



Miami-Dade County Board of County Commissioners

Office of the Commission Auditor

Legislative Analysis

Government Operations
Committee

September 08, 2009
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**

September 08, 2009

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

Item Number(s)

| |
|------|
| 3(A) |
| 4(A) |
| 4(B) |
| 4(C) |
| 4(G) |
| 4(I) |
| 4(J) |
| 4(N) |

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:
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Tiandra Sullivan, Legislative Analyst

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



Legislative Notes

Agenda Item: 3(A)
File Number: 091818
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 3, 2009
Type of Item: Amendment to Miami-Dade County Code
Prime Sponsor: Senator Javier D. Souto
Commission District: Countywide

Summary

This ordinance amends County Code, Chapter 21, Article IV, Section 21-30.01 Graffiti providing for:

- The appeal process for a violation under Section 21-30.01 (f)(3) will not extend or otherwise change the time period for corrective action of a violation. The proposed language establishes that **continuing penalties** provided within Sec. 21-30.01 and Sec. 8CC-4(c)¹ will accrue upon the expiration of the time provided in subsection (f)(3).

Once a violation is confirmed by Neighborhood Compliance Officers, the goal is to obtain prompt compliance. Certainly that is the goal and the expectation of any complainant. However, the enforcement rules currently available may not be adequate to collect fines from persistent or habitual violators who prefer to ignore and contest code enforcement actions, which freeze the continuing penalties and extend the process further under the County's current administrative appeal process.

Currently, Sec. 8CC-6(m) provides that if a hearing officer affirms the decision of the Neighborhood Code Compliance Officer with respect to a civil violation notice, the hearing officer, pursuant to Section 8CC-4(f), will determine a reasonable time period within which correction of the violation must be made, provided however, that such time period will be no more than thirty (30) days. If the hearing officer reverses the decision of the code inspector and finds the named violator not responsible for the Code

¹ Sec. 8CC-4 (c) Civil penalties and related terms construed: "Continuing violations" are those violations which remain uncorrected beyond the reasonable time period for correction contained in either the civil violation notice or the final order of the hearing officer, whichever is applicable. For each day of continued violation after the time for correction has run, an additional penalty in the same amount as that prescribed for the original violation will be added. The maximum total penalty for any one (1) continuing violation will be fixed at twenty (20) times the original penalty amount.

violation alleged in the civil violation notice, the named violator will not be liable for the payment of any civil penalty.

Continuing Violation Penalties

Continuing violation penalties accrue from the date of correction given in the violation notice until the correction is made and payment of the fine is received if a request for administrative hearing is not timely filed by a violator with the **Clerk of the Courts**.

- If a violator requests an administrative hearing on a correctable violation and loses his appeal, a hearing officer will determine a reasonable time period within which correction of the violation must be made, based on the considerations set forth in Section 8CC-3(d).
- If correction is not made within the period set by a hearing officer, continuing violation penalties will begin after the time for correction has run.
- **No continuing violation penalties will accrue during the time period from the date of the civil violation notice until the date of the administrative hearing, if the violator timely requests an administrative hearing to appeal the decision of a Neighborhood Compliance Officer.**
- Continuing violation penalties cannot be imposed by the hearing officer for uncorrectable violations.
- A violator may appeal a final order of a hearing officer for all violations by filing a notice of appeal in the Circuit Court Miami-Dade County, Florida, in accordance with the procedures and within the time provided by the Florida Rules of Appellate Procedure for the review of administrative action.

Background and Relevant Legislation

Graffiti has been proven to: (1) cause a decline in property value; (2) attract criminal activity in neighborhoods; (3) discourage residents and businesses from relocating to Miami-Dade County; and (4) high cost to local governments to keep their communities graffiti free. The Office of Neighborhood Compliance (ONC) is responsible for addressing code violations in response to the needs of the residents in unincorporated Miami-Dade County.

Currently, if a Neighborhood Compliance Officer finds graffiti on residential property:

- A fourteen (14) day corrective notice is posted on the property. If the violation on a residential property has not been corrected within the fourteen (14) day corrective period, a \$50 citation is then issued to the property owner or non-commercial properties. (Commercial property owners or their agents will take corrective action within two (2) business days)
- **The property owner has the right to appeal the citation within seven (7) days of receipt of the citation with the Clerk of the Courts. (Commercial property owners or their agents have two (2) business days from receipt or posting of the citation to file for an appeal hearing)**
- Should the property owner fail to request an appeal within seven (7) days or pay the civil citation within thirty (30) days, the fine will increase daily up to a maximum of \$1000.
- Property owners may also be subject to a lien on their property if they do not comply with the law.
- The County will enter onto private property and paint out graffiti if the property owner does not comply. The property owner will be charged for the cost of the graffiti removal.

