MEMORANDUM

Agenda Item No. 8(E)(1)

TO:	Honorable Chairman Jean Monestime and Members, Board of County Commissioners	**DATE:**	July 6, 2016
FROM:	Abigail Price-Williams County Attorney	**SUBJECT:**	Resolution retroactively authorizing the County Mayor execution of a Mutual Aid Agreement between the Florida Department of Corrections and Miami-Dade County on behalf of the Miami-Dade Fire Rescue Department and authorizing the County Mayor to exercise renewal and cancellation provisions and to enter into future mutual aid agreements with the Florida Department of Corrections

The accompanying resolution was prepared by the Miami-Dade Fire and Rescue Department and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

Abigail Price-Williams
County Attorney

APW/cp

Memorandum

MIAMI-DADE COUNTY

Date: July 6, 2016

To: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Subject: Resolution Retroactively Authorizing the County Mayor or County Mayor's Designee execution of a Mutual Aid Agreement between the Florida Department of Corrections and Miami-Dade County on behalf of the Miami-Dade Fire Rescue Department

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RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution retroactively authorizing the County Mayor or County Mayor's designee execution of a Mutual Aid Agreement between the Florida Department of Corrections (Institution) and Miami-Dade County through the Miami-Dade Fire Rescue Department (Agency) beginning April 4, 2016 ending at midnight April 3, 2021, and authorizing the County Mayor or the County Mayor's Designee to enter into future Agreements with the Florida Department of Corrections in substantially the same form as the attached Agreement after approval by the County Attorney's Office as to legal sufficiency. This item is retroactive because there was insufficient time to submit the resolution to the Board for approval prior to execution of the Agreement.

SCOPE

The impact of this item is countywide in nature.

DELEGATION OF AUTHORITY

Upon approval by the Board, the County Mayor or County Mayor's designee will have the authority to execute the agreement, exercise the renewal and cancellation provisions contained therein, and enter into future mutual aid agreements with the Florida Department of Corrections.

FISCAL IMPACT/FUNDING SOURCE

The parties acknowledge that this Agreement is not intended to create financial obligations between the parties. However, in the event that costs are incurred as a result of either or both of the parties performing their duties or responsibilities under this Agreement, each party agrees to be responsible for their own costs.

TRACK RECORD/MONITOR

The Miami-Dade Fire Rescue Fire Chief, Dave Downey, will monitor this agreement.

BACKGROUND

Miami-Dade Fire Rescue responds, when requested, to the five (5) Florida Department of Corrections facilities in Miami-Dade County, including the South Florida Reception Center in Doral, Dade and Homestead Correctional Institutions in Florida City, and the Everglades Correctional Institution. The Mutual Aid Agreement outlines the roles of the parties in the event the Institution requires the Agency to respond in an emergency and/or imminent escape. The Agency agrees to respond, upon notification and provide the following support twenty-four hours a day, seven days a week: fire suppression and fire equipment, fire investigation, ambulance and emergency medical services and rescue of inmates/persons who may have become trapped in the Institutions located in Miami-Dade County.

Russell Benford
Deputy Mayor

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(E)(1)

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**

_____ **Statement of social equity 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
Veto _____
Override _____

Agenda Item No. 8(E)(1)
7-6-16

RESOLUTION NO. _____

RESOLUTION RETROACTIVELY AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE'S EXECUTION OF A MUTUAL AID AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF CORRECTIONS AND MIAMI-DADE COUNTY ON BEHALF OF THE MIAMI-DADE FIRE RESCUE DEPARTMENT AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE RENEWAL AND CANCELLATION PROVISIONS AND TO ENTER INTO FUTURE MUTUAL AID AGREEMENTS WITH THE FLORIDA DEPARTMENT OF CORRECTIONS

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board finds it is in the best interest of Miami-Dade County to approve the execution of a Mutual Aid Agreement between the Florida Department of Corrections and Miami-Dade County on behalf of the Miami-Dade Fire Rescue Department, and authorizes the County Mayor or County Mayor's designee to exercise cancellation and renewal provisions contained therein, and to execute future mutual aid agreements with the Florida Department of Corrections in substantially the same form as the attached Agreement after approval by the County Attorney's office as to legal sufficiency.

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:

Jean Monestime, Chairman
Esteban L. Bovo, Vice Chairman

Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Audrey M. Edmonson
Sally A. Heyman	Barbara J. Jordan
Dennis C. Moss	Rebeca Sosa
Sen. Javier D. Souto	Xavier L. Suarez
Juan C. Zapata	

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of July, 2016. This resolution shall become effective upon the earlier of (1) 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, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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. D.F.

