MIAMI-DADE COUNTY
FINAL OFFICIAL MINUTES
Airport and Tourism Committee

Board of County Commissioners
Stephen P. Clark Government Center
Commission Chambers
111 NW 1st Street
Miami, Florida 33128

Thursday, January 17, 2008
As Advertised

Harvey Ruvin, Clerk
Board of County Commissioners

Kay Madry Sullivan, Director
Clerk of the Board Division

Scott Rappleye, Commission Reporter
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Stephen P. Clark
Government Center
111 N.W. 1st Street
Miami, FL 33128

FINAL OFFICIAL

Meeting Minutes

Airport and Tourism Committee

Jose "Pepe" Diaz (12) Chair; Sally A. Heyman (4) Vice Chair; Commissioners Carlos A. Gimenez (7), Joe A. Martinez (11), Dorrin D. Rolle (2), and Rebeca Sosa (6)

Thursday, January 17, 2008 **9:30 AM** **COMMISSION CHAMBERS**

Members Present: Jose "Pepe" Diaz, Carlos A. Gimenez, Sally A. Heyman, Dorrin Rolle, Rebeca Sosa.

Members Absent: None.

Members Late: Joe A. Martinez.

Members Excused: None.

Members Absent County Business: None.

1 MINUTES PREPARED BY

Report: *Scott Rappleye, Commission Reporter, (305) 375-5108.*

1A INVOCATION

Report: *Chairman Diaz called the meeting to order at 9:45 am. The Committee convened in a moment of silence followed by the Pledge of Allegiance.*

1B PLEDGE OF ALLEGIANCE

1C ROLL CALL

Report: *The following staff members were present: County Manager George Burgess, Assistant County Managers Alex Munoz and Susanne Torriente; Assistant County Attorneys David Murray, Thomas Logue, and Hugo Benitez; and Deputy Clerks Diane Collins and Scott Rappleye.*

CHANGES TO TODAY'S COMMITTEE AGENDA

Assistant County Attorney Murray indicated that in addition to the County Manager's memorandum entitled, "Requested Changes to the Airport and Tourism Committee Agenda," the following additional changes had been requested: that Agenda Item 2A be deferred; and that a scrivener's error existing in Agenda Item 3A needed to be corrected on handwritten page two (2) to delete the following language from the first sentence under the "Background" heading: "and will be in place until such time it may be no longer needed."

Following discussion concerning deferring Agenda Item 2A until the necessary Implementing Order was in place, it was moved by Commissioner Heyman that the requests for changes to the day's agenda be approved. This motion was seconded by Commissioner Gimenez, and upon being put to a vote, passed 5-0 (Commissioner Martinez was absent).

1D DISSCUSSION ITEMS

1D1

080089 **Report**
GREATER MIAMI CONVENTION & VISITORS BUREAU ***Presented***
(County Manager)

1D2

080128 **Discussion Item** **Sally A. Heyman**

WATER CONSERVATION MEASURES IN THE TOURISM INDUSTRY ***Presented***

Report: *Commissioner Heyman spoke in support of Governor Charlie Crist's initiative for State delegates to patronize green hotels. She pointed out the County's water supply was low; and noted the Tourist Development Council (TDC) should work more with hotels to conserve resources and energy. She explained the hotel industry should make environmentally friendly changes voluntarily. Commissioner Heyman pointed out these voluntary changes could include linens, towels, and laundry.*

Ms. Maribel Balbin, Water Conservation Manager, Water and Sewer Department (WASD), noted the County Commission approved Memorandums of Understanding regarding the State's Green Lighting program; and that 15 hotels in Miami were applying for that program. She pointed out WASD was asking restaurants to only serve water upon request.

Commissioner Heyman asked Ms. Balbin to present WASD's water conservation efforts with hotels and restaurants at the next TDC meeting.

Chairman Diaz asked Ms. Balbin to make a similar presentation to the Governmental Operations and Environment Committee to discuss potential legislation regarding water conservation at hotels and restaurants.

1D3

080129 **Discussion Item** **Sally A. Heyman**

"MINI" POLICE/FIRE STATION AT MIA TERMINAL ***Presented***

Report: *Commissioner Heyman asked Assistant County Manager Alex Munoz to prepare a report for the February 14, 2008, Airport and Tourism Committee meeting, concerning a "mini" police/fire station to house the existing police and fire units at Miami International Airport (MIA) closer to the terminal.*

Commissioner Sosa pointed out that MIA was in her district and asked that she be involved in any MIA developments, in order to respond to telephone calls. She asked Assistant County Manager Alex Munoz to provide a fiscal impact statement detailing the cost of the proposed "mini" station versus the number of officers at Miami International Airport; the anticipated performance improvement as a result of the "mini" station; the approach to providing service at the Miami Intermodal Center through another "mini" station versus increasing the salaries of the existing employees; and the Police and Fire Departments' opinions on the feasibility of the "mini" station as opposed to the existing structure.

