MEMORANDUM

Agenda Item No. 11(A)(44)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: March 6, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Resolution relating to the
Ballpark Project

The accompanying resolution was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.

Murray A. Greenberg
County Attorney

MAG/bw

MEMORANDUM
(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

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County Attorney

SUBJECT: Agenda Item No. 11(A)(44)

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
Veto _____
Override _____

Agenda Item No. 11(A)(44)
3-6-07

RESOLUTION NO. _____

RESOLUTION ACCEPTING COUNTY MANAGER REPORT OUTLINING THE BASIC PARAMETERS OF AN AGREEMENT BY AND AMONG COUNTY, CITY OF MIAMI, FLORIDA MARLINS, LP AND MAJOR LEAGUE BASEBALL, RELATED TO DEVELOPMENT OF NEW BALLPARK FOR THE FLORIDA MARLINS SUBJECT TO SUBSEQUENT BOARD APPROVAL AND AUTHORIZING RETENTION OF NECESSARY OUTSIDE SUPPORT TO ASSIST IN SUCH EFFORTS

WHEREAS, the County Manager distributed a report dated February 26, 2007 related to the development of a new ballpark for the Florida Marlins, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the County has led efforts to secure a new ballpark for the Florida Marlins; and

WHEREAS, this Board desires to accept the County Manager's report outlining the basic parameters of an agreement by and among Miami-Dade County, the City of Miami (the "City"), the Florida Marlins, LP (the "Marlins"), and Major League Baseball ("MLB"), subject to subsequent Board approval and the retention of any necessary outside support to assist with site specific analysis such as site survey, geotechnical, environmental and traffic studies; and

WHEREAS, the 2007 State legislative session commences on March 6, 2007 and the County is requesting State support through a sales tax rebate as provided to other professional sports franchises in the State of Florida,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. The matters contained in the foregoing recitals are incorporated in this resolution by reference.

Section 2. The Board hereby accepts the County Manager's report dated February 26, 2007 outlining the basic parameters of an agreement by and among the County, the City, the Marlins and MLB regarding the development of a new ballpark for the Florida Marlins, subject to subsequent Board approval.

Section 3. The Board hereby authorizes the retention of any required outside assistance to support efforts associated with site related requirements such as site survey, geotechnical, environmental and traffic studies.

The foregoing resolution was sponsored by Commissioner Jose "Pepe" Diaz and 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:

Bruno A Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of March, 2007. 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.

Geri Bonzon-Keenan

EXHIBIT A

Memorandum

MIAMI-DADE COUNTY

Date: February 26, 2007

To: Honorable Mayor Carlos Alvarez
Honorable Chairman Bruno A. Barreiro, Board of County Commissioners
Honorable Commissioner Jose "Pepe" Diaz, Board of County Commissioners
Liaison – Florida Marlins Ballpark Project

From: George M. Burgess
County Manager

Subject: Ballpark Project Report

The purpose of this memorandum is to provide an overview and status report on our efforts to build a new ballpark for the Florida Marlins. Significant progress has been made in determining the viability of a new ballpark in downtown Miami located next to the Stephen P. Clark Government Center. In addition, the County, City of Miami ("City"), Florida Marlins and Major League Baseball ("MLB") are working toward an agreement for future Board and City Commission consideration and fine tuning project costs and required funding. The following provides more details on the project. I would like to thank each and every one of you for your passionate leadership and commitment to this project.

BACKGROUND

Miami-Dade County has been actively committed to the ballpark project for more than seven years. During this time we have evaluated numerous sites throughout the county. Some of the sites have since been developed while others presented various types of site complications and excessive land costs. On November 21, 2006 a Ballpark Project Update Report was issued to you identifying a potential site in which all parcels are publicly owned located directly north and west of the Stephen P. Clark Government Center. Prior to identifying this downtown site, the County and the City of Hialeah were working with MLB and the Marlins on assessing a site just west of I-75 and east of the Florida Turnpike. The I-75 site presented a few major challenges, including the structure of a proposed tax increment financing district to provide funding for the project and the assembly of the required land to support a suburban ballpark. Due to the challenges we faced at the I-75 site relative to the benefits present at the new downtown location, we have determined that the Government Center site holds the best opportunities to make this project a reality.

