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

Memorandum

MIAMI-DADE COUNTY

Date: April 2, 2013

Agenda Item No. 3(B)(1)

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor

Resolution No. R-212-13

Subject: Resolution Ratifying the Mayor's Execution of a State of Florida Grant Agreement to Provide up to $75,064.65 to Miami-Dade County for Financial Assistance to the Small Quantity Generator Compliance Assistance, Education and Outreach Program

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Recommendation
It is recommended that the Board of County Commissioners approve the attached resolution ratifying the Mayor's execution of State of Florida Grant Agreement No. S0621 with the Florida Department of Environmental Protection to provide up to $75,064.65 to support Miami-Dade County's Small Quantity Generator Compliance Assistance, Education and Outreach Program.

Scope
The subject grant funding will assist many small businesses countywide.

Fiscal Impact/Funding Source
This grant agreement will provide up to $75,064.65 to Miami-Dade County with no requirement of matching funds. The funds provided by this grant are anticipated to pay all County costs during the term of the agreement. No additional impacts on current and future annual County budgets are anticipated. The work will be funded under Index Code PE2325.

Track Record/Monitor
The Environmental Evaluations Section Chief, Karl Markeset, in the Department of Regulatory and Economic Resources (RER), Division of Environmental Resources Management, will be responsible for implementing the activities under this grant.

Background
State of Florida Grant Agreement No. S0621 (Exhibit 1) will provide funding for environmental compliance assistance and outreach for select industrial facilities classified as Small Quantity Generators under the federal Resource Conservation and Recovery Act.

This agreement will allow RER to provide services for the Florida Department of Environmental Protection by inspecting and confirming the waste generation status of specific industrial facilities and by assisting many of the approximately 700 eligible Small Quantity Generators to reach federal Resource Conservation and Recovery Act compliance prior to inspections by the Florida Department of Environmental Protection. These funds will be used to help facilities comply with regulations to prevent industrial contamination and to prevent potentially significant State enforcement actions for violations. The funds would also support the larger County effort of educating residents and protecting the environment. The contract will replace a similar agreement approved under Resolution No. R-211-12 on March 6, 2012.

The final agreement was received from the State on January 14, 2013 for a scope of work that required completion by June 15, 2013. Due to the urgency to provide the specified services within the contracting period, and pursuant to Sections 2-9 and 2-10 of the Code of Miami-Dade County, Grant Agreement No. S0621 was signed by the Mayor and fully executed on February 4, 2013, and is hereby submitted to the Board for ratification.

Jack Osterholt, Deputy Mayor

MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: April 2, 2013

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

SUBJECT: Agenda Item No. 3(B)(1)

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 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. 3(B)(1)
4-2-13

RESOLUTION NO. R-212-13

RESOLUTION RATIFYING THE MAYOR'S EXECUTION OF A STATE OF FLORIDA GRANT AGREEMENT TO PROVIDE UP TO $75,064.65 TO MIAMI-DADE COUNTY FOR FINANCIAL ASSISTANCE TO THE SMALL QUANTITY GENERATOR COMPLIANCE ASSISTANCE, EDUCATION AND OUTREACH PROGRAM; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXPEND THESE OR ANY ADDITIONAL FUNDS FROM THE STATE AND TO EXECUTE ANY NECESSARY AMENDMENTS TO THE AGREEMENT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, State of Florida Grant Agreement No. S0621 will provide up to $75,064.65 to Miami-Dade County for financial assistance to the Small Quantity Generator Compliance Assistance, Education and Outreach Program; and

WHEREAS, State of Florida Grant Agreement No. S0621 will benefit businesses in Miami-Dade County by assisting facilities to achieve compliance with federal Resource Conservation and Recovery Act regulations to prevent industrial contamination and potentially significant State enforcement actions against such facilities; and

WHEREAS, Section 2-9 of the Code of Miami-Dade County authorizes the Mayor to enter into contracts with governmental entities on behalf of this County and Section 2-10 of the Code requires that contracts authorized under Section 2-9 be ratified by the County Commission; and

WHEREAS, State of Florida Grant Agreement No. S0621 was signed by the Mayor and fully executed on February 4, 2013, and is hereby submitted to the Board for ratification,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies the State of Florida Grant Agreement No. S0621 to provide up to $75,064.65 to Miami-Dade County for assistance to the Small Quantity Generator Compliance Assistance, Education and Outreach Program in Miami-Dade County; authorizes the Mayor or Mayor's designee to expend these or any additional funds from the State; and authorizes the Mayor or Mayor's designee to file and execute any necessary amendments to Grant Agreement No. S0621.

