

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members Board of County Commissioners

DATE: **October 7, 2003**

FROM: George M. Burgess
County Manager



SUBJECT: Ratification of Manager's
Execution of Contract for
Authority of Jurisdiction
For Elevators, Escalators,
Moving Walks and other
Related Equipment

RECOMMENDATION:

It is recommended that the Board ratify the Manager's action executing the attached contract with the State of Florida for the authority of jurisdiction for elevators, escalators, moving walks and other related equipment, pursuant to Section 399.13, Florida Statutes.

BACKGROUND:

The State of Florida, through its Department of Business and Professional Regulation (DBPR), is the only authority of jurisdiction for elevators, escalators and related equipment throughout the State of Florida. DBPR may contract with local counties and municipalities pursuant to Section 399.13, Florida Statutes.

In 2000, the State Legislature altered the law significantly, creating some legal obstacles which neither the County nor DBPR were able to resolve. By mutual consent, the County's contract with the State was cancelled in September 2002. For the past year, the State was the only authority for all elevators, escalators and related equipment that were formerly regulated by Miami-Dade County. Staff, along with the County Attorney's Office, has been diligently negotiating with the State of Florida for months to regain the authority of jurisdiction for elevators.

The attached contract grants Miami-Dade County the authority for the issuance of annual certificates of operation for existing equipment; permits for new construction, repairs and modernization; and the issuance of Certificates of Operation of the regulated equipment. This authority applies throughout Miami-Dade County, except for within the political subdivisions of the City of Miami and City of Miami Beach, each of which has also contracted with the State for jurisdictional authority. Miami-Dade County also retains authority over its own equipment throughout the County, irrespective of location.

Proper maintenance and inspection of elevators in a timely manner is critical to the safety of all users, and the County's oversight will best ensure proper operation of the equipment. New installations at Miami International Airport as well as the Performing Arts Center are currently on hold, pending the County's receipt of jurisdictional authority. As such, it is in the County's best interest to execute the attached contract as quickly as possible, so that the County may resume jurisdictional authority September 1, 2003, and begin addressing the outstanding workload.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** October 7, 2003

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 16(A)(20)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved _____ Mayor

Agenda Item No. 16(A)(20)

Veto _____

10-7-03

Override _____

RESOLUTION NO. _____

RESOLUTION RATIFYING THE COUNTY MANAGER'S ACTION EXECUTING A CONTRACT WITH THE STATE OF FLORIDA FOR THE AUTHORITY OF JURISDICTION FOR ELEVATORS, ESCALATORS, MOVING WALKS AND OTHER RELATED EQUIPMENT, AS AUTHORIZED BY SECTION 399.13, FLORIDA STATUTES; AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, at the County Commission meeting of July 8, 2003 this Board authorized the County Manager to administer County business during the period of July 25, 2003 through August 26, 2003 [Agenda Item No. 11(A)1]; such action(s) taken to be in accordance with the policies and procedures established by the Board of County Commissioners and be submitted to the Board for ratification at the County Commission meeting of October 7, 2003,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves and ratifies the County Manager's action executing a contract with the State of Florida for the authority of jurisdiction for elevators, escalators, moving walks and other related equipment, as authorized by Section 399.13, Florida Statutes, in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to exercise any and all other rights conferred therein.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Dr. Barbara Carey-Shuler, Chairperson	
Katy Sorenson, Vice-Chairperson	
Bruno A. Barreiro	Jose "Pepe" Diaz
Betty T. Ferguson	Sally A. Heyman
Joe A. Martinez	Jimmy L. Morales
Dennis C. Moss	Dorrin D. Rolle
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of October, 2003. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Hugo Benitez



**INTERAGENCY AGREEMENT
BETWEEN THE DEPARTMENT OF BUSINESS AND PROFESSIONAL
REGULATION, DIVISION OF HOTELS AND RESTAURANTS
AND MIAMI-DADE COUNTY**

**FOR DELEGATION OF STATUTORY AUTHORITY
PURSUANT TO CHAPTER 399, FLORIDA STATUTES,
TO REGULATE AND ENFORCE ELEVATOR SAFETY**

DBPR AGREEMENT #60

The Department of Business and Professional Regulation, Division of Hotels and Restaurants (hereinafter "Division"), and Miami-Dade County (hereinafter "Contractor"), enter into this agreement in accordance with the provisions of section 399.13, Florida Statutes, whereby Contractor will issue construction permits, certificates of operation, and will enforce the Elevator Safety Code on elevator equipment located within Miami-Dade County not already subject to a contracted delegation of authority pursuant to the requirements of Chapter 399, and Rule Chapter 61C-5, Florida Administrative Code. This agreement is subject to the following conditions:

