



Miami-Dade Board of County Commissioners
Office of the Commission Auditor

Board of County Commissioners Meeting

July 24, 2018
9:30 A.M.
Commission Chambers

Thomas B. Davis, Esq.
Director, Policy and Legislation
Office of the Commission Auditor (OCA)
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Miami, FL 33128
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**BCC Meeting: July 24, 2018
Research Notes**

**Item No. 3B1
File No. 181656**

Researcher: LE Reviewer: TD

RESOLUTION RETROACTIVELY AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO APPLY FOR, RECEIVE, ACCEPT AND EXPEND \$200,000.00 IN GRANT FUNDS DURING COUNTY FISCAL YEARS 2017-2018 AND 2018-2019 FROM THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, DIVISION OF THE STATE FIRE MARSHAL OFFICE TO REBUILD MIAMI-DADE FIRE RESCUE SWEETWATER STATION 29; RETROACTIVELY AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO APPLY FOR, RECEIVE, ACCEPT AND EXPEND ADDITIONAL FUNDS SHOULD THEY BECOME AVAILABLE UNDER THIS GRANT PROGRAM AND TO ENFORCE ANY OF THE TERMS CONTAINED HEREIN

ISSUE/REQUESTED ACTION

Whether the Board should retroactively authorize the County Mayor or County Mayor's Designee to apply for, receive, accept, and expend \$200,000.00 in grant funds from the Florida Department of Financial Services, Division of the State Fire Marshall Office, during the County Fiscal Years 2017-2018 and 2018-2019, to rebuild Miami-Dade Fire Rescue Sweetwater Station 29; retroactively authorize the County Mayor or County Mayor's Designee to apply for, receive, accept, and expend additional funds if available under the grant program.

APPLICABLE LEGISLATION/POLICY

Florida House Bill 5001/Senate Bill 2500 – General Appropriations Act, provides a total budget of \$88.7 billion for FY 2018-2019. The Department of Financial Services allocated Local Government Fire Services a total of \$11.9 million in trust funds and \$1.5 million in general revenue fund. The Division of State Fire Marshal's Office then distributed funds to MDFR.

<http://www.flsenate.gov/PublishedContent/Session/2018/BillSummary/CombinedPDF/AP.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Jose "Pepe" Diaz, District 12

Department/Requester: Miami-Dade Fire and Rescue Department

FISCAL IMPACT

The State of Florida Department of Financial Services Division of State Fire Marshal FY 2018-2018 provides grant funds of \$200,000.00. Miami-Dade Fire Rescue District contributes \$1,800,000.00 from their FY 2018-2019 budget and the Sunshine State Financing made available \$4,000,000.00. If costs are incurred, each party is responsible for their own costs. MDFR received the grant award letter on April 16, 2018. The grant is reimbursement-based, and the state will pay for the construction once the project is completed by MDFR.

ANALYSIS

The Florida Legislature appropriated funds to local fire departments. Funding was allocated to the Division of State Fire Marshal for distribution during the State of Florida FY 2018-2019 in the Fixed Capital Outlay category 2367A under the Grants and Aids to Local Governments and Non-State Entities. Miami-Dade Fire Rescue was awarded \$200,000.00 to rebuild MDFR Sweetwater Station 29. Sweetwater Station 29 was demolished because of a state road widening project and was replaced with temporary trailers. The grant will partially fund rebuilding the permanent fire station by replacing the temporary trailers.

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The rebuilt fire station will provide fire and rescue services and will be staffed 24 hours a day, seven days a week with 3 firefighters and 1 officer on the engine, 2 firefighters and 1 officer on the rescue, and 1 Battalion Chief. The rebuilding period will last July 1, 2018 through June 30, 2021.

The MDR Sweetwater Station 29 serves approximately 70,868 local residents. According to the Florida Senate Local Funding Initiative Request FY 2018-2019, MDR Station 29 responded to 11,423 emergency calls, about 31 calls per day in 2017.

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Item No. 5B

File No. 181726

Researcher: MF Reviewer: TD

ORDINANCE RELATING TO CONCESSIONS AT MIAMI INTERNATIONAL AIRPORT; AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING THE PAYMENT OF LIVING WAGE BY CERTAIN CONCESSIONAIRES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE [SEE ORIGINAL ITEM UNDER FILE NO. 181628]

ISSUE/REQUESTED ACTION

Whether the Board should approve the proposed ordinance to amend Section 2-8.9 of the Code of Miami-Dade County, relating to the Living Wage Ordinance for County service contracts and County employees, to require the payment of a living wage by certain concessionaires at Miami International Airport, and subcontractors of such concessionaires.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 2-8.9 codifies the Living Wage Ordinance for County Service Contracts and County Employees.

<https://www.miamidade.gov/business/library/ordinances/living-wage-code.pdf>

Miami-Dade County Code, Section 2-8.6.5 governs purchases, sales and lease of real property.

[https://library.municode.com/fl/miami -
dade county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR)

Miami-Dade County Administrative Order No. 8-4 gives the Board the authority to sell or lease or otherwise dispose of County-owned real property.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

Miami-Dade County Administrative Order No. 3-30 requires that all service contractors performing covered services pay employees no less than the applicable hourly living wage rate, with or without benefits.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-30.pdf>

Resolution No. R-148-07, adopted by the Board on February 2, 2007, directs the County Mayor to include a Labor Peace requirement in all requests for proposals, requests for qualifications, bids and contracts for concession opportunities at the Miami International Airport (The proposed ordinance would supersede and repeal Resolution No. R-148-07).

<http://intra/gia/matter.asp?matter=062523&file=true&yearFolder=Y2006>

PROCEDURAL HISTORY

Co-Prime Sponsors: Commissioner Barbara J. Jordan, District 1; Jose “Pepe” Diaz, District 12; Daniella Levine Cava, District 8; Audrey M. Edmonson, District 3; Sally A. Heyman, District 4; Eileen Higgins, District 5; Jean Monestime, District 2; Dennis C. Moss, District 9; Rebeca Sosa, District 6

The proposed ordinance was considered at the July 10, 2018 BCC meeting.

Commissioner Diaz moved to suspend the Rules of Procedure requiring committee review, to allow the public hearing and second reading of the proposed ordinance to be held at the July 24, 2018 BCC meeting.

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The proposed ordinance was adopted on first reading.

A Sunshine Meeting was held on 12 July 2018 between Commissioner Diaz and Commissioner Jordan to discuss this proposed legislation and its impact.

FISCAL IMPACT

According to the Fiscal Impact Statement, the implementation of the proposed ordinance will not have a fiscal impact on Miami-Dade County as it will not result in additional staffing needs or future operational costs. Activities relating to the implementation of the ordinance would be absorbed as part of on-going activities.

ANALYSIS

The proposed ordinance seeks the Board's approval to amend Section 2-8.9 of the Code of Miami-Dade County, relating to the Living Wage Ordinance for County service contracts and County employees. Specifically, the proposed ordinance seeks to require the payment of a living wage by certain concessionaires at Miami International Airport, and subcontractors of such concessionaires.

