

Memorandum



Date: April 8, 2008

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

Agenda Item No. 9(A)(31)(A)

From: George M. Burgess
County Manager

Subject: Resolution Concerning Potential Television Series regarding Miami-Dade 311 Answer Center

Recommendation

It is recommended that the Board of County Commission adopt the attached resolution authorizing the Mayor or his designee to enter into agreement, at no cost to Miami-Dade County, with Darlow Smithson Production Limited (DSP) for the proposed development and filming of a television documentary series with the Government Information Center (GIC) 311 Answer Center.

Scope

The scope of the resolution has a countywide impact.

Fiscal Impact/Funding Source

There is no fiscal impact.

Track Record/Monitor

This company is a respected producer in the film industry. This agreement will be monitored by the Government Information Center.

Delegation of Authority

This resolution delegates the Mayor or his designee to enter into agreement on behalf of Miami-Dade County and to exercise renewal, cancellation, and termination clauses of the agreement.

Background

Darlow Smithson Productions Limited (DSP), a United Kingdom television production company, would like to contract with Miami-Dade County to produce a series regarding the 311 Answer Center. DSP intends to market the series to the Arts and Entertainment Channel (A&E) or TruTV (formally known as CourtTV). The intended format for the services is that of a "reality" program, e.g., Cops). DSP would film call center employees receiving resident requests for information and service, as well as the follow-up actions by County departments. We anticipate that this documentary would provide Miami-Dade County with positive national exposure.

The agreement provides some exclusive rights to DSP for the duration of the contract for the production of episodes dealing with the 311 Call Center. It also allows DSP limited use of Miami-Dade County's logo.

Assistant County Manager



MEMORANDUM

(Revised)

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

DATE: April 8, 2008

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

SUBJECT: Agenda Item No. 9(A)(31)(A)

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. 9(A)(31)(A)

Veto _____

04-08-08

Override _____

RESOLUTION NO. _____

RESOLUTION CONCERNING POTENTIAL TELEVISION PROGRAM FEATURING MIAMI-DADE 311; AUTHORIZING AND DIRECTING THE MAYOR OR HIS DESIGNEE TO EXECUTE THE ATTACHED CONTRACT IN SUBSTANTIALLY THE FORM ATTACHED AND TO EXERCISE THE RENEWAL PROVISIONS CONTAINED THEREIN

WHEREAS, the Board of County Commissioners wishes to accomplish the goals set forth in the accompanying memorandum, which is incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Mayor or his designees is authorized and directed to execute the attached contract in substantially the form attached and to exercise the renewal provisions contained therein.

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:

- | | | |
|----------------------|------------------------------------|--------------------|
| | 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 |
| Dorin D. Rolle | | Natacha Seijas |
| Katy Sorenson | | Rebeca Sosa |
| Sen. Javier D. Souto | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 8^h day of April, 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.

TWL

Thomas W. Logue

Contract Regarding "Miami-Dade 311" Television Project

Darlow Smithson Productions Limited ("DSP") and Miami-Dade County, a political subdivision of the State of Florida, agree to the following ("the **Access Agreement**") in connection with the proposed development and filming of a television documentary series that DSP intends but does not undertake to produce about the work Miami-Dade 311 undertakes (the "**Program**").

DSP anticipates that the Program will follow chosen, Miami Dade County employees as they respond to 311 calls throughout the county.

In consideration of the sum of \$1 (one dollar) (receipt of which is hereby acknowledged) Miami-Dade County has agreed the following:

1. Recording Rights

Miami-Dade County shall grant to DSP the right to research and videotape, film and/or otherwise record aspects of the daily activities of Miami-Dade 311 ("Recordings") during the Term (defined below) for the purposes of making the Program. Miami-Dade County reserves the right to decide what areas may be so recorded. The Parties acknowledge that certain information obtained by Miami-Dade County in the course of 311 telephone calls may be privileged and confidential under federal and state law and DSP will have no right to such information and expressly agrees not to use such information in its Recordings or programs.

2. Media Rights

DSP shall own the copyright and all other rights in its Recordings throughout the world in perpetuity. DSP shall have the right to and to authorize others to exploit the Recordings and all elements and versions thereof (including derivative works such as the incorporation of the Recordings into the Program and any related ancillary materials) in any and all media throughout the world in perpetuity (including in any press or publicity for the Program) ("Media Rights"). This provision will survive any cancellation or expiration of this agreement.

3. Access

Miami-Dade County shall:

- (a) grant to DSP and/or its authorized representatives (including, without limitation, a camera crew) during the Term reasonable access as determined by Miami-Dade County to areas of Miami-Dade County property involved in its 311 call center and the responses of County Officials to such calls, which may include locations to which Miami-Dade County are authorized to grant access for the purpose of filming as set forth hereunder;

- (b) use its reasonable endeavours to assist DSP in obtaining the consent of any relevant third Party to film at any locations or so-called 'call out departments' which are not owned or controlled by Miami-Dade 311 and/or to which Miami-Dade 311 is not authorized to grant access; and
- (c) generally provide reasonable assistance and advice in the production of the Program to ensure that it is factually accurate.

4. The Term & Renewal

- (a) DSP will have access to research and film the Program with Miami-Dade County during the period from the date of signature of this agreement to the end of September 2008 ("the Term"), plus any additional days that the parties mutually agree, if DSP is commissioned to do so by the broadcaster. In the event that DSP is not commissioned to produce the Programme, DSP shall notify Miami-Dade County as soon as practicable and all restrictions and obligations under this Access Agreement shall automatically cease. Within the contract period, the parties may agree in writing to extend the contract three times for a one year period each time.