1. The Miami-Dade County General Services Administration will administer this contract on behalf of Contractor. Contractor shall comply with the requirements of this agreement and all provisions and obligations contained in and imposed by Chapter 399, Florida Statutes, and Chapter 61C-5, Florida Administrative Code. Contractor may collect and retain all fees and fines, including the statutorily authorized fees and fines which would otherwise be collected by the Division, associated with performance of the obligations. These fees and fines may not exceed those established in Chapter 399, Florida Statutes or Chapter 61C-5, Florida Administrative Code. This agreement neither prohibits nor endorses fees for services not otherwise prohibited in Chapter 399, Florida Statutes or Chapter 61C-5, Florida Administrative Code, including actual inspection services provided by Contractor, as long as any such fees are separate from the certificate of operation or permit fees.

2. This agreement incorporates in full, as if fully set forth herein, the current provisions of Chapter 399, Florida Statutes, and Chapter 61C-5, Florida Administrative Code, and future amendments thereto.

3. Contractor shall ensure that elevators included in this delegation of authority are inspected by a Certified Elevator Inspector certified by the Division in accordance with Chapter 399, Florida Statutes, and Chapter 61C-5, Florida Administrative Code. Each inspection shall be recorded on an inspection report form approved by the Division [Exhibit A or subsequent versions]. Contractor assumes responsibility for compliance with elevator inspection standards and for correcting deficient performance by inspectors whether independent or employees of the Contractor.

4. As provided in Section 399.13, Florida Statutes, Contractor may require elevator inspections to be performed by its own employees that are Certified Elevator Inspectors, or may permit elevator inspections to be performed by private Certified Elevator Inspectors.

5. Contractor agrees to enforce the provisions of Chapter 399, Florida Statutes, and Chapter 61C-5 Florida Administrative Code, and will take action as provided by Chapter 399, Florida Statutes, to procure compliance. All enforcement activities shall be conducted in accordance with the provisions of Chapter 399, Florida Statutes, and Chapter 61C-5 Florida Administrative Code. Contractor shall report all enforcement action to the Division in a manner prescribed by the Division.

6. Contractor agrees to provide the Division a monthly activity report in a format prescribed by the Division [sample attached as Exhibit B] including, but not limited to, the number of permit applications received, permits issued, inspections conducted or reported by private inspectors, and enforcement actions initiated. Contractor shall maintain accurate records and documentation, including, but not limited to, copies of all permit applications received, all inspection reports and certificates of operation issued, and shall allow the Division to inspect all

records, electronic or otherwise, related to the elevator program operated by Contractor pursuant to Section 399.13, Florida Statutes.

7. Contractor acknowledges that all records and reports required by this agreement and Chapter 399, Florida Statutes, are subject to public access in accordance with Chapter 119, Florida Statutes, unless exempted, and must be maintained by Contractor for a period of five years or in accord with the latest retention schedule filed by the Division with the Department of State.

8. Contractor shall permit the Division access to all documents, papers, letters, or other materials relating to any actions taken pursuant to authority delegated under this agreement. If Contractor refuses such access, the Division may petition any court for an order compelling production of or access to such documents. Contractor's refusal to allow access by Division to documents is basis for the Division's immediate cancellation of this agreement.

9. The Division may, at any time, verify by inspection or other means Contractor's compliance with standards applicable to this agreement or otherwise assess the effectiveness of Contractor's elevator program and enforcement activities, and the quality and accuracy of inspections performed. Division shall notify Contractor in writing of any program deficiencies observed and include appropriate documentation. Contractor shall remedy the deficiencies within thirty days of the notice.

10. Section 399.125, Florida Statutes, requires that any accident occurring on or in an elevator be reported by the elevator owner. The report must be made within five working days of the accident on DBPR HR-7016, Elevator Owner's Accident Report Form, [Exhibit C or subsequent versions]. For accidents in Contractor's jurisdiction, reports shall be made to Contractor, and Contractor will provide copies to the Division within thirty days of Contractor's receipt.

11. The Division retains all authority to issue credentials under Chapter 399, Florida Statutes, to registered elevator companies, certified elevator inspectors, certified elevator technicians, or

other such business or professional credential established by future legislation. Contractor may not issue or take action against such credentials. Contractor shall report to the Division all known or suspected violations of Chapter 399, Florida Statutes, or the Rule Chapter 61C-5 Florida Administrative Code, caused or suspected to be caused by credentialed businesses or individuals.

