

MEMORANDUM

Agenda Item No. 14(A)(5)

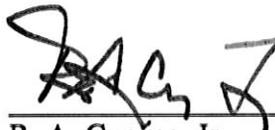
TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: January 22, 2008

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

SUBJECT: Resolution approving
execution of a sub-sublease
agreement for office space
located in Washington, D.C.
for premises to be utilized by
the Miami-Dade County
Board of County
Commissioners, Office of
Intergovernmental Affairs

The accompanying resolution was prepared and placed on the agenda at the request of Chairman Bruno A. Barreiro.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

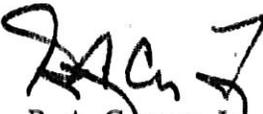


MEMORANDUM

(Revised)

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

DATE: January 22, 2008

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

SUBJECT: Agenda Item No. 14(A)(5)

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. 14(A)(5)
01-22-08

Veto _____

Override _____

RESOLUTION NO. _____

RESOLUTION APPROVING EXECUTION OF A SUB-SUBLEASE AGREEMENT FOR OFFICE SPACE LOCATED AT 444 NORTH CAPITOL STREET, N.W., SUITE 422, WASHINGTON, D.C. WITH THE NATIONAL ADULT EDUCATION PROFESSIONAL CONSORTIUM, INC. FOR PREMISES TO BE UTILIZED BY THE MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS, OFFICE OF INTERGOVERNMENTAL AFFAIRS; AUTHORIZING THE MAYOR OR DESIGNEE TO EXECUTE SAME AND EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN

WHEREAS, on June 6, 2006, the Board by Resolution No. 747-06 approved the execution of a Sub-Sublease Agreement for office space located at 444 North Capitol Street, N.W., Suite 422, Washington, D.C. with the National Adult Education Professional Consortium, Inc. (NAEPC), for a term of two (2) years; and

WHEREAS, the current sub-sublease with NAEPC expires on January 31, 2008; and

WHEREAS, over the past two years, the Miami-Dade County Board of County Commissioners, Office of Intergovernmental Affairs, has benefited from having a full time office in Washington, D.C. to better monitor federal legislation; and

WHEREAS, the NAEPC is one of the roughly 95 state, local, and not-for profit organizations that currently sublet space from the State Services Organization, which manages the Hall of States Building in Washington, D.C.; and

WHEREAS, the National Conference of State Legislatures, the National Governor's Association, and many other associated agencies that participate in the national legislative process on state and local issues are located in the Hall of States Building, which is located within blocks of the Capitol; and

WHEREAS, leases and sub-leases at the Hall of States Building are provided at rates only marginally over cost and well below market for Washington, D.C.; and

WHEREAS, NAEPC is willing to enter a new sub-sublease with the County to lease the same 452 square feet of NAEPC's space to the County that the County previously occupied; and

WHEREAS, the new sub-sublease would commence on February 1, 2008 and end on December 31, 2008, and also would have two (2) one-year renewal options each in the County's sole option; and

WHEREAS, the rental rate would be \$1,891.58 per month for a total of \$20,807.38 for the balance of Calendar Year 2008; \$1,986.15 per month for a total of \$23,833.80 for Calendar year 2009; and \$2,085.45 per month for a total of \$25,025.40 for Calendar year 2010; and

WHEREAS, in addition to the base rent, the County will reimburse any operational expenses incurred by the NAEPC, including electricity, janitorial services, after-hour, weekend or holiday HVAC operation, real estate taxes and other administrative expenses; and

WHEREAS, the sub-sublease is governed by District of Columbia law, rather than Florida law, and therefore may present additional potential exposure to the County because Florida sovereign immunity may not apply; and

WHEREAS, the monthly lease payments and associated expenses are part of the Office of Intergovernmental Affairs' existing budget; and

WHEREAS, the initial Calendar Year 2008 term and two (2) one-year renewal terms allow the County flexibility should larger and more permanent space within the Hall of the States become available; and

WHEREAS, the County's Washington, D.C. presence has been highly successful to date, and by approving a new sub-sublease, the Board can continue this effective presence,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board approves the Sub-Sublease Agreement between Miami-Dade County and the National Adult Education Professional Consortium, Inc., for premises to be utilized by the Miami-Dade Board of County Commissioners, Office of Intergovernmental Affairs; in the form attached hereto and made a part hereof; authorizes the Mayor or designee to execute same for and on behalf of Miami-Dade County after review and approval by the County Attorney's Office; and authorizes the Mayor or designee to exercise any and all rights conferred therein.