Mr. Ruben Galindo, Police Major, Miami-Dade Police Department (MDPD), explained that MDPD had no plans to reduce the number of officers at MIA if a "mini" station was established. He noted a temporary site and permanent site for a "mini" station were selected. He pointed out the site in terminal F could open in 35-40 days. He emphasized that MDPD statistics indicated a 19 percent reduction in overall crime at MIA and 22 percent in robberies in 2007; and that overall crime was reduced 50 percent over the last six years, 80 percent in robberies.

In response to Commissioner Martinez's inquiry concerning a future "mini" station at the Miami Intermodal Center (MIC), Mr. Galindo noted the short distance between the MIC and the existing police station; and explained that a "mini" station at the MIC would not greatly benefit MDPD.

1D4

080130 **Discussion Item** **Sally A. Heyman**

K-9 FACILITY AT MIA *Presented*

Report: *Commissioner Heyman noted the existing K-9 facilities at Miami International Airport (MIA) were antiquated. She pointed out MIA had three kennels for 15 dogs. Commissioner Heyman asked the Miami-Dade Aviation Department Director and the Miami-Dade Police Department Support Services Assistant Director to revisit the feasibility of updating and expanding K-9 facilities at MIA; and if necessary, to prepare to request airport appropriations from the Legislature.*

2 COUNTY COMMISSION

2A

073018 **Ordinance** **Jose "Pepe" Diaz**

ORDINANCE RELATING TO THE NORTH TERMINAL DEVELOPMENT AT MIAMI INTERNATIONAL AIRPORT; AUTHORIZING COUNTY MAYOR OR, IF AUTHORIZED BY THE COUNTY MAYOR THE AIRPORT DIRECTOR TO ADVERTISE, ACCEPT OR REJECT BIDS, AWARD, AMEND OR MODIFY CONTRACTS RELATING TO NORTH TERMINAL DEVELOPMENT PROJECT WITHOUT THE NEED FOR PRIOR COMMISSION APPROVAL; AUTHORIZING WAIVER OF COMPETITIVE BIDS; ESTABLISHING CONDITIONS FOR EXERCISE OF DELEGATED AUTHORITY; AUTHORIZING TIME EXTENSIONS BEFORE AND AFTER EXPIRATION OF CONTRACT TIME; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Deferred to no date certain
Mover: Heyman
Seconder: Gimenez
Vote: 5-0
Absent: Martinez

2B

073102 **Ordinance** **Natacha Seijas, Barbara J. Jordan**

ORDINANCE CREATING AIRCRAFT NOISE ABATEMENT ADVISORY TASK FORCE FOR OPA-LOCKA EXECUTIVE AIRPORT; PROVIDING PURPOSE, MEMBERSHIP, PROCEDURE, POWERS AND DUTIES, STAFF, SCHEDULED MEETINGS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Forwarded to BCC with a favorable recommendation
Mover: Martinez
Seconder: Rolle
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed ordinance into the record.*

The public hearing was opened. It was closed after no one appeared in response to Chairman Diaz's call for persons wishing to be heard.

Hearing no other questions or comments, the Committee proceeded to vote.

2B SUPPLEMENT

080057 **Supplement**

SUPPLEMENTAL INFORMATION RE: OPA-LOCKA EXECUTIVE AIRPORT, AIRCRAFT NOISE ABATEMENT ADVISORY TASK FORCE REPORT

Presented

2C

073103 **Ordinance** **Rebeca Sosa**

ORDINANCE CREATING AIRCRAFT NOISE ABATEMENT ADVISORY COMMITTEE FOR MIAMI INTERNATIONAL AIRPORT; PROVIDING PURPOSE, MEMBERSHIP, PROCEDURE, POWERS AND DUTIES, STAFF; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Deferred to no date certain
Mover: Sosa
Seconder: Gimenez
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed ordinance into the record.*

The public hearing was opened. It was closed after no one appeared in response to Chairman Diaz's call for persons wishing to be heard.

It was moved by Commissioner Sosa that this proposed ordinance be forwarded to the County Commission with a favorable recommendation. This motion was seconded by Commissioner Rolle.

Commissioner Gimenez asked that this proposed ordinance be amended to provide that the one member representing Key Biscayne be nominated by the Mayor of Key Biscayne.

Commissioner Sosa accepted Commissioner Gimenez's proposed amendment.

In response to Commissioner Gimenez's request that this proposed ordinance be amended to include a representative from Brickell who was appointed by the County Commission District 7 Commissioner, Commissioner Sosa noted she would accept to amend this proposed resolution to include a representative from Brickell who was appointed by the Miami-Dade Aviation Department Director. She clarified that she could not allow District 7 an appointment and not the other surrounding areas.

Following further discussion concerning Commissioner Gimenez's request, it was moved by Commissioner Sosa that this proposed ordinance be deferred. This motion was seconded by Commissioner Gimenez.

