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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

Date: May 17, 2011

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Alina T. Hudak
County Manager

Agenda Item No. 9(A)(2)

Resolution No. R-413-11

Subject: Resolution in Support of Wal-Mart Stores East, LP for a State of Florida Brownfield Redevelopment Bonus Refund

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Recommendation

It is recommended that the Board of County Commissioners (Board) support the approval of Wal-Mart Stores East, LP for a State of Florida (State) Brownfield Redevelopment Bonus Refund to expand into a new facility in the southwestern section of Miami-Dade County. Because the State assumes that the locality is providing financial support, the County must request a waiver to opt out of the 20 percent match.

Scope

This project is located on the SW corner of SW 24 Street and SW 84 Avenue (8400 Coral Way) in Commission District 10.

However, the construction of this project will also have a positive countywide impact due to direct and indirect employment and project investment. Further, Wal-Mart Stores East, LP is seeking to have the project site designated as a brownfield by separate item on this same agenda.

Fiscal Impact / Funding Source

Approval of this Brownfield Redevelopment Bonus Refund will not create a negative fiscal impact to the County.

Through this program, the business is eligible to receive up to $2,500 for each job created and the State will pay 80 percent ($2,000) for each job created, or up to $660,000 for the estimated 330 jobs to be created. The County opts out of its 20 percent match in the Brownfield Redevelopment Bonus program because it can support businesses through other incentive programs, such as the Qualified Targeted Industry (QTI) and the Targeted Jobs Incentive Fund (TJIF) programs. Unfortunately, this particular project is not eligible for a QTI or a TJIF incentive, as retail is not a targeted industry under either of these two programs. However, under Florida Statute 288.107 the business is eligible for the Brownfield Redevelopment Bonus incentive providing that certain criteria are met, as specified in the statute and fully defined later in this memorandum.

Track Record/Monitor

This new facility will be an expansion of the Wal-Mart chain of retail discount super-center stores in Miami-Dade County. Wal-Mart currently has over 90,000 employees in the State of Florida. The State will pay the incentive and verify that all conditions have been met.

Background

The State of Florida created the Brownfield Redevelopment Bonus Refund Program as codified in Section 288.107 of the Florida Statutes. The Brownfield Redevelopment Bonus is available to encourage redevelopment and job creation within designated brownfield areas. Pre-approved applicants receive tax refunds of up to $2,500 for each new job created. The amount of the refund is equal to 20 percent of the average annual wage of the new jobs created. While a minimum wage salary could be as low as $15,400, the company has stated in its application that the average wage for its new jobs will be $20,000. Refunds are based on taxes paid by the business, including corporate income, sales, ad valorem, intangible personal property, insurance premiums, and certain other taxes. Under Florida

Statute 288.107 Wal-Mart Stores East, LP is eligible to apply for the Brownfield Bonus to help offset the cost of remediation associated with the company's acquisition of the site.

As provided in Florida Statutes 288.107(3)(a)-(e) the criteria for participation in the program are, in relevant part:

1) Create at least ten new Florida full-time jobs with benefits, excluding construction and site remediation jobs. Wal-Mart is projecting the creation of 330 new jobs.
2) Be a business that can demonstrate a fixed capital investment of at least $2 million in mixed-use business (including multi-unit housing, commercial, retail, and industrial) activity located in a brownfield area. Wal-Mart is investing $7.25 million.
3) Demonstrate that the project will diversify and strengthen the economy of the area surrounding the site. Wal-Mart will invest towards the cleanup and redevelopment of the site and will diversify the economy by bringing in new retail and commercial development. This in return will increase the area's tax revenues.
4) Demonstrate that the project will promote capital investments in the area beyond that contemplated for the rehabilitation of the site. This is expected due to the significant investment and scope of the project.
5) Provide a local government resolution supporting the project with a local match, or in the alternative, a resolution supporting the project, but opting out of the match. This item, if approved, will meet this criterion.

