



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Government Operations
Committee

October 12, 2010

9:30 A.M.

Commission Chamber

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

**Legislative Notes
Government Operations Committee
Meeting Agenda**

October 12, 2010

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

Item Number(s)

1(F)3
3(C)
3(E)
3(J)

Fiscal Impact Information

3(J)

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

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



Legislative Notes

Agenda Item: 1(F)3

File Number: 101665

**Committee(s)
of Reference:** Government Operations Committee

Date of Analysis: October 7, 2010

Type of Item: Ordinance

Sponsor: Commissioner Joe A. Martinez

Summary

This ordinance amends Chapter 31 of the Code of Miami-Dade County relating to taxicab for-hire motor vehicles.

Ordinance Overview

- Creates an auction for six (6) taxicab medallions: two (2) will be wheelchair accessible medallions with a minimum bid price of \$100,000 and four (4) taxicab medallions with a minimum bid price of \$140,000.
- Consumer Services Department (CSD) will retain proceeds from the auction.
- Reduces CSD fees chauffeurs pay for a one-year period.(See handwritten page 37)
- Participants above will be able to be held in a wholly owned corporation (corporation where all the shares are held by a single natural person) and be transferable to a wholly owned corporation.
- Creates a lottery of four (4) medallions for senior drivers at a price of \$5,000.¹
- **All medallions holders above will have to have a security camera, outside warning lights, a credit card processing system that includes a rear compartment swipe, be connected to a dispatch system that is operated 24/7/365, dispatch system must have GPS in 18 months, and upgraded taxi meters that includes all the flat fares.**²
- Changes the gift/inheritance provisions by allowing medallions to be gifted to any natural person (instead of the limitation of one per family member who does not already have a medallion). The medallion can then be transferred at the option of the giftee to a wholly owned corporation. If they choose that option, they must equip the taxicab with all of the above technology except the security camera.
- Allows an existing owner driver the option of transferring their medallion to a wholly owned corporation. If they choose that option, they must equip the taxicab with all of the above technology except the security camera.

¹ To be issued in a random selection process to qualified chauffeurs with 20 or more years of continuous service.

² The license holder will pay for all the required equipment upgrades mentioned in this item. If costs are passed through, it could be in the form of higher lease rates, which CSD are prohibited from regulating.

- Changes the chauffeur agreement for the protection of the driver to clarify that the amounts they pay for the lease, insurance, deposits, and dispatch must be itemized; extends the time period a lease can be terminated without cause from 30 to 90 days; and requires that security deposits be held in a certain way (similar to state law that governs landlord/tenant deposits).

Background and Relevant Information³

The taxicab industry in Miami-Dade County has faced problems on many fronts including those related to customers, services and regulations. Since 1981, Miami-Dade County has been regulating the taxicab industry countywide. Historically, the County only regulated taxicabs in unincorporated areas, and municipalities regulated taxicabs in municipal areas. The electorate approved an amendment in 1976 to the Home Rule Charter to permit the County to regulate taxicabs throughout the County, and in 1981 an ordinance was adopted to effectuate countywide regulations.

Also, in July 9, 1998, the Board of County Commissioners (BCC), through Ordinance 98-105, enacted comprehensive regulatory reform changing the issuance, control, operation and regulation of taxicabs. It was at this point that the BCC sought to create a driver/owner system by restricting all transfers, assignments, sales, gifts, etc., to duly licensed chauffeurs only.

- Several mechanisms were implemented: (1) new taxicab medallions were to be issued by lottery only to taxicab chauffeurs who actually drive the vehicles; and (2) transfers of medallions were to be made only to taxicab chauffeurs who actually drive the vehicles, with certain gift exceptions.

Legislative Highlights After 1998

The BCC approved the following:

- 1999 ordinance (Ord. 99-71) establishing a specially designated Underserved Area, bounded by NW 79 Street, North Miami Avenue, NW 27 Avenue, and NW 7 Street, with a separate lottery allocation.
- 2003 ordinance (Ord. 03-45) requiring three percent (3%) of taxicabs to be wheelchair accessible by 2006.
- May 2004, as the first lottery series was about to expire, the BCC approved Ordinance 04-103 that continued a lottery through 2006. That same ordinance created a special South Miami-Dade Taxicab Service Area for the area of South Miami-Dade located south of SW 136 Street to address service issues in that area.

Industry Assessment

The taxi industry in Miami-Dade comprises the following participants: the medallion holder; the Passenger Service Companies (PSC); the vehicle leasing companies; chauffeurs/drivers; and CSD.

On January 14, 2007, Tennessee Transportation and Logistic Foundation, released the *Taxicab Ridership Final Report on Miami-Dade* to devise an equitable formula for the introduction of additional taxi licenses as the community requires them.

Technology: The study indicates that very few of the PSC interviewed had computerized dispatching and ability to track calls by zone and keep records of dispatches by vehicle number. PSCs also lacked GPS technology, and many capabilities of other more sophisticated systems (electronic processing of credit cards, shortest route directions, immediate dispatch of police to the exact location in the event of an accident, dispatching of accessible vehicles when required, electronic payment of corporate or voucher business, elimination of manual record keeping).

³ See Legislative File No. 062726. Report received presented at the Community Empowerment Economic Revitalization Committee

Imbalance of Services: Taxi industry practices overtime have created an imbalance of service demands in certain geographic areas of Miami-Dade while demand has increased in the central corridor between the airport and beaches. The study states that “there do not appear to be poor economic returns for taxi operators serving only the central corridor without radio services.” (See pages 16-19 of the Report)

- The collection of off-peak data indicates “a large segment of the taxi population work primarily the airport, and perhaps the beach, with no real radio service enabling them to service taxi call-in work. These drivers are idle much of the time and often inefficiently head back to the beach, airport, or hotel stand rather than work a radio. This is a classic example of inefficiency within the taxi industry.”
- Taxi operators working the central corridor during peak season admit to dropping service completely or affiliating with smaller PSCs with no radio call-in system. These practices are identified as a “spider network” (friends and other associates) that do not allow for a “dispatcher to follow-up with the customer, no credit cards system, and no way to really measure the day-to-day performance of such informal driver networks.”