Hearing no other questions or comments, the Committee proceeded to vote.

2C SUPPLEMENT

080053 **Supplement**

SUPPLEMENTAL INFORMATION RE: MIAMI INTERNATIONAL AIRPORT NOISE ABATEMENT ADVISORY COMMITTEE REPORT — ***Presented***

2D

073658 **Ordinance** **Sen. Javier D. Souto, Rebeca Sosa**

ORDINANCE AMENDING MIAMI-DADE COUNTY ORDINANCE 07-150, CONCERNING THE COMMUNITY PERIODICAL ADVERTISING PROGRAM; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

Forwarded to BCC without a recommendation
Mover: Martinez
Seconder: Sosa
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed ordinance into the record.*

It was moved by Commissioner Martinez that this proposed ordinance be forwarded to the County Commission with a favorable recommendation. This motion was seconded by Commissioner Sosa.

Commissioner Heyman questioned whether this proposed ordinance would allow periodicals that employed county residents to be considered in local preference, notwithstanding the printing location.

Ms. Debbie Higer, Assistant Director, Government Information Center, explained that this proposed ordinance would require that the periodical's main headquarters be in the County and that the periodical be printed in the County.

Commissioner Heyman emphasized the high cost of printing periodicals within the County.

Assistant County Attorney Thomas Logue advised the County could defend limiting the publishing location to within the County easier than the State of Florida. He clarified that local preferences could be challenged in Court. He noted the County Commission had authority to remove the local preference for printing provision contained in the proposed ordinance.

Following further discussion between Commissioner Heyman and Assistant County Attorney Logue concerning maintaining local preference while removing the printing provision, Commissioner Gimenez pointed out the intent of this proposed ordinance concerned ensuring periodicals were locally based. He questioned the defensibility of this proposed ordinance if the printing provision in Section 4(i) was deleted.

Assistant County Attorney Logue advised that the County Commission had authority to delete

Section 4(i); and this proposed ordinance was more defensible without Section 4(i).

Chairman Diaz explained he thought the sponsor of this proposed ordinance did not want periodicals to be printed in other countries.

Following Commissioner Sosa's comments in support of the County Commission using greater local preference to ensure that County residents had jobs and that publications could survive, Commissioner Gimenez expressed concern regarding this proposed periodicals ordinance containing a printing provision. He questioned whether the County Commission would financially hurt periodicals by requiring them to print in the County.

Responding to Committee members' inquiries concerning clarification of the proposed amendments to Ordinance 07-150, Assistant County Attorney Logue explained that this proposed ordinance would remove the requirement that periodicals provide the County their lowest advertising rate; the requirement that periodicals retain their invoices from other advertisers for three years; and the budget amount for the periodical advertising program was for purchasing advertisements only and not for administrative expenses, such as audits of the periodicals.

Commissioner Martinez withdrew his motion to forward this proposed ordinance to the County Commission with a favorable recommendation, followed by Commissioner Sosa withdrawing her second.

It was moved by Commissioner Martinez that this proposed ordinance be forwarded to the County Commission without a recommendation. This motion was seconded by Commissioner Sosa.

The public hearing was opened. It was closed after no one appeared in response to Chairman Diaz's call for persons wishing to be heard.

Hearing no other questions or comments, the Committee proceeded to vote.

Commissioner Rolle asked Assistant County Attorney David Murray to provide each Committee member with a report comparing the proposed changes to Ordinance 07-150 versus the original ordinance before this proposal was

considered by the full Commission.

2D SUPPLEMENT

080170 **Supplement**

FISCAL IMPACT STATEMENT TO ORDINANCE RELATING TO THE COMMUNITY PERIODICAL ADVERTISING PROGRAM — ***Presented***

3 DEPARTMENTS

3A

080099 **Resolution**

RESOLUTION APPROVING AWARD OF THE CONTRACT FOR MIA CENTRAL TERMINAL RETAIL PROGRAM COMMON AREA IMPROVEMENTS, PROJECT NO. MDAD L-143A, TO AARYA CONSTRUCTION & DESIGN, INC., IN AN AMOUNT NOT TO EXCEED $548,273.25, AUTHORIZING COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE SAME, AND TO EXERCISE RENEWAL AND TERMINATION PROVISIONS THEREOF (Aviation Department)

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Diaz
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed resolution into the record.*

During consideration of the changes to today's agenda, Assistant County Attorney David Murray indicated a scrivener's error existed on handwritten page two (2) of this proposed resolution, and should be corrected to delete the following language from the first sentence under the "Background" heading: "and will be in place until such time it may be no longer needed."

It was moved by Commissioner Heyman that this proposed resolution be forwarded to the County Commission with a favorable recommendation. This motion was seconded by Chairman Diaz.

Commissioner Sosa expressed concern regarding the County awarding contracts to vendors that under performed or marginally performed. She pointed out that the cost to closely monitor a vendor would be more costly than awarding the contract to the next highest bidder.