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

Rebeca Sosa, Chairwoman			**aye**
Lynda Bell, Vice Chair			**aye**
Bruno A. Barreiro	**absent**	Esteban L. Bovo, Jr.	**aye**
Jose "Pepe" Diaz	**aye**	Audrey M. Edmonson	**aye**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Sen. Javier D. Souto	**aye**	Xavier L. Suarez	**aye**
Juan C. Zapata	**aye**		

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of April, 2013. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Abbie Schwaderer-Raurell

EXHIBIT 1

AGREEMENT NO. S0621

STATE OF FLORIDA
GRANT AGREEMENT
PURSUANT TO LINE ITEM 1703M OF THE 2011-2012 GENERAL APPROPRIATIONS ACT

THIS AGREEMENT is entered into between the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (hereinafter referred to as the "Department") and MIAMI-DADE COUNTY, whose address is Department of Regulatory and Economic Resources, Division of Environmental Resources Management, 701 N.W. 1st Court, 7th Floor, Miami, Florida 33136 (hereinafter referred to as "Grantee" or "Recipient"), a local governmental entity, to provide financial assistance for the Small Quantity Generator Compliance Assistance, Education and Outreach Program.

In consideration of the mutual benefits to be derived herefrom, the Department and the Grantee do hereby agree as follows:

1. The Grantee does hereby agree to perform in accordance with the terms and conditions set forth in this Agreement, **Attachment A, Grant Work Plan**, and all attachments and exhibits named herein which are attached hereto and incorporated by reference. For purposes of this Agreement, the terms "Contract" and "Agreement" and the terms "Grantee", "Recipient" and "Contractor", are used interchangeably.

2. This Agreement shall begin upon execution by both parties and end no later than June 15, 2013, inclusive. All work outlined in Attachment A must be completed no later than June 15, 2013 and the Grantee shall not be eligible for reimbursement for any work performed after June 15, 2013 unless such work is authorized by amendment to this Agreement. This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.

3. A. As consideration for the services rendered by the Grantee under the terms of this Agreement, the Department shall pay the Grantee on a cost reimbursement basis in an amount not to exceed $75,064.65. The parties hereto understand and agree that this Agreement does not require a cost sharing or match on the part of the Grantee.

   B. The Grantee shall be reimbursed on a cost reimbursement basis for all eligible project costs, upon the completion, submittal and approval of deliverables identified in **Attachment A**, in accordance with the schedule therein. Reimbursement shall be requested utilizing **Attachment B, Payment Request Summary Form.** A final payment request must be submitted to the Department no later than June 30, 2013 to assure the availability of funds for payment. In addition to the summary form, the Grantee must provide from its accounting system, a listing of expenditures per deliverable, charged against this Agreement. The listing shall include, at a minimum, a description of the goods or services purchased, date of the transaction, voucher number, amount paid, and vendor name. Travel expenses will not be reimbursed under the terms and conditions of this Agreement.

   C. In addition to the invoicing requirements contained in paragraph 3.B. above, the Department will periodically request proof of a transaction (invoice, payroll register, etc.) to evaluate the appropriateness of costs to the Agreement pursuant to State and Federal guidelines (including cost allocation guidelines), as appropriate. This information, when requested, must be provided within thirty (30) calendar days of such request. The Grantee may also be required to submit a cost allocation plan to the Department in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). All bills for amounts due under this Agreement shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof. State guidelines for allowable costs can be found in the Department of Financial Services' Reference Guide for State Expenditures at http://www.fldfs.com/aadir/reference%5Fguide.

D. Contractual (Subcontractors) - Reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from the Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours/time spent on the project. All multipliers used (i.e. fringe benefits, overhead, and/or general and administrative rates) shall be supported by audit. If the Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, the Grantee shall be required to reimburse such funds to the Department within thirty (30) days of written notification. Interest on the excessive charges shall be calculated based on the prevailing rate used by the State Board of Administration. For fixed price (vendor) subcontracts, the following provisions shall apply:

i. The Grantee may award, on a competitive basis, fixed price subcontracts to consultants/contractors in performing the work described in Attachment A. Invoices submitted to the Department for fixed price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (Invitation to Bid or Request for Proposals) resulting in the fixed price subcontract.

ii. The Grantee may request approval from the Department to award a fixed price subcontract resulting from procurement methods other than those identified in the paragraph above. In this instance, the Grantee shall request the advance written approval from the Department's Grant Manager of the fixed price negotiated by the Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of the Department Grant Manager's approval of the fixed price amount, the Grantee may proceed in finalizing the fixed price subcontract.

iii. All subcontracts are subject to the provisions of paragraph 11 and any other appropriate provisions of this Agreement which affect subcontracting activities.

