

# Memorandum



**Date:** June 7, 2011

**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

Agenda Item No. 8(J)(1)(A)

**From:** Alina T. Hudak  
County Manager

**Subject:** Resolution Authorizing the Execution and Filing of a Grant Application with the United States Department of Transportation, Federal Transit Administration, for Fiscal Year 2011 Section 5307 Congestion Mitigation Air Quality Flexible Funding in the Amount of \$3,862,000

## **RECOMMENDATION**

It is recommended that the Board of County Commissioners (Board) authorize the filing of a grant application on behalf of Miami-Dade County with the United States Department of Transportation (USDOT), Federal Transit Administration (FTA) for Fiscal Year (FY) 2011 Section 5307 Congestion Mitigation Air Quality (CMAQ) flexible funding in the amount of \$3,862,000. The funding will be used for costs related to the construction of a pedestrian overpass at the University Metrorail Station.

It is further recommended that the Board authorize this grant agreement pursuant to the application, as well as the receipt and expenditure of funds as specified in the agreement. A public hearing is required in accordance with Federal Transit Administration (FTA) regulations.

## **SCOPE**

While the pedestrian overpass is physically located within Commission District 7, the impact of this project benefits the riding public, and is therefore, countywide.

## **FISCAL IMPACT/FUNDING SOURCE**

This grant will provide \$3,862,000 in federal funding for the University Pedestrian Overpass project. There will be no negative impact to the County since the required local match of \$965,500 will be provided by the Florida Department of Transportation (FDOT) through the use of State Toll Revenue Credits (TRC), as a "soft match".

Additional funding for this project will be provided under separate cover through a \$1 million State Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT), which requires an equal match of \$1 million for a total JPA of \$2 million. The estimated project cost is approximately \$6.3 million.

To date, Miami-Dade Transit (MDT) has used \$750,000 in Charter County Transportation Surtax (Surtax) funds to complete the planning phase under the National Environmental Policy Act (NEPA) with a Categorical Exclusion, the Pedestrian/Bicycle Overpass Study, a conceptual design report and 45% of the final design. Therefore, the \$5.862 million funding from this FTA grant and the aforementioned State JPA will be used to complete the University Pedestrian Overpass project and reimburse the Surtax \$345,000 of the \$750,000 spent on the aforementioned activities.

The estimated annual and on-going operation and maintenance for this overpass is \$17,317 and will be programmed in the MDT 2012-2013 Operating budget.

## **TRACK RECORD/MONITOR**

MDT has entered into numerous funding agreements with FTA over the course of twenty-five (25) years. The Project Manager for this grant is Carlos de la Torre, Acting Budget Chief, MDT Financial Services.

### **DELEGATED AUTHORITY**

In accordance with Section 2-8.3 of the Miami-Dade County Code related to identifying delegation of Board authority, there are no authorities beyond that specified in the resolution which includes authority for the Mayor, Mayor's designee or the MDT Director to execute the agreement and receive and expend these and any additional funds should they become available.

### **BACKGROUND**

Flexible funds are certain legislatively specified funds that may be used either for transit or highway purposes. This provision was first included in the Intermodal Surface Transportation Efficiency Act of 1999 (ISTEA) and was continued with the Transportation Equity Act for the 21st Century (TEA-21). The program remains in place under the latest reauthorization, the Safe, Accountable, Flexible and Efficient Transportation Equity Act-A Legacy for Users. (SAFETEA-LU).

Flexible funds include Federal Highway Administration (FHWA) Surface Transportation Program (STP) funds and Congestion Mitigation Air Quality (CMAQ) and Federal Transit Administration (FTA) Urban Formula Funds. Eligible activities under the CMAQ Improvement plan include, but are not limited to, construction of pedestrian walkways and bicycle transportation facilities. When FHWA CMAQ funds are transferred to the FTA, they are transferred to one of the following three programs:

- Urbanized Area Formula Program (5307),
- Non-urbanized area Formula Program (Section 5311 program); or
- Elderly and Persons with Disabilities Program (Section 5310 program).

Flexible federal highway formula funds have been programmed by FDOT using CMAQ funds transferred to the FTA to provide financial support for construction of a pedestrian overpass at the University Metrorail Station. The University pedestrian overpass was one of four sites included in the Summary of Miscellaneous Capital Improvement Projects recommended for inclusion in the People's Transportation Plan (PTP) on July 29, 2003 by the Citizens' Independent Transportation Trust (CITT) and approved by the Board on October 9, 2003 through Resolution No. R-1154-03.