12. Contractor may grant variances to Chapter 399, Florida Statutes and Chapter 61C-5, Florida Administrative Code, as prescribed therein, and as consistent with Chapter 120, Florida Statutes, but the Division remains the final arbiter of any provisions therein.

13. Pursuant to this agreement, Contractor acts in the place of the Division and not on behalf of the Division as an agent or representative. Contractor is responsible for all costs incurred for performance of the delegated responsibilities, and indemnifies the Department of Business and Professional Regulation, the Division of Hotels and Restaurants, the Bureau of Elevator Safety, their employees and representatives for any action brought as a result of Contractor's act or failure to act under this agreement.

14. Section 399.13, Florida Statutes, allows the Division to delegate authority only to municipalities and counties, and Contractor may not assign or subcontract this agreement or any portion of it. However, if an emergency situation temporarily prevents Contractor's performance of the duties and responsibilities delegated in this agreement, Contractor may request written permission from the Division to solicit assistance from any other municipality or county that has also received a delegation of authority from the Division. Such assistance may not exceed six months without prior written permission from the Division.

15. Contractor shall not issue an initial certificate of operation until a final inspection has been conducted and no uncorrected violations exist, and the registered elevator company supervisor signs an affidavit attesting the supervisor directly supervised construction and/or installation of the elevator.

16. Contractor's failure to comply with or enforce the provisions of Chapter 399, Florida Statutes, or Chapter 61C-5, Florida Administrative Code, or the terms of this Agreement shall be basis for the Division's immediate cancellation of this agreement.

17. Contractor's employment of unauthorized aliens is a violation of section 274(e) of the Immigration and Nationalization Act and shall be cause for the Division's unilateral cancellation of this agreement.

18. Contractor agrees to use the annual renewal period for certificates of operation prescribed by Rule Chapter 61C-5, Florida Administrative Code. Contractor will execute elevator certificate of operation renewals until this agreement terminates. The Division will provide data for any permits and certificates of operation issued from September 9, 2002 until execution of this contract.

19. Contractor agrees to process all certificates and permits it issues and electronically store data, specified below, related to the regulation of elevators, issuance of permits, certificates of operation.

20. Contractor recognizes the Division incurred significant costs to convert Contractor's electronic elevator data at the termination of the parties' preceding contract, and it is Contractor's intent that the Division not incur such costs at the termination of this agreement. Therefore, Contractor agrees to provide the electronic data specified below to the Division not later than sixty days prior to the termination of this agreement by either party, in comma-delimited text format that will merge into the Division's "LicenseEase" licensing data software, or any successor and then-current licensing data management software, with minimal need for data conversion programming. Contractor's failure to provide the specified data in such a format not later than sixty days prior to the termination of this agreement is a breach of this agreement. Contractor will reimburse the Division within sixty days of receipt of an itemized invoice from the Division for all actual and reasonable costs incurred in good faith by the Division to merge the specified data into the Division's "LicenseEase" licensing data software or any successor and then-current licensing data management software, whether such costs are attributable to work

performed by the Division or a source external to the Division. If the need arises, in the sole determination of the Division, to undertake data conversion in anticipation of the termination of this agreement, Contractor agrees to provide full cooperation and unobstructed access to the Division's staff and any external resource engaged in data conversion work to merge Contractor's data with the Division's "LicenseEase" licensing data software or any successor and then-current licensing data management software. The Division agrees to provide all code tables referenced in paragraph 21 which are unique to the Division's "LicenseEase" system, to Contractor within ninety days of commencement of this agreement.

21. The following specific electronic data is required, at a minimum, for each elevator permit application, permit issued, and certificate of operation issued:

License information, continually maintained: Miami-Dade Elevator Certificate Number, State Serial Number, Licensee Name, Rank Code (equivalent to state codes current at time of migration), Mailing Street Address, Mailing Address Line 2, Mailing Address Line 3, Mailing City, Mailing State Code, Mailing Zip Code, Mailing Phone Number, Business Name, Location Street Address, Location Address Line 2, Location Address Line 3, Location City, Location State Code, Location Zip Code, Location County Code, Location Phone Number, License Status Code (equivalent to state codes current at time of migration), License Secondary Status Code (equivalent to state codes current at time of migration), Original Date of Issue, Expiry Date, Number of Landings, Capacity (in pounds), Travel distance (in feet), Speed Up (feet per minute), Speed Down (feet per minute).

Inspection information, maintained for the preceding five years: State Serial Number, Inspection Date, Inspection Type Code (equivalent to state codes current at time of migration), Number of Major Violations, Number of Minor Violations, Certified Elevator Inspector Number.

