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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Amended
Substitute
Agenda Item No. 7(D)

Date: July 24, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Amendment to Customer Facility Charges for the Proposed Rental Car Facility
#07-109

The following substitute item is provided in order to correct the following scrivener's errors contained in the original item:

1. **In April 2004, the County executed a concession agreement with 16 rental car companies not 22 as indicated in the original item.**
2. **The last sentence of the 6th paragraph on page 2 clarifies that when the RCF is ready for operations, the post-construction costs will require a CFC in an amount not less than $4.60 per day per rental car contract, and is scheduled to be increased by 25 cents in every fifth anniversary date and not per year in the first five years.**

Recommendation

It is recommended that the Board approve the attached Ordinance that amends Sections 25-4.1(f)(4) and (5) of the Miami-Dade County Code to provide for the increase in pre-construction and post-construction Customer Facility Charges (CFCs) necessary to meet increased costs of the proposed Rental Car Facility (RCF).

Scope

The RCF is located within District 6; however, the impact of this agenda item is countywide in nature.

Fiscal Impact/Funding Source

CFCs will be collected by the car rental companies from their customers and remitted to Miami-Dade County to pay for construction of the RCF.

Track Record/Monitor

N/A

Background

In 1999, the Board approved the concept of the Miami Intermodal Center (MIC) to be constructed in cooperation with the Florida Department of Transportation (FDOT). A major portion of the MIC project involves the construction of the proposed RCF west of LeJeune Road. Upon the RCF's completion, all car rental companies operating at Miami International Airport (MIA) will be required to operate at the RCF and no longer in the Terminal Building of MIA.

In April 2004, the County executed a concession agreement with those rental car companies planning to relocate their business into the RCF upon its completion. The concession agreement with 16 rental

car companies contained the terms of the financing for the RCF; primarily, a federal loan for up to $170 million awarded to FDOT under the federal Transportation Infrastructure Finance and Innovation Act (TIFIA). Under the terms of the TIFIA loan documents, the pledged repayment source for the loan consists of revenues derived from a proposed Customer Facility Charge (CFC) and Contingent Rent should CFC revenues not be sufficient.

The TIFIA loan documents consist of a Loan Agreement and a Calculations and Forecasting Agreement executed by and between FDOT and the U.S. Department of Transportation (USDOT), and a Security Agreement executed by and among the US DOT, FDOT, and the County.

To secure the collection of the CFCs needed to repay the TIFIA loan, the County enacted Ordinance No. 00-87 on July 6, 2000. That Ordinance required each participating car rental company to pay $3 per day per rental car contract from the date of the Ordinance until the completion of the RCF, and to pay on a post-construction basis a CFC in an amount necessary to defray debt-service costs and certain operating expenses of the RCF. The post-construction CFC amount was not fixed but was pegged to an amount that would then be required for payment of debt service and operating expenses. On July 13, 2004, the Board enacted Ordinance No. 04-137 to increase the pre-construction CFC amount to $3.25 per day per rental car contract, leaving intact the unstated post-construction CFC charge.

The costs of construction in the Miami-Dade County area have increased significantly, as reflected by the lowest bid submitted to FDOT in September 2006 for the RCF in the amount of $345 million, vastly in excess of the 2005 estimated cost of $190 million. FDOT rejected all bids and again entered into price negotiations with Turner under its existing CM at Risk contract. Price negotiations were successfully concluded in March 2007 in the amount of $302.5 million, or nearly $45 million below the lowest bid received in September 2006.

This increase in the RCF cost has required FDOT to re-negotiate the TIFIA loan with the USDOT, resulting in the TIFIA loan for the RCF project to be increased by $100 million to a maximum of $270 million. This increase in the loan amount and the future debt-service costs will require the County to increase the CFCs accordingly.

In order to meet increased costs of designing the RCF and the costs to MDAD for the interim-period car-rental operations, the pre-construction CFC must be increased from $3.25 to $4.00 per day per rental car contract. When the RCF is ready for car rental operations, the post-construction costs will require a CFC in an amount not less than $4.60 per day per rental car contract, and is scheduled for a 25 cents increase on each fifth anniversary date after the $4.60 CFC commencement date; however, such amounts may be further adjusted upwards or downwards periodically so as to enable the County to meet all debt service payments on the RCF as well as meet all allocated operating and maintenance expenses of the RCF and the MIC-MIA people mover system.