This project involves the construction of a new 130,221 square feet retail super-center with retail discount operations, grocery store, and a warehouse club, which will provide a wide variety of grocery and household items to consumers. The details of this project are listed below:

APPLICANT:	Wal-Mart Stores East, LP
LOCATION:	SW Corner of SW 24 Street and SW 84 Avenue (Westchester)
COMMISSION DISTRICT:	District 10
DATE OF APPLICATION:	October 21, 2010
OVERALL BUSINESS ACTIVITY/MISSION:	To construct and operate a 130,221 square feet retail super-center grocery store and warehouse club
PROPOSED LOCAL BUSINESS ACTIVITY:	National retail discount grocery store chain
PROPOSED CAPITAL INVESTMENT:	$7.25 million
TARGETED INDUSTRY:	Retail
PROPOSED LOCATION IN DESIGNATED PRIORITY AREA?	Yes, Brownfield
NEW OR EXPANDING BUSINESS?	Expanding
NUMBER OF DIRECT JOBS TO BE CREATED/RETAINED:	330
COMMENTS:	Project information provided by the Law Firm of Akerman Senterfitt

Attachments

J.A. Ojeda, Jr., Executive Director
Office of Economic Development and International Trade

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: May 17, 2011

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

SUBJECT: Agenda Item No. 9(A)(2)

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 _____

Agenda Item No. 9(A)(2)
5-17-11

RESOLUTION NO. R-413-11

RESOLUTION SUPPORTING WAL-MART STORES EAST, LP FOR A STATE OF FLORIDA BROWNFIELD REDEVELOPMENT BONUS REFUND PURSUANT TO FLORIDA STATUTES § 288.107 WHILE OPTING OUT OF THE LOCAL MATCH AND FURTHER PROVIDING FOR 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; and

WHEREAS, the business under consideration is a general merchandise discount retail store specifically, WAL-MART STORES EAST, LP; and

WHEREAS, WAL-MART STORES EAST, LP is located on the SW corner of SW 24th Street and SW 84th Avenue in Westchester in Miami-Dade County, which WAL-MART STORES EAST, LP is seeking to have designated as a brownfield site by separate item on this same agenda; and

WHEREAS, WAL-MART STORES EAST, LP is an expanding business with retail discount super-center stores throughout Miami-Dade County, and this project will invest $5.25 million in capital site improvements, including upgrades to the construction of the building, and on-site and off-site improvements to infrastructure. An additional $2 million will be associated with fixtures, shelving, computers, and other similar items; and

WHEREAS, this project will hire 330 residents with annualized wages of $20,000 from the Westchester area for its retail discount operations, grocery store, warehouse club; and

WHEREAS, participation in the local financial support is optional and understood; and

WHEREAS, the Board of County Commissioners of Miami-Dade County requests a waiver from the local financial support requirement authorized under the Brownfield Redevelopment Bonus Refund Program pursuant to Florida Statutes § 288.106, and will exercise that option,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board supports Wal-Mart Stores East, LP for the State of Florida Brownfield Redevelopment Bonus Refund pursuant to Florida Statutes § 288.107.

The foregoing resolution was offered by Commissioner **Sally A. Heyman** , who moved its adoption. The motion was seconded by Commissioner **Jose "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			**absent**
Audrey M. Edmonson, Vice Chairwoman			**aye**
Bruno A. Barreiro	**absent**	Lynda Bell	**aye**
Jose "Pepe" Diaz	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Jean Monestime	**aye**
Dennis C. Moss	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**absent**		

The Chairperson thereupon declared the resolution duly passed and adopted this 17th day of May, 2011. 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.

Rachel M. Wilhelm

Michael R. Goldstein
Akerman Senterfitt
One Southeast Third Avenue
25th Floor
Miami, Florida 33131
Tel: 305.374.5600
Fax: 305.374.5095

Dir: 305.982-5570
michael.goldstein@akerman.com

Akerman

RECEIVED ITC
JAN 14 2011
EXEC. DIR. OFFICE
1/14-13

December 8, 2010

VIA FEDEX

Ms. Rowena Crawford, Office of the Director
Community and Economic Development Division
Miami Dade County Department of Housing
and Community Development
701 NW 1st Court – 14th Floor
Miami, FL 33136

Re: Submittal of Application for Brownfield Designation for Proposed Wal-Mart Store No. 5854-00 located at 8400 Coral Way, Miami, Florida 33101 (Southwest Corner of SW 24th Street and SW 84th Avenue, Westchester, Miami, Miami-Dade County, Florida)

Dear Ms. Crawford:

On behalf of Wal-Mart Stores East, LP, we are pleased to submit this Application for Brownfield Designation for the proposed Wal-Mart Store No. 5854-00 located at 8400 Coral Way, Miami, Florida 33101 (the "Subject Property"), which, if developed, will be located on the Southwest Corner of SW 24th Street and SW 84th Avenue, Westchester, Miami, Miami-Dade County, Florida, (the "Project").

