Memorandum

MIAMI-DAD COUNTY

Supplement to
Agenda Item No. 7(K)

Date: July 7, 2011

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

From: Alina T. Hudak
County Manager

Subject: Supplement to Item 110884 on the July 7, 2011 Board of County Commissioners Meeting

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Because of the timing of commission meetings, and notice requirements related to second readings, this Board will consider this item after the sunset of the preceding ordinance which occurred on July 1, 2011. The program will be reenacted, and become fully effective, on the effective date of this proposed ordinance.

County Executive Office

MEMORANDUM

Agenda Item No. 4(D)

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	May 17, 2011
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Ordinance extending the Economic Stimulus Plan Ordinance for an additional two years, adding to the scope of the Ordinance Capital Projects funded by the Building Better Communities General Obligatior Bond Program

The accompanying ordinance was prepared by the Office of Capital Improvements (OCI) and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2011

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

From: Alina T. Hudak
County Manager

Subject: Ordinance Amending the Economic Stimulus Plan (ESP) Extending the Sunset Provision and Including Capital Projects Funded by the Building Better Communities-General Obligation Bond (BBC-GOB) Program

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Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance amending the County's Economic Stimulus Plan (ESP) Ordinance 08-92, extending the sunset provision to July 1, 2013 and including capital projects funded through the Building Better Communities-General Obligation Bond (BBC-GOB) Program. The extension of the sunset provision will help to accommodate the addition of new long-term projects to the ESP list, which may be added by resolution, and any future capital projects funded as part of the BBC-GOB. Including BBC-GOB projects in the ESP Program will allow these projects to be fast-tracked, saving time and money, as well as further stimulating the local economy by more quickly bringing projects to the market. Fast-tracking these projects will also help avoid potential arbitrage penalties that could result if bond proceeds are not spent within required timeframes.

Scope

This item has countywide significance as there are planned projects throughout Miami-Dade County.

Track/Record/Monitor

The Office of Capital Improvements (OCI), George Navarrete, Director, will continue to administer and monitor the ESP Program.

Fiscal Impact/Funding Source

The extension of the ESP program will allow for the positive fiscal impact derived from the ability to take advantage of favorable pricing for construction contracts. The funding sources for ESP projects are varied and must have been approved as part of the Annual Resource Allocation and Multi-Year Capital Plan.

Delegation of Authority

This ordinance would continue the authority granted the County Mayor or the Mayor's designee by the ESP Ordinance (08-92) and add the authority to implement capital projects funded through the BBC-GOB.

Background

On July 17, 2008, the Board approved the County's ESP Ordinance 08-92, along with a corresponding list of projects totaling approximately $625 million. This ordinance included a one-year sunset provision. On June 30, 2009, via Ordinance 09-60, the ESP Ordinance was amended by the Board to extend the sunset date to July 1, 2011 and to include capital projects and the acquisition of goods and services funded through the American Recovery and Reinvestment Act (ARRA). On February 2, 2010, via Resolution R-133-10, an additional $478.5 million in projects was added to the ESP Program. To date, the ESP Program has expedited nearly $900 million in capital construction

projects. The ESP Program continues to move projects forward at an accelerated pace and feedback from the architecture/engineering and construction industry regarding the ESP has been overwhelmingly positive. Of the nearly 200 projects expedited, more than 60 percent were awarded to small businesses, including $6.9 million to Community Business Enterprise firms and $83.2 million to Community Small Business Enterprise firms. Additionally, $7.3 million was awarded to Disadvantaged Business Enterprise firms. Also, a minimum local-workforce goal of 10 percent was applied to ESP projects as appropriate.

Furthermore, the proposed amendment to include BBC-GOB-funded projects will allow the County the flexibility to move these projects forward more quickly in order to take advantage of the favorable pricing we are currently receiving. In addition, fast-tracking these projects will mitigate potential arbitrage penalties associated with bond programs of this type.

Assistant County Manager

MEMORANDUM
(Revised)

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

DATE: May 17, 2011

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

SUBJECT: Agenda Item No. 4(D)

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. 4(D)
5-17-11

ORDINANCE NO. _____

ORDINANCE EXTENDING THE ECONOMIC STIMULUS PLAN ORDINANCE FOR AN ADDITIONAL TWO YEARS, ADDING TO THE SCOPE OF THE ORDINANCE CAPITAL PROJECTS FUNDED BY THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM; AMENDING SECTION 2-8.2.7 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AN EFFECTIVE DATE AND A SUNSET

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

Section 1. Section 2-8.2.7 of the Code of Miami-Dade County, Florida is hereby amended as follows:[1]

Sec. 2-8.2.7 Economic Stimulus Ordinance

(1) Policy: This section to be known as the "Economic Stimulus Ordinance," is intended to provide an expedited process to award certain contracts with the express purpose of stimulating the local economy.