Responding to Commissioner Sosa's inquiry regarding his comfort with this proposed resolution, Mr. Abreu explained that he was comfortable; that this vendor had exhibited improvement in its work on another Miami International Airport project; and that this vendor was the only bidder on this proposed resolution.

In response to Commissioner Sosa's request that this proposed resolution contain a provision that would ensure the Miami-Dade Aviation Department (MDAD) Director could stop the vendor's work if the vendor had another compliance problem, Assistant County Manager Alex Munoz noted the County had rules for reporting nonperformance that the County Administration needed to enforce.

Chairman Diaz asked Assistant County Manager Alex Munoz to work with the County Attorney's Office to ensure that future Bid Awards contained language empowering the County Administration to immediately cease work on any contract once the contractor was cited for non-performance.

Responding to Commissioner Rolle's inquiry concerning a company's ability to be a subcontractor if it was the prime contractor, as was the case in this proposed resolution, Ms. Penelope Townsley, Director, Department of Business Development, explained the prime contractor in this proposed resolution was a certified with the County and could perform a portion of the work as a subcontractor with its own forces.

Hearing no other questions or comments, the Committee proceeded to vote.

3B

073555 **Resolution**

RESOLUTION AWARDING NON-EXCLUSIVE LEASE AND CONCESSION AGREEMENT AT MIAMI INTERNATIONAL AIRPORT, RFP NO. MDAD-01-07, TO HOST INTERNATIONAL, INC. FOR THE BOOKSTORE CAFÉ SPECIALTY RETAIL CONCEPT; AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ANY RENEWAL, CANCELLATION, OR TERMINATION PROVISIONS CONTAINED THEREIN (Aviation Department)

Withdrawn

3B AMENDED

080266 **Resolution**

RESOLUTION AWARDING NON-EXCLUSIVE LEASE AND CONCESSION AGREEMENT AT MIAMI INTERNATIONAL AIRPORT, RFP NO. MDAD-01-07, TO AREAS USA, INC., FOR THE BOOKSTORE CAFÉ SPECIALTY RETAIL CONCEPT; AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ANY RENEWAL, CANCELLATION, OR TERMINATION PROVISIONS CONTAINED THEREIN [SEE ORIGINAL ITEM UNDER FILE NO. 073555] (Aviation Department)

Forwarded to BCC with a favorable recommendation with committee amendment(s)
Mover: Heyman
Seconder: Martinez
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed resolution into the record.*

Commissioner Sosa questioned whether the intent of Request for Proposals (RFP) No. MDAD-01-07, was to seek a local bookstore concept that represented this community.

Mr. Jose Abreu, Director, Miami-Dade Aviation Department (MDAD) noted one intent of the RFP was to have a local flavor.

Commissioner Sosa expressed concern that, notwithstanding the County Commission's efforts to change the procurement process, this proposed resolution did not follow the process outlined in the RFP for a local vendor.

Mr. Abreu noted the local flavor criterion was subjective. He explained local flavor was a concept that the selection committee could decide if the vendor could have a local concept in the establishment. He pointed out that the RFP did not say a non-local company should not apply.

Discussion ensued between Committee members concerning their opposition to the selection committee's interpretation of local flavor and the Committee members' support of awarding this proposed resolution to AREAS USA, Inc.

It was moved by Commissioner Heyman that this proposed resolution be denied. This motion was seconded by Commissioner Martinez.

Following further discussion, Commissioner Sosa questioned whether Mr. Abreu would benefit from having more time to analyze the composition of the selection committee versus the nature of the Non-Exclusive Lease and Concession Agreement in this

proposal.

Responding to Commissioner Sosa's comments concerning additional time for analysis, Mr. Miguel Southwell, Business Development Director, MDAD, noted he watched the video tape of the selection committee process; and that he concurred with the selection committee. He clarified that the selection committee was responsible to look at the written documents and video tape of the oral presentations and decide who presented the best and most powerful argument for a local theme. He emphasized that if he had only seen the written proposal and oral presentation for each company, then he would have recommended Host International, Inc.

Responding to Commissioner Sosa's inquiry concerning the application of local preference points, Mr. Southwell pointed out Host International, Inc. signed the local preference form, whereas AREAS USA, Inc. did not. He emphasized that the selection committee was similar to a jury; and that this proposed resolution was one of the most objective issues he had seen.

Commissioner Gimenez emphasized that Host International, Inc. was not recommended unanimously by the selection committee. He pointed out that AREAS USA, Inc. had submitted the highest minimum annual guarantee. He clarified that the Committee discussion and preference towards a company other than the one recommended by the County Administration was part of the procurement process.

Commissioner Heyman rescinded her motion to deny this proposed resolution.

It was moved by Commissioner Heyman that this proposed resolution be forwarded to the County Commission with a favorable recommendation with committee amendment(s) to award this lease and concessionaire agreement to AREAS USA, Inc. This motion was seconded by Commissioner Martinez.