Wal-Mart is applying for a brownfield designation because environmental assessment activities to date have documented that the Subject Property is located directly adjacent to a site where chlorinated solvents – a known carcinogen - have been found in groundwater, creating exposure to environmental regulatory and third party liability risk as well exposure to significant construction risk, all of which, if not properly managed, can threaten the health and safety of employees and customers, the creation of hundreds of new jobs for the community, and the financial viability of the Project. The Brownfield designation, on the other hand, provides access

to the very types of technical, regulatory, and financial assistance programs that will be critical to overcoming these complex and interrelated challenges.

Given the nature of contamination documented to date, the proper management of development activities to prevent the exacerbation and spread of existing pollution, protect worker health and safety during construction, and ensure the health and safety of employees and visitors once the Project is completed is a goal readily made possible through the Florida Brownfields Program as it may be available to Wal-Mart by action of the Miami-Dade County Commission. In short then, these incentives are essential for the successful redevelopment and reuse of the Subject Property.

In light of these facts and circumstances, we respectfully request that the Community and Economic Development Division ("CEDD") of the Miami Dade County Department of Housing and Community Development favorably review the enclosed Application for Brownfield Designation and recommend it for approval to the Miami-Dade County Board of Commissioners. Under separate cover, we will also be submitting a request that Miami-Dade County recommend the Project for a Brownfield Redevelopment Bonus Refund. We respectfully request CEDD's assistance with that item too.

As you evaluate the application and supporting materials, please feel free to contact us should you have any questions or require further information. We would also be happy to meet with you in person at your earliest convenience should you deem that appropriate. Thank you again for your assistance, and we are excited about collaborating with you and your staff to create another environmental redevelopment success story in Miami-Dade County.

Sincerely,

AKERMAN SENTERFITT

Michael R. Goldstein

mrg/encls.

cc: Mr. Joseph Bell, Enterprise Florida (w/o enclosures)
Mr. Steven Beatus, Beacon Council (w/o enclosures)
Wal-Mart Stores East, L.P.
Sarah Campbell Smith, Esq.

MIAMI DADE COUNTY BROWNFIELD REDEVELOPMENT PROGRAM
APPLICATION FOR BROWNFIELD DESIGNATION

Please complete this form to initiate the Brownfield designation process. It is important to complete all applicable sections and attach all necessary information. If you have any questions concerning completion of this Application or wish to schedule a Pre-Application Meeting, please call (786) 469-2100 and ask for a Brownfield Representative.

I. PROPERTY INFORMATION

Property Address **8400 Coral Way, Miami, Florida (Southwest Corner of SW 24th Street and SW 84th Avenue, Westchester, Miami, Miami-Dade County, Florida)**

Property Name **Proposed Wal-Mart, Westchester, Store No. 5854**

City **Miami** State **FL** Zip Code **33101**

Property Size (acres/square feet) **11.69 acres**

Parcel Number(s) _____

Folio Number **30-4015-019-0030**

Zoning **BU-2**

DERM File Number **Not applicable.**

FDEP File Number **Not applicable.**

Name of Applicant's Interest in Property

	Owner
X	Tenant
X	Under Contract
	Option to Purchase/Lease
	Letter of Intent
	Other (If so, please describe briefly: _____

Is property subject to an enforcement action under the Comprehensive Environmental Compensation or Liability Act, the Resource Conservation and Recovery Act, or Chapter 376 or 403, Florida Statutes?

No.

If so, please provide a brief description of the material facts and circumstances associated with such action(s).

Not applicable.

If the project consists of an assemblage, please include all property information for each additional parcel as an attachment, including legal descriptions.

Describe all outstanding property taxes due on the property.

None.

Describe all liens on the property.

None.

II. PROJECT DESCRIPTION

Briefly describe the project and the anticipated redevelopment plan.

Wal-Mart seeks to redevelop the property into a Wal-Mart Supercenter Store. The property is currently vacant.

Briefly describe the environmental conditions and issues associated with the project.

Environmental assessment activities to date have documented that the site is located directly adjacent to a property where chlorinated solvents – a known

carcinogen - have been found in groundwater and where there are ongoing cleanup activities funded by the Florida Department of Environmental Protection.

Briefly describe any anticipated plans for assessment and remediation of the environmental conditions associated with the property.