The Living Wage requirement was established by the Board on May 11, 1999. This requirement is for employees on County service contracts to allow individuals to support themselves and their families above the poverty line and with dignity. The County believes that employees making the State minimum wage of \$8.25 per hour are more likely to have financial difficulties and make use of governmental services. Therefore, County property should be used to promote business activities that drive broad-based prosperity throughout all communities in the County.

The Living Wage applies to County service contracts valued greater than \$100,000 per year for the following services:

- Food preparation and/ distribution;
- Security services;
- Routine maintenance service such as custodial, cleaning, refuse removal, repair, refinishing and recycling;
- Clerical or non-supervisory work;
- Transportation and parking services including airport and seaport services;
- Printing and reproduction service; and,
- Landscaping, lawn, and/ agricultural services.

The current ordinance also applies to service contractors at Aviation Department facilities without reference to any contract value. These contractors provide ramp service, porter assistance services, passenger services, dispatching and communications services, meteorological navigation services, ticket counter and operations spaces services, janitorial services, delayed baggage services, security services unless provided by the federal government, any other type of service that a GASP permittee is authorized to perform, and in-warehouse cargo handling.

The current ordinance provides that "[a]ll service contractors as defined by this Chapter, performing covered services shall pay to all of its employees providing covered services, the current Living Wage rate of \$12.63 per hour with a qualifying Health Benefit Plan valued at no less than \$2.89 per hour per employee and \$15.52 per hour if no qualifying Health Benefit Plan is provided by the Service Contractor."

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The proposed ordinance would add the following Section 2-8.9(F)(3) regarding services covered by the existing ordinance:

“Concessionaires at Miami International Airport. All services of all employees employed at Miami International Airport by a concessionaire, and all services of all subcontractors of such concessionaire providing services at Miami International Airport. For the purposes of this section, a concessionaire shall mean an entity that is authorized by contract, permit, lease, or other legal instrument supported by mutual consideration to offer goods, food, beverages, or services for sale to ticketed passengers inside Miami International concourses or terminals. Notwithstanding the preceding, this subsection does not apply to employees of any airline or any entity that is exempt from the requirements of this subsection pursuant to state or federal law. A concessionaire who is otherwise exempt under this subsection may still be required to provide a living wage to its employees if it engages in activities covered in sections 2-8.9(F)(1) and 2-8.9(F)(2)”

The proposed ordinance will apply to concession agreements entered into after January 1, 2019. The County Mayor will not incorporate the requirements of the proposed ordinance into any extension, amendment, or option to renew of any concession contract in existence prior to January 1, 2019.

According to the Social Equity Statement, the proposed ordinance would have a direct social impact on residents of the County, as applying the applicable living wage rate could benefit eligible employees by providing them with increased wages/benefits. However, such benefit to the employees could impact their employers who will be required to pay the increased wages.

ADDITIONAL INFORMATION

An article dated March 14, 2018, entitled “Here’s how much it really costs to live in Miami”, states that Miami is one of the least affordable places to live in the country, but it is not only because of the high cost of housing, healthcare, transportation and taxes. The real problem is low wages. Miami families are the least well-paid among the top 25 metropolitan areas in the country.

<https://www.miamiherald.com/news/business/real-estate-news/article204976054.html>

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Research Notes**

Item No. 5C

File No. 181730

Researcher: LE Reviewer: TD

ORDINANCE RELATING TO THE RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REVISING PROVISIONS RELATING TO THE CODESIGNATION OF MIAMI-DADE COUNTY ROADS, FACILITIES, OR PROPERTY AND THE APPROVAL OF STATE OR MUNICIPAL ROAD CODESIGNATIONS; REQUIRING THE COMMISSION AUDITOR TO INCLUDE IN A REPORT WHETHER THE SUBJECT ROAD, FACILITY, OR PROPERTY HAS ANY PRIOR CODESIGNATIONS, WHETHER THERE ARE ANY OTHER ROADS, FACILITIES, OR PROPERTIES IN MIAMI-DADE COUNTY THAT BEAR THE SAME NAME AS THE PROPOSED NEW CODESIGNATION, AND THE LOCATION OR TERMINUS POINTS OF EACH; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 2-1 of the County Code to revise the provisions relating to co-designations of Miami-Dade County roads, facilities, or property and the approval of state or municipal road co-designations; require the Commission Auditor to include in a report whether the subject road, facility, or property has any prior co-designations, if they bear the same name with any current roads, facilities, or properties, and include the location or terminus; and to make technical revisions.

APPLICABLE LEGISLATION/POLICY

Section 2-1, Rule 9.02 of the Miami-Dade County Code delineates the naming, renaming, or co-designation of Miami-Dade County roads, facilities, or property; and approval of state or municipal road co-designations.

[https://library.municode.com/fl/miami_-](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-1RUPRCOCO)

[dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-1RUPRCOCO](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-1RUPRCOCO)

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Jean Monestime, District 2

Department/Requester: None

The proposed ordinance was considered at the July 10, 2018 BCC meeting.

First Assistant County Attorney Geri Bonzon-Keeban advised that the Board's Rules of Procedure could be waived to suspend the four-weeks/six-weeks municipal notice requirements, as well as committee review, so that the second reading and public hearing may be held at the July 24, 2018 BCC meeting.

Commissioner Levine Cava moved that the Board's Rules of Procedure be waived to suspend the four-weeks/six-weeks municipal notice requirements, as well as committee review, so that the second reading and public hearing may be held at the July 24, 2018 BCC meeting. This motion was seconded by Vice Chairwoman Edmonson, and passed by a unanimous vote of those members present.

The proposed ordinance was adopted on first reading at the July 10, 2018 BCC meeting and was set for second hearing and public hearing at the July 24, 2018 BCC meeting.

FISCAL IMPACT

The implementation of this ordinance has no fiscal impact to Miami-Dade County.

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ANALYSIS

The proposed Ordinance amends Section 2-1 to provide clarity and information on whether there are prior co-designations for certain roads, facilities, or property and if they share the same name as the proposed new co-designation before the Board approves an item that would add a co-designation. These measures are meant to prevent overlapping, and conflicting co-designations. Additionally the Commission Auditor will be required to include in a report whether a road, facility, or property has any prior co-designations or share the same name as existing roads, facilities, or property; require the location and terminus points of each; and to make technical revisions.

The table below shows the original Section 2-110 of the Code of Miami-Dade County and the proposed changes to this section of the Code stricken through and >>double arrowed<<.