In my previous memos I have pointed out the important contributions the Honorable Mayor Robaina from the City of Hialeah has made to this project. He extended an opportunity to the Marlins at a time when the project had stalled and its future unknown. While Mayor Robaina might prefer the ballpark to be in Hialeah, he recognizes the complexities of the Hialeah location and the benefits of the Government Center site. His primary focus was and is to keep the Florida Marlins in Miami-Dade County. I know his efforts and leadership are greatly appreciated by all parties involved. In fact, as part of its commitment to South Florida and Miami-Dade County, MLB will work with Mayor Robaina to develop a Major League Youth Baseball Academy in Hialeah. The Youth Baseball Academy program is a cornerstone to MLB's urban youth initiative to bring recreational and academic opportunities to at-risk youth. This would clearly be an exciting and important project for the City of Hialeah and the County.

GOVERNMENT CENTER SITE

Throughout the course of this project you have directed me to search out all possible solutions for a viable site. In the due course of following that directive the Government Center site was ultimately identified. The general boundaries of the site are Government Center on the south and west, the MetroRail line on the east, the State Division of Natural Resource buildings and Miami Police Department Headquarters on the north, and the Downtown Charter School and the Hickman Building on the west (see attachment). The site is approximately nine acres and is 100% publicly owned (primarily by the County) consisting of portions of three County parcels and a small portion of one City parcel.

During our initial assessment of this location, we looked at the Government Center site attributes compared to criteria used to evaluate potential sites for the new Washington D.C. ballpark for the Washington Nationals. The D.C. site evaluation largely focused on elements that would provide for the long-term sustainability of a ballpark for the city and the franchise. Listed below is how the Government Center site compares to these criteria:

1. General Design Opportunities (site shape, potential ballpark orientation)
   - ✓ *Rectangular site, small site, but sufficient size for development, northeast orientation, excellent views of downtown*
2. Access (regional highway systems, public mass transit, Metro, commuter rail)
   - ✓ *I-95 north-south, east-west connection from SR 836, 112 & I-395, I-195, main station for MetroRail & Metromover*
3. Parking (existing or developable)
   - ✓ *Excellent existing public parking and opportunity for private parking development*
4. Impact on Existing Communities (non-displacement of residents)
   - ✓ *No residential impact or displacement*
5. Parcel Availability (public vs. private ownership, number of owners)
   - ✓ *All parcels publicly owned (county & city), no impact to tax roll*
6. Site Issues (known environmental or soil conditions)
   - ✓ *No known major issues, environmental studies required, good soil for development*
7. Regulatory Issues (local zoning or federal oversight)
   - ✓ *County & City zoning regulations, traffic study & DRI amendment required*
8. Economic Development / Return on Investment Potential (public & private)
   - ✓ *Excellent development potential on abutting nearby private parcels; would provide anchor investment to spur other development*
9. Cost (acquisition and construction)
   - ✓ *No land acquisition cost, no major demolition, good existing infrastructure*

The Government Center site clearly has positive attributes when evaluating it for the ballpark. From an accessibility standpoint, it is arguably the best site we have considered as it is directly next to the main transit station for MetroRail and Metromover, bus stations and has immediate access to I-95 and nearby east-west connections to State Road 836 and State Road 112. The site is in walking distance for much of the downtown business community and completely accessible to all of downtown by way of the Metromover. There are numerous existing public and private parking facilities nearby to support the ballpark. The County currently has approximately 2,000 garage parking spaces and will add 580 spaces for the Overtown Transit buildings. In addition, it is estimated the City has over 5,200 existing public parking spaces located within 5/8 of a mile from the site. The vast majority of ball games scheduled during weekdays (all but 4 for the 2007 season) are

played in the evening beginning at 7:05 p.m. This will enable time for parking inventory filled during the day to empty out prior to the start of baseball games. We would also expect a portion of the fan base to come from people already working or living downtown, which to some extent would ease parking demand.