Cash Business: Another issue is that the taxi industry has become purely a cash business with little record-keeping. The custom was that taxicab drivers would record all or most trips which would show origin and destinations. According to the study, “today, however, the vast majority of taxi companies no longer utilize employee or commissioned drivers, so keeping track of the fare revenues is not important.” (See pages 16-19 of the Report)

Overall, these practices (lack of technology, spider network, avoiding radio calls, cash business and affiliating with smaller PSCs) have contributed to market deficiencies and difficulty in tracking monthly revenues for drivers and PSCs.

According to the study:

“If this trend continues and/or if significantly more taxi medallion drivers choose to not work their radio dispatch, things will probably get much worse. Current taxi drivers will have to spend more hours to earn the same income or else leave the industry. Unhappy drivers will be even more likely to refuse calls that take them into lower density areas and even more will opt to leave the radio system as a means to cut their expenses. Deteriorating service levels result in fewer customers resulting in even more oversupply of the market, and the downward spiral of increasing rates, which only invites more competitors, continues.”

As shown in the chart below the owner/driver category has increased since 1998.

Estimated Number of Medallions since 2007		Current Breakdown (provided by CSD staff)	
Corporation	1,006	Corporation	1,028
Owner/Driver	599	Owner/Driver	624
Individual	475	Individual	453

Source: CSD

Total number of medallions held by owners/drivers in 1998: 114

Prepared by: Michael Amador-Gil



Agenda Item: 3(C)
File Number: 102065
**Committee(s)
of Reference:** Government Operations Committee
Date of Analysis: October 8, 2010
Type of Item: Resolution

Summary

This resolution approves the exchange of County-owned property, located at approximately S.W. 213 Street and S.W. 120 Avenue, Miami, with an assessed market value of \$15,600 for real property owned by D.S. Development Corporation, located at approximately S.W. 179 Street and S.W. 103 Avenue with an assessed market value of \$21,236.

D.S. Development is now requesting that a buildable lot be conveyed to his new corporation, which presently holds title to the lot that is being returned to the County. (See handwritten page 2)

Background and Relevant Information

On November 10, 2003, an Invitation To Bid (ITB) was issued for the sale of fifty-six County-owned lots to high bidders, subject to conditions listed in the Infill Housing Initiative Program. The ITB was advertised in the *Miami Daily Business Review* and the Miami-Dade County web site. Forty-eight printed bid packages were distributed and 450 packages were downloaded. A non-mandatory pre-bid conference was held on December 3, 2003; bids were opened on December 17, 2003.

On May 11, 2004, the Board of County Commissioners (BCC), through **Resolution 557-04**, authorized the sale of 56 county-owned lots for infill housing. At that time, K & K Custom Homes, Inc. had purchased two (2) parcels. **The resolution stated that each of the high bidders submitted a financial plan detailing how the construction of the homes would be financed.**

Resolution 557-04 provides the following conditions:

- Develop each parcel with an affordable single family home that meets guidelines of the Infill Housing Initiative.
- *Obtain building permits and commence construction of home(s) within six (6) months of acquiring the property.*
- *Complete construction and obtain certificate of occupancy of the homes within twelve (12) months of acquiring the property.*
- Build home(s) to meet or exceed the Minimum Housing Quality Standards for Surtax and SHIP funding.
- Pay all closing costs to purchase the lots and convey the completed home.

Furthermore, the 2004 County Deed between Miami-Dade County and K & K Customs Homes, Inc. specified that in case the Party, its successors or assigns, fails to comply with any of the restrictions and covenants, and no remedy is presented within 30 days:

“the County will have the right to re-enter and take possession of the property and to terminate and re-vest in the County the estate conveyed by this Deed to the Party of the second part, its successors or assigns, and by such reverter to the County, will forfeit all monetary investments and improvements without any compensation or right to compensation whatsoever.”

Question: How many extensions have K & K Homes, Inc. received over the past six (6) years?

Question: How many developers in the Infill Housing Program are experiencing similar difficulties?

See Infill Housing Program Guidelines attached- April 16, 2010¹

Response from General Services Administration staff:

- Why did it take the developer so long (2004-2010) to realize that the land was not buildable? *When the developer acquired the lot, the Perrine Community Urban Center Zoning District (PCUCD) did not exist. However, it was in the process of being created and the developer was asked to wait until the new zoning took effect to start construction so that the housing would comply with whatever new design criteria was adopted. The PCUCD was approved in July 2007. Unfortunately, under the new zoning regulations, the lot must have a minimum lot width of 37.5 feet and the driveway is required to be on the side of the house. This lot is 35.5 feet wide and is not wide enough to accommodate a driveway on the side of the house.*
- *The County has the right to take the property back since the developer did not build on the lot within the required timeframes. However, since the developer paid for the lot and had no control of the new zoning regulations, staff is recommending that he be given another lot that he can build on.*
- *Construction never commenced.*
- *The County was not aware of encroachment on the property. In addition, as stated above, the PCUCD did not exist at the time.*
- *The property was not surveyed before it was identified as surplus.*

Legislative History

On May of 2001, the BCC, through Ordinance No. 01-47, created the Infill Housing Initiative to increase the availability of affordable homes for low and moderate income persons, redevelop urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties, and generate payment of ad valorem taxes. *The Initiative developed a methodology for handling infill housing, including the identification of property; acquisition, transfer and sale of property; reversion of title to the County in the event of non-performance; forgiveness of liens; and, construction and rehabilitation loan provisions.*

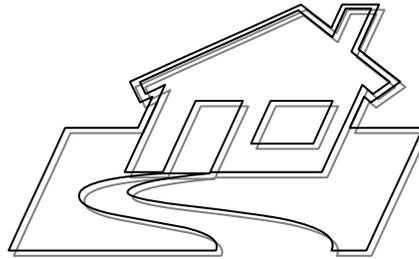
On April 6, 2010, the BCC, through Resolution 347-10, rescinded Administrative Order 3-44 and approved Implementing Order 3-44 to provide direction to the County Mayor or the County Mayor’s designee regarding the administration of the Infill Housing Initiative Program.