Section 2-1 of the County Code	Proposed changes to Section 2-1 of the County Code
<p>Sec. 2-1. Rules of Procedure of County Commission. * * *</p> <p>Rule 9.02. Naming, renaming or co-designation of Miami-Dade County roads, facilities or property; approval of state or municipal road co-designations; exception for Public Health Trust designated facilities.</p> <p>(a) Resolutions regarding proposed naming, renaming or co-designation of Miami-Dade County roads, facilities or property shall be sponsored by the district commissioner where the property is located and shall be considered at public hearing.</p> <p style="text-align: center;">* * *</p> <p>(f) The Commission Auditor shall complete background research, reviewing public records and other sources of information, in print, on the internet, or through other means of communication, that are publicly available, on any person, organization, place or thing that is the subject of a naming, renaming or co-designation item or an item approving the co-designation of state or municipal roads, and shall prepare a report detailing the findings of said research prior to the Commission meeting during which the item is scheduled to be considered. The Clerk of the Board shall place the Commission Auditor's report on the commission agenda as a supplement to the related agenda item.</p> <p style="text-align: center;">* * *</p>	<p>Sec. 2-1. Rules of Procedure of County Commission. * * *</p> <p>Rule 9.02. Naming, renaming or co-designation of Miami-Dade County roads, facilities or property; approval of state or municipal road co-designations; exception for Public Health Trust designated facilities.</p> <p>(a) Resolutions regarding proposed naming, renaming or co-designation of Miami-Dade County roads, facilities or property shall be sponsored by the district commissioner where the property is located and shall be considered at public hearing.</p> <p style="text-align: center;">* * *</p> <p>(f) The Commission Auditor shall complete background research, reviewing public records and other sources of information, in print, on the internet, or through other means of communication, that are publicly available, on any person, organization, place or thing that is the subject of a naming, renaming or co-designation item or an item approving the co-designation of state or municipal roads, and shall prepare a report detailing the findings of said research prior to the Commission meeting during which the item is scheduled to be considered. >><u>In addition, for any item co-designating any Miami-Dade County road, facility, or property, or approving any state or municipal road co-designation, the report shall also indicate (1) whether the subject road, facility, or property has been the subject of any prior co-designations and, if so, the location or terminus points of each; and (2) whether there are any other roads,</u></p>

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facilities, or properties located in Miami-Dade County that already bear the same name as the proposed new co-designation and, if so, the location or terminus points of each. If there are no prior co-designations, then the report shall so state.<< The Clerk of the Board shall place the Commission Auditor's report on the commission agenda as a supplement to the related agenda item.

* * *

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Research Notes**

Item No. 7A

File No. 181439

Researcher: MF Reviewer: TD

ORDINANCE RELATING TO THE FIXED-GUIDEWAY RAPID TRANSIT SYSTEM-DEVELOPMENT ZONE; AMENDING SECTION 33C-2 AND CREATING SECTION 33C-11 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR EXPANSION OF THE RAPID TRANSIT ZONE AND CREATING THE GOVERNMENT CENTER SUBZONE; PROVIDING USES, SITE PLAN REVIEW STANDARDS, AND PROCEDURES FOR ZONING APPROVAL IN THE SUBZONE; AMENDING DEFINITIONS; AMENDING SECTION 33C-9; UPDATING DEVELOPMENT PARAMETERS TO ADDRESS AIRPORT HEIGHTS CONSISTENT WITH GOVERNMENT CENTER SUBZONE; AMENDING SECTION 33-314; PROVIDING JURISDICTION OF THE COUNTY COMMISSION OVER ZONING APPLICATIONS WITHIN GOVERNMENT CENTER SUBZONE; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 33C-2 and create Section 33C-11 of the Code of Miami-Dade County to provide for the expansion of the Rapid Transit Zone and create the Government Center Subzone.

Whether the board should amend Section 33C-9 of the Code of Miami-Dade County to update development parameters to address airport heights consistent with the Government Center Subzone.

Whether the Board should amend Section 33-314 of the Code of Miami-Dade County to provide jurisdiction of the County Commission over Zoning applications within the Government Center Subzone.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 33C, establishes and governs the Rapid Transit System for the Metrorail Transit System.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH33CFIIDRATRSYEVZO

Miami-Dade County Code, Section 33-314, addresses direct applications and appeals to the County Commission, delineating which applications are within the jurisdiction of the County Commission.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH33ZO_ARTXXXVIZOPR_S33-314DIAPAPCOCO

Ordinance No. 18-8, adopted by the Board on February 6, 2018 related to Tax Increment Financing and Transportation Infrastructure Development; created Article CLIX of Chapter 2 of the Code of Miami-Dade County; created the Miami-Dade County Transportation Infrastructure Improvement District; provided that the District shall be within a certain distance of proposed alignments of the SMART Plan Rapid Transit Corridors; established a Trust Fund; defined SMART Plan Rapid Transit Corridor projects eligible for Trust Fund revenues; limited the use of Trust Fund revenues to the development, construction, maintenance, and operation of SMART Plan Rapid Transit Corridor projects; and provided for the funding of the Trust Fund from tax increment revenues within the District.

<http://intra/gia/matter.asp?matter=180354&file=false&yearFolder=Y2018>

Resolution No. R-460-18, adopted by the Board on May 1, 2018, designates the unincorporated areas within the Miami-Dade County Transportation Infrastructure Improvement District, which includes the Smart Plan Corridors,

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as areas or facilities of Countywide significance pursuant to Sections 20-8.6 and 20-28.1 of the Code of Miami-Dade County.

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2018/180866.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Chairman Esteban L. Bovo, District 13

The proposed ordinance was considered at the June 19, 2018 BCC meeting.

First Assistant County Attorney Geri Bonzon-Keeban advised that the Board's Rules of Procedure could be waived to suspend the four-weeks/six-weeks municipal notice requirement to allow the item to be heard at the Chairman's Policy Council meeting in July.

Vice Chairwoman Edmonson moved that the Board's Rules of Procedure be waived to suspend the four-weeks/six-weeks municipal notice requirement to allow the item to be heard at the Chairman's Policy Council meeting in July. This motion was seconded by Chairman Bovo, and passed by a unanimous vote of those members present.

The proposed ordinance was adopted on first reading at the June 19, 2018 BCC meeting and was set for public hearing before the Chairman's Policy Council July 12, 2018 meeting.

The proposed ordinance was considered at the Chairman's Policy Council meeting on July 12, 2018.

In response to Commissioner Sosa's question regarding the residential parking standards, Mr. Nathan Kogon, Assistant Director, Development Services, clarified that the parking standards were the same as those used for the Intermodal Center in downtown Miami. Mr. Kogon noted in urban areas that were located adjacent to the mass transit system, the department encouraged lower parking standards.

Commissioner Sosa expressed her concern regarding the insufficient number of parking spaces for the residents. She requested that parking for the disabled, guest parking and residential parking be provided. She also suggested that appropriate trees be planted in the area.

Commissioner Moss requested that Mr. Kogon explain the purpose of the Rapid Transit System Development Zone.

Mr. Kogon explained that the County established rapid transit zones at all of the Metrorail stations; some of them were located within the unincorporated areas, and others within incorporated areas. However, the County retained zoning jurisdiction to facilitate implementation of the long-term Comprehensive Development Master Plan policies.

In response to Commission Moss' question as to the County's policy regarding parking in multi-family developments, Mr. Kogon stated that the department sought to encourage on-street parking in designated areas.