Hearing no other questions or comments, the Committee proceeded to vote.

Commissioner Rolle asked Assistant County Manager Alex Munoz to ensure that AREAS USA, Inc. increased the Disadvantaged Business Enterprise goal in this proposed resolution from six percent to nine percent.

3C

080039 **Resolution**

RESOLUTION APPROVING AIRCRAFT NOISE MONITORING EQUIPMENT LICENSE AGREEMENT WITH FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES FOR A TERM OF TEN (10) YEARS WITH NO RENTAL COSTS TO BE PAID BY MIAMI-DADE COUNTY; AUTHORIZING MAYOR OR DESIGNEE TO EXECUTE SAME AND TO EXERCISE ANY TERMINATION OR CANCELLATION PROVISIONS THEREIN (Aviation Department)

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Gimenez
Vote: 5-0
Absent: Gimenez

3D

080055 **Resolution**

RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER MDAD-1 (FINAL) TO THE NORTH TERMINAL DEVELOPMENT CONTRACT WITH UNDERGROUND CONSTRUCTION COMPANY, INC., FOR HYDRANT FUELING SYSTEM, PROJECT NO. B726B AT MIAMI INTERNATIONAL AIRPORT, WHICH DECREASES THE CONTRACT AMOUNT BY $5,196,517.23

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Sosa
Vote: 5-0
Absent: Gimenez

3E

080058 **Resolution**

RESOLUTION RELATING TO MIAMI INTERNATIONAL AIRPORT; APPROVING PERPETUAL EASEMENT CONVEYING .09 ACRES OF COUNTY LAND LOCATED ON THE SOUTHWEST CORNER OF MIAMI INTERNATIONAL AIRPORT TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) FOR FDOT'S USE IN CONJUNCTION WITH THE STATE ROAD 826/STATE ROAD 836 IMPROVEMENT PROJECT (Aviation Department)

Forwarded to BCC with a favorable recommendation
Mover: Heyman
Seconder: Martinez
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed resolution into the record.*

It was moved by Commissioner Heyman that this proposed resolution be forwarded to the County Commission with a favorable recommendation. This motion was seconded by Commissioner Martinez.

In response to Commissioner Sosa's inquiry regarding the location of residents on the 0.09 acres of County land in this proposal, Mr. Jose Abreu, Director, Miami-Dade Aviation Department, clarified the land was the back of a canal.

Hearing no other questions or comments, the Committee proceeded to vote.

3F

073763 **Resolution**

RESOLUTION APPROVING THE APPOINTMENT OF FOUR (4) MEMBERS TO THE TOURIST DEVELOPMENT COUNCIL (Cultural Affairs Council)

Forwarded to BCC with a favorable recommendation
Mover: Martinez
Seconder: Sosa
Vote: 6-0

Report: *Assistant County Attorney David Murray read the foregoing proposed resolution into the record.*

It was moved by Commissioner Martinez that this proposed resolution be forwarded to the County Commission with a favorable recommendation. This motion was seconded by Commissioner Sosa.

Commissioner Heyman questioned whether an additional seat could be created for the Tourist Development Council (TDC). She expressed concern regarding the length of tenure for TDC members and suggested that a new perspective was needed on the TDC.

Discussion ensued between Commissioner Heyman and Ms. Deborah Margol, Deputy Director, Department of Cultural Affairs, regarding TDC composition being limited to nine (9) seats and to the categories of participation prescribed by Florida State Statute; and regarding Commissioner Heyman's concern regarding TDC member stagnation.

Hearing no other questions or comments, the Committee proceeded to vote.

3G

080169 **Resolution**

RESOLUTION REJECTING ALL BIDS RECEIVED IN CONNECTION WITH MIA CONTRACT 756A/D NORTH TERMINAL IMPROVEMENTS PACKAGE 1 AND 2; AUTHORIZING AWARD OF SAME TO THE TOWER GROUP INC. IN THE AMOUNT OF $121,720,410.00 PURSUANT TO CONCURRENT NEGOTIATIONS HELD WITH THE BIDDERS; WAIVING COMPETITIVE BIDDING IN CONNECTION WITH REJECTION OF THE PROPOSALS AND AWARD OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, SECTION 5.03(D) OF THE HOME RULE CHARTER, AND CHAPTER 255.20, FLORIDA STATUTES, WAIVING BID PROTEST PROCEDURES PURESUANT TO SECTION 2-8.4 OF THE CODE OF MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXERCISE TERMINATION, CANCELLATION, OR EXTENSION PROVISIONS CONTAINED THEREIN (Aviation Department)