Prepared by: Michael Amador-Gil

¹ V. Process to Develop County-Owned Lots, Section C – County Deed; and VII. Extension Requests



INFILL HOUSING PROGRAM GUIDELINES



**Prepared By:
General Services Administration
Infill Housing Program
111 NW 1 Street, Suite 2460
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V. PROCESS TO DEVELOP COUNTY-OWNED LOTS

a) Selecting Qualified Developers

County-owned lots that are ready for development are offered to the Infill Housing Developer Pool, at no cost, however there is a closing processing fee (See Section XVII). The Infill Housing Developer Pool is selected through a Request for Qualifications (RFQ) process that is issued by the Department of Procurement Management. Qualified Developers are selected based on the following criteria:

- Proposer's past performance and experience
- Proposer's construction financial capability
- Proposer's approach to meeting time schedule and budgets
- Proposer's marketing skills and ability reach eligible households

b) Awarding County Lots

County lots that are determined to be ready for development are made available to the pool of qualified developers through a Work Order Proposal Request (WOPR). The WOPR specifies the lots that are being made available as well as the targeted income level of the buyer. Only developers in the pool will be given the opportunity to respond to the WOPR. Award of the lots will take into account the following criteria:

- **Architectural Design:** The developer must provide two sets of plans for each model being proposed consisting of a site plan, floor plan and front, side and rear elevations. All homes must comply with the Minimum Architectural and Space Requirements found in Section IV herein and any and all other National, City, County and Florida Building Code requirements. The developer should provide variations in design and building facades; however, the design of the home should be compatible with the character of the neighborhood.
- **Unit Price:** The maximum sales price for each unit shall be based on cost of development (including hard and soft costs and developer profit). Failure to adhere to the maximum sales price will result in a one-year suspension from the pool for the first incident and removal from the pool after the second incident. Increases may be approved by the Affordable Housing Selection Committee only in **extraordinary** circumstances, i.e. natural disaster or fire which may have caused a delay in the project. In no event shall the home exceed the Program's maximum sales price, which is currently **\$175,000**.

c) County Deed:

The County will transfer title of the lots to the selected developer via a County Deed with the restriction that the property must be developed with affordable housing in accordance with the Infill Housing Initiative Guidelines. Failure to do

so will result in the recapture of the lots and any and all improvements made thereto, without any rights to monetary compensation.

VI. PROCESS TO DEVELOP PRIVATELY-OWNED LOTS

a) Applying to the Program

The County may encourage private property owners to rehabilitate or redevelop their properties as infill housing through the release of County liens that predate the private property owner's date of ownership. Private property owners who wish to develop their properties through the Infill Housing Program may do so by filing an "Application for Private Lots" with the Infill Housing Program. Staff will verify that the property falls within the Program boundaries and that it is properly zoned.

b) Architectural Plans Review

The developer must provide a copy of the site plan, floor plan, and front, side and rear elevation plans of the home along with the "Application for Private Lots". The Infill Housing Program will review them for compliance with the Minimum Architectural and Space Requirements.

VII. EXTENSION REQUESTS

All homes constructed through the Infill Housing Program are monitored by GSA's Infill Housing staff. Extension may be granted by GSA, however, only under the following circumstances:

- Regulations change after the developer enters the Program
- A variance of Zoning or DERM regulations is required
- Platting is required
- Complications with water/sewer connections

The Infill Housing Program staff is available to assist developers with any problems they may encounter during the construction process. Should the developer encounter problems that may result in a delay in the project, it is essential that they immediately notify the Infill Housing Program staff and request an extension, if necessary.

VIII. BUILDING PERMIT EXPEDITE PROCESS

Building permit applications for homes being built in the Unincorporated Municipal Service Area (UMSA) through the Infill Housing Program qualify for the Building Department's expedite process. GSA provides developers a letter indicating that the lot is being developed through the Infill Housing Program. That letter must be presented to the Building Department when applying for a building permit in order to qualify for the expedite process.

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(E)
File Number: 102078
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 24, 2010
Type of Item: Resolution

Summary

This resolution authorizes the conveyance of eight (8) Infill Housing Program lots to Habitat for Humanity of Greater Miami, Inc. (Habitat) a Florida not-for-profit corporation; waiver of Administrative Order 3-44; and authorizes the Mayor to execute a County Deed.

Muro Investment, Inc. is unable to pay the outstanding taxes and citations for the lots. Habitat has agreed to pay both the taxes and citations and develop the properties.

Similar Legislation

On April 16, 2010, the Board of County Commissioners, through Resolution 318-10, approved and authorized the execution of a Settlement Agreement between the Miami-Dade County and Neighbors and Neighbors Association, Inc. (NANA) and Foster Construction of South Florida.

Resolutions 623-02 (three parcels) and 145-03 (one parcel) authorized the conveyance of four (4) lots to NANA for the development of infill housing through a County Deed. The deeds contained restrictions that required that the lots be developed with affordable housing within twelve (12) months from the date of the conveyance. Due to the fact that NANA did not meet the construction schedule set by the County, the County requested that the lots be returned to the County pursuant to the reverter provisions in the County Deed.

Although NANA was willing to return the four lots, its joint venture partner, Foster Construction Inc. to which NANA had quit claimed part of its ownership interest in order to obtain construction financing, was not willing to sign the deed. The County, therefore, filed a suit to quiet title. After extensive discussions with both parties, Foster finally agreed to relinquish its ownership interest in the four lots.

There was approximately \$15,200 in back taxes owed on the four lots and \$15,150 owed for liens and citations, which NANA and Foster were unable to pay.

Rather than return the lots to the County, NANA, conveyed the lots to Habitat for Humanity of Greater Miami, Inc. which expressed interest in the lots and was willing to pay the outstanding taxes. However, Habitat requested that the County release the liens and citations that were placed on the lots while under NANA and Foster's ownership.

