Memorandum

MIAMI-DADE COUNTY

Date: March 3, 2009

To: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

Agenda Item No.8(D)(1)(I)

From: Carlos Alvarez, Mayor
Miami-Dade County

George M. Burgess
County Manager

Subject: Resolution Authorizing the Execution of Amendment II to the Agreement between Miami-Dade County and The Nature Conservancy for Continued Provision of Land Acquisition and Other Services for the Environmentally Endangered Lands Program for a Two-Year Period Not to Exceed $547,184; Providing for Waiver of Formal Bid Procedure

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Recommendation

It is recommended that the Board of County Commissioners (BCC) approve the attached resolution authorizing the execution of an amendment to an existing agreement between Miami-Dade County and The Nature Conservancy (TNC) Charitable Trust, a non-profit organization, for continued land acquisition and other services for the Miami-Dade County Environmentally Endangered Lands (EEL) Program.

Scope

This agreement provides services for the EEL Program, which is countywide in nature.

Fiscal Impact/Funding Source

The maximum annual cost for the two (2) additional years of this amendment is $269,549 for the first year and $277,635 for the second year, a three (3) percent increase. The total two-year maximum cost is $547,184. The agreement can be cancelled by the County with 60 days written notice. Funding for this agreement is provided by the EEL Acquisition Trust Fund.

Track Record/Monitor

The Director of the Department of Environmental Resources Management (DERM) will monitor this agreement.

Background

On March 8, 2001, the BCC approved a six-year agreement with TNC under Resolution No. R-189-01. On May 8, 2007, the BCC approved Amendment I for a two-year extension under Resolution No. R-551-07. TNC essentially acts as a land acquisition agent on behalf of the County in acquiring conservation lands from willing sellers. Under this and previous agreements, TNC has successfully negotiated the sale of over 17,600 acres of wetlands valued at over $38,000,000 within EEL project areas for purchase by the County and the South Florida Water Management District. TNC has an excellent track record in negotiating option agreements, resolving problems identified during negotiations and preparing the option contracts for EEL land purchases. In addition, the organization's statewide experience, expertise in government land acquisition under Florida law, and working knowledge of the State's land conservation and grant programs have benefited Miami-Dade County. The County has a continuing need for TNC's services, which include negotiating land purchases and preparing real estate option agreements. The current agreement with TNC expires April 19, 2009. Amendment II extends the agreement for two additional years. Amendment II also allows TNC to assist in the acquisition of eligible properties by tax deed as authorized by the BCC under Resolution No. R-1300-07.

TNC has been providing professional services to the EEL Program since April 1994. TNC is nationally renowned as environmental land acquisition experts. The contract with TNC was established to expedite the pace of acquisitions in order to maximize purchasing partnerships and funding sources, and TNC continues to provide that service. Although the Public Works Department (PWD) Real Estate Officers

conduct negotiations for pineland and hammock properties, more than 90% of EEL purchases are within the South Dade Wetlands Project and are negotiated by TNC in accordance with their professional services agreement. The EEL Program maintains a very small staff and does not have the capacity to process the numerous negotiations and contracts. TNC provides their expertise in a cost-effective manner.

These factors demonstrate that it is in the County's best interest to continue using TNC for environmental land acquisition. It is therefore recommended that the BCC approve the resolution to extend the agreement with TNC for an additional two years.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: March 3, 2009

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

SUBJECT: Agenda Item No. 8(D)(1)(I)

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 Mayor'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**

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Approved _____Mayor

Veto _____

Override _____

Agenda Item No. 8(D)(1)(I)
3-3-09

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT II TO THE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE NATURE CONSERVANCY FOR CONTINUED PROVISION OF LAND ACQUISITION AND OTHER PROFESSIONAL SERVICES FOR THE ENVIRONMENTALLY ENDANGERED LANDS PROGRAM FOR A TW0-YEAR PERIOD NOT TO EXCEED $547,184; PROVIDING FOR WAIVER OF FORMAL BID PROCEDURE

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, this Board desires to accomplish the purposes of Section 24-50 of the Code of Miami-Dade County,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Amendment II to the existing Agreement between Miami-Dade County and The Nature Conservancy, as Trustee of The Nature Conservancy Charitable Trust, for continued provision of land acquisition and other professional services for the Miami-Dade County Environmentally Endangered Lands Program for a two-year period not to exceed $547,184, in substantially the form attached hereto and made a part hereof; provides for waiver of formal bid procedure; authorizes the County Mayor or County Mayor's designee

to execute same for and on behalf of Miami-Dade County; and authorizes the County Mayor or County Mayor's designee to exercise the 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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of March, 2009. 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.

Robert A. Duvall

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AMENDMENT II
MIAMI-DADE COUNTY
ENVIRONMENTALLY ENDANGERED LANDS PROGRAM
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AMENDMENT is made and entered into this _____ day of _____, 2009, by and between Miami-Dade County, a political subdivision of the State of Florida ("County") and The Nature Conservancy, a District of Columbia nonprofit corporation, authorized to transact business in the State of Florida as The Nature Conservancy, Inc., as Trustee of The Nature Conservancy Charitable Trust dated May 11, 1998, as amended, exempt from Federal taxation under Section 501(c)(3) of the Internal Revenue Code ("Conservancy").