Amended

3G AMENDED

080281 **Resolution**

RESOLUTION AWARDING MIA CONTRACT 756A/D NORTH TERMINAL IMPROVEMENTS PACKAGE 1 AND 2; TO MCM-DRAGADOS JV IN THE AMOUNT OF $125,695,736; APPROVING MODIFICATION OF THE CONTRACT TO SHIFT RISK TO MCM-DRAGADOS JVAUTHORIZING THE COUNTY MAYOR OR HIS DESIGNEE TO EXECUTE THE CONTRACT AND TO EXERCISE TERMINATION, CANCELLATION, OR EXTENSION PROVISIONS CONTAINED THEREIN; WAIVING BID PROTEST PROCEDURES PURSUANT TO SECTION 2-8.4 OF THE CODE OF MIAMI-DADE COUNTY; AND (Aviation Department)

Forwarded to BCC with a favorable recommendation with committee amendment(s)
Mover: Heyman
Seconder: Martinez
Vote: 4-0
Absent: Rolle, Gimenez

Report: *Assistant County Attorney David Murray read the foregoing proposed resolution into the record.*

Commissioner Gimenez noted he had a conflict of interest with the foregoing proposed resolution, and left the Commission Chambers.

Assistant County Attorney David Murray advised this proposed resolution omitted that waiver of bid protest procedures would require a 2/3 vote of the County Commission.

Mr. Jose Abreu, Director, Miami-Dade Aviation Department (MDAD), explained the terminal wide improvement portion of this proposed resolution was very complex and involved the entrance to the North Terminal. He pointed out that the contract in this proposed resolution was re-scoped to make it affordable; that MDAD held two industry meetings to demonstrate that MDAD could not afford to award this contract for more than $113 million; and that the original bids for this contract were much more than $113 million. Mr. Abreu noted he wanted to negotiate the scope with the low bidder to reach the $113 million figure; however, the County Attorney advised he would have to negotiate with every bidder because the scope would change, He noted he could not delay awarding this contract in order to re-bid. Mr. Abreu noted this proposed resolution recommended awarding the contract to the Tower Group, Inc., pursuant to the results of MDAD's negotiations.

Commissioner Heyman expressed concern that the vendors' bids could exceed the $113 million, notwithstanding their awareness of MDAD's budget; that the $113 million may not be a

realistic figure for this contract; and that the vendor could present change orders to increase the cost of this contract.

Mr. Abreu noted MDAD did not have any indications that the Tower Group would present any change orders.

Chairman Diaz expressed concern that the $113 million cap was not included in the bid solicitation for this contract and noted that Commissioner Sosa sponsored proposed legislation that was subsequently adopted requiring that a contract indicate the project cap when the County was limited in funding.

Commissioner Sosa pointed out the County Commission adopted Resolution No. R-342-04 that provided a track record for vendors awarded County contracts. She expressed concern regarding this proposed resolution recommending the County award this contract to the Tower Group, notwithstanding their poor track record on the South Miami-Dade Cultural Art Center and on another project in Palm Beach County.

Discussion ensued between Commissioner Sosa and Mr. Abreu concerning the impact of the Committee not forwarding this proposed resolution to the County Commission and the potential for change orders.

Commissioner Martinez pointed out that MCM-Dragados JV (MCM) was involved with work in another section of the North Terminal.

In response to Commissioner Martinez's question concerning the potential to save money by MCM waiving any and all conflicts between its other North Terminal work and this contract, Mr. Abreu noted the waiver of conflicts would have a subjective value; and he pointed out that MCM recommended waiving the conflicts after this proposed resolution was prepared.

Mr. Pedro Munilla, 7277 Sunset Drive, Owner, MCM Corporation, appeared before the Committee and presented the following three options to the Committee:
1. To award the original scope of the contract without any changes to MCM for $118.6million;
2. To award the modified scope of the contract to MCM for $113 million;
3. To award either scope of the contract to MCM because they could start immediately.

In response to Commissioner Martinez's request for more details concerning whether MCM's $113 million bid for the modified scope versus the Tower Group's $109 million bid, Mr. Munilla clarified the reduced scope the liquidated damages to the vendor were capped at $500,000. He pointed out that the County Manager's recommendation noted any time delay exposures to Parson-Odebrecht Joint Venture's ongoing work at the North Terminal put the County at risk for $40,000 to $50,000 of indirect liquidated damages per day. He noted the County could only recover $4,000 per day from the vendor under the modified contract, with the $500,000 cap; that the County be at risk for $8,000 for indirect liquidated damages for owner caused delays under the modified version; and that the original scope of the contract did not limit the amount the County could recover. Mr. Munilla noted MCM was not looking for change orders, and MCM would waive any claims for delays if the County awarded this proposed resolution to MCM.

Mr. Carlos Ardavin, Executive Vice-President, Tower Group, Inc., appeared before the Committee and explained the Tower Group did not reduce their original bid with the intent to make up lost costs through change orders. The Group followed MDAD's three priorities for negotiating the contract to reduce risk without impacting the scope of the project; to allow for substitutions but provide the same product; and if necessary, to reduce the scope to reach $113 million. Mr. Ardavin pointed out the Tower Group would have a much greater Community Small Business Enterprise goal than the requested 12 percent. He pointed out the Tower Group was now 100 percent owned by Obrascón Huarte Lain (OHL), which had $5 billion in revenue in 2007. Mr. Ardavin also pointed out that the Tower Group had been operating under the old management on the South Miami-Dade Cultural Art Center, and this company had made a commitment to increase the man power to 107 people on that site.