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 3(J)
File Number: 102373
Committee(s) of Reference: Government Operations Committee
Date of Analysis: October 6, 2010
Districts: 3 and 5
Type of Item: Resolution

Summary

This resolution approves an Energy Performance Contract (EPC) with BGA, Inc.¹ in an amount not to exceed \$20,310,700 for the purpose of expanding the production capacity of two (2) existing County-owned chilled water plants in Downtown Miami and interconnecting the two plants' underground chilled water distribution loops; and approve a two (2) year service agreement, with one (1) additional one-year option period, with BGA, Inc. in an amount not to exceed \$1,585,000.

- The County Mayor or County Mayor's designee is also authorized to approve project financing terms; enter into leases or other financial arrangements with third parties; authorize escrow payments for completed project milestones; authorize payments for additional services, unscheduled maintenance and reimbursables as defined in the Service Agreement; exercise termination provisions; and determine substantial completion of projects.
- **County staff used the competitive selection process required by State Statute in order to select BGA, Inc., one of the energy services companies in the Board-approved vendor pool for the program (EPC Program, per Resolution 740-08). The EPC Program established a pre-qualified pool of private energy services companies or ESCOs from which the County is able to select firms to identify and implement recommendations for reducing the energy consumption of County facilities and equipment.**

The two chiller plants are: the North District Ice Plant located at 1110 N.W. 1 Avenue and the Central Support Chiller Plant located at 200 N.W. 1 Street.

Fiscal Impact Information

The guaranteed minimum savings per year (\$570,000) being applied to the \$16.068 million lease-purchase agreement for 15 years totals \$8.55M. The difference that the County will pay is \$7.518 million. The gap will be made up by factoring it into the future rent for the buildings.

¹ BGA, Inc. is the contracting entity. Since May 2007, BGA, Inc. has been a wholly-owned subsidiary of Consolidated Edison Solutions, Inc.

Background and Relevant Information

In 1994, the State Legislature enacted the Guaranteed Energy Savings Program, later amended to become the Guaranteed Energy Performance Savings Contracting Act. The program permits agencies, defined as “the state, a municipality, or a political subdivision,” to enter into a guaranteed energy performance savings contract, under specified circumstances.²

Benefits: The purpose of a guaranteed energy savings contract is to allow a properly-licensed contractor to create or install energy conservation measures that will reduce the energy or operating costs of an agency facility. The Act contains a number of contract requirements to ensure that the measures will result in a savings to the agency over time, and to ensure that the contractor is financially liable for any failure to achieve such savings. An “energy conservation measure” is a training program, facility alteration, or equipment purchase to be used in new construction, including an addition to an existing facility, which reduces energy or operating costs. Examples of such measures include insulation, storm windows and doors, automatic energy control systems, and cogeneration systems.³

Current law requires that, before the installation of conservation measures, agencies obtain from a qualified provider a report that summarizes the costs of the conservation measures and provides the amount of cost savings.⁴

According to 489.145 (4)(d), F.S.: A guaranteed energy, water, and wastewater performance savings contractor must be selected in compliance with s. 287.055, F.S.; except that if fewer than three firms are qualified to perform the required services, the requirement for agency selection of three firms, as provided in s. 287.055(4)(b), and the bid requirements of s. 287.057, F.S. do not apply.⁵

BGA, Inc. Contract

This contract is considered a “Guaranteed energy, water, and wastewater performance savings contract” under Florida Statutes 489.145, which means a contract for the evaluation, recommendation, and implementation of energy, water, or wastewater efficiency or conservation measures. BGA, Inc. is a “Guaranteed energy, water, and wastewater performance savings contractor” under Florida Statutes, which means a person or business that is licensed under chapter 471, chapter 481, or Chapter 489 and is experienced in the analysis, design, implementation, or installation of energy, water, and wastewater efficiency and conservation measures through energy performance contracts.

Selection Process of BGA, Inc.

*According to General Services Administration (GSA) staff, selection was made in accordance with the procedures outlined in the Manager’s Memo to the Board of County Commissioners (BCC) that established the Energy Performance Contracting Program (July 2008). Proposals were solicited from three (3) vendors in the County ESCOs vendor pool (same as the State pool and process), specifically the three (3) that had experience in this type of project: **BGA, FPL Services, and Trane**. Trane opted not to submit a proposal. The Selection Committee met and reviewed the proposals from FPL and BGA, and rated BGA’s proposal highest. The selection was made in accordance with 287.055, F.S., as required by 489.145, (4)(d), F.S., no waiver is required for BGA, Inc.*

- ***In their qualifications responses to the State and County, Trane had indicated experience in doing this kind of work and in operating thermal storage plants. GSA included them in the***

² Ch. 94-112, L.O.F., codified at s. 489.145, F.S.

³ Section 489.145(3)(b), F.S.

⁴ 489.145, F.S.

⁵ 287.055 F.S. Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties.

invitation to propose, but Trane elected not to participate, as they had recently submitted proposals on another performance contracting projects still in the pipeline.

Legislative History

On July 1, 2008, the BCC, through Resolution **740-08**, created an Energy Performance Contracting Program (EPC) in accordance with Florida State Statute 489.145, Energy Efficiency Contracting, to replace the current Energy Conservation Performance Program, County Contract 168, which expired on June 2, 2008. *This Program allocates \$40 million over a five-year period.* Resolution **740-08** allows the County to select from the existing State of Florida pool of pre-qualified contractors. The State utilized an Invitation to Negotiate (ITN) process in order to create the pool of vendors pre-qualified to provide energy performance services.

- Since its inception in June of 1998, the Energy Conservation Performance Program (County Contract No. 168) provided approximately \$50 million in energy conservation improvements to County facilities, resulting in a reduction of approximately 73 million kilowatt hours of electricity and 71 million gallons of water. In addition to other contractual requirements, contractors under the Energy Conservation Performance Program are required to perform all services in accordance with Florida Statute 489.145 "Energy Efficiency Contracting."