According to ONC staff:

- 30 citations were issued in FY 2007-08 and 43 citations were issued in FY 2008-09 (YTD) for non-compliance;
- Of the 30 citations issued in FY 2007-08, two (2) were appealed, and of the 43 citations issued in FY 2009-08, one (1) was appealed;
- During FY 2007-08, the total amount collected for graffiti enforcement activities by the ONC was \$3,540; and during FY 2008-09 ONC collected \$3,820 for the same activity; and
- 129 warnings were issued in FY 2007-08 and 137 warnings were issued in FY 2008-09 (YTD) for non-compliance.

Chapter 8CC Schedule of Penalties

| Code Section | Description of Violation | Civil Penalty |
|-----------------------|---|----------------------|
| 21-30.01(d)(1) | Creating graffiti | 250.00 |
| | 2nd Offense | 500.00 |
| | Subsequent Offenses | 1,000.00 |
| 21-30.01(f) | Failure to remove graffiti from non-commercial property | 50.00 |
| 21-30.01(f) | Failure to remove graffiti from commercial property | 250.00 |
| 21-30.01(g)(1) | Possession of spray paint or marker to make graffiti | 250.00 |
| | 2nd Offense | 500.00 |
| | Subsequent Offenses | 1,000.00 |
| 21-30.01(g)(2) | Possession of spray paint or markers by minors on public property | 250.00 |
| | 2nd Offense | 500.00 |
| | Subsequent Offenses | 1,000.00 |
| 21-30.01(g)(3) | Possession of spray paint or markers on private property without consent of owner | 250.00 |
| | 2nd Offense | 500.00 |
| | Subsequent Offenses | 1,000.00 |
| 21-30.01(h)(1) | Sale of spray paint or markers to persons under eighteen (18) years of age | 100.00 |
| | Subsequent Offenses | 200.00 |
| 21-30.01(h)(2) | Failure to display graffiti warning signs or improper storage of spray paint or markers | 100.00 |

Prepared by: Michael Amador-Gil

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



Legislative Notes

Agenda Item: 4(A)
File Number: 092272
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 3, 2009
Type of Item: Extending Emergency Relief
Commission District: Countywide

Summary

This resolution extends the authority of Miami-Dade Building officials to extend stop work orders from October 1, 2006 through December 31, 2009 for suspended, abandoned construction or work that has not commenced as a result of the current economic crisis in new residential and commercial construction.

On January 22, 2009, the Board of County Commissioners (BCC), through Ordinance 09-10, approved emergency relief for construction projects in economic crisis for valid permits issued for the first time on October 1, 2006 with an and date on or before June 1, 2009. Ordinance 09-10 provides the following: (1) a stop work order suspends the work for a six (6) month period (relief period) and temporarily prevents the expiration of permits; (2) allows the Building Department (Building) to extend the period of abatement beyond the six month period; and (3) establishes the absence of credit as cause of economic hardship for the issuance of a stop work order may be justified.

- The resolution encompasses any new residential or commercial construction with a valid permit issued for the first time on October 1, 2006 or thereafter with an expiration dated on or before December 31, 2009.
- Once the relief period expires, the permittee may be reinstated with Building by submitting a reinstatement application and paying **\$78.71** for a permit extension fee.
- Permit holders will not be allowed to apply for an extension after December 31, 2009.
- Extended stop work orders will expire on or before June 30, 2010.
- During the relief period, any construction requiring a material change to the building plans or new evaluation, analysis or load calculations will require the issuance of a new permit.
- If the permit goes beyond the stop work order without being re-instated the permit will expire and all the provisions, penalties and fees associated to expired permits will come into effect.

According to the Building Department Annual Permits Issued Report, during FY 2006-07 there were a total of 70,681 permits issued. Of the 70,681, 8, 410 permits expired. When compared to FY 2007-08,

the number of permits issued decreased to 53,754. Of the 53,754, 6,128 permits expired. For FY 2009-08 through July 2009 there were a total of 34,530 permits issued. Of the 34,530, 3,776 permits expired through the end of June 2009.

Background and Relevant Legislation

The expiration of a building permit is costly and this provides temporary relief to the permittee; however, once the relief period expires, the revised Building fees and Florida Building Code provisions will apply. Building implemented a revised fee schedule on October 1, 2008, which increased fees by 25 percent.

On May 5, 2008, the County Manager provided the BCC with a report highlighting the current national economic conditions and the potential local economic impacts. The report revealed that activity in the residential construction and real estate sectors has been contracting for some time now with no signs of a turnaround. Specifically, residential construction authorized by permits was down by 86 percent in the fourth quarter of 2007 when compared to 2006.