The University Metrorail Station is located within the City of Coral Gables on the west side of the intersection of US-1 (South Dixie Highway-SR5) and Mariposa Court. The station is also adjacent to the University of Miami's campus. The pedestrian overpass will facilitate accessibility to the University of Miami's campus (west of US-1) and the commercial district (east of US-1) from the University Metrorail Station. It will improve the use of Metrorail facilities and pedestrian safety and provide convenient access to services and facilities on either side of South Dixie Highway near and around the University Metrorail Station.

In 2006, MDT performed a warrant and prioritization study on the viability of constructing the University, Dadeland South, Dadeland North and South Miami overpasses. The study determined that the Dadeland North and South locations did not meet the screening criterion and the overpasses, therefore, did not move forward. The South Miami overpass met the criteria; however, the City opted not to move forward with its construction.

On November 6, 2007, the Board approved receipt of State funding in the amount of \$2,045,000 for the University Pedestrian Overpass project (R-1218-07). The funding was programmed in Fiscal Year (FY) 2010 for \$1,000,000 and FY 2011 for \$1,045,000.

On January 10, 2008, the Board authorized the acquisition of land and temporary construction easement needed for this project through Resolution No. 38-08. The project requires a partial taking of approximately 1,364 square foot land parcel and 2,052 square foot temporary construction easement

from a 137,991 square foot parent tract with a one- and two-story shopping center located at 1250 South Dixie Highway. This partial take is necessary for the construction of the east tower of the Overpass and will house the elevator and stairs for the structure. However, due to fiscal challenges and FDOT's reduction in several million dollars in State Block Grant funding, the project was placed on-hold indefinitely in September 2008 at approximately 45% completion final design phase.

Subsequently, in 2009, MDT decided to de-fund the University Pedestrian Overpass project due to local fiscal constraints. The \$1 million State funding programmed in FY 2010 was re-programmed to the Earlington Heights/Miami Intermodal Center Connector project and the University Pedestrian Overpass project was removed from the FY 2010-11-Capital budget.

In 2010, MDT reprogrammed \$3.862 million in federal flexible funds from the three pedestrian overpass projects. These funds will be applied for through the FTA Urbanized Area Formula Grant Program-Section 5307. Eligible costs include planning, design, permit costs, right of way engineering/acquisition, utility relocation, construction, design services during construction of the project. The Metropolitan Planning Organization (MPO) at its October 21, 2010 meeting and the State have amended and approved the FY 2011 Transportation Improvement Program (TIP) and State Transportation Improvement Program (STIP) to include the University Pedestrian Overpass project. The project is also included in the proposed capital budget for FY 2011-12.

The JPA which will provide \$1 million in additional funding for this project has been provided to the Board for approval under separate cover. This is a multi-year agreement, which will provide State funding programmed in FY 2011 (\$759,696), FY 2012 (\$48,902) and FY 2013 (\$200,402) for a total of \$1,000,000. Miami-Dade County proposes to provide the \$1,000,000 equal match required for this JPA from Charter County Transportation Surtax (Surtax) Bond proceeds. Eligible costs under this JPA include final/post design services; construction engineering and inspection (CEI); right-of-way acquisition; and construction of the pedestrian overpass.

Construction is scheduled to commence January 2013 and be completed by December 2013.



Assistant County Manager



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** June 7, 2011

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

**SUBJECT:** Agenda Item No. 8(J)(1)(A)

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

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(J)(1)(A)  
6-7-11

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE FILING OF A GRANT APPLICATION FOR FISCAL YEAR 2011 SECTION 5307 CONGESTION MITIGATION AIR QUALITY (CMAQ) FLEXIBLE FUNDING WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION, FEDERAL TRANSIT ADMINISTRATION (FTA) IN THE AMOUNT OF \$3,862,000, FOR COSTS RELATED TO THE CONSTRUCTION OF A PEDESTRIAN OVERPASS AT THE UNIVERSITY METRORAIL STATION OVER US-1 (SR 5); AUTHORIZING THE EXECUTION OF THE GRANT AGREEMENT PURSUANT TO SUCH APPLICATION; AUTHORIZING THE RECEIPT AND EXPENDITURE OF FUNDS PURSUANT TO SUCH APPLICATION AND AGREEMENT; AND AUTHORIZING THE RECEIPT AND EXPENDITURE OF ANY ADDITIONAL AGREEMENTS FUNDS SHOULD THEY BECOME AVAILABLE

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

**WHEREAS**, the State of Florida is authorized to enter into agreements to provide State funding for transportation programs and projects; and

**WHEREAS**, the contract for financial assistance will impose certain obligations upon the applicant, including the provisions by it of the local share of project costs; and