Special attention to certain construction activities - including but not limited to dewatering - will be critical in order to avoid exacerbating the neighboring plume. Wal-Mart's environmental consultant for this project recommends that any proposed on-site dewatering operations be properly evaluated to determine appropriate site development-related precautions that may need to be implemented to protect human health and the environment.

Will your project require a change in zoning and /or the County's Comprehensive Plan? If so, please provide a brief description of the material facts and circumstances associated with such change(s).

No.

Please attach a statement demonstrating that the project currently qualifies for designation as a Brownfield Area under the Florida Brownfield Redevelopment Act (or will qualify prior to the date the item is brought before the County Commission). Note that reasonable assurances must be provided by the Applicant that sufficient financial resources are available to implement and complete a rehabilitation agreement and redevelopment plan. Accordingly, your statement must outline the financial resources that are available in this regard.

If you intend to apply for the Brownfield Job Refund Bonus or the Brownfield Economic Development Initiative (Revolving Loan Fund), please indicate so by attaching a statement that discusses why you believe your project qualifies. Note: A separate application process exists for these programs.

Please attach any non confidential environmental assessment documentation associated with the project, including Phase I and Phase II Reports, Site Assessment Reports, and Remedial Action Plans.

III. APPLICANT INFORMATION

Name **Wal-Mart Stores East, L.P.**

Address **2001 S.E. 10th Street**

City **Bentonville** State **Arkansas** Zip Code **72716**

Phone **(479) 204-7539** Fax _____ E-Mail **jacquelyn.sturch@wal-mart.com**

Ownership Interest in Property **Assignee of Leasehold Tenancy from Home Depot**

Legal Status of the Applicant:

_____ Individual /Sole Proprietorship _____ General Partnership _____ State

_____ Limited Liability Company _____ Limited Partnership

_____ Florida Corporation

X Out-of-State Corporation State of Incorporation **Delaware**

Name of current Property owner if different from Applicant **Westchester Mall Associates Limited Partnership**

Address **c/o Midwood Mgmt. Corp., 430 Park Avenue, Suite 505**

City **New York** State **NY** Zip Code **10022**

Phone _____ Fax _____ E-Mail _____

Legal Status of the Current Property Owner (s):

_____ Individual /Sole Proprietorship _____ General Partnership **CT** State

_____ Limited Liability Company **X** Limited Partnership

_____ Florida Corporation

_____ Out-of-State Corporation State of Incorporation _____

If the current property owner is not the applicant, please attach an affidavit from the current owner that it does not object to designation of the Property as a Brownfield Area under the Florida Brownfield Redevelopment Act.

IV. SERVICES TO BE PROVIDED

Have you requested a Brownfield Meeting prior to completing this application? ___Yes __X__ No

In order to better assist you, please check the type of designation you are requesting and the type of assistance/incentives (check all that apply) you are seeking through this designation:

Type of Designation: _____ Several parcels _____X_ Single parcel

Type of Assistance/Incentives requested:

_____ Regulatory Assistance (aid for meeting government agency permitting requirements)

_____ Technical Assistance (aid in obtaining grants, loans, etc.)

_____ Grants (gap financing for Brownfield remediation

_____ Loan (remediation loan funds)

_____ Tax Credits/Exemptions due to Brownfield Area Designation

X_____ Job Creation Tax Refund due to Brownfield Area Designation

Other (please describe):

_____

_____

_____

_____

Return completed form and attachments to:

Community and Economic Development Division Director
Miami Dade County
Department of Housing and Community Development
701 NW 1st Court - 14th Floor
Miami, Florida 33136

www.miamidade.gov\ced

V. CERTIFICATION

The contents of this application shall be considered public records held by Miami Dade County and upon submittal becomes the property of Miami Dade County. The undersigned affirms that the information contained in this application is true and accurate.

Applicant's Signature: _____ Date: 10/21/10

Print / Type Name: Michael A Allan

FOR OFFICIAL USE ONLY

Applicant Received by: _____ Date: _____

Application Completeness Reviewed by: _____

_____ Application Complete _____ Application Incomplete

Specify reason(s) below:

_____

_____

_____

Applicant Contacted on: _____

Applicant Phone Number: _____

Applicant E-mail: _____

Date corrected information received to complete application (if applicable):

_____

Signature of Reviewer: _____ Date: _____

Brownfields Designation Eligibility Statement

The Subject Property Satisfies the Definition of a "Brownfield Site"