Grand Total of EPC Program June 1998 through June 2008 (Per Resolution 740-08)			
Project Costs	Annual Savings	Simple Payback Years	Number of Projects
\$58,733,642	\$7,432,062	7.9	36

(See attached *EPC Program Status Report June 1998-June 2008 for details*)⁶

Recent Legislation

- On October 6, 2010, the BCC, through Resolution 1147-09, approved an EPC contract to Florida Power & Light Services, LLC. totaling \$6,046,925. The scope of work included replacement of lighting fixtures at all portions of Terminals A, B, C, E, F, G and H, Concourses E, F, G and H and Satellite E of Miami International Airport. Approximately 18,552 fixtures will either be completely replaced or retrofitted through this contract. **The BCC waived compliance with 287.055, F.S.**
 - Members of the Government Operations Committee (GO) raised several issues pertaining to an EPC contract to FPL Services, LLC. for the replacement of lighting fixtures at Miami International Airport. Committee members requested information on the rationale behind the County spending substantial amounts of funds to save in maintenance and electrical usage; number of man hours associated with the project; changes in petroleum or kilowatt hours; and the complexity of the financing mechanism. *The item was deferred on July 14, 2009, and forwarded to the BCC from the GO Committee on September 8, 2009.*

GSA staff response:

- County contract measures: *The contract was formally adapted from a State of Florida contract which **does not permit the application** of County participation measures such as Small Business Enterprise (SBE) participation or Local Preference. Notwithstanding the lack of a formal requirement for participation measures within these projects, GSA is working with the Department of Small Business Development and the selected ESCOs to encourage voluntary*

⁶ The report details all projects reviewed under Contract 168 (June 1998 –June 2008)

participation. In this particular case, BGA advised in their proposal and in subsequent discussions a full intent to seek out certified SBEs to bid on the various elements of the project.

- Operations and maintenance of chillers and other improvements: The O&M service agreement with BGA, Inc. is for a period of 24 months, and coincides with the construction and commissioning periods. The County retains an option to renew for an additional one (1) year term, if needed, but also is able to terminate at any time with 60 days prior notice. The project is exceedingly complex and this arrangement enables the County to place all liability for properly coordinating the build-out with normal operations, including as it relates to meeting the obligations of our chilled water service contracts with the NAP of the Americas⁷ and American Airlines Arena.

The agreement also calls for staff training by BGA, Inc., under Schedule I, on how to operate and maintain the plants once BGA's services under the Operations and Maintenance Agreement.

- Upfront capital by the County: There is no requirement for the County to provide upfront capital. The project meets all statutory requirements for performance contracting without any of the rebates or upfront capital. The upfront capital is used in this instance because it reduces the term of the lease purchase agreement, and because the monies are available and previously authorized by the BCC for this express purpose.
- Recommendations by the Climate Change Task Force (CCTF): The CCTF has been briefed generally on performance contracting, and has endorsed the practice in their adopted recommendations. They are not consulted on individual projects.
- Tracking/Monitoring by the Office of Sustainability: The Energy Performance Contracting Program is administered by GSA, and therefore tracked and monitored through this department. Performance Contracting is a primary strategy recommendation of the Office of Sustainability (OOS), and results will be reported and/or be available to that office. Also, an OOS staff person was part of the Selection Committee that selected BGA.
- Contractual obligations by BGA, Inc. to ensure savings or make-up the cost difference: Should there be a shortfall after the prescribed annual reconciliation; BGA is responsible for any difference between the actual and guaranteed savings. Should there be excess savings, the County retains the benefit.
- Anticipated man hours associated with expanding, interconnecting, and performing related improvements: Approximately 50,000 effort hours of trade labor work.
- Financing options by BGA, Inc.: BGA initially contacted 3 separate third party finance companies while it was finalizing the audit report in order to get an idea of the high end for financing this type of project over the prescribed term, and used a 4.6% interest rate to plug into its audit report, as a cap, or high side. Once the EPC contract is approved, BGA, with participation from the County, will solicit firm fixed rates and terms from at least 3 finance companies based on the approved EPC contract and scope, and present those rates and terms to the County. The County will select which financing to utilize for the project and the paperwork would then be drafted and signed.

⁷ Terremark's flagship facility, the NAP of the Americas, is one of the most significant telecommunications projects in the world. The Tier-IV facility was the first purpose-built, carrier-neutral Network Access Point and is the only facility of its kind specifically designed to link Latin America with the rest of the world.

- *The rate has not yet been determined but a rate estimate was set at 4.6% in the audit report. The frequency of payments would be determined once the PC contract has been approved, with finance companies including different payment options, such as monthly, quarterly or annually, and the effects on the rate if any, with each option.*
- Jobs generated for the community: *Estimated to be between 30-40 trade jobs in the community.*
- Equipment ownership by the County: *The County will own the equipment once the finance company that finances the project has been paid in full. Until then, the County will be able to use the equipment, etc., with the finance company holding a security interest in the equipment until it is paid in full.*
- Measurement verification process by BGA, Inc. to determine savings guaranteed: *BGA measured existing chiller efficiencies, then engineered an energy use model calibrated to the County's actual utility bills. Once the project is approved, BGA will measure electricity for longer periods of time to refine the energy savings baseline.*
 - *BGA, Inc. is required to provide a measurement and verification report on an annual basis throughout the term of the lease/purchase agreement. That report will address the system performance parameters on which the study and guarantees were based. If the system components do not achieve the performance levels required in the contract, they are required to address and correct the substandard performance, implement any warranties that may be involved, etc.*
- Options for the County to back out if the financing or any other changes make the project not viable: *If the County is unable to negotiate an acceptable contract with a third party finance company, the County is not obligated to proceed with the project.*
- Current market conditions impact the interest rate costs and potential savings for this contract: *The project is contingent upon financing. Should market conditions negatively impact interest rates to the point that the transaction does not make sense for the County; the County retains the right not to proceed with the project.*
- Debt obligation for the county: *There will be an obligation, but not through a typical General or Special Revenue bond issuance. This means that there is no multi-year capital bond commitment, and the County's bonding capacity is not impacted by this transaction. The project is instead financed through a lease/purchase agreement (Agreement). That Agreement is contingent only upon annual budget appropriations, which would technically allow the County – in a period of extreme financial distress, for example – to terminate the Agreement. The Agreement is secured by the equipment, however, so the County would have to assess how to release the assets to the financier (so it is not a typical event).*
- Annual excess savings that may exceed total annual contract payments/obligations to BGA: *It is typical in an energy performance contract for the ESCO to estimate the level of savings, and then discount that amount by a percentage (usually 5 to 15%) in order to arrive at the amount of savings that the ESCO will guarantee. In our experience, those savings usually do materialize and the County absorbs the benefit as "excess savings." In this project, BGA is guaranteeing 95% of the projected savings, so the level of excess savings may not be great, percentage-wise.*