Responding to Commissioner Souto's question regarding whether other municipal areas allowed the construction of multi-family buildings with no parking for the residents, Mr. Kogon noted this was the case in many core urban areas, such as in the City of Miami, Chicago, New York City, etc.

Chairman Bovo pointed out that the item encourages residents to use mass transit; however, he acknowledged his colleagues' concerns regarding parking for the residents.

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The proposed ordinance was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, the implementation of this ordinance is not anticipated to create a fiscal impact for the County as the proposed expansion of the RTZ will not require additional staffing resources or generate additional operational expenses.

ANALYSIS

In 1978, the Board established the Fixed-Guideway Rapid Transit System – Development Zone (RTZ), which is comprised of those lands occupied by the fixed-guideways, stations and surrounding areas under the County’s planning, zoning and building jurisdiction. The County owns a significant number of properties surrounding the Government Center Station, which are currently subject to the City of Miami’s planning, zoning and building regulatory framework.

The proposed ordinance seeks to amend Section 33C-2 and create Section 33C-11 of the Code of Miami-Dade County to provide for the expansion of the boundaries of the RTZ by establishing the Government Center Subzone, comprised of the County properties, and creating a corresponding regulatory framework.

The proposed ordinance also seeks to amend Section 33-314 of the Code of Miami-Dade County to provide jurisdiction of the County Commission over Zoning applications within the Government Center Subzone.

The proposed expansion of the RTZ is in keeping with recent policy actions of the Board which established the County’s Transportation Infrastructure Improvement District (TIID) and designated properties within the TIID as areas or facilities of Countywide significance.

In addition, the proposed ordinance seeks to amend Section 33C-9 of the Code of Miami-Dade County to update development parameters to make the airport height standard for the Brightline Subzone consistent with the Government Center Subzone and with the recently adopted Brickell Subzone.

Finally, the proposed ordinance provides for the preservation of development rights of historically designated properties within the Government Center Subzone and enables the transfer of those rights to the extent permitted under the City of Miami’s Historic Preservation Transfer of Development Rights program.

According to the Social Equity Statement, the proposed ordinance establishes the Government Center Subzone of the RTZ, and streamlines the development approval process for properties located within the RTZ in unincorporated Miami-Dade County and within the proposed Government Center Subzone. These amendments to the Code would enable development/re-development of County-owned properties adjacent to the rapid transit system, which in turn could result in additional housing and business opportunities. The proposed expansion of the RTZ furthers the County’s policy of enabling more density and mix of uses to encourage the efficient use of resources and infrastructure as well as housing and business options.

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Proposed amendments. Words [[double bracketed]] shall be deleted. Words <<double arrowed>> constitute the proposed amendment.

Section 33C-2 (current language)	Section 33C-2 (proposed language)
<p>(A) Definition. The "Rapid Transit Zone" consists of all land area, including surface, subsurface, and appurtenant airspace, heretofore or hereafter designated by the Board of County Commissioners as necessary for the construction of the fixed-guideway portion of the Stage I Rapid Transit System, including all station sites, parking areas and yard and maintenance shop facilities.</p> <p>(B) Designation of lands included. The Board of County Commissioners hereby designates all land areas (including surface, subsurface, and appurtenant airspace) shown on Exhibits 1 through 16, bearing the following effective dates: Exhibit 1, July 31, 1998, Exhibits 2 through 9 and Exhibits 11 through 16, July 13, 1979, Exhibit 10, May 26, 1983, Exhibit 17, February 13, 2014, and Exhibit 18, certified by the Clerk of the Board as a portion of this chapter, incorporated hereby by reference, and transmitted to the custody of the Department of Regulatory and Economic Resources or its successor Department, as the Rapid Transit Zone for the Stage I Fixed Guideway Rapid</p>	<p>(A) Definition >>s<<. >>Terms used throughout this article shall take their commonly accepted meaning unless otherwise defined in chapters 18-A, 28, or 33. Terms requiring interpretation specific to this article are as follows:</p> <p>>>(1)<< The "Rapid Transit Zone" consists of all land area, including surface, subsurface, and appurtenant airspace, heretofore or hereafter designated by the Board of County Commissioners as necessary>>:<< for the construction of the fixed-guideway portion of the Stage I Rapid Transit System, including all station sites, parking areas and yard and maintenance shop facilities >>; or to support the continued operation and expansion of the metropolitan mass transit system.</p> <p>(2) The "Department" means the Miami-Dade County Department of Regulatory and Economic Resources or its successor department.</p> <p>(3) The "Director" means the Director of the Department, or the Director's designee</p> <p>(4) The "DTPW" means the Miami-Dade County Department of Transportation of Public Works or its successor department</p> <p>(5) The "MDAD" means the Miami-Dade Aviation Department or its successor department<<.</p> <p>(B) Designation of lands included. The Board of County Commissioners hereby designates all land areas (including surface, subsurface, and appurtenant airspace) shown on Exhibits 1 through 16, bearing the following effective dates: Exhibit 1, July 31, 1998, Exhibits 2 through 9 and Exhibits 11 through 16, July 13, 1979, Exhibit 10, May 26, 1983, Exhibit 17, February 13, 2014, [[and]] Exhibit 18, [[[insert effective date]] >>June 15, 2018, and Exhibit 19, [insert effective date],<< certified by the Clerk of the Board as a portion of this chapter, incorporated hereby by reference, and transmitted to the custody</p>

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Transit System. The Director of the Department of Regulatory and Economic Resources or its successor Department shall submit to each affected municipality an official map or maps designating the Rapid Transit Zone which may from time to time be altered, enlarged, added to, amended or deleted by ordinance, after a public hearing within each municipality affected.

of the Department of Regulatory and Economic Resources or its successor Department, as the Rapid Transit Zone for the Stage I Fixed Guideway Rapid Transit System. The Director [[of the Department of Regulatory and Economic Resources or its successor Department]] shall submit to each affected municipality an official map or maps designating the Rapid Transit Zone which may from time to time be altered, enlarged, added to, amended or deleted by ordinance, after a public hearing within each municipality affected.

Section 33C-11. Government Center Subzone (New proposed section)

(A) Purpose and Intent. The following development review standards and criteria shall govern all applications for development of properties located within the boundaries of the Government Center Subzone established in this section. The standards set forth herein further the unique land use characteristics of this area, which lies within the Downtown Regional Urban Center, as designated on the Land Use Plan Map of the CDMP, and within the City of Miami Urban Core, as defined in section 33-84. The CDMP calls for the highest level of development density and intensity within the Regional Urban Center, which is anchored by the Government Center Metrorail/Metromover Station. These standards implement CDMP policies calling for coordination of land uses and transportation facilities to promote transit-oriented development, attract transit ridership, and establish a more compact and efficient urban form within the Urban Development Boundary in this high-density, high-intensity area.

(B) Boundaries. The Government Center Subzone of the Rapid Transit Zone is hereby established; the boundaries of the Subzone are identified in Exhibit 19 of section 33C-2(B). The legal description and a full-scale map of the boundaries are on file with the Department.

