



MEMORANDUM

Amended
Agenda Item No. 11(A)(8)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: December 1, 2009

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

SUBJECT: Resolution pertaining to Community
Small Business Development
Program; directing County Mayor
to include additional subcontractor
provisions in all future contracts,
where applicable unless waived by
Board of County Commissioners

Resolution No. R-1386-09

This item was amended at the Budget, Planning & Sustainability committee to change County Manager to Mayor or his designee.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.

A handwritten signature in black ink, appearing to read "RAC Jr.", written over a horizontal line.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

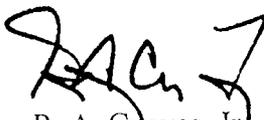


MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
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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 _____

Amended
Agenda Item No. 11(A)(8)
12-1-09

RESOLUTION NO. R-1386-09

RESOLUTION PERTAINING TO COMMUNITY SMALL BUSINESS DEVELOPMENT PROGRAM; DIRECTING MAYOR OR HIS DESIGNEE TO INCLUDE ADDITIONAL SUBCONTRACTOR PROVISIONS IN ALL FUTURE CONTRACTS, WHERE APPLICABLE UNLESS WAIVED BY BOARD OF COUNTY COMMISSIONERS

WHEREAS, Miami-Dade County (the “County”) has a Community Small Business Enterprise (“CSBE”) program for construction related enterprises, including design-build firms, and firms providing trades and/or services for the completion of construction projects, as defined in Chapter 10 of the Code of Miami-Dade County, Fla. (the “Code”), which have an actual place of business in the County and whose three (3) year average annual gross revenues do not exceed specific dollar thresholds based upon the type of construction related services performed in accordance with their two-digit Standard Industrial Classification (“SIC”) code, or six-digit North American Industry Classification System (“NAICS”) code classification; and

WHEREAS, the County wants to strengthen its CSBE program by implementing additional provisions for inclusion in County contracts with a subcontractor goal(s),

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, directs the Mayor or his designee to include the following subcontractor provisions pertaining to the Community Small Business Enterprise program, in all contracts where a subcontractor goal(s) is established for CSBEs to perform and achieve said goal(s), unless said provision(s) is waived by majority vote of the Board. The additional CSBE provisions are

- (a) No CSBE firm entering into a subcontract for \$200,000 or less shall be required to execute and deliver a payment and performance bond as a condition of executing such subcontract or performing the work unless, in the case of a subcontract, the prime contractor has requested from the County, and the County has approved prior to the execution of the subcontract, such request based on information submitted by the prime contractor. Such information shall include, but not be limited to, the following: (1) subcontractor's prior work history; (2) subcontractor's number of years in business; (3) scope of work; (4) conditions affecting the work; (5) value of the subcontract; (6) schedule considerations; (7) subcontract terms; and (8) any other factors that may affect risk.
- (b) Upon the mutual agreement between the prime contractor and CSBE, the CSBE may be paid up to five percent (5%) of the value of the subcontract, exclusive of contingencies, in advance, upon written evidence reasonably satisfactory to Small Business Development ("SBD") of the CSBE's imminent expenditure of those funds for mobilization directly related to the work. Such written evidence may include, but is not limited to, executed contracts, purchase orders, and invoices, and must be submitted to SBD and the contracting department.
- (c) Upon mutual agreement between the prime contractor and CSBE subcontractor and prior approval by SBD, provided that (i) the CSBE subcontractor is not in breach of its payment and performance obligations under the subcontract, and (ii) the CSBE subcontractor is responsible for the negotiation and purchase of materials, the prime contractor shall pay directly for the purchase of any material to be incorporated in the work which is the object of the CSBE's subcontract. Such direct payment shall be made by dual party check made payable to the material supplier and the CSBE subcontractor and shall be credited against the prime contractor's payment obligations under the subcontract and credited against the agreed items in the schedule of values where the materials were used.
- (d) The retainage withheld from payments to CSBE subcontractor(s) shall not exceed 5 percent (5%), after fifty percent (50%) completion of the work and materials under the CSBE subcontractor(s) contract. Any and all amounts withheld in retainage under a CSBE's subcontract shall be paid in full upon satisfactory completion and acceptance of the CSBE's work in compliance with its subcontract within the same number of days that the County has mandated as the billing cycle for said contract in operation, or within forty (40) calendar days of submittal of such billing(s) by the CSBE subcontractor(s) to the prime contractor, whichever is less, regardless of whether the prime contractor has received payment from the County.
- (e) Within five (5) working days of the prime contractor becoming aware of a performance problem with a CSBE, the prime contractor shall notify the CSBE of such problem, in writing and with sufficient specificity to allow the CSBE to identify and redress the problem, and shall allow the CSBE a reasonable cure period. Disputes between the prime contractor and any CSBE shall be submitted to SBD for expedited alternative dispute resolution.
- (f) A prime contractor shall not require of any CSBE more than the minimum insurance coverage (\$300,000 General Liability, \$300,000 Automobile and Worker's

Compensation in accordance with state law) unless the prime contractor has requested from the County, and the County has approved prior to the execution of the subcontract, such request based on information submitted by the prime contractor. Such information shall include, but not be limited to, the following: (1) work discipline covered by the subcontract; (2) subcontractor's prior work history; (3) subcontractor's number of years in business; (4) scope of work; (5) conditions affecting the work; (6) value of the subcontract; (7) schedule considerations; (8) contract terms; and (9) any other factors that may affect risk.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. It was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Natacha Seijas** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairperson	aye		
Jose "Pepe" Diaz, Vice-Chairperson	absent		
Bruno A. Barreiro	aye	Audrey A. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	absent
Barbara J. Jordan	aye	Joe A. Martinez	aye
Dorrian D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	absent	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of December, 2009. This resolution shall become effective 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

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **DIANE COLLINS**
Deputy Clerk



Approved by County Attorney as
to form and legal sufficiency.

dsh

David Stephen Hope