A companion Resolution to this Ordinance authorizes the County Mayor or designee to negotiate a proposed First Amendment to the Concession Agreement with the 16 participating car rental companies. The First Amendment to the Concession Agreement will dove-tail with the amendments to the CFC charges provided for in this Ordinance.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: July 24, 2007

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

SUBJECT: Amended Substitute Agenda Item No. 7(D)

Please note any items checked.

_____ "4-Day Rule" ("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

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor

Veto _____

Override _____

Amended
Substitute
Agenda Item 7(D)
07-24-07

ORDINANCE NO. 07-109

ORDINANCE RELATING TO RULES AND REGULATIONS OF THE MIAMI-DADE AVIATION DEPARTMENT; AMENDING SECTIONS 25-4.1(f)(4) AND (5) OF THE MIAMI-DADE COUNTY CODE TO INCREASE THE MAXIMUM AMOUNT OF THE CUSTOMER FACILITY CHARGE THAT RENTAL CAR COMPANIES OPERATING AT MIAMI INTERNATIONAL AIRPORT MUST COLLECT FROM CUSTOMERS DURING THE PERIOD OF TIME THAT PRECEDES COMPLETION OF THE RENTAL CAR FACILITY, AND TO PROVIDE FOR AN INCREASE OR DECREASE IN THE CUSTOMER FACILITY CHARGE TO BE COLLECTED FOLLOWING COMPLETION OF THE RENTAL CAR FACILITY BASED ON THE LEVEL OF THE COUNTY'S PAYMENT OBLIGATIONS FOR DEBT SERVICE AND OPERATIONAL COSTS OF THE RENTAL CAR FACILITY; AUTHORIZING AVIATION DEPARTMENT TO AMEND THE APPLICABLE OPERATIONAL DIRECTIVE TO INCORPORATE SUCH CHANGES IN THE CUSTOMER FACILITY CHARGE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Sections 25-4.1(f)(4) and (5) of the Code of Miami-Dade County, Florida, are hereby amended as follows:[1]

Sec. 25-4 Ground Transportation.

25-4.1 *Commercial vehicles.*

* * *

(f) (4) The Operational Directive shall require all car rental companies operating within the Rental Car Facility to charge and collect from their customers, commencing on and after the date on which the Rental Car Facility is operational, a Customer Facility Charge in >>the amount of not more than four dollars and sixty cents ($4.60) per day per car rental contract, and every fifth anniversary after such commencement date to increase such amount by an additional twenty-five cents ($0.25) per day per car rental contract, such Customer Facility Charge amounts to be further adjusted periodically so as to enable the County to meet all<< [[~~an amount not less than the amount required to discharge the County's responsibilities and liabilities under agreements with the Florida Department of Transportation and sufficient to defray~~]] debt service >>payments<< on any loans for the acquisition of the property for and the design and construction of the Rental Car Facility, as well as operating and maintenance expenses related to the Rental Car Facility and allocated operating and maintenance expenses attributable to the MIC-MIA people mover system connecting the Rental Car Facility with the Airport's Terminal Building~~.~~;>>provided, however, that any such periodic adjustments other than the $0.25 adjustment every five years shall be presented to the Board of County Commissioners for its review and approval, such adjustments to be approved if they are in accordance with the requirements of the Concession Agreement between the County and the participating car rental companies, the TIFIA Loan Agreement, and the determinations of anticipated debt service payments, operating and maintenance expenses of the

[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.

RCF, and allocated expenses of the people mover system made thereunder.<<

(5) The Operational Directive shall require that, >>(a)<< commencing no earlier than January 1, 2002, and expiring no later than the >>effective date of this Ordinance,<< [[~~date the Customer Facility Charge under subsection (4) above is effective,~~]] all car rental companies operating at Miami International Airport that have agreed to serve as participating car rental companies in the Rental Car Facility shall charge and collect from their customers a Customer Facility Charge not to exceed three dollars and twenty five cents ($3.25) per day per car rental contract,>> and (b) commencing as of the effective date of this Ordinance and expiring no later than the date the Customer Facility Charge under subsection (4) is effective, all such car rental companies shall charge and collect from their customers a Customer Facility Charge of four dollars ($4.00) per day per car rental contract, with such charges described in (a) and (b) of this subsection to be<< in addition to all other fees established by contract or Operational Directive, >>and with<< such interim Customer Facility >>Charges<< [[~~Charge~~]] to be determined >>or confirmed<< by the Aviation Department and set forth in the Operational Directive, for the purpose of defraying ongoing costs applicable to the design and construction of the Rental Car Facility as well as existing costs to the Airport of providing facilities and services to such companies prior to the date on which the Rental Car Facility becomes operational and as additional payment for the companies' privilege of doing business at the Airport. The Operational Directive or contractual provision shall provide that, as to any such fees and to the extent permissible under federal law and any trust indenture applicable to the Airport, such fees shall be held by the Airport in a separate interest-bearing account for the purpose of defraying the costs of the Rental Car Facility.

