

MEMORANDUM

Agenda Item No. 7(J)
(Second Reading 6-4-13)
April 16, 2013

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE:

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

SUBJECT: Ordinance removing the
sunset provision of the
Economic Stimulus Ordinance;
amending Section 2-8.2.7
of the Code

The accompanying ordinance was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

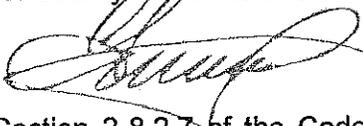
RAC/smm

Memorandum



Date: June 4, 2013

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
County Mayor 

Subject: Ordinance Amending Section 2-8.2.7 of the Code of Miami-Dade County, Economic Stimulus Ordinance, to Remove the Sunset Provision

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached amendment to Section 2-8.2.7 of the Code of Miami-Dade County to remove the sunset provision from the Economic Stimulus Program (ESP).

The ESP Ordinance was originally established in 2008 with a one-year sunset provision, which was later extended through 2011 and again through June 30, 2013. The ESP is a tool to expedite construction projects by accelerating the procurement process, and removal of the sunset date to continue the ESP is recommended to ensure that all projects approved as part of the ESP list can continue to utilize this program. This item also updates the names of the County departments involved in the ESP.

Scope

This scope of this item is countywide in nature.

Track/Record/Monitor

The Internal Services Department provides administrative oversight for this program.

Fiscal Impact/Funding Source

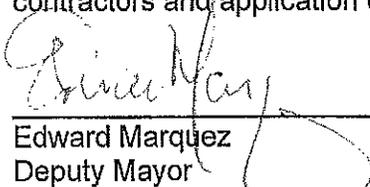
There is no additional fiscal impact resulting from the implementation of this recommendation. The funding sources for ESP projects are varied and each project requires Office of Management and Budget approval for funding availability prior to award.

Delegation of Authority

No additional delegation of authority beyond that already included in Section 2-8.2.7 of the Code is being requested.

Background

On July 17, 2008, the Board established the County's ESP Program through Ordinance No. 08-92. The sunset date for this Ordinance has been extended several times since the inception of the program, with a current sunset date of June 30, 2013. Given the success of this program in moving capital projects at an accelerated pace, as well as positive feedback from the architectural and engineering community, and the construction industry as a whole, approval is requested to remove the sunset provision from this Ordinance. This program has helped expedite more than \$1 billion in capital construction projects, while continuing to follow all Board policies relating to competitive selection of contractors and application of community and local business enterprise contracting goals.


Edward Marquez
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: June 4, 2013

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 Mayor'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
No. _____
Veto _____
Override _____

Agenda Item No. 7(J)
6-4-13

ORDINANCE NO. _____

ORDINANCE REMOVING THE SUNSET PROVISION OF THE ECONOMIC STIMULUS ORDINANCE; AMENDING SECTION 2-8.2.7 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 2-8.2.7 of the Code of Miami-Dade County, Florida is hereby amended to read 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"). The Board of County Commissioners may, from time to time and 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").

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.

- (3) All actions taken under this ordinance shall be subject to review by the Office of ~~>>Strategic Business<<~~ Management ~~[[and Budget (OMB)]]~~ 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 ~~[[Internal Services Department (ISD)]]~~ ~~>>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 ~~[[OMB]]~~ ~~>>the Office of Strategic Business<<~~; 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, 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.

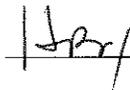
Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and, if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Hugo Benitez