MEMORANDUM

Agenda Item No. 7(J)

Second Reading 7-3-12)

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

DATE: May 1, 2012

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

SUBJECT: Ordinance removing the sunset date for the authority delegated to award and reject miscellaneous construction contracts designed to provide opportunities for community small business enterprises

The accompanying ordinance was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Internal Management & Fiscal Responsibility Committee.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

Memorandum

MIAMI-DADE COUNTY

Date: July 3, 2012

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

From: Carlos A. Gimenez
Mayor

Subject: Ordinance Amending Section 2-8.1 (b) of the Miami-Dade County Code Regarding the Miscellaneous Construction Contracts Program

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Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached ordinance, which amends Section 2-8.1 (b) of the Miami-Dade County Code to remove the sunset provision for the delegation of authority to the County Mayor or County Mayor's designee associated with the $5 million contract ceiling award amount under the Miscellaneous Construction Contract (MCC) Program.

On August 2, 2011, through Ordinance No. 11-67, the Board authorized an amendment to the MCC Program to temporarily increase the County Mayor's delegated authority from $2.5 million to $5 million for the award and rejection of MCC contracts through July 1, 2012. The increased contract ceiling was originally approved as part of a Board directive to expedite capital projects throughout the County. Given the success of the MCC Program, it is recommended that the sunset date be removed and the $5 million ceiling for contract awards remain. Maintaining the delegated authority at $5 million will allow for a greater number of projects to be implemented expeditiously under the MCC Program.

Scope

The MCC process has a countywide impact by accelerating construction projects, facility repairs and neighborhood improvements valued up to $5 million throughout the County.

Fiscal Impact/Funding Source

Each work order that is issued identifies the appropriate capital funding source for the project and is consistent with each department's capital projects budget.

Track Record/Monitor

The Internal Services Department (ISD) monitors the MCC Program. The Board is advised of the progress of the MCC Program through quarterly reports detailing the contracting activities, including the application of program measures.

Delegation of Authority

This item proposes to continue the current delegated contract ceiling threshold of $5 million for the MCC Program.

Background

The MCC process is a consistent and effective means of competitively distributing work to the construction trades for projects which include renovation, repair and maintenance. The MCC Program is administered by ISD under two separate plans:

- MCC 7040 Plan - Administered as a 100 percent Community Small Business Enterprise (CSBE) Set-Aside.
- MCC 7360 Plan - Open to all vendors and is only used when federal funding is involved or when a 100 percent CSBE goal is not attainable.

The MCC Program is widely used by departments with capital programs for implementation of construction projects, including renovations, repairs and maintenance and has been instrumental in expediting projects, generating jobs and sustaining small business during the current economic downturn. From FY 2006 to FY 2011, 87 percent of the $565 million in MCC contracts awarded (combined MCC 7040 and MCC 7360) were to certified CSBE firms.

Deputy Mayor

MEMORANDUM

(Revised)

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

DATE: July 3, 2012

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

SUBJECT: Agenda Item No. 7(J)

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(J)
7-3-12

ORDINANCE NO. _____

ORDINANCE REMOVING THE SUNSET DATE FOR THE AUTHORITY DELEGATED TO AWARD AND REJECT MISCELLANEOUS CONSTRUCTION CONTRACTS DESIGNED TO PROVIDE OPPORTUNITIES FOR COMMUNITY SMALL BUSINESS ENTERPRISES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

WHEREAS, the Board enacted Ordinance 09-101 on November 3, 2009 revising and codifying the County's Miscellaneous Construction Contracts Program, modifying the procurement methodology to provide opportunities for small contractors in a more efficient and meaningful manner; and

WHEREAS, on June 3, 2010 the Board of County Commissioners extended for an additional two years the provisions of Ordinance 09-55 the delegation of authority to award and reject miscellaneous construction contracts costing $2.5 million or less to July 1, 2012.; and

WHEREAS, on August 2, 2011 enacted Ordinance 11-67 to increase the Mayor or Mayor's designee's delegated authority to award and reject bids for proposal for contract for public improvements (construction) under the Miscellaneous Construction Contracts Program to $5 million amending Section 2-8.1(b) of the Code; and

WHEREAS, this Board wishes to remove the sunset date of the provisions of Ordinance 11-67 and the amendments to Section 2-8.1 effected thereby,

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

Section 1. The Code of Miami-Dade County is hereby amended as follows:

Section 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 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 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 five million dollars ($5,000,000.00)~~

~~set forth in the preceding sentence shall expire on July 1, 2012.~~]][1] 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, or clause 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.

[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.

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