

MEMORANDUM

Amended
Agenda Item No. 7(I)

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

DATE: (Second Reading 6-4-13)
April 2, 2013

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

SUBJECT: Ordinance establishing sales tax exemption program; providing for tax exempt owner purchased materials in construction contracts; defining applicability; requiring the inclusion of specifications in applicable contracts to allow for tax exempt purchases; providing for expedited County purchasing of owner purchased materials; providing for reports on tax exempt purchases; directing the creation or amendment of Implementing Orders; creating Section 2-10.7 of the Code
Ordinance No. 13-55

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Juan C. Zapata and Co-Sponsors Vice Chair Lynda Bell, Commissioner Audrey M. Edmonson, Commissioner Sally A. Heyman and Chairwoman Rebeca Sosa.



R. A. Cuevas, Jr.
County Attorney

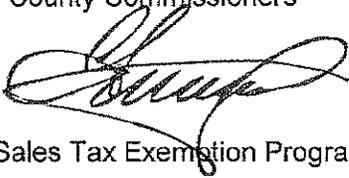
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Memorandum



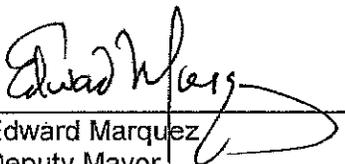
Date: June 4, 2013

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

From: Carlos A. Gimenez
Mayor 

Subject: Ordinance Establishing Sales Tax Exemption Program; Creating Section 2-10.7 of the Code

The proposed ordinance creates Section 2-10.7 of the Code establishing the sales tax exemption program (currently made available to the County by the State of Florida) and provides for tax exempt owner purchased materials in construction contracts, defines applicability, requires the inclusion of specifications in applicable contracts to allow for tax exempt purchases, provides for expedited County purchasing of owner purchased materials, and provides for reports on tax exempt purchases. Implementation of this ordinance could yield savings from sales tax expenses but, the savings are difficult to quantify at this time. Various past and present construction projects, especially large construction projects, such as South Dade Government Center and the new Children's Courthouse have shown project savings from the use of sales tax exemption programs. It is important to point out that both the County and Contractor incur costs in administering these programs, which must be factored in when calculating savings on a project by project basis.


Edward Marquez
Deputy Mayor

Fis5313



MEMORANDUM

(Revised)

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

DATE: June 4, 2013

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

Amended

SUBJECT: Agenda Item No. 7(I)

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 _____

Amended
Agenda Item No. 7(I)
6-4-13

ORDINANCE NO. 13-55

ORDINANCE ESTABLISHING SALES TAX EXEMPTION PROGRAM; PROVIDING FOR TAX EXEMPT OWNER PURCHASED MATERIALS IN CONSTRUCTION CONTRACTS; DEFINING APPLICABILITY; REQUIRING THE INCLUSION OF SPECIFICATIONS IN APPLICABLE CONTRACTS TO ALLOW FOR TAX EXEMPT PURCHASES; PROVIDING FOR EXPEDITED COUNTY PURCHASING OF OWNER PURCHASED MATERIALS; PROVIDING FOR REPORTS ON TAX EXEMPT PURCHASES; DIRECTING THE CREATION OR AMENDMENT OF IMPLEMENTING ORDERS; CREATING SECTION 2-10.7 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 2-10.7 of the Code of Miami-Dade County is hereby created to read in its entirety as follows:

2-10.7. Sales Tax Exemption Program

- (a) *Creation.* It is the policy of the County to apply for and use to the maximum extent the sales tax benefits and exemptions made available to the County by the State of Florida. By operation of law, Miami-Dade County is exempt from sales taxes for certain purchases made directly to the County of materials and supplies which may ultimately be utilized or incorporated in County construction projects. Further, by operation law, Miami-Dade County is entitled to certain sales tax refunds based on the types of purchases involved in the conduct of its business and proprietary functions. To advance the County's policy, this Section establishes a sales tax exemption program.

(b) *Tax Exempt Owner Purchased Materials.*

1. The County shall incorporate specifications for tax exempt owner purchases in all covered contracts. A tax exempt owner purchase is one made directly by the County which is intended to be tax exempt in accordance with Section 212.08(6) of the Florida Statutes and Rule 12A-1.094 of the Florida Administrative Code, as the same may be amended. A covered contract is a contract for the construction, improvement or rehabilitation of property which is estimated to exceed ten million dollars (\$10,000,000.00) in cost.
2. The specifications for tax exempt owner purchases shall maximize the sales tax benefits available to the County, shall be in compliance with the statutory and regulatory requirements for obtaining the exemption and shall at minimum: (i) provide for obtaining a Technical Assistance Advisement Letter from the Department of Revenue; (ii) establish a process for the integration of owner purchases with contractor deliverables; (iii) provide for the securing, insuring and accounting of owner purchases and (iv) provide for the effect of owner purchases on any applicable contractual Community Small Business Enterprise (CSBE) goals.
3. The requirements of this Subsection may be waived by the Board of County Commissioners upon written request of the Mayor. The Mayor's request shall set forth the reasons why owner purchases under the subject contract are not in the best interest of the County, which may include, but are not limited to contracts with unique purchasing constraints requiring the expertise of the contractor, instances where the savings from application of the program are minimal in comparison with the cost of administration of the program, and instances where the anticipated pace or scheduling of the work would not permit the timely completion of County purchases.

4. The County Mayor shall expedite owner purchases under the program, including, where appropriate, evaluating the possibility of recommending the waiver of competitive bidding as necessary to comply with scheduled deliverables for the subject project.
- (c) *Other tax benefits and refunds relating to County purchases.* The County shall wherever possible maximize the tax benefits and refunds available to the County in connection with County purchases. Commencing ninety (90) days after the effective date of this Section, and every year thereafter, the Mayor shall report to the Board the efforts of the County to maximize its tax benefits and refunds. In particular, and without limitation, the report shall set forth how the County has availed itself of the sales tax exemptions and refunds on account of use provided for under Section 212.08(5) which may include those available for building materials used in the rehabilitation of real property located in an enterprise zone, and those for building materials in redevelopment projects.

Section 2. The Mayor is hereby authorized and directed to create and amend the County's implementing orders as necessary to give effect to this ordinance. Such implementing orders or amendments shall be submitted to this Board for approval.

Section 3. 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 4. 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 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.

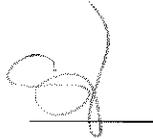
PASSED AND ADOPTED: June 4, 2013

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:

Hugo Benitez
Suzanne Villano



Prime Sponsor: Commissioner Juan C. Zapata
Co-Sponsors: Vice Chair Lynda Bell
Commissioner Audrey M. Edmonson
Commissioner Sally A. Heyman
Chairwoman Rebeca Sosa