- In-house staff performs the work: *BGA is not only guaranteeing the success of the installation, but the validity of the study. In other words, if GSA assumed their role and contracted out the work through GSAs processes, GSA could hold that new contractor accountable for installing everything as required in the study, but if the study and related engineering design had flaws, GSA has no one “on the hook.” In the EPC, BGA is solely liable to make sure everything is installed correctly and that it operates as promised.*

Finally, the EPC guarantee is based on specific makes and models of equipment; there is no room for the County procurement requirements for product substitutions, etc.

- ENERGY STAR or Leeds certification: *The use of district cooling from the thermal storage plant is helping the County secure LEED Silver Certification for the new Children’s Courthouse.*

Attachments

- BGA’s Cost Estimate Work Sheet
- EPC Status Report June 1998 through June 2008

Prepared by: Michael Amador-Gil and Charlie Queen

COST ESTIMATE WORKSHEET

PROJECT NAME BGA INC. DISTRICT CHILLER PLANT FULL SCALE EXPANSION				DATE: 28-Apr-2010			
ADDRESS MIAMI, FL				ESTIMATE PREPARED BY: PA, BG			
CUSTOMER CONTACT NAME/PHONE NUMBER Michael Gibson/(813) 375-3382				ENGINEER BGA, Inc			
				BID DOCUMENTS N/A			