(C) Permitted Uses:

(1) All uses allowed in sections 33C-2(D)(1).

(2) The following categories of uses shall be permitted in the Subzone, either alone or as mixed uses in horizontal or vertical integration. "Vertical integration" means any combination of categories of uses in the same building. "Horizontal integration" means any combination of parcels or buildings and structures with different primary uses within the same development. Except where otherwise specified herein, the uses provided herein shall be as defined in section 33-284.83(B).

(a) Accommodation uses.

(b) General retail/personal service establishments.

(c) Professional business offices.

(d) Residential uses, including group residential homes subject to requirements for the MC category.

(e) Entertainment uses, except adult entertainment.

(f) Food/beverage establishments.

(g) Rental car facilities.

(h) Commercial parking garages and surface parking lots.

(i) Institutional uses, including civic uses, colleges and universities, child-care facilities, religious facilities, and schools (K-12).

(j) Health care services, except hospitals.

(k) Public parks and open spaces.

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(I) Other similar uses, as determined by the Director.

(D) Development regulations. The following development regulations shall apply to all development within the sub-zone.

(1) Parking: The table below indicates minimum parking for each type of use.

Use	Minimum Parking Requirements
General Retail/Personal Service, Entertainment, Food/Beverage Establishments, Convention Halls and Showrooms	1.8 spaces / 1000 SF
Professional Office, Institutional (except Convention Halls), Health Care Services	0.6 spaces / 1000 SF
Residential	0 spaces per unit
Accommodation	0.3 spaces / room
Transit systems, including Maintenance Facilities	0.6 spaces / 1000 SF (excluding platform)
Other Uses	50% of the required parking indicated in Section 33-124

(a) Parking Garages. To minimize adverse visual effects of the structure, multi-story parking garages facing public and private streets, rights-of-way, or public open space shall use screening methods, including, without limitation: liner buildings; glazing; building wall extensions; vertical planted walls; berms; landscaping; architectural fenestration; sculpture; design features; and/or other innovative screening methods.

(b) Surface parking lots fronting streets shall be located a minimum of 10 feet from the right-of-way and screened at the 10-foot line with a wall having a maximum height of 3'6". The setback shall incorporate a combination of hard-scape and landscape elements finished to match the existing sidewalk.

(c) Mechanized parking shall be allowed and, when provided, shall be exempt from the provisions of section 33-122. For the purpose of this subzone, mechanized parking shall be defined as a mechanism with vertical and horizontal transport capability that provides for automobile storage and retrieval. A mechanized parking space shall be counted toward the parking requirements of this section. Mechanized parking may not be provided unless a queuing analysis is submitted and approved during the Administrative Site Plan Review process.

(d) Required off-street parking for uses located within this Subzone may be located within one mile of the boundaries of the Subzone. An applicant for approval of development with off-site parking shall execute and record in the public records of this County a declaration of restrictions, approved by the Director, covenanting that such development shall cease and terminate upon the elimination of such parking area, and that no development requiring such parking shall be made of such property until the required parking area is available and provided.

(2) Setbacks, floor plate, and lot size:

(a) Due to the unique characteristics associated with the high-density or high-intensity, mixed-use developments contemplated for this Subzone, there shall be no minimum setback from streets, interior/rear property lines, and park rights-of-way.

(b) There shall be no maximum or minimum limitation on the size of a floor plate or minimum lot requirement.

(3) Encroachments:

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(a) Buildings and structures above the ground floor may be built above colonnades and/or encroach into street setbacks but shall not extend into the public or private right-of-way unless permitted by State law and approved by DTPW or by another governmental agency with authority over the right-of-way. It is provided, however, that, to the extent permitted by State law and subject to the approval of the agency with authority over the right-of-way, and for the transportation purpose of providing a connecting pedestrian or vehicular corridor, the street may be covered above the first floor with publicly-accessible structures connecting buildings, including: platforms fitted with trains and passenger waiting areas; roofs; upper story terraces, pedestrian bridges, and automobile bridges between parking garages. Adequate clearance for structures above streets shall be maintained.

(b) Cantilevered balconies, awnings, weather protection elements and similar features with adequate vertical clearance may encroach into street rights-of-way but shall not extend closer than six inches from the curb face.

(4) Floor Area Ratio and lot coverage: The floor area ratio, lot coverage, and maximum square footage of buildings to be developed within the Subzone shall not be limited.

(5) Building Height: The maximum building height shall be the maximum allowed by MDAD in accordance with the zoning regulations for Miami International Airport provided in chapter 33.

(6) Open Space: The minimum open space requirement shall be 15 percent of the gross development area. Open space shall include parks, plazas, balconies, terraces, courtyards, arcades/colonnades, pedestrian paths, rooftop green spaces above buildings and parking garages, and transit platform areas improved for pedestrian comfort.

(7) Signs: Signs visible from public rights-of-way or public areas shall comply with section 33-284.87, except that Class C signs may be permitted in accordance with section 33-107, and a maximum of seven murals may be approved in this Subzone. The signage plan submitted with the application for site plan review shall contain categories, locations, and sizes of signs.

(8) Density: Residential density shall not exceed 500 units per gross acre.

(9) Architectural Expression: Building facades facing public and private street rights-of-way or public open space or both shall be a minimum 40 percent glazed. Glazing is not required for building facades that face the Metrorail or Metromover rights-of-way or for above-grade parking garage structures that face public and private street rights-of-way or public open space, provided that parking garages shall conform to the parking standards included herein. Blank walls facing public and private street rights-of-way and public open space shall be discouraged unless furnished with some type of artistic expression, such as sculpture, mosaic, or similar features.

(10) Landscaping: Landscaping shall conform to the standards set forth in section 18A-6, as applicable to non-residential development, with the following exceptions:

(a) A minimum of 30 trees per net acre of open space shall be provided. Trees may be placed in the lot, or in greens, squares, plazas and street medians within or in close proximity to this sub-zone. Lot trees shall have a minimum 2-inch diameter at breast height.

(b) Street trees shall be planted at a maximum of 30 feet average on center, with a minimum 3-inch diameter at breast height. Street trees shall be placed inside landscaped strips, tree planters, and in medians in the right-of-way or on private property where demonstrated to be necessary due to right-of-way obstructions, as determined by DTPW or other agency with jurisdiction.

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(11) Service areas and mechanical equipment: Service areas and fixtures shall be screened and located so as not to be visible from public and private rights-of-way or public open space. Mechanical equipment installed on roofs shall be screened from view by parapets or other architectural elements. Fixtures, including but not limited to backflow preventers, pumps, underground ventilation exhausts, and electrical vaults, shall be located within or to the side or rear of buildings; such fixtures shall not be located within the street setback area. Backflow preventers shall be shielded from view, as required by section 32-157(d).

(12) Alcoholic Beverages: The restrictions on premises used for the sale of alcoholic beverages set forth in chapter 33, article X regarding hours and days of sale, distance from other premises used for the sale of alcoholic beverages, and distance from schools or religious facilities shall not apply in this Subzone.