According to the Beacon Council's August 21, 2009 – July 2009 Unemployment Figures, Miami-Dade County's unemployment rate for July 2009 was 11.6 percent. This is the same as June 2009 and an increase of 5.7 percent compared to July 2008. This is the first time this year that the unemployment rate did not increase compared to the previous month. **The construction sector continues to be of major concern. It experienced a decrease in employment of 7,300 jobs between July 2008 and July 2009.**

Prepared by: Michael Amador-Gil

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



Legislative Notes

Agenda Item: 4(B)

File Number: 092425

Committee(s) of Reference: Government Operations Committee

Date of Analysis: September 3, 2009

Type of Item: Grant from the United States Election Assistance Commission

Commission District: Countywide

Summary

This resolution retroactively authorizes the Mayor's action in applying for, receiving, and expending federal funds for the High School Mock Election Program (Program) through the U.S. Election Assistance Commission (EAC)¹. If approved by the EAC, the grant period would be from October 1, 2009 through September 30, 2011 and it would support the Miami-Dade Elections Department (Elections) with up to \$75,000. An additional \$37,287 would be made available by Elections through in-kind contributions (i.e. staff allocation, usage of equipment, ballot creation, and indirect costs to support the Program).

The short turnaround time imposed by the application deadline of June 30, 2009, did not allow sufficient time for the processing of the resolution and its submission to the Board of County Commissioners prior to the submission of the application.

¹ The EAC was established by HAVA. EAC is an independent, bipartisan commission charged with developing guidance to meet HAVA requirements, adopting voluntary voting system guidelines, and serving as a national clearinghouse of information about election administration. EAC also accredits testing laboratories and certifies voting systems, as well as audits the use of HAVA funds. Other responsibilities include maintaining the national mail voter registration form developed in accordance with the National Voter Registration Act of 1993. HAVA established the Standards Board and the Board of Advisors to advise EAC. The law also established the Technical Guidelines Development Committee to assist EAC in the development of voluntary voting system guidelines. The four EAC commissioners are appointed by the president and confirmed by the U.S. Senate. EAC is required to submit an annual report to Congress as well as testify periodically about HAVA progress and related issues. The commission also holds public meetings and hearings to inform the public about its progress and activities.

The Program grants are authorized under Section 295 of the Help America Vote Act of 2002 (HAVA). The Omnibus Appropriations Act for Fiscal Year 2009 (Public Law 111-8) provides funds for EAC to award competitive grants for operating a program of simulated elections for students in secondary education programs. The EAC awarded \$597,220 to organizations under this program in 2004, 2005 and 2008.²

According to staff,

- Optical scan voting machines will be used throughout the term of the Program, as this is the state-mandated method of voting.
- The FY 2009-10 proposed budget includes an estimate from General Services Administration for design and printing for the promotional brochures.
- The mock elections will be scheduled in accordance with the elections calendars to avoid any significant impacts on staffing. The FY 2009-10 proposed budget includes partial reimbursement of the salaries for staff involvement.
- The Miami-Dade School Board is expected to contribute personnel.
- This is a new program developed by the EAC, but Elections has conducted mock elections in high schools in years past, when the voting equipment was different.
- **All ballots, brochures, and election related materials must be printed in all three languages.**
- Training locations will be coordinated with the School system, and has not yet been determined.

Background and Relevant Legislation

According to the National Student/Parent Mock Election (NSPME) website, the program began as part of another project, the NBC Parent Participation TV Workshop, which sought to use television dramas to open communication between parents and children. NSPME soon discovered that the elections were a national event that could enable parents and children to talk about domestic issues. The first National Student/Parent Mock Election, in 1980, was run as part of the Parent Participation TV Workshop Project. In 1982, the National Student/Parent Mock Election was as a separate nonprofit, nonpartisan organization devoted to voter education. In 1982, 250,000 participated, in 1994, 2 million, in 1988, 3.5 million, in 1992, 5 million. In 1996 and 2000, a combined total of 10 million votes were cast. The largest number of Internet votes (over one million) cast in history was cast in the 2000 Mock Election. In 2004, over 4 million voted.

Miami-Dade Schools identified by Elections

| Educational Institution (High School) | High School Students Enrolled (FY 08-09) | School Board District | BCC District | Municipality or Unincorporated |
|--|---|------------------------------|---------------------|---------------------------------------|
| American Senior High School/Adult Education Center | 2,256 | 4 | 13 | Unincorporated MDC |
| Barbara Goleman Senior High School | 2,983 | 4 | 13 | Miami Lakes |