(2) Scope: This section, and the expedited processes set forth herein, shall >>,to the extent permitted by law,<< be applicable to the processing, design, and construction of the capital improvement projects specifically identified by resolution of the Board of County Commissioners [[~~or~~]] >>,<< capital projects funded in whole or in part through the American Recovery and Reinvestment Act ("ARRA") (the "Capital Stimulus Projects") >>or capital projects funded in whole or in part by the Building Better Communities – General Obligation

[1] Words 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.

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Bond Program.<< The Board of County Commissioners may from time to time, by subsequent resolution, add or delete projects from the list of Capital Stimulus Projects to which this Section applies. All Capital Stimulus Projects must have been approved as part of the Annual Proposed Resource Allocation and Multi-Year Capital Plan. This section shall also be applicable to contracts for the purchase of goods or services funded in whole or in part through ARRA (the "Economic Stimulus Purchases").

(3) All actions taken under this ordinance shall be subject to review by the Office of Strategic Business Management to ensure adequate funding for each project and that appropriate operational and maintenance funding is in place for the foreseeable future and review by the Office of Capital Improvements for Capital Stimulus Projects and the Department of Procurement Management for Economic Stimulus Purchases to ensure compliance with contract documents and all applicable resolutions, ordinances, and statutes.

(4) Notwithstanding any other provision of the Code of Miami-Dade County to the contrary, the Mayor or his/her designee shall have the following authority with respect to contracts within the scope of this Section:

(a) To issue bid and proposal documents including addenda thereto;

(b) To receive, open and review bids and proposals;

(c) To appoint standing selection committee and negotiation committee members to obtain professional services in accordance with Section 2-10.4 of the Code of Miami-Dade County and Section 287.055 of the Florida Statutes, provided each such committee shall contain, whenever possible, representation from the user department;

(d) To award or reject bids for contracts including, but not limited to, professional service agreements, construction contracts and contracts for the purchase of goods and services and issue

Notices to Proceed where:

1. For Capital Stimulus Projects the award value of the contract and operational considerations have been reviewed and approved by the Office of Strategic Business Management; and

2. For Capital Stimulus Projects the base value of a recommended award does not exceed the base estimate by more than ten (10) percent; and

3. The contractor, vendor or consulting firm receiving the award is in good standing with the County including, but not limited to: no outstanding debts; demonstrated acceptable past performance; and has submitted required insurance, bonds, affidavits and documentation provided for by the solicitation; and

4. None of the bidders have filed a timely bid protest; and

5. All awards are subject to ratification by the Board of County Commissioners at the next available meeting and contracts for Capital Stimulus Projects approved under this authority must contain a Termination for Convenience clause.

(e) For Capital Stimulus Projects negotiate and settle contractor claims, and issue change orders for additional work under contracts and amendments for professional services agreements where:

1. The change order or claim does not increase the contract amount, including contingencies; and

2. The contingency allowance established in accordance with Section 2-8.1(h) shall be utilized to ensure minimal disruption in work flow and shall be documented on the appropriate contingency authorization draw. Change orders shall be submitted to replenish the contingency account in a timely manner; and

3. The limitations provided in (4)(e)1 above shall not apply to any change order or amendment related to emergency actions impacting environmental remediation, public safety, health requirements or recovery from natural disaster.

(5) All actions taken by the Mayor or his/her designee under this Section shall not require review by any Committee, but shall be submitted to the next available Board of County Commissioners meeting for ratification. Awards that do not meet the requirements of subsection (4)(d) above shall not require Committee review but shall be submitted to the next available meeting of the Board of County Commissioners for approval. The authority delegated to the Mayor or the Mayor's designee pursuant to this Section shall be in addition and not in derogation to other delegations of authority set forth elsewhere in this Code.

(6) Special exemptions: This process shall be modified to ensure full conformance with any special provisions or review processes established by the Board. As such, any proposed County contract for a project included in the TIP approved by the MPO that is funded in whole or in part by proceeds of the Charter County Transit System Sales Surtax authorized by Article XVI of Chapter 29 of the County Code, the Mayor or his/her designee shall have the authority to advertise and issue bid or proposal documents for such contracts where the bid or proposal documents expressly provide that no award shall be effective and no contractual relationship shall arise with the County unless and until ratified by the County Commission and that ratification is approved by the Citizens' Independent Transportation Trust or reaffirmed by the County Commission as provided in subsection (e) of Section 29-124 of the County Code, and the authority to issue notices to proceed after award for such contracts shall be limited to those instances where the County Commission has ratified the award and the Citizens' Independent Transportation Trust has approved the Commission's action or, if the Trust disapproves such

Commission action, the Commission has reaffirmed same as provided in subsection (e) of Section 29-124 of the County Code.

(7) This ordinance shall sunset [[~~July 1, 2011~~]] >>July 1, 2013<<

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: HB/

Hugo Benitez