(E) Historic Preservation – Transfer of Development Rights. Properties within this Subzone that, prior to the effective date of this ordinance, were subject to the City of Miami’s zoning regulations and were eligible to apply for the City of Miami’s Transfer of Development Rights Program for Historic Properties may continue to avail themselves of the City’s program to transfer unused development rights, subject to the approval of the City of Miami pursuant to the requirements of that program.

(F) Plan Review Standards. These plan review standards are intended to: (i) encourage the creation of development within the Government Center Subzone, which acts as a significant gateway for, and destination to, the Miami-Dade Government Center area; and (ii) facilitate future growth in the Government Center Subzone by designing and arranging buildings, public open space, transit, and street circulation in a manner that fosters around-the-clock pedestrian activity, serves the local and regional transit demands of the community, and contributes to the urban revitalization of the downtown area.

(1) A mix of uses in the design of development projects is encouraged to the maximum extent possible. Mixed-use buildings, including, without limitation, residential, commercial, office, hotel, and restaurants, are highly encouraged in combination with transit and other governmental facilities.

(2) Developments shall provide direct pedestrian and vehicular connections to the adjacent block and street network. Pedestrian crosswalks providing safe passage from adjoining streets and blocks into the development project of the sub-zone shall be installed at street corners and, if practicable, midblock locations. Crosswalks shall be distinguished from other street elements by the use of conspicuous materials, texture and color.

(3) Public open space in the form of plazas, squares, greens, and landscaped areas shall be incorporated in the design of all development projects at grade or on above-grade surfaces. The public open spaces should have a scale that is compatible and complementary with the intensity of proposed development, and their design should relate to the development's concept. Landscaping, furniture, art, paved pedestrian paths, and lighting, among other features, should be used to enhance the open spaces pedestrian experience.

(4) Consideration should be given to providing landscaping in a manner that reduces the heat island effect of the development on the urban environment.

(5) All new development shall strive to meet certification standards from Florida Green Building Coalition or a similar organization.

(6) Developments shall be designed with a coordinated outdoor lighting and signage system that is an integral part of the project and compatible and harmonious with existing and proposed development in the sub-zone and with surrounding uses. Signage should clearly indicate locations of, and guide pedestrians and vehicles to,

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proposed parking areas, transit facilities, permitted uses, and surrounding activities and uses.

(7) Proposed building scale should be in harmony with building scales allowed by applicable City of Miami regulations for surrounding properties. Buildings and their landscapes shall be built to the sidewalk edge in a manner that frames the adjacent street to create public space in the street corridor that is comfortable and interesting, as well as safe for pedestrians. Architectural elements at street level shall have abundant fenestration, windows and doors and design elements that create interest for the pedestrian.

(8) Proposed development in the Subzone shall provide connections via bridges, paths, sidewalks, or a combination of such features to adjacent or nearby Metrorail and Metromover systems.

(G) Review and approval process: Notwithstanding any other provisions in this chapter, the review procedure for development within the Government Center Subzone shall be as follows:

(1) Initial Review.

(a) Pre-application Conference. The applicant shall participate in at least one pre-application conference coordinated by the Department with the participation of the members of the Developmental Impact Committee as provided in section 33-303.1(A)(1) to (9) (the “DIC Lower Council”).

(b) Following the pre-application conference, the uses enumerated in section 33C-2(D)(1), and civic uses permitted under subsection 33C-11(C)(2) that are governmental facilities as defined in section 33-303(b)(1), may be approved in accordance with the procedures for approval of governmental facilities set forth in section 33-303.

(c) Application for public hearing. Following the pre-application conference, a request to approve development of the uses enumerated in subsection 33C-11(C)(2) within the Government Center Subzone, except civic uses to the extent provided above, shall be made by filing an application with the Department in accordance with the provisions of section 33-304. Said application shall be considered a special exception for a general development plan to be considered and acted upon directly by the Board of County Commissioners pursuant to the development regulations established in this section. Applications shall be subject to the procedures set forth in chapter 33, article XXXVI.

(b) Required exhibits. The following exhibits shall be submitted with the application:

(i) Written exhibits: a narrative describing the properties to be included within the site plan, vision statement, consistency with the intent and purpose of these regulations, statement of conformance with the these regulations, overall size and location, relevance to the region, connection to the surrounding urban context and rapid transit system, economic impact on the local economy, and any additional information necessary to explain the development.

(ii) Graphic exhibits: a plan depicting the properties to be included in the subzone, the roadway network surrounding the properties, the pedestrian connections to the Government Center Metrorail Station, size and folio of each property, and any additional information specified at the pre-application conference to evaluate the character and impact of the proposed development.

(2) Final Review - Administrative Site Plan Review. Following initial review in accordance with the provisions above, final review for all or a portion of the development within this Subzone shall be considered administratively by the Department through an application for administrative site plan review (“ASPR”) in accordance with the following procedure:

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(a) The Department shall review plans, including the exhibits listed below, for completeness and compliance with the applicable provisions of this chapter and for compliance with the site plan review criteria provided herein.

(b) Additionally, all applications shall be reviewed by the County departments that comprise the Lower Council DIC and other relevant County entities for potential impacts on infrastructure and other services resulting from the application. If the application indicates impacts on services and infrastructure provided by any of the foregoing, the applicant shall meet with the affected department or entity to discuss potential mitigation of the impacts and shall submit evidence to the Department of such discussion.

(c) The Director shall issue a final decision within 21 days of the date of submission of the completed application. The applicant shall have the right to extend the 21-day period by an additional 21 days upon request made in writing to the Department. The Department shall have the right to extend the 21-day period by written notice to the applicant that additional information is needed. Denials shall be in writing and shall specifically set forth the grounds for the denial.

(d) Any final decision of the Director may be appealed in accordance with section 33-314 pertaining to appeals of administrative decisions.

(e) Required Exhibits. The following exhibits must be included with an application. Exhibits shall be prepared by registered architects and landscape architects and shall include the information set forth below. It is provided, however, that the Director may waive any of the items required because of the nature or timing of the development or because the information cannot reasonably be furnished at the time of review.

(i) Dimensioned site plans indicating, as a minimum, the following information:

(a) Lot lines and setbacks;

(b) Location, shape, size and height of existing and proposed buildings, structures, open spaces/recreational facilities and other physical features that are proposed;

(c) Floor Area Ratio;

(d) Total square footage for each use by type, as applicable (i.e. residential uses, office uses), and total number of residential units;

(e) Existing and proposed fences, walls, architectural accents, or street furniture, if applicable, and building exterior finish material;

(f) Landscape plans, including total number of trees required and provided, specifications of species of plant material, location, and size in accordance with this section and chapter 18A;

(g) Vehicular and pedestrian circulation systems including connections to existing or proposed roadway and sidewalk system;

(h) Location of on-street and off-street parking, including total number of parking spaces required and provided;

(i) Location of loading facilities;

(j) Location of space for storage and collection of solid waste and recyclable material;

(k) Proposed grades if significantly altered;

(l) Location of backflow prevention devices and connections;

(m) Indication of any site design methods used to conserve energy;

(n) Existing and proposed signs, and locations of advertising or graphic features, if applicable;

(o) Sketches of design elements to be used for buffering surrounding uses, if applicable;

and

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(p) Development phase lines.