² EAC website

| | | | | |
|---|-------|---|----|--------------------|
| Booker T. Washington Senior High School | 1,216 | 2 | 3 | Miami |
| Coral Gables Senior High School/Adult Education Center | 3,343 | 6 | 7 | Coral Gables |
| Coral Reef Senior High School | 3,027 | 9 | 9 | Unincorporated MDC |
| Dr. Michael Krop Senior High School | 3,690 | 3 | 1 | Unincorporated MDC |
| Felix Varela Senior High School | 3,361 | 7 | 11 | Unincorporated MDC |
| G. Holmes Braddock Senior High School | 3,617 | 8 | 11 | Unincorporated MDC |
| Hialeah-Miami Lakes Senior High School/Adult Education Center | 2,276 | 4 | 13 | Hialeah |
| Hialeah Senior High School/Adult Education Center | 3,440 | 4 | 13 | Hialeah |
| Homestead Senior High School | 2,135 | 9 | 9 | Homestead |
| John A. Ferguson Senior High School | 4,151 | 7 | 11 | Unincorporated MDC |
| Mater Academy Charter High School | 1,457 | 4 | 12 | Hialeah Gardens |
| Miami Beach Senior High School/Adult Education Center | 2,023 | 3 | 4 | Miami Beach |
| Miami Carol City Senior High School | 2,091 | 1 | 1 | Miami Gardens |
| Miami Central Senior High School | 1,785 | 2 | 2 | Unincorporated MDC |
| Miami Coral Park Senior High School/Adult Education Center | 3,406 | 8 | 10 | Unincorporated MDC |
| Miami Edison Senior High School | 1,035 | 2 | 3 | Miami |
| Miami Jackson Senior High School/Adult Education Center | 1,475 | 2 | 3 | Miami |
| Miami Killian Senior High School | 3,305 | 6 | 8 | Unincorporated MDC |
| Miami Lakes Educational Center | 1,617 | 4 | 13 | Miami Lakes |
| Miami Norland Senior High School | 1,725 | 1 | 1 | Miami Gardens |
| Miami Northwestern Senior High School | 2,094 | 2 | 2 | Unincorporated MDC |
| Miami Palmetto Senior High School/Adult Education Center | 3,167 | 9 | 8 | Pinecrest |
| Miami Senior High School/Adult Education Center | 2,897 | 6 | 5 | Miami |
| Miami Southridge Senior High | 3,062 | 9 | 9 | Unincorporated |

| School | | | | MDC |
|---|---------------|---|-----|--------------------|
| Miami Springs Senior High School/Adult Education Center | 2,199 | 5 | 6 | Miami Springs |
| Miami Sunset Senior High School/Adult Education Center | 2,771 | 8 | 10 | Unincorporated MDC |
| North Miami Beach Senior High School | 2,721 | 3 | 4 | Unincorporated MDC |
| North Miami Senior High School/Adult Education Center | 2,674 | 1 | 2 | North Miami |
| Robert Morgan Education Center | 2,379 | 7 | 9 | Unincorporated MDC |
| Ronald W. Reagan Doral Senior High School | 1,999 | 5 | 12 | Doral |
| South Dade Senior High School/Adult Education Center | 2,956 | 9 | 8 | Unincorporated MDC |
| South Miami Senior High School | 2,510 | 8 | 7 | Unincorporated MDC |
| Southwest Miami Senior High School/Adult Education Center | 2,843 | 8 | 10 | Unincorporated MDC |
| Westland Hialeah Senior High School | 1,259 | 4 | 13 | Hialeah |
| William H. Turner Tech | 1,745 | 2 | 2 | Unincorporated MDC |
| TBD | TBD | | TBD | |
| TBD | TBD | | TBD | |
| TBD | TBD | | TBD | |
| Potential Students Outreach Total | 92,690 | | | |

Prepared by: Michael Amador-Gil

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 4(C)
File Number: 092045
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 3, 2009
Type of Item: Contract Award

Summary

This resolution approves the award of an Energy Performance contract to Florida Power & Light Services, LLC. (FPL Services) in the amount not to exceed \$6,046,925. The scope of work includes 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 .

This item also details several revisions to the resolution introduced during the June 9, 2009, Government Operations (GO) Committee meeting.¹

A total of 18,552 fixtures will either be completely replaced or retrofitted through this contract.

The contract provides that FPL Services will:

- Furnish a Construction Bond for the full cost of the project until the conservation measures is accepted by the County;
- Provide the County an annual reconciliation of the Cost Savings;
- Be liable for any shortfalls and will pay the County the amount of a shortfall from the time the Annual Reconciliation first revealed a shortfall and the time of repayment. The administration is relying on the guaranteed annual energy and related maintenance savings to make the annual payments;

¹Contract amount was \$6,528,096; (2) installations of a 40KW DC capacity Solar Photovoltaic power system (Solar Panels) was removed in the revised resolution totaling \$437,988; (3) includes the County Mayor or designee authorizing to approve modifications to the scope of work with conditions (See hand written page 3); (4) expected reductions of electricity costs were reduced from \$690,000 to \$680,000 per year; (5) the Energy Warranty Period was reduced by one (1) year (the original contract mentioned a 12 year Energy Warranty Period. This contract award mentions 11 years of savings guaranteed; (6) the contract award date was modified from April 27, 2009, to June 23, 2009; (7) Section 4.1 Installations of CMs includes Section 4.1 (d). This new section authorizes the County to request changes altering or deducting from the work listed in Schedule A; and (8) Section 5.5 Financing includes the Tax-Exempt Municipal Lease-Purchase Agreement. This new section states that unless a more favorable financing vehicle is found once this contract is executed, it is expected that this financing vehicle will be a Tax-Exempt Municipal Lease-Purchase Agreement.

