

MEMORANDUM

Agenda Item No. 5(A)

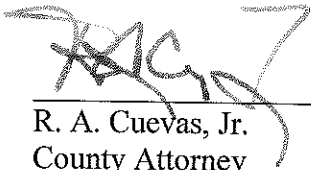
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: July 3, 2012

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

SUBJECT: Ordinance providing for
responsible wages in County
construction contracts
Ordinance No. 12-43

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman and Co-Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.
County Attorney

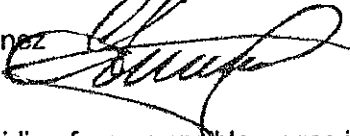
RAC/jls

Memorandum



Date: July 3, 2012

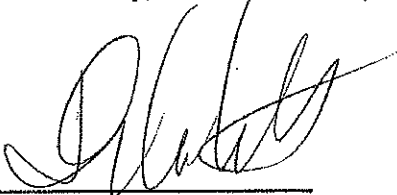
To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance providing for responsible wages in County construction contracts

The proposed ordinance provides an exemption from the Responsible Wage requirements for certain privately funded projects with an estimated value of \$5 million dollars or less and deletes the exemption for certain privately funded projects with an estimated value of \$1 million dollars or greater.

The proposed amendment may have a fiscal impact to the County. Future privately funded construction projects (e.g. Public Private Partnership (PPP) projects) on County owned land, the value of which is \$5 million or more, will not benefit from the current exemption. If project costs are higher due to higher wage rates, any net leases or other revenue accruing to the County from the developed project could be reduced or operating lease or rent costs to the County could be higher than they would otherwise be. Additionally, construction scope may need to be reduced to accommodate the higher wages.



Jack Osterholt
Deputy Mayor

Fis7412



MEMORANDUM

(Revised)

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

DATE: July 3, 2012

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

SUBJECT: Agenda Item No. 5(A)

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

Agenda Item No. 5(A)

Veto _____

7-3-12

Override _____

ORDINANCE NO. 12-43

ORDINANCE PROVIDING FOR RESPONSIBLE WAGES IN COUNTY CONSTRUCTION CONTRACTS; MODIFYING THE EXEMPTION FOR CERTAIN PRIVATELY FUNDED CONSTRUCTION PROJECTS; PROVIDING THAT CERTAIN PRIVATELY FUNDED PROJECTS WITH AN ESTIMATED COST LESS THAN FIVE MILLION DOLLARS SHALL BE EXEMPT; DELETING THE EXEMPTION FOR PROJECTS WHOSE ESTIMATED COST EXCEEDS ONE MILLION DOLLARS; AMENDING SECTION 2-11.16 OF THE CODE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 2-11.16 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 2-11.16. County construction contracts.

(a) In addition to the other elements of the term "responsible bidder" in law or in the discretion of the Board of Commissioners of Miami-Dade County, as applies to competitively bid County contracts in excess of one hundred thousand dollars (\$100,000.00) for the construction, alteration, and/or repair, including painting or decorating, of public buildings or public works, shall mean a bidder who provides documented

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.

proof in its bid that the various classes of laborers and mechanics will be paid no less than the specified overall hourly rates as set forth in the contract specifications. All leases and contracts entered into after the effective date of this ordinance which provide for privately funded construction, alteration or repair of buildings or improvements located on County-owned land ~~[[whose estimated cost is greater than or equal to one million dollars (\$1,000,000.00)]]~~ shall require laborers and mechanics performing such work be paid no less than the overall hourly rates required on competitively bid County construction contracts under this Section >>unless specifically exempted below<<. Fees for monitoring compliance with this Section shall be charged as provided in the most current County-wide Budget as follows: for County construction contracts, the Department of Business Development shall charge the using department therefor; for leases and contracts which provide for privately funded construction, alteration or repair of buildings or improvements on County owned land, the party contracting with the County shall be charged therefor.

* * *

(i) Exemption for certain privately funded construction. This Section shall not apply to leases and contracts entered into after the effective date of this ordinance which provide for privately funded construction, alteration or repair of buildings or improvements located on County-owned land whose estimated cost is ~~[[greater]]~~ >>equal to or less<< than ~~[[or equal to one]]~~ >>five<< million dollars (~~[[1]]~~ >>5<<,000,000.00) which are financed:

(1) Solely through private sources, without one dollar (\$1.00) or more of financing provided through any federal, state, county or local governmental entity or bond sources including Industrial Development Authority (IDA) bonds or similar type of bond funding; or

(2) by entities which meet all of three (3) of the following conditions: exemption from Federal Income Taxes under section 501(c)(3), not-for-profit and community-based.

(j) The foregoing notwithstanding, any lease or contract entered into after the effective date of this ordinance which provides for privately funded construction, alteration or repair of buildings or improvements located on County-owned land

5

whose estimated cost is ~~[[greater]]~~ >>equal to or less<< than ~~[[or equal to one]]~~ >>five<<million dollars (\$~~[[1]]~~>>5<<,000,000.00), receives IDA bond financing and also receives State and/or local development incentives (including but not limited to: waiver of or reduced impact or permit fees and reduced property or other taxes) based on job creation shall not require payment of the overall hourly rates provided by this Section. Such lease or contract shall provide that in the event the job creation requirements on which the foregoing development incentives were conditioned are not fulfilled, the lessee shall be required to pay a penalty of up to twenty (20) percent of the cost of such construction, alteration or repair. Said penalty shall be in addition to any rental or other payments required in each lease or contract to which this subsection applies. Said penalty shall be paid to Miami-Dade County for deposit in the Department of Business Development Compliance Trust Fund and used to cover the costs of monitoring compliance with this Section.

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," "article," or other appropriate word.

Section 4. The substantive provisions of this ordinance shall not apply to any lease or contract resulting from a competitive process advertised prior to the effective date of this ordinance. In the event the lease or contract is not the subject of a competitive process, and application of this ordinance affects in a material way matters negotiated prior to the effective date of this ordinance, the Mayor may request, in writing, the waiver of its requirements.

Section 5. 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 an override by this Board.

PASSED AND ADOPTED: July 3, 2012

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Hugo Benitez

Prime Sponsor: Commissioner Sally A. Heyman
Co-Sponsor : Commissioner Barbara J. Jordan