

Memorandum



Date: September 8, 2005

Agenda Item No. 12(A)(11)

To: Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners

From: George M. Burge
County Manager

A handwritten signature in black ink, appearing to read "George M. Burge", written over the printed name of the County Manager.

Subject: U.S. Department of Housing and Urban Development, Grant No. B-04-SP-FL-0180

RECOMMENDATION

It is recommended that the Board authorize acceptance of a grant in the amount of \$298,230 from U.S. Congress as detailed in the VA-HUD-Independent Agencies Appropriations Act for FY 2004 (PL 108-199) for and on behalf of the Miami Performing Arts Center for the purpose of purchasing fixed theater seating. It is further recommended that the Board authorize the execution of the Grant Agreement required by the U.S. Department of Housing and Urban Development as a condition of the grant award. This grant award does not require matching funds.

BACKGROUND

The U.S. Congress has funded in the VA-HUD-Independent Agency Appropriations Act for FY 2004 (PL 108-199), and as described in the Conference Report accompanying the Act (HR 108-401), this Economic Development Initiative (EDI) Special Project grant (No. B-04-SP-FL-0180) in the amount of \$298,230 for Miami-Dade County, Performing Arts Center project. EDI grants enable localities to carry out eligible economic development activities where public and private dollars can be leveraged to create jobs and other benefits.

The Performing Arts Center Project has been an economic catalyst for the surrounding community. It is the centerpiece of the city's developing media and entertainment district, which is revitalizing the downtown area with the twin economic engines of arts and culture. As the largest project within the Miami-Dade Empowerment Zone, the Center will contribute to the financial strength of the area through its construction, operations, programs and services, ancillary spending, an increased tax base, and long-term development of commercial, retail and residential real estate around the complex.

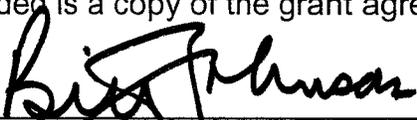
The County requested funding from HUD on behalf of the Performing Arts Center Project for the congressionally earmarked EDI grant funds. The Project will use \$298,230 of funds to help defray the cost of \$1,514,442 to purchase the fixed theater seating for the 2,400-seat Sanford and Dolores Ziff Ballet/Opera House, the 2,200-seat Carnival Symphony Hall and the 200-seat Studio Theater.

There are no additional costs associated to the Construction Manager (CM) in regards to the purchase of the seating since this equipment is expected to be purchased and installed through the CM's existing subcontracts.

Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners
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As a companion item, Change Order 82 is also recommended for approval. Change Order 82 will increase PACB's contract by \$298,230 for the work identified in this grant which is fixed theater seating. This Change Order will be funded by HUD.

Included is a copy of the grant agreement No. B-04-SP-FL-0180.



Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 8, 2005

FROM: 
Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 12(A)(11)

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. 12(A)(11)
Veto _____ 09-08-05
Override _____

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE COUNTY MANAGER TO ACCEPT AND EXECUTE A GRANT AGREEMENT IN THE AMOUNT OF \$298,230 FOR THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND AUTHORIZING THE COUNTY MANAGER TO EXERCISE CANCELLATION PROVISIONS CONTAINED THEREIN

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board authorizes the County Manager to accept and execute a grant agreement in the amount of \$298,230 from the United States Department of Housing and Urban Development (Grant Agreement No. B-04-SP-FL-0180) for the purposes of purchasing fixed theater seating for the halls in the Performing Arts Center in substantially the form attached hereto.

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:

Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Dr. Barbara Carey-Shuler
Jose "Pepe" Diaz	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of September, 2005. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

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.