- Remain responsible for the professional and technical accuracy of all services performed throughout the term of the contract;
- Conduct training for building service staff, personnel operating and maintaining the lighting systems, and engineering staff and General Services Administration (GSA) staff; and
- Maintain a minimum warranty of one year in parts and labor that will apply to all the equipment, except that FPL Services agrees to warranty certain specified equipment for longer terms.

The contract provides that the County will:

- Allow draws from a pre-established escrow account to go to the FPL Services as set forth in Schedule D, based on completed milestones previously established; and
- Upon execution of this contract, the County and FPL Services agree to, pursue a separate financing agreement with a third party in order to allow the County to finance this acquisition. This vehicle will constitute the County's source of funding for its obligations under this contract. A rate of 4.6%, based on a preliminary, informal quote, has been used as an estimate for the financial calculations.

Section 4.2 of the contract addresses the Acceptance of the Conservation Measure Groups: Once the CM Group has substantially completed their work, FPL Services will provide the County a written request for a substantial completion inspection. Within 10 business days from receipt of FPL Services' written request, the County will make an inspection to determine whether the CM Group installation is complete.

- **Question: If a total of 18,552 fixtures will either be completely replaced or retrofitted, how will the County conduct inspections?**

According to GSA staff, Building permits are always pulled, which is the primary means by which to ensure that the fixtures are properly installed. In terms of proper counts of fixture types, the project is performed over 18 months. Invoices are submitted on a periodic basis, e.g. monthly or bimonthly, and the County inspections of lighting will be conducted on an incremental basis by County staff as that occurs. Staff looks at all areas that are to be retrofitted, makes sure that the new fixtures and/or lights are installed everywhere they are supposed to, that they are of the pre-agreed type, and that they are lit.

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

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

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

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. The qualified provider must be selected in compliance with s. 287.055, F.S., which provides for competitive bidding requirements for state agencies wanting to procure professional architectural, engineering or surveying and mapping services.⁴

The following questions were answered by GSA and the Miami-Dade Aviation (MDAD) staff:

- Has the County and FPL Services finalized their financing agreements? *The County has not received a final interest rate since, as indicated, the final municipal lease rate is not offered until after the contract is approved. At that time, the Energy Service Company (ESCO) will obtain at least three quotes for rates and terms. If the rate and terms are not to the County’s satisfaction, the contract provides the County with the option of not proceeding with the project.*
- How will the current market conditions affect the interest rate costs and potential savings in this contract? *The rate used in the cash flow indicates market conditions as of June 15th.*
- Are the figures in Schedule D Compensation to Company and Deliverables (handwritten page 86) informal expenditure costs to the County? Please indicate if these are preliminary figures. *The figures are neither informal nor preliminary, but are the actual costs that the County will incur, and which FPL cannot exceed. Those charges will be paid from the money (loan) the bank advances, and which the County will later repay to the Bank through the lease, with interest.*
- What is the estimated debt obligation payment from the County to the lender? *Per the cash flow, and based on the estimated interest rate and terms, the total debt obligation would be \$8,228,492, over the eleven-year term, an average of just over \$748,000 per year. With respect to the phrase “estimated debt obligation payment,” note that a tax-exempt lease-purchase agreement does not constitute a long-term debt obligation because of non-appropriation language that is written into the agreement. This language limits the payment obligation to the organization’s current operating budget period. Therefore, if for some reason future funds are not appropriated, the equipment is returned to the lender, and the repayment obligation is terminated at the end of the current operating period without placing any obligation on future budgets.*
- Does the County anticipate any Annual Excess Savings that exceeds total annual contract payments to FPL Services? *Yes, per the cash flow, and based on the estimated interest rate and terms, the annual excess savings would be \$1,000 per year on years 1 through 10, and \$580,133 in Year 11.*

³ State of Florida Department of Management Services

⁴ Section 489.145(4), F.S.

- Why can't Miami-Dade Aviation staff perform the work based of FPL's audit submitted in September 2008? *Legally, they can do so. In most cases, however, participating departments find it significantly more beneficial to utilize the ESCO's services. Primary reasons include:*
 1. *No departmental capital, grant or loaned funds are required in order to perform the work, thus freeing those dollars – if they exist – to be used for other types of projects.*
 2. *Operating dollars are generally NOT viable funding sources unless the payback on a particular improvement is less than one year; otherwise, the cost will exceed whatever amount is budgeted for the electricity and maintenance related to the particular improvement.*
 3. *The sheer magnitude of this project – over 18,000 fixtures – exceeds the capacity of departmental resources to perform the work.*
 4. *The ESCO is guaranteeing the savings. If the County performs the work, there is no such guarantee.*

- Can the energy performance contract help the Miami-Dade Aviation Department earn an ENERGY STAR or LEED certification? *There is no specific Energy Star category for Airports. Moreover, because of the complex layout and variety of uses within an older airport facility such as Miami International Airport (MIA), it is highly unlikely that MIA could earn an Energy Star rating in other more traditional building categories. The improvements made under this performance contract will contribute to LEED-EB certification, if sought, although it should be noted that such certification requires substantial contributing actions in other operating and maintenance areas, such as improvements in commuter transportation, heat island reduction, renewable energy production, water efficiency improvements, etc.*

