

MEMORANDUM

Agenda Item No. 7(L)

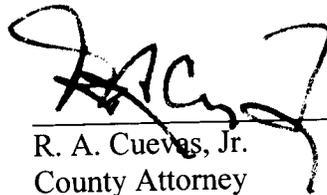
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: (Second Reading 8-2-11)
June 21, 2011

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

SUBJECT: Ordinance increasing
Mayor or Mayor's
designee's delegated
authority to award and reject
bids for proposals for
contracts for public
improvements (construction)
under the Miscellaneous
Construction Contracts
(MCC) program to
\$5,000,000 amending Sec.
2-8.1(b) of the Code

The accompanying ordinance was prepared by the Office of Capital Improvements and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro and Co-Sponsors Vice Chairwoman Audrey M. Edmonson and Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum



Date: August 2, 2011

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

From: Alina T. Hudak
County Manager

A handwritten signature in black ink, appearing to read "Alina T. Hudak".

Subject: Ordinance amending Section 2-8.1 (b) of the Code of Miami-Dade County, Florida to increase the contract ceiling for the Miscellaneous Construction Contracts (MCC) Program 7360 Plan from \$2,500,000 to \$5,000,000.

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance amending Section 2-8.1 (b) of the Code of Miami-Dade County to increase the delegated authority of the Mayor or Mayor's designee to award and reject bids or proposals for contracts under the Office of Capital Improvement's (OCI's) Miscellaneous Construction Contracts (MCC) Program from \$2.5 million to \$5 million. The MCC Program is widely used by capital departments for implementation of construction projects including renovations, repairs and maintenance and has been instrumental in expediting projects, generating jobs and sustaining small businesses during the current economic downturn.

Scope

The MCC Program has a direct beneficial impact to the entire County by accelerating construction projects, facility repairs and neighborhood improvements throughout Miami-Dade County. The MCC Program provides opportunities for Community Small Business Enterprises (CSBEs) to participate on County construction projects in an efficient and meaningful manner.

Fiscal Impact/Funding Source

There is no direct funding provided to the MCC Program. Each work issuance identifies the appropriate capital funding source for the project and is consistent with each department's capital project budgets. Expansion of the MCC Program to include larger contracts will expedite a larger number of projects and allow the County to more quickly take advantage of the current advantageous pricing available for capital programs.

Track Record/Monitor

The Office of Capital Improvements (OCI) Director, George Navarrete, administers and monitors the MCC Program. The Board is advised of the progress of the MCC Program through quarterly reports.

Background

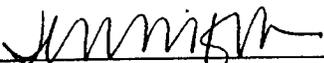
At the Committee of the Whole held on September 20, 2010, Commissioner Bruno Barreiro asked staff to work with the County Attorney's Office (CAO) to develop ways to further expedite the Building Better Communities - General Obligation Bond (BBC-GOB) construction projects beyond the administrative authority available under the County's current Economic Stimulus Plan (ESP). Staff worked with the CAO to explore alternatives that would expedite both BBC-GOB projects and any other projects eligible for expediting. One of the alternatives considered was increasing the delegated authority for the Mayor or Mayor's designee under the MCC Program from \$2.5 million to \$5 million, which would allow a greater number of projects to be implemented under the MCC Program. This would have a significant impact on the implementation of projects, including those funded by upcoming BBC-GOB bond sales. We estimate this increase in delegated authority will save an additional three to four months beyond the time savings already being realized in the ESP Program. To further expedite projects, OCI is working with several departments and the CAO to establish open contracts for development and maintenance projects with similar repetitive scopes or adjacent locations. This program, once implemented, would

allow even greater flexibility by allowing departments to nimbly issue work orders for projects of this type under pre-approved open contracts.

Recognizing that small businesses are essential to the County's stated goal of generating jobs and spurring economic recovery, this amendment is expected to increase opportunities for CSBEs through the MCC Program. The MCC Program is a consistent and effective means of competitively distributing work to the construction trades for smaller projects, including renovations, repairs and maintenance. On July 1, 2008, the Board approved increasing the Mayor's delegated authority for the MCC Program from \$1 million to \$2.5 million. Since July 1, 2008, more than 2,400 projects valued at \$252 million have been awarded under the MCC Program.

The MCC Program is administered by OCI using two separate plans, the MCC 7040 Plan and the MCC 7360 Plan. The MCC 7040 Plan is administered as a 100 percent CSBE set-aside. The MCC 7360 Plan is only used when the funding source prohibits the use of CSBE set-asides or when the Department of Small Business Development (SBD) determines that there is insufficient availability for a CSBE set-aside firm within the MCC 7040 Plan to accomplish the proposed work. From 2006 to 2011, 87 percent of all MCC contracts awarded (combined 7040 and 7360) were issued to certified CSBE firms under the MCC 7040 Plan. It will likely be a challenge for smaller CSBE firms to perform projects valued at this increased amount, but the change would attract larger CSBE firms and therefore leave more opportunities for smaller CSBEs among projects that meet their current capacity. Therefore, OCI will work with the contracting community to match projects, based on their value and complexity, with the right MCC Program plan. OCI is also working with SBD to ensure that the focus of the MCC program remains on the County's small businesses and local job creation. Corresponding amendments to the MCC program implementing order to incorporate additional procedural assurances will be presented to the Board in the coming months. Viewed in its component parts and as a whole, then, this proposed policy is consistent with the goal of providing opportunities for small businesses to grow and implement progressively larger, more complex projects.