DBM

Deborah Bovarnick Mastin

FY 2004 EDI-SPECIAL PROJECT NO. B-04-SP-FL-0180

GRANT AGREEMENT

This Grant Agreement between the Department of Housing and Urban Development (HUD) and County of Miami-Dade (the Grantee) is made pursuant to the authority of Public Law 108-199 (the FY 2004 Appropriations Act for HUD and other agencies) and House Report 108-401 (the Conference Report on the Appropriations Act). Please note that the Grant Amount shown below is 99.41% of the amount specified in the Conference Report because of a .59% rescission mandated in the Act. The Grantee's application package, as may be amended by the provisions of this Grant Agreement, is hereby incorporated into this Agreement.

In reliance upon and in consideration of the mutual representations and obligations hereunder, HUD and the Grantee agree as follows:

Subject to the provisions of the Grant Agreement, HUD will make grant funds in the amount of \$298,230 available to the Grantee.

The Grantee agrees to abide by the following:

ARTICLE I. HUD Requirements.

The Grantee agrees to comply with the following requirements for which HUD has enforcement responsibility.

- A. The grant funds will only be used for activities described in the application, which is incorporated by reference and made part of this Agreement as may be modified by Article VII (A) of this Grant Agreement.
- B. **EQUAL OPPORTUNITY REQUIREMENTS**
The grant funds must be made available in accordance with the following:
 - 1. For projects involving housing, the requirements of the Fair Housing Act (42 U.S.C. 3601-20) and implementing regulations at 24 CFR Part 100; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR Part 107.
 - 2. The requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1.
 - 3. The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-07) and implementing regulations at 24 CFR Part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8.

4. The requirements of 24 CFR 5.105(a) regarding equal opportunity as well as the requirements of Executive Order 11246 (Equal Employment Opportunity) and the implementing regulations issued at 41 CFR Chapter 60.
5. For those grants funding construction covered by 24 CFR 135, the requirements of section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u) which requires that economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, be given to low- and very low-income persons and to businesses that provide economic opportunities for these persons.
6. The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise). Consistent with HUD's responsibilities under these Orders, the Grantee must make efforts to encourage the use of minority and women's business enterprises in connection with grant funded activities. See 24 CFR Part 85.36(e) , which describes actions to be taken by the Grantee to assure that minority business enterprises and women business enterprises are used when possible in the procurement of property and services.
7. Where applicable, Grantee shall maintain records of its efforts to comply with the requirements cited in Paragraphs 5 and 6 above.

C. ENVIRONMENTAL REVIEW REQUIREMENTS.

1. If the Grantee is a unit of general local government, a State, an Indian Tribe, or an Alaskan Native Village, the Grantee agrees to assume all of the responsibilities for environmental review and decision- making and actions, as specified and required in regulations issued by the Secretary pursuant to the Multifamily Housing Property Disposition Reform Act of 1994 and published in 24 CFR Part 58.
2. If the Grantee is a housing authority, redevelopment agency, academic institution, hospital, or other non-profit organization, the Grantee shall request the unit of general local government, Indian Tribe, or Alaskan Native Village, within which the project is located and which exercises land use responsibility, to assume all of the responsibilities for environmental review and decision-making as specified in paragraph C.1 above, and the Grantee shall carry out all of the responsibilities of a recipient under 24 CFR Part 58.

- D. Administrative requirements of OMB Circular A-133 “Audits of States, Local governments and Non-Profit Organizations.”
- E. For State and Local Governments, the Administrative requirements of 24 CFR Part 85, including the procurement requirements of 24 CFR Part 85.36, and the requirements of OMB Circular A-87 regarding Cost Principles for State and Local Governments. For Non-Profits, the Administrative requirements of 24 CFR Part 84, including the procurement requirements of 24 CFR Part 84.40, and OMB Circular A-122 regarding Cost Principles for Non-Profit Institutions. For Institutions of Higher Education the applicable OMB Circular regarding Cost Principles is A-21.
- F. The regulations at 24 CFR Part 87, related to lobbying, including the requirement that the Grantee obtain certifications and disclosures from all covered persons.
- G. Restrictions on participation by ineligible, debarred or suspended persons or entities as described in Executive Order 12549 and at CFR 24 Part 5.105(c).
- H. The Uniform Relocation Act as implemented by regulations at 49 CFR Part 24.
- I. The Grantee will comply with all accessibility requirements under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR Part 8, where applicable.