Under the Florida Brownfield Redevelopment Act (the "Act"), a "Brownfield Area" is "a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution."[1] The Act defines "Brownfield Sites" as "real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination."[2] Based on the environmental conditions that have been documented to date and a plain reading of the law, the Subject Property meets the definition of a Brownfield Site. More specifically, the Subject Property is located directly adjacent to a property where chlorinated solvents have been documented in groundwater and there is ongoing cleanup activities funded by the Florida Department of Environmental Protection. In addition, the Subject Property is located approximately 2,000 feet to the north/northeast of the Miami-Dade County-designated "Westchester Brownfield Area." Redevelopment of the Subject Property has been and will continue to be complicated by actual contamination as well as by the potential – or perception – that groundwater contamination may ultimately migrate to the Subject Property.

Compliance with Statutory Designation Criteria

In that the site conditions associated with the Subject Property meet the statutory definition of a Brownfield Site under the Act, the project satisfies or will shortly satisfy each of the five applicable designation criteria.[3] Wal-Mart meets the applicable requirements of Section 376.80(2)(b), Florida Statutes, as discussed in the following paragraphs.

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[1] Fla. Stat. § 376.79(4).

[2] Fla. Stat. § 376.79(3).

[3] Florida Statutes § 376.80(2)(b) provides that local governments shall designate a brownfield area requested by an individual, partnership, or corporation if the following criteria are met:

1. A person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site;

2. The rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area. However, the job creation requirement shall not apply to the rehabilitation and redevelopment of a brownfield site that will provide affordable housing defined in s. 420.0004 or the creation of recreational areas, conservation areas, or parks;

3. The redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations;

4. Notice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person

1. **Agreement to Redevelop the Brownfield Site.** Florida Statutes § 376.80(2)(b)(1) provides that "[a] person who owns or controls a potential brownfield site is requesting the designation and has agreed to rehabilitate and redevelop the brownfield site." Wal-Mart has satisfied this criteria based upon the following, First, Wal-Mart has entered into a contract for a lease assignment of the Subject Property and has received authorization from the current property owner (Wal-Mart's prospective landlord) to seek a brownfield designation for the Subject Property. Second, as of the date of this application, Wal-Mart has obtained the necessary civil approvals and civil permits that allow Wal-Mart to construct a new Supercenter store on the Subject Property.

2. **Economic Productivity.** Florida Statutes § 376.80(2)(b)(2) provides that "[t]he rehabilitation and redevelopment of the proposed brownfield site will result in economic productivity of the area, along with the creation of at least 5 new permanent jobs at the brownfield site that are full-time equivalent positions not associated with the implementation of the rehabilitation agreement or an agreement and that are not associated with redevelopment project demolition or construction activities pursuant to the redevelopment of the proposed brownfield site or area." As noted above, as of the date of this application, Wal-Mart has obtained the necessary civil approvals and civil permits that allow Wal-Mart to construct a new Supercenter store on the property. When fully developed, the project will have created approximately 330 full time equivalent jobs and supported hundreds of temporary construction jobs, all of which adds to the tax rolls, enhances the work force, and facilitates or has proven to facilitate further redevelopment activity in the immediate neighborhood. In addition, Wal-Mart intends to invest at least $5.25 million in initial capital investment for site improvements, including upgrades to the construction of the building, and on-site and off-site improvements to infrastructure.

3. **Consistency with Local Comprehensive Plan and Permittable Use Under Local Land Development Regulations.** Florida Statutes § 376.80(2)(b)(3) provides that "[t]he redevelopment of the proposed brownfield site is consistent with the local comprehensive plan and is a permittable use under the applicable local land development regulations." The intended use is consistent with current zoning (BU-2) and with the local comprehensive plan.

4. **Public Notice and Comment.** Florida Statutes § 376.80(2)(b)(4) stipulates that "[n]otice of the proposed rehabilitation of the brownfield area has been provided to neighbors and nearby residents of the proposed area to be designated, and the person proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subsection must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area." To satisfy these public notice and comment requirements, the developer is required to hold a public meeting concerning the proposed rehabilitation, provide notice to neighbors and nearby residents, and afford those attending the public meeting an opportunity for

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proposing the area for designation has afforded to those receiving notice the opportunity for comments and suggestions about rehabilitation. Notice pursuant to this subparagraph must be made in a newspaper of general circulation in the area, at least 16 square inches in size, and the notice must be posted in the affected area; and

5. The person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment of the brownfield site.

comments and suggestions about the proposed rehabilitation. Wal-Mart has tentatively scheduled January 25, 2011, as the date to convene the meeting and will soon begin publishing and posting notice of the meeting as required.