E. i. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, the Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.

ii. If the Department finds that these funds have been commingled, the Department shall have the right to demand a refund, either in whole or in part, of the funds provided to the Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from the Department shall refund, and shall forthwith pay to the Department, the amount of money demanded by the Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from the Department by the Grantee to the date repayment is made by the Grantee to the Department.

iii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by the Department, from another source(s), the Grantee shall reimburse the Department for all recovered funds originally provided under this Agreement. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the payment(s) are recovered by the Grantee to the date repayment is made to the Department by the Grantee.

4. The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. The parties hereto understand that this Agreement is not a commitment of future appropriations.

5. The Grantee shall utilize **Attachment C, Progress Report Form,** to describe the work performed, problems encountered, problem resolution, schedule updates and proposed work for the next reporting period. Quarterly reports shall be submitted to the Department's Grant Manager no later than twenty (20) days following the completion of the quarterly reporting period. It is hereby understood and agreed by the parties that the term "quarterly" shall reflect the calendar quarters ending March 31, June 30, September 30 and December 31. The Department's Grant Manager shall have ten (10) calendar days to review the required reports and deliverables submitted by the Grantee.

6. Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of Section 768.28, Florida Statutes.

7. A. The Department may terminate this Agreement at any time in the event of the failure of the Grantee to fulfill any of its obligations under this Agreement. Prior to termination, the Department shall provide thirty (30) calendar days written notice of its intent to terminate and shall provide the Grantee an opportunity to consult with the Department regarding the reason(s) for termination.

   B. The Department may terminate this Agreement for convenience by providing the Grantee with thirty (30) calendar days written notice.

   C. The Department may terminate this Agreement if funding for this Agreement is specifically eliminated by providing the Grantee with thirty (30) calendar days written notice.

8. This Agreement may be unilaterally canceled by the Department for refusal by the Grantee to allow public access to all documents, papers, letters, or other material made or received by the Grantee in conjunction with this Agreement, unless the records are exempt from Section 24(a) of Article I of the State Constitution and Section 119.07(1)(a), Florida Statutes.

9. The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with generally accepted accounting principles consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following Agreement completion. In the event any work is subcontracted, the Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes.

10. A. In addition to the requirements of the preceding paragraph, the Grantee shall comply with the applicable provisions contained in **Attachment D, Special Audit Requirements**, attached hereto and made a part hereof. **Exhibit 1** to **Attachment D** summarizes the funding sources supporting the Agreement for purposes of assisting the Grantee in complying with the requirements of **Attachment D.** A revised copy of **Exhibit 1** must be provided to the Grantee for each amendment which authorizes a funding increase or decrease. If the Grantee fails to receive a revised copy of **Exhibit 1**, the Grantee shall notify the Department's Grants Development and Review Manager at 850/245-2361 to request a copy of the updated information.

B. The Grantee is hereby advised that the Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. The Grantee shall consider the type of financial assistance (federal and/or state) identified in **Attachment D, Exhibit 1** when making its determination. For federal financial assistance, the Grantee shall utilize the guidance provided under OMB Circular A-133, Subpart B, Section ___.210 for determining whether the relationship represents that of a subrecipient or vendor. For state financial assistance, the Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs. Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website:

https://apps.fldfs.com/fsaa

The Grantee should confer with its chief financial officer, audit director or contact the Department for assistance with questions pertaining to the applicability of these requirements.

C. In addition, the Grantee agrees to complete and submit the **Certification of Applicability to Single Audit Act Reporting, Attachment E**, attached hereto and made a part hereof, within four (4) months following the end of the Grantee's fiscal year. Attachment E should be submitted to the Department's Grants Development and Review Manager at 3900 Commonwealth Boulevard, Mail Station 93, Tallahassee, Florida 32399-3000. The Grants Development and Review Manager is available to answer any questions at (850) 245-2361.

11. A. The Grantee may not subcontract work under this Agreement without the prior written consent of the Department's Grant Manager. The Grantee shall submit a copy of the executed subcontract to the Department within ten (10) days after execution. The Grantee agrees to be responsible for the fulfillment of all work elements included in any subcontract and agrees to be responsible for the payment of all monies due under any subcontract. It is understood and agreed by the Grantee that the Department shall not be liable to any subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

B. The Department of Environmental Protection supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State of Florida. A list of minority owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.