ARTICLE II. Conditions Precedent to Draw Down.

The Grantee may not draw down grant funds until the following actions have taken place:

- A. The Grantee has received and approved any certifications and disclosures required by 24 CFR 87.100 concerning lobbying and by 24 CFR 24.510(b) regarding ineligibility, suspension and debarment.
- B. Any other conditions listed in Article VII (C) of this Grant Agreement.

ARTICLE III. Draw Downs.

- A. A request by the Grantee to draw down grant funds under the Voice Response Access system or any other payment system constitutes a representation by the Grantee that it and all participating parties are complying with the terms of this Grant Agreement.
- B. The Grantee will be paid on an advance basis provided that the Grantee minimizes the time elapsing between transfer of the grant funds and disbursement for project purposes and otherwise follows the requirements of 24 CFR Part 85 or Part 84 and Treasury Circular 1075 (31 CFR Part 205).

- C. Before the Grant Agreement is signed, the Grantee may incur cost for activities which are exempt from environmental review under 24 CFR Part 58 and may charge the costs to the grant. Funds provided by this grant however, may not be used for reimbursement of expenses incurred prior to the enactment of The Act authorizing these funds on **January 23,2004.**

ARTICLE IV. Progress Reports.

- A. The Grantee shall submit to the Grant Officer a progress report every six months after the effective date of the Grant Agreement. Progress reports shall consist of (1) a narrative of work accomplished during the reporting period and (2) a completed Financial Status Report - Form 269 A.

HUD may require additional information or increased frequency of reporting as described in Article VII (C).

- B. The performance reports must contain the information required under 24 CFR Part 85.40(b) (2) or 24 CFR Part 84.51(a), as applicable including a comparison of actual accomplishment to the objectives indicated in the approved application, the reasons for slippage if established objectives were not met, and additional pertinent information including explanation of significant cost overruns.
- C. No grant drawdowns will be approved for projects with overdue progress reports.

ARTICLE V. Project Close-out.

- A. The grantee shall submit to the Grant Officer a written request to close-out the grant 30 days after the grantee has drawn down all funds and completed the activities described in the application, as may be amended. The final report shall consist of (1) a narrative of all work accomplished during the project period and (2) a completed Financial Status Report - Form 269 A covering the entire project period.

HUD will then send the Close-out Agreement and Close-out Certification to the Grantee. At HUD's option, the Grantee may delay initiation of project close-out until the resolution of any HUD monitoring findings. If HUD exercises this option the Grantee must promptly resolve the findings.

- B. The Grantee recognizes that the close-out process may entail a review by HUD to determine compliance with the Grant Agreement by the Grantee and all participating parties. The Grantee agrees to cooperate with any review in any way possible, including making available records requested by HUD and the project for on-site HUD inspection.

- C. The Grantee shall provide to HUD the following documentation:
1. A Certification of Project Completion.
 2. A Grant Close-out Agreement.
 3. A final financial report giving the amount and types of project costs charged to the grant (that meet the allowability and allocability requirements of OMB Circular A-122, A-87 or A-21 as applicable, including the “necessary and reasonable” standard); a certification of the costs; and the amounts and sources of other project funds.
 4. A final performance report providing a comparison of actual accomplishments with each of the project commitments and objectives in the approved application, the reasons for slippage if established objectives were not met and additional pertinent information including explanation of significant cost overruns.
- D. The Grantee agrees that the grant funds are allowable only to the extent that the project costs, meeting the standard of OMB Circular A-122, A-87 or A-21 as applicable, equal the grant amount plus other sources of project funds provided.
- E. When HUD has determined that the grant funds are allowable, the activities were completed as described by the Grant Agreement, and all Federal requirements were satisfied, HUD and the Grantee will sign the Close-out Agreement and Close-out Certificate.
- E. The Close-out Agreement will include the Grantee’s Agreement to abide by any continuing federal requirements.