WHEREAS, County and Conservancy entered into that certain Dade County Environmentally Endangered Lands Program Agreement for Professional Services dated April 20, 2001, which was amended by that certain Amendment I dated April 20, 2007 (as amended, the "Agreement"), which provided for the Conservancy to perform certain services in connection with the County's Environmentally Endangered Lands Program; and

WHEREAS, the term of the Agreement expires April 19, 2009; and

WHEREAS, the Agreement provides that the Conservancy may assist the County in the acquisition of land by means of negotiating purchases by contract; and

WHEREAS, the parties desire to clarify that The Nature Conservancy may also assist the County with the purchase of tax deeds as a means of land acquisition.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the County and Conservancy hereby agree as follows:

1. Article I Section 1.02 of the Agreement shall be amended as follows with additions underlined:

"ARTICLE I
CONSERVANCY RESPONSIBILITIES
* * * * *

1.02 Land Acquisition. In accordance with policies, priorities and work plan developed by the County, the Conservancy shall work with and provide support to the County in the acquisition of environmentally endangered lands and in the acquisition of other conservation lands as needed. As a general statement of goals, the Conservancy shall identify and contact the owners of environmentally-endangered lands and other conservation lands in writing to determine the willingness of such owners to negotiate a sale of their land. The Conservancy shall conduct further activities necessary to negotiate with and contract for the purchase of such properties. Such contracts shall be subject to the approval of the Board of County Commissioners.

In the event the County has the opportunity to acquire property by the purchase of tax deed, the Conservancy shall assist the County in such efforts; provided, the Conservancy's assistance shall be limited to attending tax deed sales and bidding on the County's behalf pursuant to written direction received from the County and the Conservancy shall not be required to expend funds for the purchase of any tax deed."

2. Section 3.01 is hereby deleted and replaced with the following:

"In consideration of the services to be rendered pursuant to this Agreement, County shall pay the Conservancy for its direct and indirect costs incurred in performing the work hereunder (the "Contract Fee") an amount not to exceed $269,549.00 for the first year of the Extension Term and $277,635.00 for the second year of the Extension Term (collectively referred to herein as the "Maximum Fee"), which sum shall be paid on a cost reimbursable basis in accordance with the Fee Schedule attached as Exhibit "A" and incorporated herein by reference. The Conservancy's indirect costs shall be calculated based on its current overhead rate of 23% in accordance with the Negotiated Indirect Cost Rate Agreement (NICRA) letter from the U.S. Department of Interior ("DOI") dated August 13, 2008, attached as Exhibit "B" and incorporated herein by reference. In the event that the Conservancy's NICRA is revised, the indirect cost rate paid hereunder shall automatically be adjusted to such revised rate. Notification and evidence of the Conservancy's revised rate shall be sent to the County in the event of any rate adjustment, provided however, such rate adjustments shall not require the County to pay in excess of the Maximum Fee. In addition to the Contract Fee, the County shall reimburse the Conservancy for option agreement fees and/or earnest money deposits (the "Option Fees") that the Conservancy has paid to landowners in the process of assisting the County in acquiring the property during the term of this Agreement.

The Contract Fee and Option Fees shall be paid on a quarterly basis, beginning three months after the effective date of this Agreement. Payments will be made within thirty (30) days of receipt by the County's authorized representative of the Conservancy's quarterly invoice for Contract Fees and Option Fees. Contract Fees and Option Fees will be invoiced quarterly."

3. Article IV – Term is hereby modified as follows:

"Unless otherwise terminated, the Agreement shall continue to be in full force and effect until April 19, 2011, or sixty (60) days after receipt by the Conservancy of written notice of termination from the County, whichever shall first occur (the "Extension Term")."

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4. This Agreement may be amended by mutual written agreement of both parties.

ALL ELSE REMAINS THE SAME

IN WITNESS WHEREOF, the parties have set their hand and affixed their seals this _____ day of _____, 2009.

THE NATURE CONSERVANCY, a nonprofit District of Columbia Corporation, as Trustee of The Nature Conservancy Charitable Trust dated May 11, 1998, as amended

Betty A Hernandez
Witness

Amy Givens
Witness

By: _____
Jeff Darter

Its: Florida State Director

(Corporate Seal)

F.E.I.D. No. 53-0242652

Legal Review: GR 12/30/08

Date signed: January 5, 2009

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MIAMI-DADE COUNTY, a political subdivision of the State of Florida

By:_____
for George Burgess, County Manager

Print Name:_____

Approved by County Attorney
as to form and Legal Sufficiency

_____
Assistant County Attorney

The foregoing was accepted and approved on the ___ day of _____, 2009 by Resolution No. _____ of the Board of County Commissioners of Miami-Dade County, Florida.

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Exhibit A
Fee Schedule

HOURLY RATE RANGES

The hourly rate ranges for various positions for the first contract year are listed as below. The personnel charges will be billed at the actual rate.

Position	**Hourly Rate Ranges (including benefits)**	
	Low End	High End
Associate Director of Protection	$44.91	$51.64
Senior Field Representative	$37.92	$47.73
Field Representative	$27.79	$37.41
Stewardship staff	$49.65	$57.10
Marketing staff	$33.55	$38.17

Reimbursable expenses include travel, communications, supplies, and miscellaneous expenses that cover training and meeting fees, dues, staff monthly parking fees, and any expenses necessary to implement this agreement.

The Conservancy's indirect costs shall be calculated based on its current overhead rate of 23% in accordance with the Negotiated Indirect Cost Rate Agreement (NICRA) letter from the U.S. Department of Interior ("DOI") dated August 13, 2008. In the event that the Conservancy's NICRA is revised, the indirect cost rate paid hereunder shall automatically be adjusted to such revised rate, provided however, in no event shall any rate adjustments require the County to pay in excess of the Maximum Fee.

* The Nature Conservancy will provide legal and administrative support with attorney, legal assistant, finance staff and administrative staff. These staff will not charge time to the county contract.

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