5. **Reasonable Financial Assurance.** Florida Statutes § 376.80(2)(b)(5) provides that "[t]he person proposing the area for designation has provided reasonable assurance that he or she has sufficient financial resources to implement and complete the rehabilitation agreement and redevelopment plan." For fiscal year ending January 31, 2010, Wal-Mart reported $405 billion in net sales and an operating income of $24 billion. Wal-Mart closed the year with $14.1 billion in free cash flow.[4] As reflected in Wal-Mart's 2010 Annual Report, Wal-Mart has sufficient financial resources to implement and complete the redevelopment of the Subject Property and is committed to doing so.

[4] For more information on Wal-Mart's financial condition, please see the 2010 Annual Report, *available at* http://walmartstores.com/sites/annualreport/2010/.

Brownfield Job Bonus Eligibility Statement

Wal-Mart is applying for a "Brownfield Redevelopment Bonus Refund" for its prospective new Supercenter store to be located in Miami Dade County, Florida. As discussed in detail below, Wal-Mart satisfies the eligibility criteria established by section 288.107(3), Florida Statutes.

Compliance with Statutory Criteria

1. The Project will create at least 10 new full-time permanent jobs. Wal-Mart intends to hire approximately 330 new full-time equivalent associates.

2. The Project will bring at least $500,000 in fixed capital investment in a brownfield area that does not require site cleanup. Wal-Mart intends to invest at least $5.25 million in initial capital investment. The initial $5.25 million in capital investment is associated with site improvements, including upgrades to the construction of the building, and on-site and off-site improvements to infrastructure. An additional $2 million will be associated with furniture, fixtures, shelving, computers, and other similar items.

3. The designation as a brownfield will diversify and strengthen the economy of the area surrounding the site. The project is expected to not only provide a new retail option for residents in the area but will also provide new employment to the residents. Newly employed associates will patronize other establishments in the area, thereby strengthening the economy in the surrounding area as well. One study issued by the University of Missouri-Columbia has found that the opening of a new Wal-Mart store results in city-wide price reductions of nearly two or three percent in the short run and approximately 10 percent in the long run. Consumers are expected to spend at least some of that savings at other small businesses in the area. In addition, a project of this size is expected to attract other new businesses and economic opportunities to the area. In fact, a study released by Navigant Consulting, Inc. ("Navigant") in December 2008 found that the presence of Wal-Mart Supercenters in a community enhances the community as it relates to local revenues and business development.[1] Specifically, Navigant found and its report details that in every city studied where Wal-Mart had opened a new Supercenter, the city-wide taxable retail sales (including apparel stores, general merchandise stores, grocery stores, home furnishing and appliance stores, and other retail stores) increased in the year following the opening of the Supercenter, as compared to the taxable retail sales of the year prior to opening. Increased taxable sales means more revenue for Miami-Dade County. Moreover, Wal-Mart is committed to giving back locally and provides financial and volunteer support to over 100,000 charitable and community-focused organizations. This project, therefore, like other Wal-Mart projects in communities across the country, will serve to diversify and strengthen the local economy of the area surrounding the site.

4. The designation as a brownfield will promote capital investment in the area beyond that contemplated for the rehabilitation of the site. Wal-Mart takes pride in redeveloping many sites that are located in economically and environmentally-challenged areas. In nine out of 10 communities studied by Navigant, the number of retail business permits

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[1] *See* An Analysis of Taxable Retail Sales and Retail Business Permits in California Cities with Wal-Mart Supercenters, prepared by Navigant, dated December 2008, *available at* http://walmartstores.com/pressroom/news/8836.aspx.

increased locally two years following the opening of the Wal-Mart Supercenter. The average increase was 65.8 retail business permits per city. This is double the increase in permits after only one year and reflects a total increase of 658 new retail business permits across 10 cities and an average increase of 8.2 percent per city. Additionally, the number of retail business permits increased three years following the opening of a Wal-Mart in certain of the communities Navigant studied, nearly doubling again to an average of 130.3 retail business permits per city or a 15.7 percent increase. Other studies have also confirmed that Wal-Mart stores increase economic efficiency and capital investment in an area by the reallocation of resources. This project, therefore, like Wal-Mart projects in other communities across the country, will serve to promote capital investment in the area beyond that contemplated for the rehabilitation of the site.