Aside from being an extremely accessible site, this location would also allow for private development opportunities next to and nearby the site. While downtown has experienced an enormous amount of development, it has largely been concentrated in close proximity to Biscayne Boulevard, the Brickell area and next to the Performing Arts Center. I strongly believe that the ballpark will act as an anchor, much like the experience of the Performing Arts Center, that will attract investment and development to downtown's west end. This area of downtown, which includes the Overtown/Parkwest Community Redevelopment Agency district and the City's 24 hour entertainment district, has many undeveloped parcels as well as properties with redevelopment potential. With 81 games infusing over two million people per year to the area, private investment and development opportunities will be ripe.

The addition of a professional ballpark would provide a unique public asset to the Government Center area which is the heart of our already existing public service center. That being said, a ballpark is a very large and complex development project with inherent challenges. There are underground utilities on the site that run under NW 2nd Avenue and NW 3rd Street that will need to be relocated. We have requested as-built documents from all utility companies in order to determine exact locations of utilities. We will work in close partnership with the utilities companies to best determine how and where to relocations can occur. We are also assessing the current capacity of our chiller plant and its future build-out plans to see if we have sufficient capacity to service the needs of the ballpark. If the County's plant could support the ballpark, this would allow for savings currently included in the ballpark budget. We also have to plan for the relocation of our west surface parking lot, the executive parking lot behind Government Center and the Carol Center daycare. These are some of the many site related issues we are working on; none of which are remotely insurmountable. The large scale nature of this project requires careful and sensitive planning on how it would impact existing county and city facilities at the site, namely the Stephen P. Clark Center and the Miami Police Department. In this regard, MLB and the Marlins have committed to work very closely with the County and City, including giving us significant input regarding the design and construction of the ballpark.

By far the most important site consideration we face is the ability to secure an acceptable and preferably better alternative site for the new Children's Courthouse, which is planned to be built on the site directly north of NW 3rd Street on the north side of Government Center. As I stated in my November 21, 2006 memo, in order for this to be a viable site for the ballpark, an alternative location for the Children's Courthouse must be identified. Time is of the essence to find an alternative. We are working in cooperation with the Chief Judge and nearby property owners, namely the Florida East Coast Industries, in evaluating options on nearby sites that would be easily accessible and in close proximity to the Lawton Thomas Family Courthouse. Our discussions are proceeding well. Our hope is to not only secure a better site for this courthouse, but to structure a development/construction approach that will save the County time and money.

BALLPARK AGREEMENT

The County, City, Marlins and MLB are developing the fundamental elements of a proposed agreement that will set forth the major business terms and conditions of this project. We hope to have an agreement formalized for consideration by both the County and City Commissions by the end of April. This agreement would be similar in many respects to the Memorandum of

Understanding (MOU) approved by the County, City and Marlins in March 2005. However, unlike the MOU, it will be a binding agreement with termination rights where the remedy afforded to the non-terminating party will include reimbursement for agreed upon out-of-pocket expenses incurred.

A primary reason that the agreement must be binding is the fact that the Marlins will be required to spend significant funds to undertake a redesign of the ballpark to fit the specific conditions of the Government Center site. In doing so, the Marlins will need a firm commitment from all parties that the project will move forward. Because this agreement will be binding all of the terms and conditions must be fully defined and clearly understood by the parties. The County and City would be responsible for delivering the site in buildable condition. Therefore, we must conduct due diligence in determining physical site conditions, utility relocation needs, and public infrastructure considerations in order to make a recommendation to our respective governing bodies.

The agreement will provide that the Marlins control design and construction of the ballpark and are responsible for cost overruns. As with the MOU, it will provide that the County issue debt on behalf of the team, secured by the County's covenant to budget and appropriate non-ad valorem revenues. Debt service on these bonds would be paid by the team or directly from revenues generated from the stadium. Although the team would repay the debt service on the bonds, this would be County debt. Therefore, the structure of this financing must be done in a manner that would significantly mitigate any exposure to risk in the event of a payment default. Designated stadium revenues would have to be strong with adequate coverage ratios, contractual in nature and secured to protect the County. Other provisions in the agreement, to name a few, would be the ballpark budget, funding commitments from the parties, timing of debt, parking requirements for the team, design, development and construction of the ballpark, maintenance, repair and capital replacement funding requirements and responsibilities and team commitments for community events and community benefits. Once the City and County approve the ballpark agreement, we will then have to negotiate final ballpark contracts consisting of a non-relocation agreement, construction administration agreement and management agreement. These final agreements would also have to be brought back before the City and County Commissions for approval.

