitive RFP process.

Prior to the 2004 agreements, the BCC authorized the execution of agreements for Contract Nos. 210a, 210b, and 210c with Metropolitan Life Insurance Company, Oral Health Services, Inc. and Compdent/American Dental Plan, Inc. (Resolution No. 1023-99 adopted on September 15, 1999). These contracts were also awarded under a competitive RFP process.

Metropolitan Life Insurance Company and Compbenefits Corporation has provided written agreements to extend the contract for one year at the current rates, granting the County the additional time to re-design the procurement process for this solicitation.

Comments and Questions
If the two prior agreements were also RFPs, thereby establishing a historical framework for the current procurement process, why did the County experience so many difficulties in this solicitation process, having so many proposals being deemed non-responsive?

> ***Note: The Office of the Commission Auditor has requested a copy of the 1999, 2004 and the current RFPs for comparison of the procurement procedure utilized.***

Current Providers Proposals

Metropolitan Life Insurance Company provided a bid under both categories. However, as the CAO's memorandum dated May 17, 2009 notes, both proposals were deemed non-responsive.

Compbenefits parent company, Humana, submitted proposals under both categories. The prepaid plan design proposal was deemed non-responsive.

Prepared by: Elizabeth N. Owens