DESCRIPTION	MATERIALS				LABOR/EQP.				ITEM COST
	COST	UNIT	QTY	EXTENDED	COST	UNIT	QTY	EXTENDED	
North Plant									
ECH Chiller (2500 Tons 56/36)	\$ 841,811	EA	1	\$ 841,811	\$ 100,000	EA	1	\$ 100,000	\$ 941,811
GCH Chiller (1590 Tons 32/25)	\$ 707,144	EA	1	\$ 707,144	\$ 85,000	EA	1	\$ 85,000	\$ 792,144
Tower Cells-2K Tons/Cell	\$ 320,000	EA	2	\$ 640,000	\$ 56	Ton	4000	\$ 225,340	\$ 865,340
ChWP Pump 100 HP	\$ 25,000	EA	1	\$ 25,000	\$ 420	HP	100	\$ 42,000	\$ 67,000
CWP Pump 250 HP	\$ 45,000	EA	4	\$ 180,000	\$ 350	HP	1000	\$ 350,000	\$ 530,000
DCHWP Pump 350 HP	\$ 55,000	EA	1	\$ 55,000	\$ 360	HP	350	\$ 126,000	\$ 181,000
ISTP Pump 200 HP	\$ 30,000	EA	2	\$ 60,000	\$ 360	HP	400	\$ 144,000	\$ 204,000
BAC Ice Banks	\$ 977,000	Vault	1	\$ 977,000	\$ 500,000	Vault	1	\$ 500,000	\$ 1,477,000
Plate & Frame HX - 2575 GPM	\$ 192,220	EA	2	\$ 384,440	\$ 35	GPM	7812	\$ 270,382	\$ 654,822
Plant Piping	\$ 450,000	LOT	1	\$ 450,000	\$ 270,000	LOT	1	\$ 270,000	\$ 720,000
Domestic Booster Pump	\$ 75,000	EA	1	\$ 75,000	\$ 10,000	EA	1	\$ 10,000	\$ 85,000
16" Concrete Equipment Pad	\$ 2	SF	430	\$ 860	\$ 10	SF	430	\$ 4,300	\$ 5,160
Tower Structural Steel (See Sch.)	\$ 125,000	EA	2	\$ 250,000	\$ 100,000	EA	2	\$ 200,000	\$ 450,000
Roofing					\$ 72,000	LOT	1	\$ 72,000	\$ 72,000
Initial Glycol Charge (Propolyne)	\$ 8.50	GAL	13,760	\$ 116,960	\$ 1	GAL	13760	\$ 13,760	\$ 130,720
Siemens Controls Expansion	\$ 1	LS	40000	\$ 40,000	\$ 51,440	LOT	1	\$ 51,440	\$ 91,440
Taxi Stand - Road Work	\$ 1	LS	50000	\$ 50,000	\$ 50,000	LS	1	\$ 50,000	\$ 100,000
crane	\$ 3,500	LS	2	\$ 7,000	\$ 850	EA	2	\$ 1,700	\$ 8,700
T&B	\$ -	EA	1	\$ -	\$ 15,000	EA	1	\$ 15,000	\$ 15,000
New switchgear G	\$ 53,150	EA	1	\$ 53,150	\$ 7,200	EA	1	\$ 7,200	\$ 60,350
4160 Volt Cable in Tray	\$ 83	LF	400	\$ 33,000	\$ 25	LF	400	\$ 10,000	\$ 43,000
CHP Pump RVSS	\$ 35,110	EA	2	\$ 70,220	\$ 5,150	EA	2	\$ 10,300	\$ 80,520
CWP Pump Motor & VFD	\$ 70,200	EA	4	\$ 280,800	\$ 7,100	EA	4	\$ 28,400	\$ 309,200
CT Fan VFD/Disconnect	\$ 26,500	EA	2	\$ 53,000	\$ 5,600	EA	2	\$ 11,200	\$ 64,200
Glycol Pump RVSS	\$ 70,200	EA	1	\$ 70,200	\$ 7,100	EA	1	\$ 7,100	\$ 77,300
CT-1/2 motor and VFD	\$ 30,200	EA	2	\$ 60,400	\$ 7,100	EA	2	\$ 14,200	\$ 74,600
DCHW Pump VFD	\$ 98,300	EA	1	\$ 98,300	\$ 10,100	EA	1	\$ 10,100	\$ 108,400
Pump Power Wire in conduit	\$ 43	LF	4000	\$ 172,000	\$ 16	LF	4000	\$ 64,000	\$ 236,000
CHP Pump Power wire in conduit	\$ 22	LF	280	\$ 6,160	\$ 11	LF	280	\$ 3,080	\$ 9,240
Tower Fan Wire/Conduit	\$ 55	LF	250	\$ 13,750	\$ 25	LF	250	\$ 6,250	\$ 20,000
Aeration Blowers Starter/Wire/Condu	\$ 1,665	EA	2	\$ 3,330	\$ 1,082	EA	2	\$ 2,164	\$ 5,494
Exist Swbd breakers	\$ 8,800	EA	8	\$ 70,400	\$ 771	EA	8	\$ 6,168	\$ 76,568
Chiller Oil Pump Breakers	\$ 1,385	EA	2	\$ 2,770	\$ 242	EA	2	\$ 483	\$ 3,253
Chiller Oil Pump Wire/Conduit	\$ 28	LF	120	\$ 3,300	\$ 15	EA	120	\$ 1,800	\$ 5,100
Lightning Protection - 16 Air Stations	\$ 4,000	LOT	1	\$ 4,000	\$ 2,000	LOT	1	\$ 2,000	\$ 6,000
Upgrade 4160V Swgr with CL fuses	\$ 1,900	EA	3	\$ 5,700	\$ 190	EA	3	\$ 570	\$ 6,270
Upgrade Swbd to 100 KAIC	\$ 65,000	EA	1	\$ 65,000	\$ 33,000	EA	1	\$ 33,000	\$ 98,000
CSF Plant									
Chiller Demolition	\$ -	LS	1	\$ -	\$ 7,500	EA	2	\$ 15,000	\$ 15,000
1500 Ton Centrifugal Chiller	\$ 550,000	EA	2	\$ 1,100,000	\$ 60,000	EA	2	\$ 120,000	\$ 1,220,000
Misc. pipe, fittings, etc.	\$ 7,500	LS	2	\$ 15,000	\$ 3,500	LS	2	\$ 7,000	\$ 22,000
Bypass pipe fittings, etc.	\$ 75,000	LS	1	\$ 75,000	\$ 5,000	LS	1	\$ 5,000	\$ 80,000
crane	\$ 3,500	LS	2	\$ 7,000	\$ 850	EA	2	\$ 1,700	\$ 8,700
Refrigerant monitor & alarms	\$ 7,500	EA	1	\$ 7,500	\$ 1,500	EA	1	\$ 1,500	\$ 9,000
Exhaust system allowance	\$ 5,000	LS	1	\$ 5,000	\$ 5,000	LS	1	\$ 5,000	\$ 10,000
75 HP tower fan motors	\$ 5,500	EA	2	\$ 11,000	\$ 1,200	EA	2	\$ 2,400	\$ 13,400
75 HP tower fan VFDs	\$ 9,500	EA	2	\$ 19,000	\$ 2,500	EA	2	\$ 5,000	\$ 24,000
Controls	\$ 12,500	EA	1	\$ 12,500	\$ 12,500	EA	1	\$ 12,500	\$ 25,000
Electrical	\$ 75,000	EA	1	\$ 75,000	\$ 50,000	EA	1	\$ 50,000	\$ 125,000
T&B	\$ -	EA	1	\$ -	\$ 5,500	EA	1	\$ 5,500	\$ 5,500
Connection / Miscellaneous									
24"CHW Distribution Pipe	\$ 1,000	LF	1000	\$ 1,000,000	\$ 1,250	LOT	1000	\$ 1,250,000	\$ 2,250,000
Controls - plant interfacing	\$ 125,000	EA	1	\$ 125,000	\$ 125,000	EA	1	\$ 125,000	\$ 250,000
Building Delta Tecontrols	\$ 300,000	EA	1	\$ 300,000	\$ 300,000	EA	1	\$ 300,000	\$ 600,000
Plant Modernization	\$ 100,000	EA	1	\$ 100,000	\$ 100,000	EA	1	\$ 100,000	\$ 200,000
CSF Rental Chiller					\$ 436,000	EA	1	\$ 436,000	\$ 436,000
SUBTOTALS				\$ 8,777,695				\$ 5,190,533	\$ 13,968,228

Materials Index 100.0%
Labor Index 100.0%
Job Conditions Index 100.0%

\$ 8,777,695

\$ 5,190,533

State Sales Tax% 6.0%
Local Sales Tax% 0.5%
Sales Tax (FL) \$ 526,687
Subtotal \$ 9,304,382

Contractor Labor & Material Cost \$ 14,494,915 ECM-1
Permit Fees @ 3% \$ 434,847
Contractor Subtotal \$ 14,929,762
Contingency 3.0% \$ 447,893
Guarantee 1.0% \$ 149,298
Prime Contractor Allowance 15.0% \$ 2,634,664
Contractor Total \$ 18,161,617

Professional Fees
Engineering Design/CPS 2.5% \$ 454,040
CM 2.5% \$ 454,040
Commissioning 1.0% \$ 181,616
General Conditions, Bonds, Insurance 2.0% \$ 363,232
Professional Fees Subtotal \$ 1,452,929

Rebate Potential
Rebate Per Ton/Shifted \$ 484
Tons Shifted 3,600
Estimated Rebate \$ 1,742,400

GROSS COST \$ 19,614,546 ECM-1 **NET COST** \$ 17,872,146

Energy Performance Contracting Program Status Report
County Contract No. 168
(June 1998-June 2008)