Daniel Frastai

MUTUAL AID AGREEMENT

BETWEEN

THE FLORIDA DEPARTMENT OF CORRECTIONS

AND

MIAMI-DADE FIRE RESCUE

This Mutual Aid Agreement ("Agreement") is between the Florida Department of Corrections ("Department"), and the Miami-Dade Fire Rescue ("Agency"), which are the parties hereto.

WITNESSETH

WHEREAS, this Agreement is entered into for the purpose of establishing and maintaining support during an actual or anticipated emergency/escape at the Department's Dade Correctional Institution ("Institution").

NOW THEREFORE, subject to controlling law, rules, regulations, or to other governing policies and/or procedures, and in consideration of the mutual interests and understandings expressed herein, the parties agree as follows:

I. TERM OF AGREEMENT

This Agreement shall begin on April 4, 2016, or the date on which it is signed by both parties, whichever is later, and shall end at midnight on April 3, 2021. In the event this Agreement is signed by the parties on different dates, the latter date shall control.

This Agreement may be renewed for an additional five (5) year period, after the initial agreement term, upon the same terms and conditions contained herein, and upon agreement of both parties. Exercise of the renewal option is at the Department's sole discretion and shall be conditioned, at a minimum, on the Agency's performance of this Agreement and subject to the availability of funds. The Department, if it desires to exercise its renewal option, will provide written notice to the Agency no later than thirty (30) days prior to the Agreement expiration date. The renewal term shall be considered separate and shall require the exercise of a renewal amendment that shall be signed by both parties.

II. SCOPE OF AGREEMENT

A. Overview

In the event the Institution has reason to believe that an emergency/escape is imminent, subject to available resources, the Agency agrees to respond, upon notification, twenty-four hours a day, seven days a week with the following support:

1. Fire suppression and fire equipment;
2. Fire investigation;
3. Contact for ambulance and emergency medical services; and
4. Rescue of inmates/persons who may have become trapped.

In addition, the Agency may provide the following non-emergency service:

1. Fire prevention and safety education.

B. Joint Responsibilities

1. Emergency contacts for the Agency, including twenty-four (24) hour contact numbers, are as follows: Miami-Dade Communications Center, telephone: (786) 336-6600 or 911.
2. Emergency contacts of the Institution, including twenty-four (24) hour contact numbers, are as follows: Warden, telephone: (305) 242-1710 or switchboard (305) 242-1900.
3. Restrictions on the provision of services or equipment during emergencies include: Institution and Agency command staff will cooperatively manage an emergency on the Institution property. The Institution and Agency command staff will directly supervise their own participating staff.
4. Reporting locations for the external staging area is the: Administrative Building.
5. Each party shall be responsible for verifying identification of its own staff.
6. Arrangements for key Agency staff to tour the Institution or otherwise familiarize themselves with potential emergency scenarios at the Institution will be made upon prior notification to the warden. All staff responding will be appropriately trained.
7. The Agency staff will be invited to participate in applicable simulations, exercises or other emergency training at the Institution. Agency staff will be supervised by the Agency's staff in command at all times. At no time material to this Agreement shall Agency staff be considered to be operating under the supervision, direction, or control of the Institution.

III. FINANCIAL OBLIGATIONS

The parties acknowledge that this Agreement is not intended to create financial obligations between the parties. However, in the event that costs are incurred as a result of either or both of the parties performing their duties or responsibilities under this Agreement, each party agrees to be responsible for their own costs.

IV. AGREEMENT MANAGEMENT

A. Department's Agreement Administrator

The Agreement Administrator is responsible for maintaining the official Agreement file, processing any amendments or termination of the Agreement, and maintaining records of all formal correspondence between the parties regarding administration of this Agreement.

The address and telephone number of the Department's Agreement Administrator is:

Operations Manager, Contract Administration
Bureau of Contract Management and Monitoring
501 South Calhoun Street
Tallahassee, Florida 32399-2500
Telephone: (850) 717-3681
Fax: (850) 488-7189

B. Agreement Managers

The parties have identified the following individuals as Agreement Managers. These individuals are responsible for enforcing performance of the Agreement terms and conditions and shall serve as liaison regarding issues arising out of this Agreement.

FOR THE DEPARTMENT	**FOR THE MIAMI-DADE FIRE RESCUE**
Richard Comerford	Dave Downey
Director of Institutional Operations	Fire Chief
501 South Calhoun Street	9300 NW 41st Street
Tallahassee, Florida 32399-2500	Miami, Florida 33178-2414
Telephone: (850) 717-3037	Telephone: (786) 331-5000
Fax: (850) 413-8184	Fax: (786) 331-5101
E-mail: comerford.richard@mail.dc.state.fl.us	E-mail: david.downey@miamidade.gov

V. REVIEW AND MODIFICATION

Upon request of either party, both parties will review this Agreement in order to determine whether its terms and conditions are still appropriate. The parties agree to renegotiate terms and conditions hereof if it is mutually determined that significant changes in this Agreement are necessary. There are no obligations to agree by either party.