(ii) Floor plans and elevations of all structures and other major design elements, providing isometrics or perspectives And, for residential uses, floor plans and elevations for typical units.

(H) Platting. Separate parcels located within the Subzone and made subject to a unity of title or covenant in lieu of unity of title in accordance with section 33-257 shall not be deemed a subdivision and shall be exempt from the platting requirements of chapter 28.

(I) Conflicts. The development review procedures, standards, and criteria set forth in this section shall govern in the event of conflicts with other zoning, subdivision, or landscape regulations of this code or with the Miami-Dade County Public Works Manual.<<

Section 33C-9 (Current language)	Section 33C-9 (Proposed amendment)
(5) Building Height: The maximum building height shall be limited by FAA criteria.	(5) Building Height: The maximum building height shall be [[limited by FAA criteria]] >>the maximum allowed by MDAD in accordance with the zoning regulations for Miami International Airport provided in chapter 33<<.

Section 33-314 (Current language)	Section 33-314 (Proposed amendment)
<p>(C) The County Commission shall have jurisdiction to directly hear other applications as follows:</p> <p>* * *</p> <p>>>(20) Applications for special exception for a general site development plan within the Government Center Subzone of the Rapid Transit Zone, pursuant to section 33C-11.<<</p> <p>* * *</p>	<p>(C) The County Commission shall have jurisdiction to directly hear other applications as follows:</p> <p>* * *</p> <p>>>(20) Applications for special exception for a general site development plan within the Government Center Subzone of the Rapid Transit Zone, pursuant to section 33C-11.<<</p> <p>* * *</p>

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Item No. 8A1

File No. 181788 (Originally 181335)

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING THE 2018 AIRLINE USE AGREEMENT AND THE PREFERENTIAL GATE USE AGREEMENT WITH AIRLINES OPERATING AT MIAMI INTERNATIONAL AIRPORT; WAIVING THE PROVISIONS OF RESOLUTION NO. R-130-06 AS TO BOTH AGREEMENTS; CONFIRMING THE EFFECTIVE DATE OF THE 2018 AIRLINE USE AGREEMENT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENTS AS APPLICABLE TO ANY INDIVIDUAL AIRLINE DURING THE 15-YEAR PERIOD OF THE AGREEMENTS, AND TO MODIFY THE TERMS OF EITHER AGREEMENT TO THE LIMITED EXTENT PROVIDED HEREIN WHEN DETERMINED TO BE NECESSARY AND REASONABLE FOR A PARTICULAR AIRLINE OR FOR ALL SIMILARLY SITUATED AIRLINES; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO ENFORCE AND COMPLY WITH THE TERMS THEREOF INCLUDING THE RIGHT TO EXERCISE THE TERMINATION PROVISIONS; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO CONDUCT AN ASSESMENT ON THE UTILIZATION OF PREFERENTIAL GATES EVERY FIVE (5) YEARS AND SUBMIT A REPORT ON THE FINDINGS TO THE BOARD OF COUNTY COMMISSIONERS

ISSUE/REQUESTED ACTION

Whether the Board should 1) approve the 2018 Airline Use Agreement (AUA) and the Preferential Gate Use Agreement (PGUA) with airlines operating at Miami International Airport (MIA); 2) waive the provisions of Resolution No. R-130-06 as to both agreements; 3) confirm the effective date of the 2018 Airline Use Agreement 4) authorize the County Mayor or his designee to execute the agreements as applicable to any individual airline during the 15-year period of the agreements, and to, a limited extent, modify the terms of either agreement 5) authorize the County Mayor or his designee to enforce and comply with the terms thereof including the right to exercise the termination provisions.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-130-06, adopted January 24, 2006, clarifies that proposed agenda items seeking approval of a contract or conveyance and authority to execute same shall not be placed on any committee or commission agenda unless the underlying contract or conveyance is completely negotiated, in final form, and executed by all non-County parties. The proposed resolution seeks waiver of this provision.

<http://intra/gia/matter.asp?matter=060239&file=false&yearFolder=Y2006>

Resolution No. R-331-01, adopted by the Board on April 10, 2001, approves the airline use agreement and terminal building lease agreement for aeronautical users of the airport. Moreover, it authorizes the County Manager or Designee to finalize the ticket counter policy, modify the terms of both and related agreements when necessary for a particular or all airlines, and the ability to execute or terminate such agreements.

<http://intra/gia/matter.asp?matter=010597&file=false&yearFolder=Y2001>

Resolution No. R-198-12, adopted by the Board on March 6, 2012, approves restated airline use agreement, confirms continuing validity of the previous airline use agreement until airlines sign the restated AUA, authorizes County Mayor or County Mayor's Designee to extend terms of the restated AUA to signatory airlines even if all airlines have not executed the restated AUA, and approves the modified restated AUA particularly for American Airlines.

<http://intra/gia/matter.asp?matter=120147&file=true&yearFolder=Y2012>

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Resolution No. R-340-17, adopted by the Board on April 4, 2017, authorizes the Aviation Department to issue interim airline use agreements to airlines using the Miami International Airport until the Board approves an airline use agreement to replace the AUA that expired April 30, 2017.

<http://intra/gia/matter.asp?matter=170783&file=true&yearFolder=Y2017>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Rebeca Sosa, District 6

Department/Requester: Aviation Department

The proposed resolution was amended and forwarded to the BCC with a favorable recommendation as amended by the Economic Development and Tourism Committee at its June 14, 2018 meeting. Prior to passage, the following discussion transpired:

- Commissioner Sosa asked the following questions:
 - Who is going to have the control of the preferential gates?
 - Subcontract that MDAD does not manage
 - How is MDAD going to manage the logos of the airlines at preferential gates?
- The director of MDAD, Lester Sola, provided the following response:
 - This item is an agreement between MIA and the airlines.
 - The ultimate control of all of the gates still remains with MDAD. As a result of the industry continuing to evolve, those airlines that have made a sizable investment should receive an economy of scale by continuing to invest and commit to MIA. The airlines realize a savings as the cost to enplane passengers is lower, while MIA receives the benefit of having more passengers travel out of MIA.
 - This agreement also isolates the cost for processing an international passenger versus the cost of processing a domestic passenger, breaking up the costs more fairly so that domestic carriers do not absorb additional international costs.
 - Airlines are able to brand preferential gates, but the ultimate control of the branding remains with MIA.
 - The Miami Airline Affairs Committee (MAAC) negotiating on behalf of all the airlines at MIA found this agreement to be fair, particularly considering the similar agreements that exist in airports
- Commissioner Moss asked the following questions:
 - Are we seeing a shift in philosophy as it relates to gate usage?
 - How is MAAC having veto power over capital improvements different from the current situation?
- Director Lester Sola provided the following response:
 - With preferential gates, the more passengers an airline brings through the gate, the cost per passenger will go down. Small airlines with less flights have the incentive of bringing more flights to MIA to be able to utilize preferential gates and thus realize additional savings.
 - This agreement does not translate into leaseholds of these gates where an airline has use of the gates despite its financial difficulties. MIA remains in control of the preferential gates.
 - Any capital project valued less than \$15 million is at the sole discretion of MIA. Any project valued greater than \$15 million is now subject to the additional oversight and veto power of the MAAC. However, MIA receives the final say in the operating budget.
 - The Assistant County Attorney clarified that the difference between the current AUA and the proposed AUA in this regard is the threshold amount at which the MAAC's veto power would be triggered. Also, under the new AUA, the presumption is that the project is approved unless the MAAC exercises its veto authority within 45 days to disapprove of the project.