5. A resolution adopted by the governing board of the county in which the project will be located recommends its approval. Once the Subject Property has been designated a brownfield by Miami-Dade County, Wal-Mart will seek a resolution from Miami-Dade County recommending the project for the brownfield redevelopment bonus refund. Wal-Mart intends to work with the Beacon Council and the County's Department of Housing and Community Development on an appropriate resolution to be put before a vote of the County Commission. Wal-Mart has successfully worked with the Beacon Council and with Miami-Dade County on other similar brownfield projects. Therefore, once the local resolution has been adopted, Wal-Mart will have satisfied the fourth criterion.

AFFIDAVIT OF STEVEN B. SCHWARTZ

STATE OF NEW YORK

COUNTY OF NEW YORK

BEFORE ME, the undersigned authority, personally appeared Steven B. Schwartz, who says as follows:

1. I am a resident of the State of New York and over the age of eighteen.

2. I have been authorized to represent Westchester Mall Associates Limited Partnership, a Connecticut Limited Partnership ("Westchester Mall Associates") in my capacity as Chief Operating Officer for Midwood Management Corporation, the authorized agent for Westchester Mall Associates.

3. Westchester Mall Associates is the current owner of property located at 8400 Coral Way, Miami, Florida (the southwest corner of SW 24th Street and SW 84th Avenue) (Miami Dade County Folio No. 30-4015-019-0030) (the "Property").

4. Westchester Mall Associates does not object to the designation of the Property as a Brownfield Area under the Florida Brownfield Redevelopment Act, Fla. Stat. §§ 376.77-376.86.

SIGNATURE PAGE ATTACHED

FURTHER AFFIANT SAYETH NAUGHT.

Steven B. Schwartz, Chief Operating Officer
Midwood Management Corporation, Agent for
Westchester Mall Associates Limited Partnership

STATE OF NEW YORK

COUNTY OF NEW YORK

The foregoing instrument was sworn to and subscribed before me this 29 day of November, 2010, by Steven B. Schwartz, Chief Operating Officer for Midwood Management Corporation, authorized agent for Westchester Mall Associates Limited Partnership. He is:

☑ personally known to me; or

☐ produced the following identification: _____

Constance M Coleman
NOTARY PUBLIC, STATE OF New York

(Print, Type or Stamp Commissioned Name of Notary Public)

CONSTANCE M. COLEMAN
Notary Public, State of New York
No. 01CO4861735
Qualified in Queens County
Commission Expires June 16, 2014

{M2982415;1}

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**9A6 and 9A7**
File Number:	**110727 and 110701**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**April 11, 2011**
Type of Item:	**Resolution**
District:	**10**

Summary

The proposed resolutions approve the following:

- Legislative item No 110727, is requesting the parcel located on the southwest corner of SW 24th Street and SW 84th Avenue be designated as a brownfield site. This above-mentioned parcel is owned by Walmart Stores East, LP.

- Legislative item No. 110701, supports Walmart Stores East, LP application for a State of Florida Brownfield Redevelopment Bonus Refund which proposes the following:
  - construct and operate a Supercenter Store at the 8400 Coral Way Parcel;
  - total investment of$7.5 million from its rehabilitation and redevelopment activity; and
  - create 330 new jobs.

Background and Relevant Legislation

The Brownfields Redevelopment Act was created by the Florida Legislature and amended in 1998. Florida Statutes, Section 376.80(9), specifically authorizes and encourages the Florida Department of Environmental Protection (FDEP) to enter into delegation agreements with local pollution control programs to administer the Brownfields Program, thereby integrating this process with other local development processes to facilitate redevelopment of a Brownfield area.

According to the FDEP, a brownfield is any real property where the expansion, redevelopment or reuse is complicated by actual or perceived contamination. Furthermore, if a property is located in a designated Brownfield area, the property owner may be eligible for several financial incentives to include the following:

- 2,500 Job Bonus Refund for each new job created in a designated Brownfield area by an eligible business;

- Sales Tax Credit on building materials purchased for the construction of an affordable housing project or mixed-use affordable housing projects in a designated brownfield area; and
- State Loan Guarantees for primary lenders, up to 50% on all brownfield sites and up to 75% if the property is redeveloped as affordable housing, a health care facility or health care provider.