BALLPARK BUDGET AND FUNDING

The ballpark would be a first-class Major League Baseball stadium owned by the County, having a retractable roof, natural grass playing field, and capacity of approximately 37,000 seats including approximately 60 suites. The ballpark scheduled completion date is April 2011 based on a construction start date of May 2008. The estimated cost to design, develop and construct the ballpark at the Government Center site is $490 million. This figure could fluctuate slightly depending on whether or not the County's chilled water plant can support the ballpark. In the past, the City and County expressed concern over the estimated budget and perceived the Marlins construction cost and schedule to be aggressive. At this point, both the Marlins and MLB have spent a considerable amount of time with the team's architect and construction manager to ensure that the budget is firm, accurate and that the construction schedule is not aggressive. The County and City have worked with the Marlins and MLB on the budget and we now have a greater comfort level than we did with the previous estimated budget. Additionally, the Marlins will be responsible for all cost overruns in excess of $490 million.

The increased cost of the ballpark does not come as a surprise. Construction costs for both labor and materials have increased dramatically for all projects – public and private. It has been almost two years since we last had an agreement with the Marlins. At that time that ballpark was scheduled to

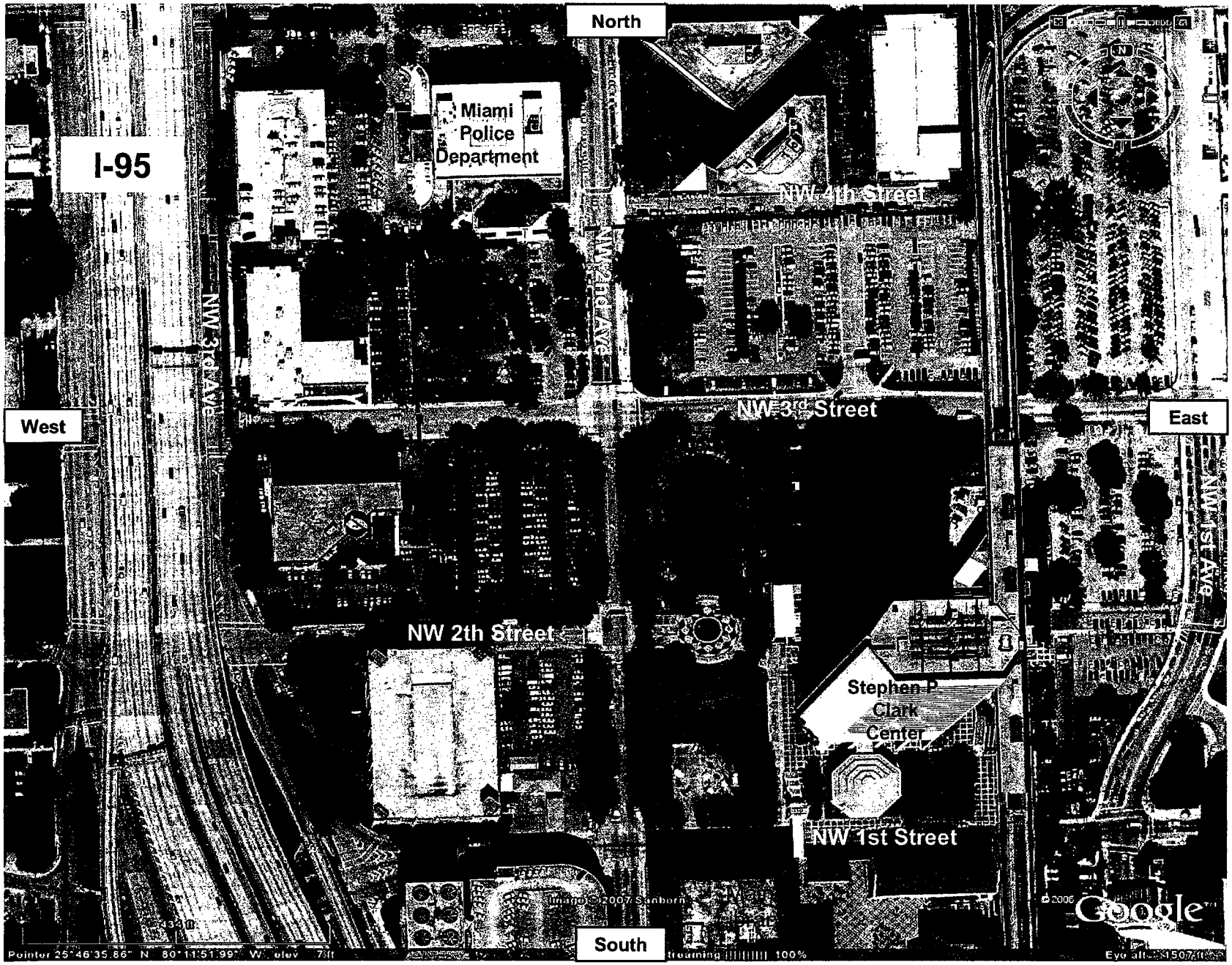
open in 2008. We have all recognized that in order to continue to work towards the completion of this project, all parties need to increase their respective contributions. To fund the increased ballpark costs, the Marlins contribution consists of a combination of cash and private financing in the amount of $45 million and the repayment of $162 million of team rent in bonds issued by the County. The County's contribution would consist of $145 million from a combination of Convention Development Tax (CDT) and Professional Sports Facilities Franchise Tax, both of which are tourist bed tax revenues. The City would contribute $108 million, primarily from CDT revenues previously allocated to the Miami Arena as agreed to in the previous baseball MOU and a portion of the Tourist Development Tax revenues currently required to be spent within the City of Miami. In addition, the City and the County are assessing the feasibility to use a very limited amount of tax increment financing proceeds for the project that would be conservatively expected to materialize from investments and developments stimulated as a result of the ballpark project.