- Provide the most recent improvements in MIA terminals for which is being proposed to replace the lighting fixtures through this contract. *The recent improvements accomplished by this contract (phase 1 pre-security) are completely independent of the proposed effort (phase 2 post-security). No modifications or changes are planned to any work accomplished under phase 1 as part of the proposed phase 2 work. Phase 1 work entailed re-lamping approximately 1.75 million square feet of pre-security terminal, approximately 50,000 units. Phase 2 entails the remainder work to complete this Central Terminal effort by re-lamping approximately 2 million square feet of post-security terminal or approximately 38,000 units.*

- How may this contract increase the enplaned passenger cost? *This is a performance based contract. No capital investment is required of MDAD. Instead, the capital cost is paid for (over a period of time) with the energy savings attained by the re-lamping. We are not required to pay any more than we pay now for energy, therefore, this arrangement does not increase the cost per enplaned passenger (CEP).*

Additional Notes

During the June 9, 2009, GO Committee meeting, the County Attorney's Office mentioned that the item should reflect Commission District 6; not District 5. Also, the formula for calculating lighting energy and demand savings on handwritten page 77 was not simplified. The Chairman of the GO committee requested that the formula be simplified.

According to GSA staff, the Commission District designation will be corrected on the record.

GSA staff interpreted the Chair's request to mean that the formula needed to be clarified or explained. A sentence was added to the section in that effort. The formula itself is a required contractual provision and a standard reference in the performance contract industry used to define to the parties – in a more precise way than can generally be achieved by narrative text – that the total Kilowatt-Hours saved is measured or determined by the aggregate value of all the differences between the "before" and the "after" energy usage of each group of fixtures in the retrofit. Each fixture group is made up of lamps of the same "before" and "after" lamp type and number of lamps in the fixture, and same number of operating hours. Since there are roughly 60 different fixture groupings, all of which have individual "before" and "after" values, the formula would require about 60 iterations to cover without the Sigma or summation sign ("Σ").

Prepared by: Michael Amador-Gil

MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 4(G)
File Number: 092313
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 3, 2009
Type of Item: Exchange of County Owned Property
Commission District: 3

Summary

This resolution authorizes the exchange of County-owned property located at 1785 N.W. 47 Street, Miami, Florida for property owned by Fernando S. Ruiz, located at 1871 N.W. 41 Street, Miami, Florida through the County's Infill Housing Initiative¹; and authorizes the Mayor to execute a County Deed for such purpose. The City of Miami set conditions on the land owned by Fernando Ruiz that removing large trees from 1871 N.W. 41 Street was not allowed unless they are replaced by a significant amount of smaller trees. **Lot No. 5 was purchased on May 11, 2004.**

If approved, the land currently owned by Fernando Ruiz may: (1) enter the County's inventory of excess properties (2) be disposed by the County by offering the land to the City of Miami for a park; and (3) sell the property to the adjacent property owner since it cannot be developed because of the conditions set by the City of Miami mentioned above.

Background and Relevant Legislation

On May 2, 2000, the Board of County Commissioners (BCC), through Resolution R-432-00, authorized the County Manager to establish and implement actions and processes necessary to more efficiently administer Miami-Dade County's Infill Housing Initiative. This included the authorization to transfer ownership of County-owned lots to not-for-profit development corporations that are ready, willing, and

¹The Infill Housing Initiative is administered by the General Services Administration (GSA) through its Infill Housing Program. The purpose of the Infill Housing Initiative is to increase the availability of affordable homes for low and moderate income families; maintain a stock of affordable housing; redevelop urban neighborhoods by eliminating the blight of vacant, dilapidated or abandoned properties; equitably distribute homeownership opportunities within the Infill Target Areas; and generate payment of ad valorem taxes. The Infill Housing Initiative provides incentives to encourage developers to build affordable housing.

able to develop housing units as prescribed by the County Code. In addition, the BCC approved Chapter 17, Article VII of the County Code, which created a methodology for handling infill housing, including identification of property and adjacent property, acquisition of property, 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.

According to the Deed accompanying the resolution, the property will be developed for affordable housing in accordance with the requirements of the Infill Housing Initiative and its guidelines. The Deed further mentions that the affordable housing developed on 1785 N.W. 47 Street will be sold **to a low or moderate income household** (12 or less of median income) and under no circumstances will the sale price of the home exceed \$205,000.00. **On December 2, 2008, the maximum sales price of \$205,000 was set by the BCC. (See File No. 090353; resolution no. not available)**

Question: Why weren't the conditions set by the City of Miami presented earlier?

Question: The BCC approved a portion of Documentary Stamp Surtax proceeds be used for homeownership activities such as spot loans, **infill housing** and homeownership activities. What is the remaining balance of funding for infill activities?

GSA is applying the 2008 Assessed Value figures provided by the Property Appraisers Department for both properties because the 2009 Assessed Value figures were not available when the item was prepared.