* * *

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 relettered to accomplish such intention, and the word "ordinance" may be changed to "section," or "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 override by this Board.

PASSED AND ADOPTED: July 24, 2007

Approved by County Attorney as to form and legal sufficiency.

Prepared by:

Thomas P. Abbott

Memorandum

MIAMI-DADE COUNTY

Date: July 24, 2007

Supplement to
Agenda Item No. 7(D)

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Supplement: Ordinance Amending Rental Car Customer Facility Charge

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Item 7D is an amendment to Section 25-4.1(f)(4) of the Miami-Dade County Code that provides for a customer facility charge (CFC) to be collected by car rental companies using the proposed Rental Car Facility at Miami International Airport. Under Section 25-4.1(f) as it currently reads, two CFCs are involved: one is for $3.25 to be imposed up to the time the RCF is completed, and one is an unstated CFC charge to be determined once the RCF is completed and the final costs are known. The amendment reflected in your agenda kit changes the pre-completion CFC of $3.25 to $4.00 and fixes the post-completion CFC at an amount "not less than $4.60," with an additional $0.25 to be imposed in each fifth anniversary year after completion of the RCF. The amending ordinance also provides that further adjustments to the post-completion CFC can be made by the Aviation Director if necessary to meet then-existing debt service payments and other allocated operating and maintenance costs.

At the ATC, the Committee expressed concern over the "not less than $4.60 language" as well as the Aviation Director's establishment of the post-completion CFC without input from the Board. Accordingly, the ATC requested modification of the Item 7D ordinance in two regards: first, the "not less than $4.60" language should be changed to "not more than $4.60"; second, the ordinance should provide for Board review and approval of the adjustment, with due consideration being given to the bond rating applicable to the $270 million in loan funds that will be used to construct the RCF. This "bond rating" concern came about because the federally-sponsored TIFIA loan is currently rated at the lowest investment grade level and any additional negative aspect might cause the rating agencies to rate the loan at a below-investment grade level. If the bond rating agencies were not assured that the Board would approve a necessary increase in the CFCs, they would reduce the loan rating_to the below-investment grade level.

After the ATC adjourned, FDOT confirmed their concerns about the language approved by the ATC. In discussions with the Chairperson of the ATC following the ATC meeting, FDOT suggested additional language that FDOT believed would be acceptable to the rating agencies but could not give assurances that even that language would be acceptable. On the next day, FDOT learned from the rating agencies that the rating agencies would accept the "provided however" language at the end of the following paragraph:

> (4) The Operational Directive shall require all car rental companies operating within the Rental Car Facility to charge and collect from their customers, commencing on and after the date on which the Rental Car Facility is operational, a Customer Facility Charge in >>the amount of not more than four dollars and sixty cents ($4.60) per day per car rental

contract, and every fifth anniversary after such commencement date to increase such amount by an additional twenty-five cents ($0.25) per day per car rental contract, such Customer Facility Charge amounts to be further adjusted periodically so as to enable the County to meet all<< [[~~an amount not less than the amount required to discharge the County's responsibilities and liabilities under agreements with the Florida Department of Transportation and sufficient to defray~~]] debt service >>payments<< on any loans for the acquisition of the property for and the design and construction of the Rental Car Facility, as well as operating and maintenance expenses related to the Rental Car Facility and allocated operating and maintenance expenses attributable to the MIC-MIA people mover system connecting the Rental Car Facility with the Airport's Terminal Building; provided, however, that any such periodic adjustments other than the $0.25 adjustment every five years shall be presented to the Board for its review and approval, such adjustments to be approved if they are in accordance with the requirements of the Concession Agreement between the County and the participating car rental companies, the TIFIA Loan Agreement, and the determinations of anticipated debt service payments, operating and maintenance expenses of the RCF, and allocated expenses of the people mover system made thereunder.

I therefore recommend that the ordinance in Item 7(D) Substitute be further amended by changing Section 25-4.1(f)(4) in the manner set forth above in order to give reasonable assurance to the bond rating agencies while preserving to the Board its review and approval of the post-completion CFCs. The remainder of the ordinance is acceptable to FDOT and the bond rating agencies.

Assistant County Manager