The amount of funding above totals $460 million. This leaves a gap of $30 million, which represents the present value of the funding we are requesting from the state in the form of a professional sports facilities sales tax rebate. Stadium bills have been filed in both the House and the Senate. On February 20 two Senate bills supporting this rebate were heard in the Commerce Committee and passed unanimously. We are fortunate to have had these bills heard and passed in committee prior to the beginning of the State legislative session. It is critical that we all work with our state delegation, the legislative leadership and Office of the Governor in support of funding for the ballpark.

As you are aware, MLB is very involved in this project. The time, resources and commitment put forth by MLB is a direct acknowledgement of just how important the South Florida market, Miami-Dade County and the City of Miami are to Major League Baseball. I greatly appreciate the time and effort they are making to help all of us succeed. It is my intent to resolve any remaining open issues and submit a recommendation and ballpark agreement for your consideration in April. However, I want to be clear that to do so, the Children's Courthouse relocation must be determined, and the terms and conditions of the agreement must be fiscally sound and acceptable to the County. Through the leadership of Mayor Alvarez, Chairman Barreiro, your baseball "point-Commissioner", Pepe Diaz, and other members of the Board, Mayor Diaz and the City of Miami Commission, the State of Florida, the Florida Marlins, and Major League Baseball, I do believe we will be successful in developing a new ballpark and ensuring professional baseball remains in South Florida.

Attachment

c: Honorable Members, Board of County Commissioners
Honorable Mayor Manuel A. Diaz, City of Miami
Honorable Mayor Julio Robaina, City of Hialeah
Honorable Joseph P. Farina, Chief Judge, Eleventh Judicial Circuit of Florida
Murray A. Greenberg, County Attorney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I-95
Miami Police Department
NW 4th Street
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