ARTICLE VI. Default.

A default under this Grant Agreement shall consist of using grant funds for a purpose other than as authorized by this Agreement, any noncompliance with legislative, regulatory, or other requirements applicable to the Agreement, any other material breach of this Agreement, or any material misrepresentation in the application submissions.

ARTICLE VII. Additional Provisions.

- A. Project Description. The project is as described in the application with the following changes: NONE
- B. Changes or Clarification to the Application Related to Participating Parties: The Administrative Agent if any:
- C. Special Conditions: NONE

U.S. Department of Housing
and Urban Development

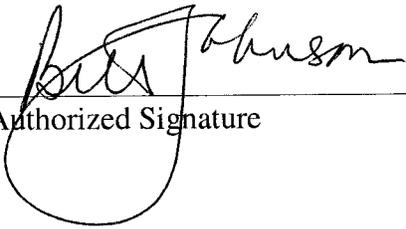
County of Miami-Dade
Mr. Bill Johnson

Authorized Signature

Donald P. Mains

Deputy Assistant Secretary
for Economic Development

Date



Authorized Signature

Title

Date

Assistance Award/Amendment		U.S. Department of Housing and Urban Development Office of Administration																			
1. Assistance Instrument <input type="checkbox"/> Cooperative Agreement <input checked="" type="checkbox"/> Grant		2. Type of Action <input checked="" type="checkbox"/> Award <input type="checkbox"/> Amendment																			
3. Instrument Number B-04-SP-FL-0180	4. Amendment Number	5. Effective Date of this Action	6. Control Number																		
7. Name and Address of Recipient County of Miami-Dade 1300 Biscayne Boulevard Miami, FL 33132 EIN: 59-6000579		8. HUD Administering Office CPD, EDI Special Project Division 451 7th Street, SW, Rm 7146 Washington, DC 20410-7000																			
		8a. Name of Administrator	8b. Telephone Number																		
10. Recipient Project Manager Bill Johnson		9. HUD Government Technical Representative Herbert Mallette 202-708-3773, Extension: 4885																			
11. Assistance Arrangement <input type="checkbox"/> Cost Reimbursement <input type="checkbox"/> Cost Sharing <input checked="" type="checkbox"/> Fixed Price	12. Payment Method <input type="checkbox"/> Treasury Check Reimbursement <input type="checkbox"/> Advance Check <input checked="" type="checkbox"/> Automated Clearinghouse	13. HUD Payment Office Chief Financial Officer																			
14. Assistance Amount		15. HUD Accounting and Appropriation Data																			
<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>Previous HUD Amount</td><td></td></tr> <tr><td>HUD Amount this Action</td><td style="text-align: right;">\$298,230.00</td></tr> <tr><td>Total HUD Amount</td><td style="text-align: right;">\$298,230.00</td></tr> <tr><td>Recipient Amount</td><td></td></tr> <tr><td>Total Instrument Amount</td><td style="text-align: right;">\$298,230.00</td></tr> </table>		Previous HUD Amount		HUD Amount this Action	\$298,230.00	Total HUD Amount	\$298,230.00	Recipient Amount		Total Instrument Amount	\$298,230.00	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td>15a. Appropriation Number 86 4/6 0162</td> <td>15b. Reservation Number EID 04</td> </tr> <tr> <td colspan="2">Amount Previously Obligated</td> </tr> <tr> <td>Obligation by this Action</td> <td style="text-align: right;">\$298,230.00</td> </tr> <tr> <td>Total Obligation</td> <td style="text-align: right;">\$298,230.00</td> </tr> </table>		15a. Appropriation Number 86 4/6 0162	15b. Reservation Number EID 04	Amount Previously Obligated		Obligation by this Action	\$298,230.00	Total Obligation	\$298,230.00
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16. Description by Miami-Dade County, Florida for the construction of the Miami-Dade County Performing Arts Center This Award consists of the following items which are appended to and hereby made part of this Award: (A) Cover Page - HUD 1044 (B) Grant Agreement Special Conditions: Please contact Ubaldo Cazzoli - HUD Area Environmental Officer at 305-536-4652, concerning environmental review. NO FUNDS may be drawn down prior to environmental release of funds approval.																					
17. <input checked="" type="checkbox"/> Recipient is required to sign and return three (3) copies of this document to the HUD Administering Office.		18. <input type="checkbox"/> Recipient is not required to sign this document.																			
19. Recipient (By Name): Mr. Bill Johnson		20. HUD (By Name): Donald P. Mains																			
Signature & Title: Assistant County Manager		Date: 7/28/05	Signature and Title: DAS for Economic Development																		
		Date:																			