12. In accordance with Section 216.347, Florida Statutes, the Grantee is hereby prohibited from using funds provided by this Agreement for the purpose of lobbying the Legislature, the judicial branch or a state agency.

13. The Grantee shall comply with all applicable federal, state and local rules and regulations in providing services to the Department under this Agreement. The Grantee acknowledges that this requirement includes, but is not limited to, compliance with all applicable federal, state and local health and safety rules and regulations. The Grantee further agrees to include this provision in all subcontracts issued as a result of this Agreement.

14. Any notices between the parties shall be considered delivered when posted by Certified Mail, return receipt requested, or overnight courier service, or delivered in person to the Grant Managers at the addresses below.

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15. The Department's Grant Manager for this Agreement is identified below.

Glen Perrigan	
Florida Department of Environmental Protection	
Division of Waste Management	
2600 Blair Stone Road, MS# 4560	
Tallahassee, Florida 32399-2400	
Telephone No.:	(850) 245-8749
Fax No.:	(850) 412-0528
E-mail Address:	Glen.perrigan@dep.state.fl.us

16. The Grantee's Grant Manager for this Agreement is identified below.

Karl Markeset	
Miami Dade County	
Department of Regulatory and Economic Resources	
701 NW 1st Court, 7th Floor	
Miami, Florida 33136	
Telephone No.:	(305) 372-6600
Fax No.:	(305) 372-6410
E-mail Address:	markek@miamidade.gov

17. To the extent required by law, the Grantee will be self-insured against, or will secure and maintain during the life of this Agreement, Workers' Compensation Insurance for all of its employees connected with the work of this project and, in case any work is subcontracted, the Grantee shall require the subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees unless such employees are covered by the protection afforded by the Grantee. Such self-insurance program or insurance coverage shall comply fully with the Florida Workers' Compensation law. In case any class of employees engaged in hazardous work under this Agreement is not protected under Workers' Compensation statutes, the Grantee shall provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of his employees not otherwise protected.

18. The Grantee warrants and represents that it is self-funded for liability insurance, appropriate and allowable under Florida law, and that such self-insurance offers protection applicable to the Grantee's officers, employees, servants and agents while acting within the scope of their employment with the Grantee.

19. The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

20. Reimbursement for equipment purchases costing $1,000 or more is not authorized under the terms and conditions of this Project Agreement.

21. The Department may at any time, by written order designated to be a change order, make any change in the Grant Manager information or task timelines within the current authorized Agreement period. All change orders are subject to the mutual agreement of both parties as evidenced in writing. Any change, which causes an increase or decrease in the Grantee's cost or time, shall require formal amendment to this Agreement.

22. A. No person, on the grounds of race, creed, color, national origin, age, sex, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.

    B. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity, may not submit a bid on a contract

with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at 850/487-0915.

23. Land acquisition is not authorized under the terms of this Agreement.

24. If a court deems any provision of this Agreement void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

25. This Agreement represents the entire agreement of the parties. Any alterations, variations, changes, modifications or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed by each of the parties hereto, and attached to the original of this Agreement, unless otherwise provided herein.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed, the day and year last written below.

MIAMI DADE COUNTY

By: _____

Title* CARLOS GIMENEZ
MIAMI-DADE COUNTY MAYOR

Date: JAN. 24, 2013

Approved as to form and Legal Sufficiency

_____
Assistant County Attorney

Jan 16, 2013
Date

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____
Secretary or designee

Date: 2/4/2013

_____
Glen Perrigan, DEP Grant Manager

_____
DEP Contracts Administrator

Approved as to form and legality:

_____
DEP Attorney

FEID No.:59-6000573

*For Agreements with governmental boards/commissions: If someone other than the Chairman signs this Agreement, a resolution, statement or other document authorizing that person to sign the Agreement on behalf of the Grantee must accompany the Agreement.

List of attachments/exhibits included as part of this Agreement:

Specify Type	Letter/ Number	Description (include number of pages)
Attachment	A	Grant Work Plan (4 Pages)
Attachment	B	Payment Request Summary Form (2 Pages)
Attachment	C	Progress Report Form (2 Pages)
Attachment	D	Special Audit Requirements (5 Pages)
Attachment	E	Certification of Applicability to Single Audit Act Reporting (3 Pages)