Median Household Income FY 2008²

| Jurisdiction | Area Median Income |
|--|--------------------|
| Miami-Dade | \$49,200 |
| Broward County | \$64,000 |
| West Palm Beach County | \$66,000 |
| Cape Coral-Fort Myers | \$59,900 |
| Deltona-Daytona Beach-Ormond Beach, Fl | \$52,300 |
| Jacksonville, Fl | \$63,900 |
| Tampa-St Petersburg-Clearwater, Fl | \$56,500 |
| Florida | \$57,200 |
| United States | \$61,500 |

HUD 2008 50%, 80% and 120% of Area Median Income threshold by Household Size for Miami-Dade³

| % of AMI | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons |
|-------------|----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 50% | 21,100 | 24,100 | 27,150 | 30,150 | 32,550 | 34,950 | 37,400 | 39,800 |
| 80% | 33,800 | 38,600 | 43,450 | 48,250 | 52,100 | 55,950 | 59,850 | 63,700 |
| 100% | 50,650 | 57,900 | 65,100 | 72,350 | 78,150 | 83,950 | 89,750 | 95,500 |

Prepared by: Michael Amador-Gil

² US Department of Housing and Urban Development

³ [Huduser.org/publications/commdevl/nsp.html](http://huduser.org/publications/commdevl/nsp.html)

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Legislative Notes

Agenda Item: 4(I)
File Number: 092337
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 3, 2009
Type of Item: Agreement
Commission District: 12

Summary

This resolution authorizes the execution of an Agreement between Miami-Dade County, the City of Hialeah (City) and AMB I-75 LLC (AMB) located west of the I-75 Extension, North of N.W. 170 Street, and Southeast of the Florida Turnpike Extension. The Agreement provides for the **temporary release** of a portion of Miami-Dade Water and Sewer Department's (MDWASD) water and sewer service areas to the City of Hialeah to provide water and sewer service for AMB's proposed project. The MDWASD does not have the infrastructure installed to service the AMB property.

Once AMB completes the water and sewer infrastructure for the area, AMB will convey portions of the finished and inspected infrastructure to the City and the County, pursuant to the Agreement.

AMB requires water and sewer services by December 2009.

Agreement highlights:

- AMB at its sole cost and expense will install the water and sewer infrastructure from the existing City water and sewer mains to temporarily serve the AMB property and other adjacent properties.
- **The City will be responsible for reading the meter, billing and collecting applicable charges from AMB for retail water and sewer services for the duration of the temporary release.**
- The design and construction of all water sewer facilities to be installed within the temporarily released area must conform to the MDWASD general standards and be approved by the MDWASD.
- AMB will install a private collection system and private pump station which will be maintained by AMB.
- **Once the MDWASD installs the water and sanitary sewer infrastructure with sufficient capacity, the contract will terminate.**

AMB Business Portfolio

AMB Property Corporation, a Maryland corporation, organized in 1997, owns, acquires, develops and operates industrial properties in key distribution markets tied to global trade in the Americas, Europe and Asia. AMB's global headquarters are located at Pier 1, Bay 1, San Francisco, California 94111. Other principal office locations are in Amsterdam, Boston, Chicago, Los Angeles, Mexico City, Shanghai, Singapore and Tokyo. As of December 31, 2008, AMB employed 645 individuals: 171 in San Francisco headquarters, 46 in the Boston office, 54 in the Tokyo office, 58 in Amsterdam office, 64 in Mexico City office and the remainder in other offices.

As of June 30, 2009, AMB owned, or had investments in, on a consolidated basis or through unconsolidated joint ventures, properties and development projects expected to total approximately 156.9 million square feet (14.6 million square meters) in 48 markets within 14 countries.

Prepared by: Michael Amador-Gil

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 4(J)
File Number: 092342
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 8, 2009
Type of Item: Contract
Commission District: 12

Summary

This resolution approves the execution of a contract with the City of Hialeah Gardens (City) for the provision of wholesale sewage disposal service by the Miami-Dade Water and Sewer Department (MDWASD) to the City for a twenty-year period. The City has requested an additional point of connection at County Pump Station No. 418. The pump station is located at 3330 West 76 Street.

The item provides the sewage disposal revenue received by MDWASD in FY 2008; however, the item does not include the combined revenues to MDWASD from the two (2) current sewage collection systems and the new sewage collection system at Pump Station No. 418.

Contract highlights:

- The City will bear the cost and expense of establishing the connections, easements, and provide necessary labor and materials.
- The City will supply meters and transfer ownership to the County.
- The operation and maintenance of all facilities on the City's side of the force main will be the sole responsibility of the City.
- Within 90 days following the execution of this Contract and before January 1 thereafter, the City will submit projected annual capacity demands.
- The City will pay the County a monthly charge for transmission, treatment, including reclamation, and any other disposal methods of all sewage received.
- The County reserves the right to revise or modify the service rate and method of calculation from time to time as may be approved by the Board of County Commissioners.

