

# Memorandum



(Second Reading 07-24-07)

**Date:** July 10, 2007

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

Agenda Item No. 7(D)

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

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

**Subject:** Amendment to Customer Facility Charges for the Proposed Rental Car Facility

## **Recommendation**

It is recommended that the Board approve the attached Ordinance that amends Sections 25-4.1(f)(4) and (5) of the Miami-Dade County Code to provide for the increase in pre-construction and post-construction Customer Facility Charges (CFCs) necessary to meet increased costs of the proposed Rental Car Facility (RCF).

## **Scope**

The RCF is located within District 6; however, the impact of this agenda item is countywide in nature.

## **Fiscal Impact/Funding Source**

CFCs will be collected by the car rental companies from their customers and remitted to Miami-Dade County to pay for construction of the RCF.

## **Track Record/Monitor**

N/A

## **Background**

In 1999, the Board approved the concept of the Miami Intermodal Center (MIC) to be constructed in cooperation with the Florida Department of Transportation (FDOT). A major portion of the MIC project involves the construction of the proposed RCF west of LeJeune Road. Upon the RCF's completion, all car rental companies operating at Miami International Airport (MIA) will be required to operate at the RCF and no longer in the Terminal Building of MIA.

In April 2004, the County executed a concession agreement with those rental car companies planning to relocate their business into the RCF upon its completion. The concession agreement with 22 rental car companies contained the terms of the financing for the RCF; primarily, a federal loan for up to \$170 million awarded to FDOT under the federal Transportation Infrastructure Finance and Innovation Act (TIFIA). Under the terms of the TIFIA loan documents, the pledged repayment source for the loan consists of revenues derived from a proposed Customer Facility Charge (CFC) and Contingent Rent should CFC revenues not be sufficient.

The TIFIA loan documents consist of a Loan Agreement and a Calculations and Forecasting Agreement executed by and between FDOT and the U.S. Department of Transportation (USDOT), and a Security Agreement executed by and among the US DOT, FDOT, and the County.

To secure the collection of the CFCs needed to repay the TIFIA loan, the County enacted Ordinance No. 00-87 on July 6, 2000. That Ordinance required each participating car rental company to pay \$3 per day per rental car contract from the date of the Ordinance until the completion of the RCF, and to pay on a post-construction basis a CFC in an amount necessary to defray debt-service costs and certain operating expenses of the RCF. The post-construction CFC amount was not fixed but was pegged to an amount that would then be required for payment of debt service and operating expenses. On July 13, 2004, the Board enacted Ordinance No. 04-137 to increase the pre-construction CFC amount to \$3.25 per day per rental car contract, leaving intact the unstated post-construction CFC charge.

The costs of construction in the Miami-Dade County area have increased significantly, as reflected by the lowest bid submitted to FDOT in September 2006 for the RCF in the amount of \$345 million, vastly in excess of the 2005 estimated cost of \$190 million. FDOT rejected all bids and again entered into price negotiations with Turner under its existing CM at Risk contract. Price negotiations were successfully concluded in March 2007 in the amount of \$302.5 million, or nearly \$45 million below the lowest bid received in September 2006.

This increase in the RCF cost has required FDOT to re-negotiate the TIFIA loan with the USDOT, resulting in the TIFIA loan for the RCF project to be increased by \$100 million to a maximum of \$270 million. This increase in the loan amount and the future debt-service costs will require the County to increase the CFCs accordingly.

In order to meet increased costs of designing the RCF and the costs to MDAD for the interim-period car-rental operations, the pre-construction CFC must be increased from \$3.25 to \$4.00 per day per rental car contract. When the RCF is ready for car rental operations, the post-construction costs will be have to be in a fixed initial amount of not less than \$4.60 per day per rental car contract, and will have to be increased at least 25 cents per year in the five years following the RCF opening date.

This Ordinance accomplishes these changes to the pre-construction and post-construction CFC amounts. Because the final costs may vary from their present estimates, the Ordinance provides for an adjustment—upward or downward—of the post-construction CFC charge to achieve whatever amount is required of the County to defray then-existing debt-service, operating and maintenance costs of the RCF.

A companion Resolution to this Ordinance authorizes the County Mayor or designee to negotiate with the 22 participating car rental companies the proposed First Amendment to the Concession Agreement. The amendments to the Concession Agreement will dove-tail with the amendments to the CFC charges provided for in this Ordinance.