The foregoing resolution was sponsored by Chairman Bruno A. Barreiro 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 Chairman thereupon declared the resolution duly passed and adopted this 22nd day of January, 2008. 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.



Jess M. McCarty

SUB-SUBLEASE AGREEMENT

11/11/08 THIS SUB-SUBLEASE AGREEMENT (the "Sub-sublease") is made and executed, 2007, by and between NATIONAL ADULT EDUCATION PROFESSIONAL DEVELOPMENT CONSORTIUM (hereinafter referred to as "Sub-landlord") and, MIAMI- DADE COUNTY (hereinafter referred to as "Tenant").

WITNESSETH

WHEREAS, State Services Organization, Inc. (the "Sublandlord") is the tenant under that certain Lease dated September 27, 1991, as amended by (i) that certain First Amendment to Lease dated January 7, 1992, (ii) that certain Second Amendment to Lease dated November 1, 1994, (iii) that certain Third Amendment to Lease dated December 20, 1994, (iv) that certain Fourth Amendment to Lease dated February 26, 1996, (v) that certain Fifth Amendment to Lease dated August 19, 1996, (vi) that certain Sixth Amendment to Lease dated July 1, 1998, (vii) that certain Seventh Amendment to Lease dated November 30, 2000, and (viii) that certain Eighth Amendment to Lease dated June 1, 2001 (the "Prime Lease") covering approximately 223,460 square feet of rentable space (the "Sublandlord's Premises") in the building located at 400/444 North Capitol Street, N.W., Washington, D.C. (the "Building");

WHEREAS, Sub-landlord is subtenant under that certain sublease (the "Sublease") dated 09/27/1991 with Sublandlord covering approximately 904 square feet of rentable space (Suite 422) (the "Subleased Premises") in the Building; and

WHEREAS, Sub-landlord desires to sublet to Tenant and Tenant desires to sublet from Sub-landlord 452 square feet of rentable space of the Subleased Premises (the "Sub-subleased Premises") in the Building, more particularly described on Exhibit A attached hereto, pursuant to the terms and conditions described below.

NOW, THEREFORE, in consideration of the premises, the rents, and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Recitals; Capitalized Terms:** The Recitals set forth above are hereinby incorporated by reference and made a substantive part of this Sub-sublease. Capitalized terms not defined herein shall have the definitions set forth in the Sublease.
2. **Term.** The term of this Sub-sublease (the "Sub-sublease Term") shall commence on February 1st, 2008 (the "Commencement Date") and shall terminate on December 31, 2008. The term may be renewed for two 1-year options.

3. **Rent.** Commencing on the Commencement Date, Tenant shall pay to Sub-sublandlord monthly base rent (the "Base Rent") in advance on the 1st day of each month in accordance with the following schedule:

Period	Monthly Payment Amount	Annual Payment Amount
02/2008-12/31/08	\$1891.58	\$20,807.38

Renewable Period	Monthly Payment Amount	Annual Payment Amount
01/2009-12/31/09	\$1986.15	\$23,833.80
01/2010 - 12/31/10	\$2085.45	\$25,025.40

Rent for any partial month during the Sub-sublease Term shall be prorated based upon the number of days in the applicable calendar month. The first month's Base Rent shall be paid upon full execution of this Sub-sublease by Tenant and Sub-sublandlord.

In addition to the Rent payments specified above, Tenant shall pay all "Additional Rent" due hereunder. For purposes hereof, the term "Additional Rent" shall mean and include all additional rent sums, costs, charges, fees and other expenses payable by Sub-sublandlord to Sublandlord under the Sublease that are applicable to the Sub-subleased Premises and for periods during the Sub-sublease Term. In addition, if Tenant procures any additional services from the Building, such as alterations or after-hour, weekend or holiday HVAC, or directory signs or lettering, etc., Tenant shall procure the same directly from Sublandlord or Owner, shall pay for same at the rates charged therefor by such party and shall make such payment directly to the applicable party. All such additional charges shall be considered to be Additional Rent.

All payments to be made by Tenant hereunder shall be payable to Sub-sublandlord at the address set forth in Paragraph 16 below, or at such other address as Sub-sublandlord shall designate in writing. All payments of Base Rent or Additional Rent hereunder shall be made by Tenant without demand, abatement, set-off, offset or reduction of any kind. From and after a default by Sub-sublandlord under the Sublease, Sublandlord may collect rent sums directly from the Tenant and Tenant agrees to pay such amounts directly to Sublandlord.