The following questions were answered by MDWASD staff:

Does MDWASD anticipate raising these fees in the next five years? *Yes, MDWASD anticipates raising the fees.*¹

Does MDWASD charge the City a surcharge for future capital improvement projects? *No*

Which MDWASD plant will be servicing the City? *Please include the plants longevity and capacity to service this area? All of MDWASD's plants are interconnected; however, these flows are designated to the North District Wastewater Plant. FY 2008 - the **capacity** of the County's three wastewater treatment plants = 375 MGD, **permitted** at 368 MGD and actual flows = **296 MGD**.*

Overall operations and FY 2009-10 Proposed Budget

The MDWASD serves more than 418,000 retail water customers and 336,000 retail wastewater customers and provides wholesale water service to 13 municipalities and wholesale wastewater service to 11 municipalities. The FY 2009-10 Proposed Budget includes additional resources for the department to prepare master plans and transmission systems models, to implement new systems to asset management allowing for decreased response time to emergencies and improved monitoring, to implement the Pump Station Optimization Program, to operate the High Level Disinfection expansion at the South District Wastewater Treatment Plant, and to repair and maintain both the existing system and the expanded facilities. Additional funding will be transferred to the renewal and repair funds for delayed or postponed capital projects (\$15.757 million). An additional 146 positions will be added to the department to support these efforts. (See Volume 1, Page 27)

MDWASD Sustainable Initiatives FY 2009-10 Proposed Budget, Volume 1, Page 164

- In FY 2009-10, MDWASD will continue implementation of wastewater system capital projects (\$337.5 million in FY 2009-10, \$4.7 billion all years), including but not limited to BBC Bond Program projects (\$7.4 million in FY 2009-10, \$94.6 million all years);
- Major wastewater system projects include Wastewater Treatment Plants-Effluent Reuse (\$33.9 million in FY 2009-10, \$1.3 billion all years);
- South District Wastewater Treatment Plant- High Level Disinfection (\$147.6 million in FY 2009-10, \$591.1 million all years);
- Peak Flow Management Facilities (\$16 million in FY 2009-10, \$1.1 billion all years);
- Sanitary Sewer Systems Extension (\$21.3 million in FY 2009-10, \$140.6 million all years);
- Outfall Legislation (\$1 million in FY 2009-2010, \$475 million in all years);

¹ **The FY 2009-10 Proposed Budget mentions that the water and wastewater rates are being increased by 18 percent for residential water and sewer and 17 percent for wholesale water, 14.6 percent for Hialeah wholesale water, and 21 percent for wholesale sewer.** The retail adjustment represents a six percent increase for the maintenance index determined by the United States Department of Labor, Bureau of Labor Statistics, 2008 Consumer Price Index (CPI), All Urban Consumers, Water and Sewerage Maintenance, US City Average and another 12 percent to cover the cost of additional capital and debt service obligations. For the average residential customer who uses 6,750 gallons per month, the annual increase is \$77.16 or \$6.43 per month. Wholesale rates are calculated on a cost basis and represent the increased cost of the provision of regional services. The municipalities and other wholesale customers have been informed of this rate increase and the adjustments have been reviewed with their representatives at a meeting held in June. (See Volume 1 , Page 20)

- North District Wastewater Treatment Plant (\$3.3 million in FY 2009-2010; \$118 million in all years); and
- Central District Wastewater Treatment Plant (\$12.3 million in FY 2009-2010, \$101 million in all years)

Prepared by: Michael Amador-Gil

**MIAMI-DADE COUNTY
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Legislative Notes

Agenda Item: 4(N)
File Number: 092449
Committee(s) of Reference: Government Operations Committee
Date of Analysis: September 3, 2009
Type of Item: Amendment
Commission District: Countywide

Summary

This resolution increases the blanket amount authorized for the Miami-Dade Water and Sewer Department (MDWASD) from \$75,000 to \$200,000 per year to secure independent, certified property appraisers to perform property appraisals on an as-needed basis, in accordance with established County appraisals selection procedures.

According to MDWASD staff, the department has upcoming projects such as the West District Reclamation Plant and the Government Cut Project requiring additional appraisers.

Legislative History

The Board of County Commissioners (BCC), through 1102-07, approved increasing the blanket amount authorized for the Miami-Dade Public Works Department to secure independent, certified property appraisers to perform property appraisals on an as-needed basis, in accordance with established County appraiser selection procedures, from **\$100,000 to \$250,000**.

Background and Relevant Information

In the past, the BCC has approved blanket appraisal authorizations for County departments such as General Services Administration, Park and Recreation, Miami-Dade Transit and Public Works Department. Blanket authorizations will enable staff to secure appraisal services in substantially less time, improving effectiveness and efficiency in carrying out various real estate planning, leasing, and acquisition, sale, development and management functions.

Question: Has MDWASD staff examined if appraisals may be conducted with in-house staff?

Prepared by: Michael Amador-Gil