

# Memorandum

MIAMI-DADE  
COUNTY

**Date:** May 15, 2007

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

**From:** George A. Burgess  
County Manager

**Subject:** Ordinance to permit expedited implementation of funded capital improvements project contracts and associated agreements specified in the annual capital budget, and/or unanticipated funded capital repair or rehabilitation projects

GOE 4A  
Agenda Item No. \_\_\_\_\_

## **Recommendation**

It is recommended that the Board approve the attached ordinance creating a new expedite procedure for approving capital improvement contract items and creating specific criteria to facilitate expedited implementation of funded capital improvements projects and associated agreements specified in the annual capital budget, and other unanticipated funded capital projects authorized by resolution of the Board of County Commissioners. The proposed ordinance includes safeguards to ensure transparency.

## **Scope**

This ordinance impacts capital construction countywide.

## **Fiscal Impact/Funding**

The expedite process significantly reduces the time necessary to approve contracting actions by as much as nine months. This significant time saving provides better service to the residents in County districts and results in reduced costs due to inflation by three to five percent on each project.

## **Tracking/Monitor**

The Capital Improvements Information System (CIIS) has been specifically designed to track and monitor key aspects of all capital improvements projects. CIIS utilizes standardized contract language and electronic versions of request to advertise, award, change order and amendment forms to capture real time project status and the work being performed under the contract.

## **Background**

The expedite process, originally approved by the Board on July 17, 1998 as Sections 2-8.2.6 and 2-8.2.7 of the Code of Miami-Dade County, expired in January 2007. This process granted the County Manager the authority to approve requests to advertise, including associated Community Small Business Enterprise (CSBE) and Community Business Enterprise (CBE) measures, award contracts, and approve change orders all subject to ratification by the Board. This authority was based on the premise that the Board had previously approved the project and its funding as part of the adopted annual capital budget and multi-year capital plan. Projects were also approved through direct Board action, approval of a Bond, or projects funded by the Stafford Act being performed in response to a declared disaster recovery effort. The attached proposed ordinance re-establishes this authority with additional safeguards to ensure transparency.

The expedite ordinance specifically relates to capital improvement projects where funding has been reviewed and approved by the Board, as evidenced by inclusion in: the Annual Proposed Resource Allocation and Multi-year Capital Plan for fiscal year 2006-2007 and subsequent fiscal years; the 2007 Transportation Improvement Plan (TIP) and subsequent fiscal years; and approved bonds, subject to

the rules governing the bond issue. Additionally this expedite process would include those unanticipated funded projects that are authorized by resolution of the Board and contracts issued in response to any natural disaster or declaration of an emergency.

Under this new ordinance the following authorities will be provided subject to Board ratification:

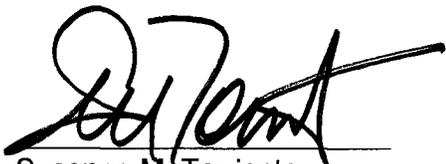
- Approval of Request to Advertise for Professional Service Agreements (PSA) and Construction Contracts including contract measures.
- Approval of Awards that are not controversial and where no bid protest was filed or, if a protest was filed, the hearing examiner found in favor of the County.
- Approval of Change Orders or Amendments to PSA's that do not exceed the original contract by 15 percent or \$500,000 in the cumulative, whichever is less, and grant time extensions as required.

The following safeguards have been included in the proposed ordinance:

- Awards that exceed the original estimate stated in the Request to Advertise by more than twenty percent (20 percent) shall be considered controversial and submitted to the Board for approval.
- Revocation of Authority provides that the Board may, at any time, direct by resolution that any contract be brought before the Board for evaluation and consideration in advance of award or suspend in whole or in part the authority delegated in this proposed ordinance.

The ability to approve capital contract items subject to ratification by the Board has allowed the County to reduce the timeline to advertise competitive bids and award a qualifying project's design and construction contracts by at least six months. It is important to emphasize that this process requires the concurrence of the department director, Office of Strategic Business Management Director, Office of Capital Improvements Director and County Manager or designee. The recommended authorization does not weaken the important administrative checks and balances necessary to prevent contract mismanagement. During the past three years, 317 contract awards, 165 change orders/amendments and 309 requests to advertise have been approved utilizing this process, with three unsuccessful bid protests filed. All of these contracts have been reviewed and ratified by the Board of County Commissioners.