**WHEREAS**, it is required by the United States Department of Transportation (USDOT) in accordance with the provisions of Title VI of the Civil Rights Act of 1994, that the applicant give an assurance that it will comply with the Title VI of the Civil Rights Act of 1994; and USDOT requirement thereunder; and

**WHEREAS**, this Board has conducted a public hearing on Miami-Dade County's Urbanized Area Formula Program Section 5307 flexible funding grant application as described in the County Manager's accompanying memorandum; and

**WHEREAS**, the State of Florida is authorized to enter into agreements to provide State Toll Revenue Credits (TRC's) as a soft match for federal funding for transportation programs and projects, when available,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA** that:

Section 1. This Board authorizes the County Mayor, Mayor's designee, or the Miami-Dade Transit (MDT) Director to file a grant application with the USDOT for \$3,862,000 in CMAQ transfer funding for the planning, design, right of way engineering/acquisition, utility relocation, construction, design services during construction and project administration for the construction of a pedestrian overpass at the University Metrorail Station over US-1 (SR-5) in Coral Gables and to utilize TRC's totaling \$965,500 as a soft match for the pedestrian overpass project.

Section 2. That the County staff is authorized to furnish such additional information as the USDOT and the Florida Department of Transportation (FDOT) may require in connection with the grant application for this project.

Section 3. That this Board further authorizes the County Mayor, Mayor's designee, or Miami-Dade Transit Director, to execute such contracts and agreements as are approved by the County Attorney's Office; to receive and expend funds in accordance with such aforementioned contracts and agreements; to file and execute any additional agreements,

revisions, or amendments as required to carry out the projects for and on behalf of Miami-Dade County, Florida.

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:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 7<sup>th</sup> day of June, 2011. 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.



Bruce Libhaber

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



Legislative Notes

Agenda Item: 8(J)1(A)  
File Number: 110910  
Committee(s) of Reference: Board of County Commissioners  
Date of Analysis: May 24, 2011  
Type of Item: Grant Application

**Summary**

This resolution authorizes the following actions for costs related to the construction of a pedestrian overpass at the University Metrorail Station (Project):

- Filing of a grant application for fiscal year (FY) 2011, §5307 - Congestion Mitigation Air Quality (CMAQ) flexible funding with the United States Department of Transportation Federal Transit Administration (FTA) in the amount of \$3.862 million;
- Execution of the grant agreement pursuant to such application;
- Receipt and expenditure of funds pursuant to such application and agreement;
- Receipt and expenditure of any additional agreement funds should they become available; and
- Use of State Toll Revenue Credits (TRC) totaling \$965,500 to serve as a "soft match" for this Project.

According to the County Manager's memo, funding applied for through the FTA Urbanized Area Formula Grant Program (§5307) can be utilized towards planning, design, permit costs, right-of-way engineering/acquisition, utility relocation, construction, and design services during construction of the Project.

**Budgetary Impact**

This Project is estimated to cost approximately **\$6.267 million**, of which \$1.405 million will be from Surtax funds. Funding for the construction of this Project includes:

- \$1 million in State funding (R-314-11)
- \$1 million local match provided through Surtax funds (R-85-11)
- \$3.862 million in FTA grant (this item)
- *\$405,000 from prior PTP funds issued to complete the planning phase (\$750,000 - \$345,000 in reimbursed funds).*

8

### Surtax Funds and Current Status

Of the \$315,787 in Surtax funds to H.J. Ross Associates approved under Resolution No. 230-07, according to Miami-Dade Transit (MDT), approximately \$136,235 has been expended for biddable construction documents for activities such as public involvement, coordination with the City of Coral Gables/Board of Architects, and some other ancillary activities like TARC presentations.

Concurrent with this process, MDT completed the re-evaluation of the Categorical Exclusion (CE) determination originally made by the FTA on November 30, 2007, and submitted the CE determination to the FTA for their concurrence. On February 28, 2011, the FTA concurred with the re-evaluation of the CE determination, thus updating MDT's compliance with the National Environmental Policy Act (NEPA).

According to MDT, Miami-Dade County is currently in the process of applying for the Federal and State funds to continue with the design and construction of this Project.

*In regards to the temporary suspension of federal grants to MDT, FTA is allowing MDT to submit necessary documentation to authorize formal grant awards for projects such as the University Overpass and the Quail Roost Park and Ride, which will preserve the funding.<sup>1</sup> Currently, FTA is considering a limited drawdown status for MDT, as MDT addresses the eight action items.<sup>2</sup> To date, however, there is no official word in regards to lifting the suspension.<sup>3</sup>*

### **Background and Relevant Legislation**

On November 5, 2002, the Miami-Dade County electorate approved a ½ percent increase in the sales tax to fund the implementation of the People's Transportation Plan (PTP). On July 29, 2003, the Citizens' Independent Transportation Trust (CITT) recommended the inclusion of the Project to the list of Capital Improvement Projects included as part of the PTP. Provided below, is the Board of County Commissioners (BCC) legislative history for this Project.