Previous Editions are Obsolete

form HUD-1044 (8/90)
Ref. Handbook 2210.17

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application		2. DATE SUBMITTED 12/20/04	Applicant Identifier
<input checked="" type="checkbox"/> Construction	<input type="checkbox"/> Pre-application	3. DATE RECEIVED BY STATE	State Application Identifier
<input type="checkbox"/> Non-Construction	<input type="checkbox"/> Construction	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
	<input type="checkbox"/> Non-Construction		

5. APPLICANT INFORMATION

Legal Name: Miami-Dade County, Performing Arts Center of Greater Miami		Organizational Unit: Department: Cultural Affairs (CU)	
Organizational DUNS: 14556770		Division: Performing Arts Center (06)	
Address: Street: 1300 Biscayne Blvd.		Name and telephone number of person to be contacted on matters involving this application (give area code)	
City: Miami		Prefix: Ms.	First Name: Terea
County: Miami-Dade		Middle Name N/A	
State: Florida		Last Name Hebert	
Zip Code 33132	Suffix: N/A		
Country: USA		Email: HEBERT@miamidade.gov	

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 59-6000579	Phone Number (give area code) (305) 576-5595	Fax Number (give area code) (305) 579-5251
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8. TYPE OF APPLICATION: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es) (See back of form for description of letters.) Other (specify)	7. TYPE OF APPLICANT: (See back of form for Application Types) B. County Other (specify)
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10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE (Name of Program):	11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: This EDI grant, in the amount of \$298,320, will be used for the purchase of Fixed Theatre Seating for the Ballet/Opera House and Concert Hall. See attachments A & B. A) Project FACT Sheet, 4 pages B) Description of work, section #12710 & schedule of values, 17 pages
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12. AREAS AFFECTED BY PROJECT (Cities, Counties, States, etc.): City of Miami, Miami-Dade County, Florida	9. NAME OF FEDERAL AGENCY: Department of Housing and Urban Development
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13. PROPOSED PROJECT Start Date: 08/05 Ending Date: 11/05	14. CONGRESSIONAL DISTRICTS OF: a. Applicant 18th b. Project 18th
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15. ESTIMATED FUNDING:	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal \$ 298,320.00	a. Yes. <input type="checkbox"/> THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON DATE:
b. Applicant \$.00	b. No. <input type="checkbox"/> PROGRAM IS NOT COVERED BY E. O. 12372
c. State \$.00	<input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
d. Local \$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
e. Other \$.00	<input type="checkbox"/> Yes If "Yes" attach an explanation. <input checked="" type="checkbox"/> No
f. Program Income \$.00	
g. TOTAL \$.00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Authorized Representative		
Prefix Mr.	First Name Bill	Middle Name N/A
Last Name Johnson		Suffix N/A
b. Title Assistant County Manager		c. Telephone Number (give area code) 305-576-5595
d. Signature of Authorized Representative <i>Bill Johnson</i>		e. Date Signed 12/15/04

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Standard Form 424 (Rev.9-2003)
Prescribed by OMB Circular A-102