Modifications to the provisions of this Agreement, with the exception of Section IV, AGREEMENT MANAGEMENT, shall be valid only through execution of a formal written amendment to the Agreement.

VI. TERMINATION

This Agreement may be terminated at any time upon the mutual consent of both parties or unilaterally by either party upon no less than thirty (30) calendar days' notice. Notice shall be delivered by express mail or other method whereby a receipt of delivery may be obtained.

In addition, this Agreement may be terminated with 24 hours notice by the Department for any failure of the Agency to comply with the terms of this Agreement or any applicable Florida law.

VII. OTHER CONDITIONS

A. Public Records

The Agency agrees to allow the Department and the public access to any documents, papers, letters, or other materials subject to the provisions of Chapter 119 and Section 945.10, Florida Statutes, made or received by the Agency in conjunction with this Agreement. The Agency's refusal to comply with this provision shall constitute sufficient cause for termination of this Agreement.

The parties agree to exchange information and records as permitted by law, policy, and procedure. (For example, Department staff is prohibited from disclosing confidential medical information about offenders under supervision.)

B. Sovereign Immunity

The Agency and the Department are state agencies or political subdivisions as defined in Section 768.28, Florida Statutes, and agree to be fully responsible for acts and omissions of their own agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by either party to which sovereign immunity may be applicable. Further, nothing herein shall be construed as consent by a state agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement.

C. Confidentiality

The Agency shall ensure all staff assigned to this Agreement maintains confidentiality with reference to individual participants receiving services in accordance with applicable local, state, and federal laws, rules, and regulations. The Department and the Agency agree that all information and records obtained in the course of providing services under this Agreement shall be subject to confidentiality and disclosure provisions of applicable federal and state statutes and regulations adopted pursuant thereto.

The Agency agrees to keep all Department personnel information (i.e., DC staff telephone numbers, addresses, etc.) strictly confidential and shall not disclose said information to any person, unless released in writing by said Department.

D. Notices

All notices required or permitted by this Agreement shall be given in writing and by hand-delivery or email to the respective addresses of the parties as set forth in Section IV above. All notices by hand-delivery shall be deemed received on the date of delivery and all notices by email shall be deemed received when they are transmitted and not returned as undelivered or undeliverable. Either party may change the names, addresses, or telephone numbers set forth in Section IV above by written notice given to the other party as provided above.

E. Prison Rape Elimination Act (PREA)

The Agency shall report any violations of the Prison Rape Elimination Act (PREA), Federal Rule 28 C.F.R. Part 115 to the Department of Corrections' Agreement Manager.

F. Cooperation with Inspector General

In accordance with Section 20.055(5), Florida Statutes, the Agency understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.

G. Employee Status

This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the Department and Agency are independent contractors under this Agreement and neither is the employee of the other for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The parties shall each retain sole and absolute discretion in the judgment of the manner and means of carrying out their activities and responsibilities hereunder provided, further that administrative procedures applicable to services rendered under this Agreement shall be those of each individual party. Services provided by each party pursuant to this Agreement shall be subject to the supervision of such party. In providing such services, neither party nor its agents shall act as officers, employees, or agents of the other party. The parties agree that they are separate and independent enterprises, and that each has the ability to pursue other opportunities.

This Agreement shall not be construed as creating any joint employment relationship between the Parties and neither party will be liable for any obligation incurred by the other party, including, but not limited to, unpaid minimum wages and/or overtime premiums.

H. Force Majeure

Neither party shall be liable for loss or damage suffered as a result of any delay or failure in performance under this Agreement or interruption of performance resulting directly or indirectly from acts of God, fire, explosions, earthquakes, floods, water, wind, lightning, civil or military authority, acts of public enemy, war, riots, civil disturbances, insurrections, strikes, or labor disputes.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

FOR MIAMI-DADE COUNTY

SIGNED BY: _____

PRINT NAME: Carlos A. Gimenez

TITLE: **Mayor**

DATE: _____

FEID# F59-6000573622

FOR THE DEPARTMENT OF CORRECTIONS

SIGNED BY: _____

NAME: Kelley J. Scott

TITLE: **Director, Office of Administration Department of Corrections**

DATE: _____

Approved as to form and legality, subject to execution.

SIGNED BY: _____

NAME: Kenneth S. Steely

TITLE: **General Counsel Department of Corrections**

DATE: _____