4. **Use.** It is understood and agreed that the Tenant shall use the Sub-subleased Premises only for the agreed upon use set forth in the Sublease.

5. **Compliance with Sublease and Prime Lease.** Except as otherwise set forth herein or expressly modified hereby, the Sublease and the Prime Lease are incorporated herein by

reference as fully as if the terms and provisions thereof were set forth herein, provided that the following provisions shall be deemed deleted [**parking, storage, tenant improvements,**]. In no event shall Sub-sublandlord be deemed to have assumed the responsibilities of the Owner under the Prime Lease or the Sublandlord under the Sublease (including, without limitation, any repair or maintenance obligations, any obligation to provide services or any obligation to restore the Sub-subleased Premises following any damage, destruction or condemnation), nor shall Sub-sublandlord be responsible for the compliance of the Owner with the provisions of the Prime Lease or the Sublandlord with the Sublease. Sub-sublandlord and Tenant each covenant that it shall take no action or permit anything to be done which would constitute a default under, or cause a termination of, the Prime Lease or the Sublease. Each party shall indemnify, defend and hold the other harmless from and against any loss, cost, damage or expense (including, without limitation, court costs and reasonable attorneys' fees) incurred as a result of a breach by the other party of the foregoing covenant.

6. **"As Is" Condition.** Tenant shall sublease the Sub-subleased Premises in its current "as is" condition. Sub-sublandlord shall have no obligation to make any improvements or alterations to the Sub-subleased Premises or to provide Tenant with any allowance therefor.

7. **Alterations.** Tenant shall not make any alterations, additions, or improvements on or to the Sub-subleased Premises without first obtaining the prior written consent of Sub-sublandlord, Sublandlord and Owner, and all alterations, additions, and improvements that shall be made shall be at the sole expense of Tenant, in accordance with code and the applicable provisions of the Prime Lease and the Sublease.

8. **Access to Sub-subleased Premises.** Tenant shall allow the Sub-sublandlord, Sublandlord and Owner or the agents or employees of any of them, free access to the Sub-subleased Premises at all reasonable times, upon reasonable notice (except in the case of an emergency), for the purpose of inspecting or of making repairs, additions, or alterations to the Sub-subleased Premises or adjacent portions of the Building or any property owned by or under the control of any such party during any month of the Sub-sublease Term, or for the purpose of showing the Sub-subleased Premises to prospective subtenants or tenants.

9. **Liability for Damage or Injury and Indemnification.** Sub-sublandlord shall not be liable for any damage to the Sub-subleased Premises or any injury to persons sustained by the Tenant or its employees, agents, invitees, guests, or other persons caused by conditions or activities on the Sub-subleased Premises or activities of Tenant in or upon the Building or the property on which the Building is situated (except to the extent any loss, cost, damage or expense is attributable to the gross negligence or intentional acts of Sub-sublandlord or its agents or employees). Tenant hereby indemnifies and saves harmless Sub-sublandlord and Sublandlord from any liability, loss, cost or expense arising out of or in any way relating to the Sub-subleased Premises or Tenant's use and occupation thereof (other than any loss, cost, damage or expense attributable to the gross negligence or intentional acts of Sub-sublandlord, Sublandlord or their agents or employees). Tenant's obligation hereunder shall survive the termination of this Sub-sublease. Tenant shall carry liability insurance as required of Sub-sublandlord under the Sublease, including naming Sub-sublandlord, Sublandlord under the Sublease, Owner under the Prime Lease and Owner's management company as additional insureds. Tenant shall provide Sub-sublandlord with all certificates of insurance on or before the Commencement Date.

10. Casualty and Condemnation. In the event the demised premises should be destroyed or so damaged by fire, windstorm, or other casualty, either party may cancel this Lease Agreement for its convenience by the giving of written notice to the other at any time after the occurrence of the fire, windstorm, or other casualty. In the event of cancellation under this Article, neither party shall be responsible to the other party for any expense associated with the cancellation, and TENANT shall only be liable to Sub-SUBLANDLORD for such rents as may be due as of the date of such fire, windstorm, or other casualty. If neither party shall exercise the foregoing right of cancellation, Sub-SUBLANDLORD shall cause the building and demised premises to be repaired and placed in good condition within one hundred twenty (120) days following the date of casualty. If the demised premises sustained damages such that repairs cannot be completed within one hundred twenty (120) days, TENANT shall be entitled to cancel the Sub-SubLease Agreement by the giving of written notice to Sub-SUBLANDLORD at any time, notwithstanding the commencement of any repairs by Sub-SUBLANDLORD. TENANT shall not be liable for rent during such period of time as the demised premises be untenable by reason of fire, windstorm or other casualty. In the event of partial destruction or damages to the demised premises which do not render the demised premises untenable, the rents shall be proportionately abated in accordance with the extent to which TENANT is deprived of use, occupancy or full enjoyment of the premises.

