Memorandum

MIAMI-DADE COUNTY

Date: April 6, 2010

Agenda Item No. 8(C)(1)(E)

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

From: George M. Burgess
County Manager

Subject: The American Green Cross, Inc. application for ten wheelchair vehicles

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RECOMMENDATION

It is recommended that the Board approve the application of The American Green Cross, Inc. for ten (10) Certificates of Public Convenience and Necessity to operate ten (10) wheelchair vehicles.

SCOPE

These Certificates of Public Convenience and Necessity are countywide, allowing the certificate holder to operate in unincorporated and incorporated areas of Miami-Dade County.

FISCAL IMPACT/FUNDING SOURCE

There is no fiscal impact to the County.

TRACK RECORD/MONITOR

Applicant is an existing permit holder with twenty Nonemergency Certificates of Public Convenience and Necessity. Fidel Ferreiro obtained a chauffeur registration with the Consumer Services Department on February 28, 2006. There is no enforcement history. The Consumer Services Department (CSD) will be responsible for monitoring this company.

BACKGROUND

On December 18, 1980, the Board of County Commissioners adopted Ordinance 80-145, later codified in Chapter 4, Article III of the Code of Miami-Dade County, providing for the regulation of nonemergency medical transportation. Section 4-44 of the County Code provides the procedures to be followed by the County in processing certificate applications. Based upon those requirements, the Board may issue or refuse to issue the certificate as applied for, or may issue the certificate with modifications or upon such terms and conditions as in its judgment the public interest may require. In reaching a determination, the Board shall consider the application, the County Manager's recommendation, all matters presented during the public hearing held at the March 9, 2010, Government Operations Committee (GOC) meeting, and among others, the following criteria:

(1) The ability of the applicant to provide the proposed service;
(2) The adequacy of the management plan of the applicant; and
(3) The benefits that will accrue to the public interest from the proposed service.

The American Green Cross, Inc., located at 2500 NW 79 Avenue, Suite 237, Miami, Florida 33122, seeks to obtain ten (10) Certificates of Public Convenience and Necessity to provide wheelchair nonemergency medical transportation service to individuals requiring this type of transportation.

The applicant seeks to transport patients to and from various medical facilities throughout Miami-Dade County seven (7) days a week, 24 hours a day. Nonemergency Transportation rates are not regulated by Miami-Dade County; however, under the Code the Certificate Holder must file their rates with CSD and post them within the passenger compartment section of each vehicle. The proposed rates are $45.00 per person, one-way. The vehicles operated under these certificates will be required to meet the requirements of Section 4-49 of the Code establishing vehicle inspection frequencies.

The management plan submitted by Mr. Fidel Ferreiro, President of The American Green Cross, Inc., includes maintenance, communication, and record keeping systems and meets the requirements of the Code. All required financial statements and credit references have been submitted. The proposed service standards meet all requirements of the Code and adequately meet transportation and comfort needs. A background investigation reveals no criminal record within the last five years for the officer(s) of the corporation.

The proposed services to be provided under these certificates will increase the availability of licensed nonemergency medical transportation in Miami-Dade County thus providing increased competition and high service standards to the public.

Assistant County Manager

ARTICLE III. NONEMERGENCY MEDICAL TRANSPORTATION*

Sec. 4-41. Short title.

This article shall be known as the "Nonemergency Medical Transportation Ordinance."

(Ord. No. 80-145, § 1, 12-18-80)

Sec. 4-42. Legislative findings and intent.

(a) During the 1979 State legislative session, authority for regulation of nonemergency medical transportation was transferred from the Public Service Commission to the Department of Health and Rehabilitative Services (Chapter 401, Florida Statutes). It mandated the elimination of economic regulations at the State level and required each County to establish local control of the industry. A prior condition for obtaining a State license and permit is a County certificate of public convenience and necessity.

(b) The purpose of this article is to ensure the health and safety of those citizens who must use nonemergency transportation. Regulation of the nonemergency medical transportation industry is susceptible to and can most effectively be carried out under a uniform plan of regulation to [of] the County as a whole.

(c) Artificial restrictions upon the nonemergency medical transportation industry based solely upon economic regulations, that limit competition and impose unreasonable standards on the industry, are not in the best interest of the health, welfare, safety and convenience of the handicapped and disabled residents of the County who rely on this form of transportation. The riding public should not be required to bear the effects of governmentally imposed restrictions upon the industry which are artificial or unnecessary.

(Ord. No. 80-145, § 2, 12-18-80)

Sec. 4-43. Definitions.