Staff anticipates that the approval of the proposed increased delegated authority will significantly increase the number of projects eligible for expediting under the MCC Program, thereby getting work out on the street approximately three to four months faster than the County's ESP Program. This has the additional positive impact of generating jobs at a time when our construction industry is an important partner for creating job opportunities in our community.



Assistant County Manager



MEMORANDUM
(Revised)

TO: Honorable Chairman Joe A. Martinez **DATE:** August 2, 2011
and Members, Board of County Commissioners

FROM: R. A. Cuevas, Jr. **SUBJECT:** Agenda Item No. 7(L)
County Attorney 

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. 7(L)
8-2-11

ORDINANCE NO. _____

ORDINANCE INCREASING THE MAYOR OR MAYOR'S DESIGNEE'S DELEGATED AUTHORITY TO AWARD AND REJECT BIDS OR PROPOSALS FOR CONTRACTS FOR PUBLIC IMPROVEMENTS (CONSTRUCTION) UNDER THE MISCELLANEOUS CONSTRUCTION CONTRACTS (MCC) PROGRAM TO \$5,000,000 AMENDING SECTION 2-8.1(b) OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. Section 2-8.1(b) of the Code of Miami-Dade County, Florida is hereby amended as follows:¹

Sec. 2-8.1 Contracts and purchases generally

(b) Bid requirement for certain purchases; delegation of authority to advertise, award and reject bids or proposals for certain purchases. Formal sealed bids shall be secured for all contracts and purchases within the scope of this section when the transaction involves the expenditure of two hundred fifty thousand dollars (\$250,000.00) or more, except that the Board of County Commissioners, upon written recommendation of the Mayor or Mayor's designee, may, by resolution adopted by two-thirds (2/3) vote of the members present, waive competitive bidding when it finds this is to be in the best interest of the County. The Mayor or Mayor's designee is hereby delegated the authority to advertise for bid all County contracts, including contracts for public improvements, purchases of supplies, materials and services, and purchases of professional services, without the need for action by the County Commission. The Mayor or Mayor's designee shall be required to include in any such advertisement the measures approved by the Review Committee relating to the County's

¹Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

small and community business programs established in this Code. The Mayor or Mayor's designee shall further be required to report to this Board on a quarterly basis all contracts advertised with the measures included, and other steps taken to foster small and community business programs. The Commission Auditor shall review and evaluate the Mayor's or Mayor's designee exercise of authority delegated pursuant to this section and report the results of his or her evaluation to the Board of County Commissioners on a periodic basis. The Mayor or Mayor's designee is hereby delegated the authority to award and reject bids or proposals for contracts for public improvements (construction), and purchases of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to section 2-10.4 and Section 287.055, Florida Statutes) costing one million dollars (\$1,000,000.00) or less or in the case of miscellaneous construction contracts designed to provide opportunities for Community Small Business Enterprises specifically authorized by Board resolution ~~[[two and one half million dollars (\$2,500,000.00)]]~~ >>five million dollars (\$5,000,000.00)<< or less, without the need for action by the County Commission. The delegation to award and reject bids or proposals for contracts up to ~~[[two and one half million dollars (\$2,500,000.00)]]~~ >>five million dollars (\$5,000,000.00)<< set forth in the preceding sentence shall expire on July 1, 2012. The authority to award contracts provided in the preceding sentence shall not constitute authority for the Mayor or Mayor's designee to exercise an option to renew any contract where the combined value for such contract's initial term and the option to renew would exceed one million dollars (\$1,000,000.00), and in such instances the Mayor or Mayor's designee shall obtain the prior authorization of the County Commission to exercise such option. The Mayor or Mayor's designee may recommend that the foregoing requirement to obtain prior Commission authorization to exercise an option to renew be waived for a specific contract when the Mayor or Mayor's designee deems it to be in the best interests of the County. The Inspector General shall be invited to participate as appropriate in the processes by which the authority delegated hereby is exercised. The Mayor or Mayor's designee is delegated the authority to utilize any of the following processes for selection of a

contractor to perform contracts for public improvements: competitive price bidding, request for proposals, or request for qualifications without the need for prior approval of the County Commission. The Mayor or Mayor's designee shall review all construction projects to determine whether the break-up of the project into smaller contracts will increase the opportunity for CSBEs to participate therein. For those contracts where the Mayor or Mayor's designee requests authority from the County Commission to advertise, the request for such authority shall advise the steps taken to accomplish the foregoing sentence. The Mayor or Mayor's designee may designate appropriate County staff to exercise the authority delegated hereunder by implementing order, approved by the Board of County Commissioners.

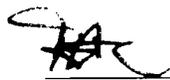
Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

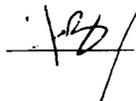
Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and, if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:
Hugo Benitez



7