Dept.	Facility	Project Cost	Financed Cost	Annual Payments	Date of Last Payment	Annual Savings	Payback Years	Private Energy Vendor	Comments
MDCR	Women's Detention Center	\$502,141	\$696,025	\$69,602	Nov 2010	\$71,096	7.1	FPL	Completed in Dec 2009
GSA	Multiple GSA Facilities	\$1.2 million	\$1.4 million	\$155,140	Jan 2011	\$162,800	7.1	FPL	Completed in March 2001
GSA	Multiple GSA Facilities	\$2 million	\$2.3 million	\$255,284	Jan 2011	\$286,368	6.6	FPL	Completed in September 2001
MDCR	Multiple CRD Facilities	\$4.5 million	\$6 million	\$831,118	Feb 2012	\$730,216	6.2	FPL	Completed Dec 2002
GSA	Multiple GSA Facilities	\$832,042	\$1.2 million	\$145,429	Apr 2012	\$149,465	5.6	FPL	Completed in Feb 2004
MDCR & GSA	Justice Center Facilities	\$3.2 million	\$3.3 million	\$223,069	Dec 2019	\$224,807	14.0	FPL	Completed in March 2007
MDAD	MIA	\$3.3 million	\$4 million	\$403,302	Feb 2015	\$497,341	6.6	FPL	Completed in Jan 2006
MDAD	MIA	\$5.4 million	\$7 million	\$700,000	Sept 2016	\$747,616	7.4	FPL	Completed Nov 2006
GSA	Downtown GSA Bldg.	\$4 million	\$3 million	\$265,018	Mar 2018	\$387,100	10.5	FPL	Completed Jan 2008 ¹
GSA	Public Defender Bldg	\$155,830	\$206,967	\$20,697	Feb 2010	\$34,570	4.5	SIE	Completed Mar 2000
WASD	Multiple WASD Plants	\$1.4 million	NOT FINANCED			\$204,390	7.2	SIE	Completed July 2004
MDFR	Headquarters	\$1.3 million	\$2.2 million	\$147,390	Jun 2018	\$166,696	7.8	SIE	Completed Mar 2004
MDFR	Multiple Fire Stations	\$773,421	\$977,914	\$93,880	Jun 2014	\$106,195	7.3	SIE	Completed Nov 2005

¹ The project was not entirely financed; the county made cash contribution to reduce the financed amount.

Dept.	Facility	Project Cost	Financed Cost	Annual Payments	Date of Last Payment	Annual Savings	Payback Years	Private Energy Vendor	Comments
WASD	South District Wastewater Plant	\$805,200	NOT FINANCED			\$176,733	4.6	SIE	Completed Dec 2007
GSA	Multiple GSA Facilities	\$833,355	\$876,606	\$87,581	Jun 2015	\$117,952	7.1	SIE	Completed Mar 2006
GSA	Metro Annex Bldg	\$181,077	NOT FINANCED			\$22,989	7.9	CHE	Completed Mar 2004
MDPD	Headquarters	\$1.9 million	\$1.6 million	\$167,044	Sep 2012	\$163,570	11.4	CHE	Completed Jun 2004 ²
Libraries	Multiple Libraries	\$1.3 million	\$2 million	\$147,362	Mar 2016	\$151,309	8.6	CHE	Completed Jan 2005
MDCR	Turner Gifford Knight Center	\$2.4 million	Not Financed			\$239,970	10.1	CHE	Completed Oct 2006
PWD	Multiple PWD Facilities	\$149,043	N/A			\$20,005	7.5	CHE	Project will later be considered for bundling with other more viable projects.
Seaport	Port of Miami	\$273,457	N/A			\$42,448	6.4	CHE	Dept. conducted energy conservation projects rather than this project.
Seaport	Port of Miami	\$745,731	N/A			\$119,507	6.2	HW	Dept. conducted energy conservation projects rather than this project.
Seaport	Port of Miami	\$824,657	N/A			\$174,293	4.7	SIE	Dept. conducted energy conservation projects rather than this project.
MDPR	Multiple Park Facilities	N/A						Mult	An audit indicated that the department had little opportunities for

² The project was not entirely financed; the county made cash contribution to reduce the financed amount.

Dept.	Facility	Project Cost	Financed Cost	Annual Payments	Date of Last Payment	Annual Savings	Payback Years	Private Energy Vendor	Comments
									savings at their major facilities.
SWD	Multiple SWD Facilities			N/A				SIE	An audit indicated that the department had little opportunities for savings under the structure of the contract and available technology.
GSA	Multiple GSA Facilities	\$254,551		N/A		\$18,851	8.2	CHE	Project will later be considered for bundling with other more viable projects.
GSA	Multiple GSA Facilities	\$306,154		N/A		\$29,094	10.6	SIE	Project will later be considered for bundling with other more viable projects.
WASD	South District Wastewater Plant	\$826,081		Not Financed		\$173,514	4.8	SIE	Pending final action by County.
Human Services	Multiple DHS Facilities	\$1 million		Not Financed		N/A	N/A	SIE	Prohibited by federal funding.
MDHA	Multiple MDHA Facilities			N/A				Mult	Prohibited by federal funding.
Transit	Multiple MDT Facilities	\$901,570		N/A		\$118,256	7.6	CHE	Prohibited by federal funding
MDAD	MIA	\$11 million	\$15 million	\$1.2 million	Nov 2020	\$13 million	8.7	FPL	Scheduled for completion Nov 2009.
WASD	Central District Wastewater	\$1 million		N/A		\$167,282	6.0	SIE	Scheduled for completion Jun 2009.

Dept.	Facility	Project Cost	Financed Cost	Annual Payments	Date of Last Payment	Annual Savings	Payback Years	Private Energy Vendor	Comments
	Treatment Plant								
MDAD	MIA	\$3 million	N/A	\$220,708	N/A	\$302,286	9.2	SIE	Scheduled for completion Nov 2009.
GSA	Multiple GSA Facilities	\$2 million	\$2.2 million	\$222,606	Aug 2018	\$229,092	8.6	SIE	Scheduled for completion Nov 2009.
MDPD	Multiple MDPD Stations	\$1 million	N/A	\$125,640	N/A	\$127,931	7.9	CHE	Project authorized and commenced in Jan 2008.

Source: Resolution 740-08