For the purposes of this article, the following definitions shall apply:

(a) *Chauffeur* means a driver registered with and authorized by the Consumer Services Department to operate a nonemergency medical vehicle.

(b) *Commission* means the Board of County Commissioners of Dade County, Florida.

(c) *Applicant* or *person* means any natural person(s), firm, partnership, association, corporation, or other business or governmental entity.

(d) *Director* means the Dade County Consumer Services Department Director.

(e) *CSD* means the Dade County Consumer Services Department.

(f) *Fares* or *rates* means the charges established pursuant to this article to be paid for the transportation services provided by an operator.

(g) *Trade name* means the name under which any person(s), firm, partnership, association or corporation operates its business.

(h) *Operate* means provide transportation services utilizing a nonemergency vehicle.

(i) *Operator* means any person who has been issued a certificate in accordance with the provisions of this article.

(j) *Certificate* means a certificate of public convenience and necessity authorizing the holder thereof to engage in providing the transportation services described thereon.

(k) *Nonemergency medical transportation service or nonemergency service* means the transportation of persons while on stretchers or wheelchairs, or whose handicap, illness, injury or other incapacitation makes it impractical to be transported by a regular common carrier such as bus or taxicab service, and neither need nor expect to need medical attention enroute. The definition of nonemergency medical transportation service or nonemergency service shall also include service provided by any vehicle operating under a Dade County certificate of public convenience and necessity received under this article which is designed to accommodate no more than eight (8) passengers, exclusive of the driver and which is equipped to transport passengers confined to a wheelchair, where such vehicle is provided by Dade County to an oper-

*Editor's note—Pursuant to § 15 of Ord. No. 80-145, directing its inclusion in the Code, the editor has designated §§ 1—13 of said ordinance as Art. III, §§ 4-41—4-53.

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MIAMI-DADE COUNTY

PUBLIC NOTICE

THE GOVERNMENT OPERATIONS COMMITTEE OF THE BOARD OF COUNTY COMMISSIONERS of Miami-Dade County, Florida will meet on Tuesday, March 9, 2010, at 9:30 a.m., in the County Commission Chambers, Second Floor, Stephen P. Clark Center, 111 NW First Street, Miami, Florida to consider:

Resolution approving application for ten (10) Certificates of Public Convenience and Necessity to The American Green Cross, Inc. to provide wheelchair nonemergency transportation service

A person who decides to appeal any decision made by the Government Operations Committee of the Board of County Commissioners, with respect to any matter considered at this hearing, will need a record of the proceedings. Such person may need to ensure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based.

MEMORANDUM
(Revised)

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

DATE: April 6, 2010

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

SUBJECT: Agenda Item No. 8(C)(1)(E)

Please note any items checked.

_____ **"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**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(C)(1)(E)
4-6-10

RESOLUTION NO. _____

RESOLUTION APPROVING APPLICATION FOR TEN (10) CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO THE AMERICAN GREEN CROSS, INC. TO PROVIDE WHEELCHAIR NONEMERGENCY MEDICAL TRANSPORTATION SERVICES

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the application by The American Green Cross for ten (10) Certificates of Public Convenience and Necessity to operate ten (10) nonemergency vehicles to provide wheelchair nonemergency medical transportation in Miami-Dade County.

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 6th day of April, 2010. 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. GKS

Gerald K. Sanchez

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**8(C)1(E)**
File Number:	**100458**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**March 24, 2010**
Type of Item:	**Resolution**
District:	**Countywide**

Summary

This resolution approves the application of The American Green Cross, Inc. for ten (10) Certificates of Public Convenience and Necessity to operate ten (10) wheelchair vehicles for nonemergency medical transportation service to individuals requiring this type of transportation. The company is located at 2500 N.W. 79 Avenue, Suite 237, Miami, Florida 33122.

Pending Lawsuit (Wage Theft Allegations)

A search of the company by the Office of the Commission Auditor found the following:

On January 14, 2010, a complaint was filed against the principal(s) of *The American Green Cross, Inc.* in the United States District Court Southern District of Florida for overtime wage violations.[1]

According to the docket information for the case, an order was filed by the judge on March 1, 2010 setting trial and pre-trial schedule, requiring mediations and referring certain motions to the judge. All motions to amend pleadings or join parties are due by May 28, 2010. All discoveries are to be completed by September 13, 2010. The mediation is to be completed and report filed by September 24, 2010.

The President of the company is Mr. Fidel Ferreiro.

Prepared by: Michael Amador-Gil

[1] Civil Docket No. 1:10-cv-20124-CMA. This is an action brought under the Fair Labor Standards Act.