5. Indemnity DSP agrees to indemnify and hold harmless Miami-Dade County, its officials, employees, and agents from any claims or lawsuits for damages of any kind that result from the publication of information obtained by DSP pursuant to the access or rights granted to DSP in this agreement, including but not limited to claims for libel, defamation, publication of confidential information, false light, and any and all other claims arising from the rights granted to DSP in this agreement, including but not limited to claims based upon allegations that Miami-Dade County, its Officials, employees, and agents acted in a negligent, reckless or intentional manner. DSP will similarly indemnify and hold harmless Miami-Dade County, its officials, employees, and agents from any other claims that arise as a direct result of DSP actions under this agreement. Nothing herein shall be construed to constitute a waiver of sovereign immunity. This provision will survive any cancellation or expiration of this agreement.

6. Costs

DSP acknowledges and agrees that DSP shall be responsible for those costs incurred by Miami-Dade County (including overtime costs for Miami-Dade employees) that are a direct result of DSP's recording needs or requirements so long as those costs would not have been incurred by Miami-Dade County absent DSP's presence and the same are notified to DSP prior to Miami-Dade County accruing such costs. Miami-Dade County acknowledges and agrees that it shall utilize best efforts to ensure that it uses available on-duty personnel in connection with the Program prior to charging DSP for any overtime costs for such personnel.

7. Credit to Miami-Dade County; Use of County Name

DSP shall have the right, but not the obligation, to use the Miami-Dade County name, logo, and insignias for use on the Program or for the advertisement of the

Program including television programming, home videos, and promotional materials related thereto, but such use shall not extend to sale of consumer goods or products that are not related to the media. In no event shall DSP use the name or logo of Miami-Dade County to state, suggest, or imply that Miami-Dade County is endorsing any consumer product or service. DSP confirms that it will include a credit in the Program, subject to final broadcaster approval, substantially in the form "With thanks to Miami-Dade County 311".

8. Review of Rough Cut

Miami-Dade County shall have the right to review a rough cut of the Program (including any outtakes from such Program which DSP plans to broadcast in any form) at a reasonable time and in a reasonable manner in its offices in Miami-Dade County Florida, for the purpose of ensuring the factual accuracy of the Program and to ensure that Miami-Dade County, its officers, employees, and agents are not depicted in a false light or treated in a derogatory fashion. It is solely the responsibility of DSP to ensure that the information it uses is not publicized in a manner that violates any legal rights or privileges of third parties, including rights that information be kept confidential, and does not defame, libel or otherwise legally harm third parties. Due to very tight timelines during the production of the Program DSP will need any review of materials and comments to be sent to DSP within two business days of Miami-Dade County's receipt of the Program for review, and DSP agrees to consider such comments in good faith and reflect them as far as possible to ensure that the Program is factually accurate. If Miami-Dade County does not respond within two business days of receipt of the Program for review, DSP will interpret this as acceptance of the Program as is. For the avoidance of doubt it is acknowledged and agreed that DSP shall have final editorial control.

9. Exclusivity: No Cooperation with Competing Programs

Miami-Dade County hereby agrees that it shall not extend the same level of cooperation with any television production company or broadcaster in relation to the production of any other similar so-called 'real life' or 'fly on the wall' television program or series focused on the day to day activities of Miami-Dade 311 during the term of this Agreement, provided, however, that Miami-Dade County retains the right to cooperate with bona fide news media; any media source as required by its status as a government entity and the laws requiring public access and disclosure, as Miami-Dade County at its sole discretion shall determine; and as may be requested or directed by a government official or board.

10. Representations and Warranties

- (a) Miami-Dade County hereby represents and warrants that it has the full right and authority to enter into this agreement.
- (b) DSP represents and warrants that it has the full right and authority to enter into this agreement.

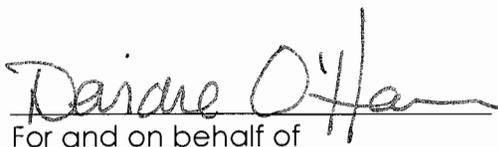
11. Termination

Either Party shall have the right to terminate this agreement where the other Party is in breach of its obligations and such breach is incapable of remedy within 10 business days. Prior to termination for breach, a Party shall notify the other Party in writing as to the reasons for termination ("Termination Event") and shall give the other Party ten (10) business days to cure such Termination Event, if capable of being cured. Subject to the notice and opportunity to cure provisions set forth above, it will be breach for DSP to fail to honour any written rule and regulation that Miami-Dade County delivers to DSP regarding the time, place and manner of access to County property under this agreement.

12. Miscellaneous

- (b) If either party is materially hampered from performing hereunder by reason of any law, natural disaster, labor controversy, war, disease (e.g. hoof and mouth) or any similar event ("Force Majeure") failure to perform shall not be deemed a breach or default under this Agreement and neither Party shall be liable to the other therefor. If a Force Majeure continues for more than a period of eight (8) weeks, then upon notice either Party may terminate this Access Agreement without further liability to the other Party, except for appropriate payment or adjustment in regard to payments based on services rendered or costs incurred prior to termination.
- (c) If any provision herein is unenforceable then such provision shall be of no effect on any other provision hereof.
- (d) No waiver of any breach hereof shall be deemed a waiver of any other breach hereof.
- (e) DSP will be required to comply at all times with the requirements of section 2-11.14 of the Miami-Dade County Code regarding the obtaining of film permits.
- (f) DSP shall be solely responsible to obtain any releases from any person that it films; including Miami-Dade County employees, to the extent any such release is required.

13. This agreement may only be assigned by DSP to our parent company (IMG Media) or to the broadcaster. This agreement shall be governed by and construed in accordance with the law of the State of Florida and the United States of America.


For and on behalf of

Darlow Smithson Productions Limited

I confirm my agreement and acceptance to the terms detailed above, for and on behalf of Miami-Dade County

Signed

Name (Please print clearly)