All Board policies, Office of the Inspector General and internal audit oversight, and contracting monitoring requirements remain unchanged. The Department of Business Development reviews for the assignment of appropriate contract measures also are not affected by this item.



Susanne M. Torriente  
Assistant County Manager



# MEMORANDUM

(Revised)

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

**DATE:** April 24, 2007

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No.

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.

Veto \_\_\_\_\_

Override \_\_\_\_\_

**ORDINANCE NO. \_\_\_\_\_**

ORDINANCE EXPEDITING PROCEDURES FOR CONTRACTS RELATING TO ALL FUNDED CAPITAL IMPROVEMENT PROJECTS WHERE FUNDING HAS BEEN APPROVED AS PART OF THE ANNUAL PROPOSED RESOURCE ALLOCATION AND MULTI-YEAR CAPITAL PLAN FOR FISCAL YEAR 2006-2007 AND SUBSEQUENT FISCAL YEARS; OR WHERE FUNDING HAS BEEN INCLUDED IN THE 2007 TRANSPORTATION IMPROVEMENT PLAN (TIP) AND SUBSEQUENT FISCAL YEARS, AS APPROVED BY THE METROPOLITAN PLANNING ORGANIZATION (MPO); CONTRACTS FUNDED BY A BOND ISSUE SUBJECT TO THE RULES GOVERNING THE BOND; AND CONTRACTS FOR UNANTICIPATED FUNDED PROJECTS THAT ARE AUTHORIZED BY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OR INITIATED IN RESPONSE TO ANY NATURAL DISASTER OR DECLARATION OF AN EMERGENCY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, the County has enacted various ordinances applicable to the procurement of improvements, goods and services for all County departments, as well as other policies which the Board has desired to follow for County procurements, such as obtaining specific authorization by the Board to advertise contracts; and

**WHEREAS**, this Board has enacted amendments to Countywide procurement procedures in the past so as to increase efficiencies of certain County departments, resolutions adopted by this Board delegating authority to the County Manager to approve

and execute contracts while the Board is not sitting, subject to ratification by the Board; and previously created and approved Sections 2-8.2.6 and 2-8.2.7 to expedite the implementation of the Safe Neighborhood Parks Bond Program (SNP), the Quality Neighborhoods Improvement Program (QNIP), and contracts relating to any natural disaster or declaration of an emergency by the President of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

**WHEREAS**, this Board desires to institute procedures to expedite all planned budgeted capital improvement projects so as to foster greater efficiency in the contracting process, while reflecting at all times this Board's policy decisions relating to procurement practices for the County and the Board's sensitivity to Community Small Business Enterprises contracting goals as expressed from time to time by the Board,

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

Section 1. The Code of Miami-Dade County is hereby amended by adding the following new section thereto as Section 2-8.2.7:<sup>1</sup>

**>>Sec. 2-8.2.7 Capital Improvements Expedite Ordinance**

(1) This section shall be known as the Capital Improvements Expedite Ordinance.

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

(2) The Mayor or his/her designee shall have the authority to expedite the processing of capital improvement projects where:

- a. Funding has been approved as part of the Annual Proposed Resource Allocation and Multi-year Capital Plan for fiscal year 2006-2007 and subsequent fiscal years;
- b. Funding has been included in the 2007 Transportation Improvement Plan (TIP) and subsequent fiscal years, as approved by the Metropolitan Planning Organization (MPO);
- c. Funding has been approved by a bond issue subject to the rules governing the bond;
- d. Unanticipated funded projects that are authorized by resolution of the Board of County Commissioners; and
- e. Contracts that are initiated in response to any natural disaster or declaration of an emergency.