22. The Division agrees to provide Contractor a block of State Serial numbers exclusively for Contractor's use.

23. This agreement is effective upon its execution by both parties, subject to the terms and conditions stated herein. Recognizing the significant expense in establishing this agreement, and the effort involved in making data current, both parties agree not to cancel this agreement for any reason other than cause, for a minimum of four years, after which either party may cancel this agreement by providing written notice of cancellation six months prior to the effective cancellation date. This document together with Attachments Exhibit A, [Elevator Inspection report form]; Exhibit B, [sample of Contracted Jurisdiction Monthly Activity Report]; and Exhibit C, [Elevator Owner Accident Report] constitute the entire agreement between the parties and no other agreement or modification, express or implied, shall be binding on either party unless it is reduced to writing, titled as a Modification, Amendment, or Addendum to this agreement, executed by both parties, and attached to this agreement. The venue for legal action to resolve disputes between the parties to this agreement is Leon County, Florida.

DONE AND AGREED this _____ day of _____, 2003.

Diane Carr, Secretary
Florida Department of Business and
Professional Regulation

George M. Burgess, County Manager
Miami Dade County

*Approved as to form and
legal sufficiency
12/17/03
J. R. J.*



Department of Safety and Emergency Services - Building Code Services Division
ELEVATOR SECTION

955 South Federal Highway • Fort Lauderdale, Florida 33316 • 954-765-5022 Ext. 273

MONTHLY ACTIVITY REPORT FOR MAY, 2003

1. Routine Inspections:	502
2. Acceptance/Initial Inspections:	28
3. Annual Inspections:	255
4. 5 Year Inspections:	45
5. Complaint Inspections:	5
6. Alteration Inspections:	43
7. Accident Inspections:	4
Total Inspections for the Month:	<u>882</u>
Total Inspections Year-To-Date:	<u>7,105</u>
8. New Elevator/Escalator Permits Issued:	15
9. Alteration Permits Issued:	36
10. Temporary Operation Permits Issued:	7
Total Permits Issued:	<u>58</u>
11. Number of Accidents Reported:	4
12. Elevator Sealed from Public Used:	6
13. Total Number of Elevator/Escalators	<u>8,395</u>

Signature: Melvin Rynearson Date: June 5, 2003

Print Name: MELVIN RYNEARSON Title: Chief Elevator Inspector

Broward County Board of County Commissioners

Josephus Eggelton, Jr. • Ben Craber • Sue Gunzburger • Kristin D. Jacobs • Ilene Lieberman • Lori Nance Parrish • John E. Rodstrom, Jr. • Jim Scott • Diana Wasserman-Rubin
www.broward.org/building

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DBPR HR-7016 – Division of Hotels and Restaurants, Bureau of Elevator Safety
Elevator Owners Accident Report



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
1940 North Monroe Street
Tallahassee, FL 32399-0783

If you have any questions or need assistance in completing this form, please contact the Bureau of Elevator Safety at 1.800.749.6368.

www.MyFlorida.com

Section 399.125, Florida Statutes. Reporting of elevator accidents or incidents; penalties.--Within 5 working days after any accident or incident occurring in or upon any elevator, the certificate of operation holder shall report the accident or incident to the division on a form prescribed by the division. Failure to timely file this report is a violation of this chapter and will subject the certificate of operation holder to an administrative fine, to be imposed by the division, in an amount not to exceed \$1,000.

SECTION 1 - ELEVATOR LOCATION			
Serial Number	Number of Landings	Date (MM/DD/YYYY)	
Date of Accident (MM/DD/YYYY)	Time of Accident	Hour	Minute <input type="checkbox"/> AM <input type="checkbox"/> PM
D/B/A Name (enter Business Name or Doing Business As Name of the building)			
Main Address (enter building address)			
City	County	State	Zip Code
Primary Name (enter name of the building owner)		Phone Number	
SECTION 2 - SERVICE MAINTENANCE			
Is the elevator or escalator under a service maintenance contract? <input type="checkbox"/> Yes <input type="checkbox"/> No			
Name of Elevator Maintenance Company			
Was the elevator service maintenance company notified? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, indicate date (MM/DD/YYYY)	
Most recent required test performed <input type="checkbox"/> 6 months <input type="checkbox"/> 1 year <input type="checkbox"/> 3 years <input type="checkbox"/> 5 years		Test Date (MM/DD/YYYY)	
SECTION 3 - SIGNATURE			
Report Submitted by (print name)		Title	
Signature		Phone Number	

This report must be returned to the division within 5 days of the accident to:

Department of Business and Professional Regulation
Division of Hotels and Restaurants
Bureau of Elevator Safety
Northwood Center
1940 North Monroe Street
Tallahassee, FL 32399-0783

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