Discussion ensued between Commissioners Sosa and Heyman, Assistant County Attorney Murray, and County Manager George Burgess regarding the County Commission acting in the best interest of the tax payers on the issues of liquidated damages and the South Miami-Dade Cultural Arts Center.

Commissioner Heyman spoke in support of

awarding the original scope of the contract without any changes to MCM for $118.6 million, if MCM would assume total risk for any reason.

In response to Commissioner Heyman's question whether the modified version at a lower price was an option for MDAD, Mr. Abreu pointed out MDAD had a contingency allowance of approximately $11 million built in to the $113 million cap. He clarified that if Commissioner Heyman was suggesting the County take $5.6 million from the contingency allowance to make the $118.6 million proposed by MCM, and that the contract be amended with language that MCM would assume all financial liability, then that would be feasible.

Discussion ensued between Commissioner Heyman and Mr. Abreu regarding whether or not he would like the Committee to follow her suggestion for awarding this contract to MCM.

County Manager Burgess clarified that Commissioner Heyman was suggesting this proposed resolution be amended to reduce the general contingency and to include a commitment from the vendor to assume all risk and obligations and not come back to the County for a nickel more. He pointed out the County would have no guarantees; that even with promises from the vendor to not come back to the County; and that the contract would need to include incredibly concrete language that the vendor understood what it was doing and the risks being assumed, and any, very limited, conditions that the vendor could come back to the County for more money.

Following Chairman Diaz's comments regarding the possible Committee actions for this proposal, it was moved by Commissioner Sosa that this proposed resolution be forwarded to the County Commission without recommendation, and allowing the County Administration to work the details of the contract and integrate Commissioner Heyman's suggestions.

Following discussion concerning her motion, Commissioner Sosa rescinded her motion to forward this proposed resolution to the County Commission without a recommendation.

In response to Commissioner Heyman's question regarding MCM's willingness to commit to perform the original scope of this contract, and to shift total risk to MCM if MCM exceeded the

stipulated funding number in the language of the contract, Mr. Juan Munilla, MCM, clarified the $113 million cap for this contract had an $11 million contingency; that the MDAD Director suggested that contingency be reduced by $5.6 million to cover, within his budget, MCM's $118.6 million proposal; that $3 or $4 million would remain in the contingency; and that MCM would agree to never go beyond that number, under any circumstance, unless MDAD requested MCM to build something else.

Commissioner Heyman pointed out for MDAD to request MCM to build something else would be beyond the scope of the contract versus catastrophic events that went beyond MCM's or the County's control.

In response to Commissioner Heyman's question whether the conditions specified during discussion for this contract were doable for MCM, Mr. Juan Munilla stated yes.

Commissioner Heyman questioned whether the Tower Group was willing to assume total risk and stay within the stipulated fee and scope of the contract if it was awarded to them based on the original scope.

Mr. Lauro Bravar, President, The Tower Group, Inc., stated yes, it was workable and that he was legally authorized to make this guarantee.

Commissioner Heyman noted that interested parties bidding on the contract in this proposed resolution both stated the set budget, the scope for the entire project, the assumption and shift of total risk to the awardee if it remained within the entire projection was doable.

It was moved by Commissioner Heyman that the Committee forward to the County Commission a recommendation that the original scope of the contract in this proposed resolution under the original bid be awarded to the original low bidder MCM-Dragados JV for a total based bid of $118.6 million, with the difference between that figure and the $113 million to be made up out of the contingency amount, having a reduction to the contingency amount and moving that money to the base contract bid, with a shift of all risk to MCM-Dragados JV and the understanding that the $118.6 million was a guaranteed maximum price to complete the work subject to County directed changes coming out of the contingency amount.

Commissioner Martinez noted his understanding was the total project cost would still be $126, 246,986, as indicated on handwritten page three (3); and that the difference was that the base bid would be $118.6 million and the general contingency would be reduced $5.6 million.

Following further discussion between committee members and Mr. Abreu concerning Commissioner Heyman's motion, Commissioner Sosa questioned whether the Committee could accomplish the same intent by denying the recommendation to award the contract to the Tower Group for past performance and to award it to the other and direct the County Administration to renegotiate the terms.

Assistant County Attorney David Murray advised that MCM was the original low bidder; and that this proposed resolution included a provision to reject the original bids and to proceed under the negotiated process. He pointed out that the Commission had the discretion to request the low bidder, without touching the scope, to come down in price. He explained that the motion on the floor indicated the original low bidder agreed to reduce its price, to cap the County's exposure, and to renegotiate the details of the contract.