(3) Notwithstanding any other provision of the Code of Miami-Dade County to the contrary, the Mayor or his/her designee shall have the authority to expedite the processing of contracts identified in section (2) above as follows:

(a) Competitive solicitation of capital improvements contracts. The Mayor or his/her designee shall have the authority, without prior approval of the Board of County Commissioners to:

1. Approve Request to Advertise and advertise any funded contract or solicitation for professional services in which appropriate contract measures, as provided in Sections 2-10.4.01, 10-33.02, and 2-1701 have been established. All such approvals shall be subject to ratification by the Board of County Commissioners including the measures assigned;
2. issue bid and proposal documents including addenda thereto;

3. receive, open and review bids and proposals;
4. Appoint selection committee and negotiation committee members to obtain professional services in accordance with Florida Statute 287.055.

(b) The Mayor or his/her designee shall be authorized to award or reject bids for contracts including professional service agreements and construction contracts and issue Notice to Proceed where all of the following conditions are satisfied:

1. Award value of the contract is funded within the approved budget as certified by the Office of Strategic Business Management;
2. The base value of the award, not including any reserves, contingency or dedicated allowances, is competitively priced relative to the base estimate without reserves, contingency or dedicated allowances as stated in the Request to Advertise and verified by the user department director and the Office of Capital Improvements. In the event that the base value of a recommended award exceeds the last base estimate released prior to the opening of the solicitation by more than twenty (20) percent, the Mayor or his/her designee shall not award the contract and the award recommendation, with a justification for the price variance, shall be placed on the agenda for the Board of County Commissioners consideration;
3. The contractor or consulting firm receiving the award is in good standing with the County;
4. None of the bidders have filed a timely bid protest or, in the event of a protest, the hearing examiner concurs with the Mayor or his/her designee's recommendation;
5. All such awards are subject to ratification by the Board of County Commissioners and contracts approved under this authority must contain a Termination for Convenience clause.

(c) The Mayor or his/her designee may, if specified in the contract documents, negotiate and settle contractor claims, and issue change orders for additional work under contracts and amendments for professional services agreements where:

1. The change orders or amendments thereto shall not exceed \$500,000 in cumulative dollar amount and shall not exceed 15 percent of the contract price in cumulative percentage amount;
2. The limitations provided in a. above shall not apply to any change order or amendment related to emergency actions impacting environmental remediation, public safety, health requirements or recovery from natural disaster;
3. That, for good cause, the contract time may be extended and liquidated damages for failure to comply therewith may be waived before or after the specified date for completion.

(4) All actions taken by the Mayor or his/her designee under this section shall not require review by any Committee. The Mayor or his/her designee shall submit to the Board for ratification all contracts and agreements executed hereunder.

(5) Notwithstanding any provision of this Section to the contrary, the Board may at any time direct by resolution that any contract, or group of contracts, be brought before the Board for evaluation and consideration in advance of award or suspend in whole or in part the authority delegated herein to the Mayor or his/her designee. Any such resolution shall not affect the validity or effect of any contract awarded and ratified in accordance with this Section prior to the effective date of such resolution.

(6) Special exemptions: This process shall be modified to ensure full conformance with any special provisions or review processes established by the Board. As such, any proposed County contract for a project included in the TIP approved by the MPO that is funded in whole or in part by proceeds of the Charter County Transit System Sales Surtax authorized by Article XVI of Chapter 29 of the County Code, the Mayor or his/her designee shall have the authority to advertise and issue bid or proposal documents for such contracts where the bid or proposal documents

expressly provide that no award shall be effective and no contractual relationship shall arise with the County unless and until ratified by the County Commission and that ratification is approved by the Citizens' Independent Transportation Trust or re-affirmed by the County Commission as provided in subsection (e) of Sec. 29-124 of the County Code. The authority to issue notices to proceed after award for such contracts shall be limited to those instances where the County Commission has ratified the award and the Citizens' Independent Transportation Trust has approved the Commission's action or, if the Trust disapproves such Commission action, the Commission has re-affirmed same as provided in subsection (e) of Sec. 29-124 of the County Code.<<

Section 2. If any section, subsection, sentence, clause of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

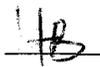
Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:



Prepared by:



Hugo Benitez