<u>Date</u>	<u>Resolution</u>	<u>Legislation</u>
Oct. 9, 2003	R-1154-03	The BCC approved the inclusion of the Project to the PTP.
Mar. 6, 2007	R-230-07	The BCC authorized the execution of a Professional Services Agreement (PSA) between Miami Dade County and H.J. Ross Associates, Inc. to design and prepare a set of biddable construction documents for two (2) pedestrian overpasses: South Miami and University Metrorail Stations in a total amount not to exceed \$781,650. The estimated costs and funding source for each project is as follows:

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<sup>1</sup> County Manager memo dated March 31, 2011.

<sup>2</sup> Chairman letter to FTA dated May 3, 2011.

<sup>3</sup> As relayed in a conversation with the County Manager's office on May 5, 2011 and with OSBM on May 24, 2011.

<u>Date</u>	<u>Resolution</u>	<u>Legislation</u>
		<ul style="list-style-type: none"> <li>• University Metrorail - \$315,787 in Charter County Transit Surtax; and</li> <li>• South Miami - \$465,864 in Federal Transit Administration funds.</li> </ul>
		<p>According to MDT, the existing PSA with H.J. Ross is in effect until April 2012. Once the federal funds are awarded later this year, H.J. Ross will resume design of the Project. Since the suspension of work lasted 2 ½ years, MDT will need to go back to the BCC for a supplemental agreement to add contract time and exercise the option for design services during construction. Currently, the construction is projected to end December 2013.</p>
Nov. 6, 2007	R-1218-07	The BCC approved the execution of a Joint Participation Agreement (JPA) with the FDOT to provide State funds in the amount of \$2.045 million for the Project. The funding was programmed in FY 2010 for \$1 million and FY 2011 for \$1.045 million. Resolution No. 1218-07 also committed up to \$2.045 in Charter County Transit System Surtax Funds as a local match.
Jan. 10, 2008	R-38-08	The BCC authorized the acquisition of land and temporary construction easement needed for this Project.

The Project required a partial taking of approximately 1,364 sq. ft. parcel and 2,052 sq. ft. temporary construction easement from a 137,991 sq. ft. parent tract located at 1250 South Dixie Highway. However, due to fiscal challenges and FDOT's reduction in several million dollars in State Block Grant funding, the Project was placed on-hold indefinitely in September 2008 at approximately 45% completion final design phase.

Subsequently, in 2009, MDT de-funded the Project due to local fiscal constraints. To preserve the State funding, the \$1 million was re-programmed to the Earlington Heights/Miami Intermodal Center Connector project and the Project was removed from the FY 2010-11 Capital budget.

In 2010, MDT re-programmed \$3.862 million in federal funds to this Project from three other pedestrian overpasses which will not be constructed. On October 21, 2010, the Metropolitan Planning Organization (MPO) and the State amended and approved the FY 2011 Transportation Improvement Program (TIP) and State Transportation Improvement Program (STIP) to include this Project (MPO Resolution No. 36-10). This Project is also included in the proposed Capital budget for FY 2011-12.

On February 1, 2011, the BCC through Resolution No. 85-11, authorized staff to apply \$1 million in Charter County Transportation Surtax (Surtax) Funds towards the design and construction of this Project.

On May 3, 2011, the BCC under Resolution No. 314-11, approved the execution of a JPA with FDOT to provide State funds in the amount of \$1 million for this Project. This JPA is a multi-year agreement, which will provide State funding in the amounts of \$750,696 in FY 2011, \$48,902 in FY 2012, and \$200,402 in FY2013 for a total of \$1 million. The local match in Surtax funds was approved under Resolution No. 85-11.

### **Questions**

*(Responses provided by MDT)*

In regards to the temporary suspension of federal grants to MDT, if the FTA funds are not available, what are the alternatives to make up the \$3.862 million in federal funding for this Project?

- Assuming the County would still like to move forward with this project, MDT would need to re-prioritize other projects and/or search for other funds, including contributions from Coral Gables and the University of Miami.

With the possibility of funding issues, is the December 2013 completion date a reasonable projection?

- If the FTA grant is awarded and the suspension is lifted by this summer, the December 2013 is aggressive but attainable. Any delay beyond this summer will have an equal delay in the project schedule.

What other components are still pending for this Project?

- Once the FTA grant is awarded and the suspension lifted, MDT will need to finalize design, purchase right-of-way, and construct the Project.

**Prepared By:** Elizabeth N. Owens