Assistant County Manager



# MEMORANDUM

(Revised)

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

DATE: July 24, 2007

FROM:   
R.A. Cuevas, Jr.  
Acting County Attorney

SUBJECT: Agenda Item No. 7(D)

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. 7(D)

07-24-07

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

**ORDINANCE RELATING TO RULES AND REGULATIONS OF THE MIAMI-DADE AVIATION DEPARTMENT; AMENDING SECTIONS 25-4.1(f)(4) AND (5) OF THE MIAMI-DADE COUNTY CODE TO INCREASE THE MAXIMUM AMOUNT OF THE CUSTOMER FACILITY CHARGE THAT RENTAL CAR COMPANIES OPERATING AT MIAMI INTERNATIONAL AIRPORT MUST COLLECT FROM CUSTOMERS DURING THE PERIOD OF TIME THAT PRECEDES COMPLETION OF THE RENTAL CAR FACILITY, AND TO PROVIDE FOR AN INCREASE OR DECREASE IN THE CUSTOMER FACILITY CHARGE TO BE COLLECTED FOLLOWING COMPLETION OF THE RENTAL CAR FACILITY BASED ON THE LEVEL OF THE COUNTY'S PAYMENT OBLIGATIONS FOR DEBT SERVICE AND OPERATIONAL COSTS OF THE RENTAL CAR FACILITY; AUTHORIZING AVIATION DEPARTMENT TO AMEND THE APPLICABLE OPERATIONAL DIRECTIVE TO INCORPORATE SUCH CHANGES IN THE CUSTOMER FACILITY CHARGE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE**

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

**Section 1.** Sections 25-4.1(f)(4) and (5) of the Code of Miami-Dade County, Florida, are hereby amended as follows:<sup>1</sup>

**Sec. 25-4 Ground Transportation.**

25-4.1 *Commercial vehicles.*

<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.

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(f) (4) The Operational Directive shall require all car rental companies operating with the Rental Car Facility to charge and collect from their customers, commencing on and after the date on which the Rental Car Facility is operational, a Customer Facility Charge in >>the amount of not less than four dollars and sixty cents (\$4.60) per day per car rental contract, and every fifth anniversary after such commencement date to increase such amount by an additional twenty-five cents (\$0.25) per day per car rental contract, such Customer Facility Charge amounts to be further adjusted upwards or downwards periodically so as to enable the County to meet all~~<< [[an amount not less than the amount required to discharge the County's responsibilities and liabilities under agreements with the Florida Department of Transportation and sufficient to defray]] debt service >>payments<< on any loans for the acquisition of the property for and the design and construction of the Rental Car Facility, as well as operating and maintenance expenses related to the Rental Car Facility and allocated operating and maintenance expenses attributable to the MIC-MIA people mover system connecting the Rental Car Facility with the Airport's Terminal Building.~~

(5) The Operational Directive shall require that, >>(a)<< commencing no earlier than January 1, 2002, and expiring no later than the >>effective date of this Ordinance,<< [[-date the Customer Facility Charge under subsection (4) above is effective,]] all car rental companies operating at Miami International Airport that have agreed to serve as participating car rental companies in the Rental Car Facility shall charge and collect from their customers a Customer Facility Charge not to exceed three dollars and twenty five cents (\$3.25) per day per car rental contract >>, and (b) commencing as of the effective date of this Ordinance and expiring no later than the date the Customer Facility Charge under subsection (4) is effective, all such car rental companies shall charge and collect from their customers a Customer Facility Charge of four dollars (\$4.00) per day per car rental contract, with such charges described in (a) and (b) of this subsection to be<< in addition to all other fees established by contract or Operational Directive, >>and with<< such interim Customer Facility

>>Charges<< ~~[[Charge]]~~ to be determined >>or confirmed<< by the Aviation Department and set forth in the Operational Directive, for the purpose of defraying ongoing costs applicable to the design and construction of the Rental Car Facility as well as existing costs to the Airport of providing facilities and services to such companies prior to the date on which the Rental Car Facility becomes operational and as additional payment for the companies' privilege of doing business at the Airport. The Operational Directive or contractual provision shall provide that, as to any such fees and to the extent permissible under federal law and any trust indenture applicable to the Airport, such fees shall be held by the Airport in a separate interest-bearing account for the purpose of defraying the costs of the Rental Car Facility.

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**Section 2.** If any section, subsection, sentence, clause or provision 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 relettered to accomplish such intention, and the word "ordinance" may be changed to "section," or "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 override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency.



Prepared by:



Thomas P. Abbott