MEMORANDUM

Agenda Item No. 11(A)(21)

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

DATE: July 6, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution finding that the removal of graffiti using County inmates is necessary for the health, safety, and welfare of the County; directing the County Mayor to utilize inmates for the removal of graffiti throughout the County; and further directing the County Mayor to utilize consenting individuals owing community service, as permitted by law or court order, to perform graffiti removal throughout the County

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This item was amended at the 6-15-16 Metropolitan Services Committee to provide for the use of consenting individuals owing community service, or eligible to perform community service in lieu of a financial obligation, for graffiti removal projects throughout the County instead of pre-trial detainees.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto and Co-Sponsor Commissioner Sally A. Heyman.

Abigail Price-Williams
County Attorney

APW/lmp

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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. 11(A)(21)

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. 11(A)(21)
7-6-16

RESOLUTION NO. _____

RESOLUTION FINDING THAT THE REMOVAL OF GRAFFITI USING COUNTY INMATES IS NECESSARY FOR THE HEALTH, SAFETY, AND WELFARE OF THE COUNTY; DIRECTING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO UTILIZE INMATES FOR THE REMOVAL OF GRAFFITI THROUGHOUT THE COUNTY; AND FURTHER DIRECTING THE COUNTY MAYOR TO UTILIZE CONSENTING INDIVIDUALS OWING COMMUNITY SERVICE, AS PERMITTED BY LAW OR COURT ORDER, TO PERFORM GRAFFITI REMOVAL THROUGHOUT THE COUNTY

WHEREAS, Sections 951.01 and 951.05 of the Florida Statutes authorize counties to employ inmates serving a sentence upon conviction for "projects for which the governing body of the county could otherwise lawfully expend public funds and which it determines to be necessary for the health, safety, and welfare of the county"; and

[[~~**WHEREAS**, Section 925.08 of the Florida Statutes further authorizes counties to use pre-trial detainees who are "charged with a misdemeanor" and "confined in the county jail for failure to give bail" for various "projects for which the governing body of the county could otherwise lawfully expend public funds and which it determines to be necessary for the health, safety, and welfare of the county," provided that those pre-trial detainees, among other things, give their consent, are compensated at a rate of $5 per day (payable to the inmate upon acquittal or discharge from prosecution or credited towards fines and costs upon conviction), and are not worked for more than 20 hours in a 24-hour period; and~~]][1]

[1] Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

>>**WHEREAS**, where permitted by court order or as otherwise permitted by law, individuals who give their consent and owe community service or are eligible to perform community service to discharge a financial obligation (e.g., a judgment of fine or costs) incurred through the criminal justice system, may similarly perform projects that benefit the health, safety, and welfare of the County; and<<

WHEREAS, various studies, including one described in a 2008 article published in The Economist, have shown that the presence graffiti of defined as writing or drawings that have been scribbled, scratched, or painted illicitly on a wall or other surface—can foster the violation of behavioral norms, encouraging theft and littering; and

WHEREAS, in addition to contributing to social ills, graffiti is unsightly, giving the impression that affected areas are undesirable, and costly to remove, imposing costs on private property owners and County taxpayers,

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

Section 1. The foregoing recitals are adopted as if set forth fully herein.

Section 2. This Board finds that the removal of graffiti using County inmates [[~~and pre-trial detainees~~]] is necessary for the health, safety, and welfare of the County, and would be for the benefit of prisoners and in the public interest.

Section 3. This Board directs the County Mayor or Mayor's designee to utilize County inmates [[~~and pre-trial detainees~~]], as authorized by Florida law, for the removal of graffiti throughout the County.

Section 4. >>This Board further directs the County Mayor or Mayor's designee, where permitted by court order or as otherwise permitted by law, to utilize individuals who give

their consent and owe community service or are eligible to perform community service to discharge a financial obligation (e.g., a judgment of fine or costs) incurred through the criminal justice system, to perform graffiti removal throughout the County.<< [[~~With respect to pre-trial detainees, the County Mayor or Mayor's designee is directed to keep records of such employment authorized by this resolution for each pre-trial detainee and furnish such records to the court having jurisdiction over the pre-trial detainee as required by Section 925.08(7) of the Florida Statutes.~~]]

The Prime Sponsor of the foregoing resolution is Commissioner Senator Javier D. Souto and the Co-Sponsor is Commissioner Sally A. Heyman. It 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, Jr., 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) 10 days after the date of its adoption unless vetoed by the County 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. MAG

Miguel A. Gonzalez