11. Assignments and Subleases. Tenant may not assign this Sub-sublease or sublet the Sub-subleased Premises. This Sub-sublease shall not be assigned by operation of law. Any attempt to sell, assign, or sublet shall be deemed a default by Tenant. If Tenant is a corporation, any dissolution, merger, consolidation or other reorganization of Tenant, or the sale or other transfer of the controlling percentage of the capital stock of Tenant, or the sale of more than twenty percent (20%) of the value of the assets of Tenant, shall be deemed an assignment of this Sub-sublease. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least twenty percent (20%) of the total combined voting power of all classes of Tenant's capital stock issued, outstanding and entitled to vote for the election of directors. The term "sublet" shall be deemed to include the granting of any other rights of occupancy of any portion of the Sub-subleased Premises.

12. Sub-sublandlord's Covenants. Sub-sublandlord covenants that Sub-sublandlord will promptly provide Tenant with copies of all material notices, demands, statements and other communications it receives from Sublandlord with respect to the Sublease to the extent they materially affect the Sub-subleased Premises. Sub-sublandlord represents that, as of the date hereof: (a) it has not received any notice from the Sublandlord asserting that Sub-sublandlord is in default under the Sublease and is not aware of any default on its part under the Sublease; (b) to the best of its knowledge, no event has occurred which, with the passage of time or giving of notice or both, would constitute a default on the part of Sub-sublandlord under the Sublease; (c) the Sublease is in full force and effect; and (d) Sub-sublandlord has the power and authority (subject, as applicable, to the consent of Sublandlord under the Sublease and, if required, Owner under the Prime Lease) to enter into this Sub-sublease. Notwithstanding anything in this Sub-sublease to the contrary, if the Sublease or the Prime Lease terminates for any reason, this Sub-sublease shall also terminate.

13. **Services.** The services available to Tenant with respect to the Sub-subleased Premises shall be the same as those required to be provided by Sublandlord to Sub-sublandlord with respect to the Subleased Premises. Anything contained in this Sub-sublease to the contrary notwithstanding, the only services or rights to which Tenant is entitled hereunder are those to which Sub-sublandlord is entitled under the Sublease from Sublandlord. In the event Sub-sublandlord is entitled to any rental abatement on account of any interruption of essential services to the Sub-subleased Premises pursuant to the terms of the Sublease, Tenant shall be entitled to abate its rental obligations hereunder for the same period of time.

14. **Default.** In the event that Tenant shall be in default beyond any applicable notice and cure period of any covenant or obligation under this Sub-sublease, or if any other default of the Sublease occurs with respect to Tenant and is not cured within the applicable notice and cure periods, then Sub-sublandlord shall have available to it all of the remedies available to Sublandlord under the Sublease in the event of a like default or failure on the part of the Sub-sublandlord thereunder. It shall constitute a default of this Sub-SubLease Agreement by Sub-SUBLANDLORD if, except as otherwise provided in this Sub-SubLease Agreement, Sub-SUBLANDLORD fails to observe or perform any of the covenants, conditions, or provisions of this Sub-SubLease Agreement to be observed or performed by Sub-SUBLANDLORD, where such failure shall continue for a period of thirty (30) days after written notice thereof from TENANT to Sub-SUBLANDLORD; provided, however, that if the nature of Sub-SUBLANDLORD's non-compliance is such that more than thirty (30) days are reasonably required for its cure, then sub-SUBLANDLORD shall not be deemed to be in default if Sub-SUBLANDLORD commenced such cure within said thirty (30) day period and thereafter diligently prosecutes such cure to completion. In the event of any such default by Sub-SUBLANDLORD, TENANT may at any time terminate this Sub-SubLease Agreement within seven (7) days written notice to Sub-SUBLANDLORD or bring an action for damages, or injunctive relief (it being recognized that in such event TENANT is irreparably harmed for which there is no adequate remedy at law). No remedy of TENANT provided for in the Sub-SubLease Agreement shall be considered to exclude or suspend any other remedy provided for herein, but the same shall be cumulative and in addition to TENANT's remedies at law or in equity.