Additionally, if the property owner enters into a Brownfield Site Rehabilitation Agreement (BSRA) they will be eligible for the following:

- 50% Voluntary Cleanup Tax Credit (VCTC)* annually on all eligible costs;
- 25% Additional VCTC on all eligible costs when cleanup is complete; and
- 50% One-Time VCTC on eligible solid waste removal costs

**The VCTC is applicable to Florida's corporate income tax.*

On September 21, 2010, the Board of County Commissioners (BCC) approved Resolution R-942-10, approving the Brownfields Delegation Agreement (BDA) between Miami-Dade County and the FDEP. The BDA if effective for a term of ten years and replaced the previous agreement approved by the BCC on December16, 1999 through Resolution R-1355-99. The BDA authorizes Miami-Dade County to execute a BSRA with eligible persons seeking to clean up and rehabilitate properties located within the designated Brownfield areas.

On July 13, 1999 the BCC approved Resolution R-767-99 and Ordinance 99-85, designating as brownfield areas all unincorporated areas of Miami-Dade County which are located within the Urban Development Boundary, Enterprise Zones, Enterprise Communities, Empowerment Zones, Developable Areas, Target Urban Areas, and unincorporated areas eligible for Community Development Block Grants (CDBG). The ten Brownfield areas designated in 1999 included Carol City, Central Miami, Model City/Brownsville, Opa-Locka, Perrine, Redlands/Leisure City, Richmond Heights, South Dade, South Miami and Sweetwater.

According to Miami-Dade County's 2010 Brownfields Annual Report, additional areas were added to the designated brownfield areas for unincorporated Miami-Dade County to include the following:

- Beacon Lakes (Resolution R-559-03);
- Dedicated Transportation Area, 2201 N.W. 110 Avenue (Resolution R-248-05);
- Amend Miami-Dade County Brownfield Area Map to add twenty-five brownfield areas (Resolution R-149-08 and Ordinance 08-19).

There have been no additional areas added to the Brownfield Map since 2008.

Questions

The following questions were posed to Office of Economic Development and International Trade (OEDIT) followed by their responses:

- Walmart had another bonus refund application approved by the BCC late last year (R-1198-10), are there any other bonus refund applications that Walmart had approved by the BCC? Are there limits to the amount that a company can apply for?
  No, other than the one that was mentioned, Wal-mart has not been approved for any other Brownfield Refund Bonuses. No, the program does not have a refund cap. As long as they create

at least 10 new permanent jobs, the amount of the refund is determined by the number of jobs created.

- How many Brownfield bonus refund applications has the County approved recently? What were the refund amounts for each?
  In addition to the aforementioned, the Department of Housing and Community Development F/K/A Office of Community and Economic Development received two other refund bonus applications. They are: Confidential Project 08-00241 (this agenda item was pulled by the ACM on 11/2008, it was never approved) and Confidential Project 07-00135 (R-152-08) with an approved refund amount of $150,000.

- Do you need an area to be designated a Brownfield first before you can apply for the refund? Or both applications (designation and bonus application) submitted concurrently?
  If an area is outside of the aforementioned boundaries, then the site must be designated as a Brownfield before the refund bonus can be approved. The applications can be submitted concurrently; however, the site must be designated first.

- The County is choosing not to contribute a 20% match to the Walmart Stores East, LP bonus refund program application, does the County consistently choose not to contribute a funding match to the bonus refund program?
  Yes

- If the County chooses to opt-out from contributing to the bonus refund? What role does Miami-Dade County play in the program?
  Per Florida Statutes 376.80, local government's role is to notify the State of its decision to designate a site as a Brownfield; the notification must include a resolution and must comply with the procedures outlined in the governing statutes. The County must also ensure that the rehabilitation activities are compliant with federal, state, local laws, and with the Brownfield site contamination cleanup criteria, as outlined in the governing statutes (DERM performs this function). A detailed description can be found in County Ordinance 125.66. Local government is also responsible for promoting and advertising the program to the public.

- When does the State pay the incentive?
  The incentive is paid after the capital investment has been made, the jobs have been created, and the taxes have been paid. The company must annually complete a claim and submit it to the State in order to receive the refund.

- Are there contract terms that Walmart must adhere to, or maintain to qualify for the refund?
  Yes, they must comply with the capital investment and job creation criteria, which are monitored by the State. Refunds are based on taxes paid by the business, including corporate income, sales, ad valorem, intangible personal property, and other taxes as specified by the governing statutes. No more than 25 percent of the total refund approved may be paid in any single fiscal year.

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