Commissioner Sosa suggested Commissioner Heyman amend her motion to be that the County award the contract to the original low bidder and allow the County Administration, with the guidance of the County Attorney's Office, to negotiate the terms established during today's discussion.

Following Commissioner Heyman's comments emphasizing the importance of shifting the risk to the vendor, Assistant County Attorney Murray clarified the maximum amount for contract award would be $118.6 million.

It was moved by Commissioner Heyman that this proposed resolution be forwarded to the County Commission with a favorable recommendation with committee amendment(s) to award the original scope of MIA contract 756A/D North Terminal Improvements Package 1 and 2, to MCM-Dragados JV, the original low bidder; and to direct the County Administration and the County Attorney's Office to negotiate a maximum contract award amount of $118.6 million and shift all risk to MCM-Dragados JV. This motion was seconded

by Commissioner Sosa.

Following further discussion regarding the comfort of the County Administration and the County Attorney's Office with the motion on the floor, the Committee proceeded to vote.

Commissioner Sosa noted she would shortly present before the Committee some recommended changes to the procurement process at MIA.

Chairman Diaz indicated that he would propose some changes specific to contracts at MIA.

Commissioner Sosa asked Assistant County Attorney David Murray to meet with her to prepare a resolution to establish guidelines on handling vendors' poor contract performance on procurement items.

4 COUNTY MANAGER

5 COUNTY ATTORNEY

6 CLERK OF THE BOARD

6A

080060 **Report**

CLERK'S SUMMARY OF MINUTES FOR OCTOBER 30, 2007 AIRPORT AND TOURISM COMMITTEE MEETING (Clerk of the Board)

Approved
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Rolle, Gimenez

7 REPORTS

7A

073324 **Report**

SUNSET REVIEW OF COUNTY BOARDS FOR 2007 - TOURIST DEVELOPMENT COUNCIL

Report Received
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Rolle, Gimenez

7B

073572 **Report**

MIAMI-DADE AVIATION DEPARTMENT CAPITAL IMPROVEMENT PROGRAM REPORT (DECEMBER) (County Manager)

Report Received
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Rolle, Gimenez

7C

073548 **Report**

GENERAL AVIATION AIRPORTS DEVELOPMENT STATUS (County Manager)

Report Received
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Gimenez, Rolle

7D

080030 **Report**

MIAMI-DADE AVIATION DEPARTMENT CAPITAL IMPROVEMENT PROGRAM REPORT (JANUARY) (County Manager)

Report Received
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Gimenez, Rolle

7E

073575 **Report**

MONTHLY REPORT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION ON THE MIAMI INTERMODAL CENTER (DECEMBER) (County Manager)

Report Received
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Gimenez, Rolle

Report: *Mr. Steven Thompson, Miami Intermodal Center (MIC) Program Manager, Florida Department of Transportation (FDOT), pointed out the temporary plat for the MIC was approved, and the projects were back on schedule. He noted that construction of the rental car center was on the third level; that the space allocation meeting with rental car companies was scheduled for January 31, 2008; and that all rental car companies confirmed they would attend the meeting. He explained that roadway work on Le Jeune Road would be complete in March 2008. Mr. Thompson pointed out the landscaping contracts for Le Jeune Road were awarded and would start in March 2008.*

In response to Commissioner Sosa's inquiry concerning the completion date of the rental car center being changed, Mr. Thompson indicated the projected completion date was changed from November 2009, to January 2010. He explained the completion date was dependent on next week's meeting and the time needed from the Temporary Certificate of Occupancy to tenant build out.

Commissioner Sosa asked Assistant County Manager Alex Munoz to ensure Mr. Steven Thompson provided a report at the February 14, 2008, Committee Meeting that better substantiated the completion date for each component of the MIC, including the Summary Schedule with all major milestone dates.

Chairman Diaz asked Assistant County Manager Alex Munoz to ensure Mr. Thompson included the Gang (Timeline) Chart in subsequent MIC monthly reports. In addition, He asked Mr. Thompson to improve the signs and other mechanisms redirecting traffic when Le Jeune Road was closed to provide less confusion for drivers.

Discussion ensued between Commissioner Rolle and Mr. Thompson regarding the method used to award the Le Jeune Road landscaping contracts.

Following discussion, Chairman Diaz asked Assistant County Manager Alex Munoz to ensure Mr. Thompson followed Commissioner Rolle's recommendation by advertising future MIC contracts through FDOT's notification system as well as the County's notification system.

7F

080046 **Report**

MONTHLY REPORT FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION ON THE MIAMI INTERMODAL CENTER (JANUARY) (County Manager)

Report Received
Mover: Martinez
Seconder: Heyman
Vote: 4-0
Absent: Gimenez, Rolle

8 ADJOURNMENT

Report: *There being no other business to come before the Committee, the meeting was adjourned at 1:00 pm.*

Jose "Pepe" Diaz, Chair