15. **Brokers.** Sub-sublandlord and Tenant warrant and represent to each other that no broker brought about this transaction or dealt with either party in connection herewith. Each party agrees to indemnify, defend and hold harmless the other against and from any and all losses, costs, claims, damages and expenses (including, without limitation, attorneys' fees) which may be claimed by any broker by reason of any dealings, actions or agreements with the indemnifying party.

16. **Notices.** Except where otherwise required by statute, all notices given pursuant to the provision hereof may be hand-delivered or sent by reputable overnight delivery service or certified mail, postage prepaid, return receipt requested, to the following addresses: (i) if to Tenant, to 111 N.W. First Street, Suite 2460, Attention: G.S.A.; and (ii) if to Sub-sublandlord, to 444 North Capitol Street, NW, Suite 422, Washington, DC 20001, Attention: Lennox McLendon. Notices shall be deemed effective upon the date of delivery if delivered by hand or overnight delivery service, and upon the date set forth on the return receipt therefor if delivered by certified mail.
17. **Severability.** In the event any part of this Sub-sublease is held to be unenforceable or invalid for any reason, the balance of this Sub-sublease shall not be affected and shall remain in full force and effect during the term of this Sub-sublease.
18. **Binding Effect.** The covenants, conditions, agreements, terms and provisions of this Sub-sublease shall be binding upon and shall inure to the benefit of the parties hereof and each of their respective successors and assigns, subject to the restrictions and limitations set forth herein.
19. **Governing Law.** It is the intention of the parties hereto that this Sub-sublease (and the terms and provisions hereof) shall be construed and enforced in accordance with the laws of the District of Columbia.
20. **Entirety.** It is understood and agreed by and between the parties hereto that this Sub-sublease contains the final and entire agreement between said parties relative to the subject matter hereof, and that they shall not be bound by any terms, statements, conditions or representations relative to the subject matter hereof, oral or written, express or implied, not herein contained. This Sub-sublease may not be changed or terminated orally or in any manner other than by an agreement in writing and signed by all parties hereto.
21. **Counterparts.** This Sub-sublease may be executed in several counterparts, but all such counterparts shall constitute one and the same instrument.
22. **Conflicts.** With respect to the relationship between Sub-sublandlord and Tenant, the terms and conditions of this Sub-sublease shall take precedence in any conflict between the terms and conditions hereof and the terms and conditions of the Sublease. This Sub-sublease is subject to the terms and conditions of the Sublease, and this Sub-sublease shall automatically terminate upon the termination, cancellation or expiration of the Sublease.
23. **Owner and Sublandlord Approvals.** Anything contained in this Sub-sublease to the contrary notwithstanding, Sub-sublandlord shall not be deemed to have unreasonably withheld, conditioned or delayed its consent or approval, when required to be given, if Owner and/or Sublandlord shall have withheld, conditioned or delayed its consent or approval in any instance in which such consent or approval is required.

24. Waiver of Jury Trial. THE PARTIES HERETO EACH HEREBY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY CLAIM, ACTION, PROCEEDING OR COUNTERCLAIM BY EITHER PARTY AGAINST THE OTHER ON ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS SUB-SUBLEASE, THE RELATIONSHIP OF THE PARTIES HERETO OR TENANT'S USE OR OCCUPANCY OF THE SUB-SUBLEASED PREMISES.

25. Owner and Sublandlord Consent to Sub-sublease. If Owner or Sublandlord fails to consent to this Sub-sublease to the extent required pursuant to the Prime Lease, this Sub-sublease shall be null and void.

[REMAINDER OF PAGE INTENTIONALLY BLANK]
[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the day hereinabove stated.

ATTEST:

Yonda Burns

Name: Yonda Burns
Title: Executive Assistant

SUB-SUBLANDLORD:

**NATIONAL ADULT EDUCATION
PROFESSIONAL CONSORTIUM, Inc.**

Lennox McLendon [SEAL]

NAME: Lennox McLendon
Title: Executive Director

ATTEST:

TENANT:

**MIAMI-DADE COUNTY
BOARD OF COMMISSIONERS
OFFICE OF INTERGOVERNMENTAL
AFFAIRS**

Name: Elizabeth Adorno
Title: Deputy Clerk
Co. Commissioner

NAME: Carlos Alvarez [SEAL]
Title: Mayor