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- Commissioner Heyman raised a concern regarding the length of time (15 years) before the agreement will be revisited. The Commissioner offered the following amendment:
 - On Handwritten page 11, Section C, 6A, of the Preferential Gate Use Agreement and on Handwritten page 93, of the Airline Lease Agreement, Tap D2, in Section 4E1 as the last paragraph:
At the end of each five-year period of their use, the County shall conduct an assessment to determine if the preferential gates, or any gate on “Exhibit A” to the Preferential Gate Use Agreement, are being utilized in the best interest of the efficiency and operating capability of the airport. Within 60 days of the completion of the assessment, a report of the findings will be placed on the appropriate agenda of the Board of County Commissioners (BCC). The resolution will also be amended to reflect that such report will be submitted to the BCC every five years in compliance with the Rules in effect of the Board at that time.
- Director Lester Sola proposed bringing the amendment before the MAAC prior to amending the Resolution.
- Commissioner Sosa accepted the amendment and the proposed resolution was forwarded to the BCC as amended.

FISCAL IMPACT

There is no fiscal impact on the County's airport revenues arising from this agreement since the 2018 AUA continues MIA's rates and charges policies that ensure collection of sufficient annual revenues from airlines and users of the airport to meet all airport system expenses and provide for 120 percent coverage of principal and interest amounts due on aviation revenue bonds in compliance with the Amended and Restated Trust Agreement applicable to airport bonds.

The fiscal impact on the airlines will vary. Domestic airlines will no longer be supporting international facilities and services. Airlines providing more service at MIA will benefit from the economies of scale linked to their increased use of preferential gates.

ANALYSIS

The primary action requested by the proposed resolution is approval of the 2018 AUA, the primary contractual document between the County and the airlines using MIA, establishing the fees and charges that the airlines must pay for their use of the airport and outlining benefits for the airlines. The most recent AUA was an interim agreement approved by the Board on April 4, 2017 to provide a stop-gap solution between the expiration of the 15-year AUA (as amended) and the approval of the AUA currently before consideration.

Among the benefits provided to the airlines under the AUA is the right to disapprove capital improvement projects and to participate in a credit program that allows the airlines to aggregate their fees over a monthly period and pay them the following month. If an airline does not execute the approved AUA, it will lose its rights and benefits under the AUA.

The primary issues negotiated between Miami-Dade Aviation Department (MDAD) and the Miami Airline Affairs Committee (MAAC) were the reallocation of terminal building properties and the addition of preferential gates.

Currently, MIA's enplanements are evenly split between international operations and domestic operations. The airlines, represented by MAAC, chose to have the space related to international facilities charged under an international facilities fee rather than the general blended concourse use fee so that all international related costs would be kept under one fee, in effect making the cost sharing of the international facilities fee more evenly distributed between international and domestic airlines.

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Preferential gates, a proposal of the MAAC, are an alternative to the common-use gates. Outlined below are the differences between the gates as well as their usage.

Common-Use Gates

- Historical assignment of gates at MIA
- An airline pays for the gate only if and when it uses it (per-use charge).
- If all gates eligible for Preferential Gate usage are utilized as such, there would be 63 of 140 gates available to all airlines on a common-use basis.

Preferential Gates

- New MAAC proposal for use of gates because of the airlines' desire for gate utilization efficiency and economies of scale that can be yielded from the continuous use of a preferential gate in its operations.
- An airline is contractually committed to pay a fixed amount over the life of the PGUA irrespective of how frequently it uses the gate (fixed charge). Considering the applied methodology, the charges for the gate on a fixed basis should be less than the charges that would be paid on a per-flight basis if the airline uses the gate efficiently.
- 77 of MIA's 140 are eligible for Preferential Gate usage

Preferential use of gates is found at many commercial airports in the U.S. At Fort Lauderdale-Hollywood International Airport, 47 gates are preferential-use and 11 are common use. The preferential use of gates does not mean exclusive use of the gates by an airline, but rather grants an airline a preferential right to use the assigned gate and that MDAD absent certain circumstances, will not assign another airline to that gate.

Upon approval, the 2018 AUA will take effect for a 15-year term, and be presented for signature by the airlines operating at MIA. There are currently 106 airlines operating at MIA. Given that the AUA is undergoing Board approval prior to obtaining signature from the airlines, waiver of R-130-06 is necessary and is being requested in the proposed resolution.

The proposed resolution includes a request to allow modification of the AUA and PGUA be it deemed necessary to accommodate changes in federal law, regulation, or policy, and to accommodate special operating and legal requirements of the airlines often imposed on some foreign airlines by their countries.

ADDITIONAL INFORMATION

Other features of the 2018 AUA, as stated in the Mayoral Memorandum, include the following:

- Capital projects approval will involve an initial review of a proposed project by a Development Steering Committee consisting of MDAD, airline representative(s), and the Consulting Engineers under the Trust Agreement. Airlines

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have the right to review major capital projects and delay them for up to a year through a disapproval process as described in the 2018 AUA.

- The MAAC will consist of at least 11 members. The MAAC will make its best effort to include in its membership at least one European passenger airline, one Caribbean/Central American passenger airline, one South American passenger airline, one cargo airline, and one regional passenger airline.
- Under prior AUAs, a new airline could pay up to 105 percent of the rates and charges during the period of time the airline is processing the AUA for signature, and no limit was placed on how long the 105 percent payment could continue. Under the 2018 AUA, an airline will have 90 days to sign the 2018 AUA and comply with the credit requirements, during which time the airline shall pay no more than 100 percent of the charges. If the airline fails to sign and comply within the 90-day period, then the airline must commence paying 110 percent of the rates and charges during the next 90-day period retroactive to the first day of the airline's operations. If the airline fails to sign and comply within the second 90-day period, then the airline must pay 150 percent of the rates and charges until it signs the 2018 AUA and complies with the credit requirements, retroactive to the first day of the airline's operations with credit for the 10 percent already paid.
- Airline payments, previously due on the tenth business day of the month, will be due on the fifteenth calendar day of the month under the 2018 AUA.
- If an airline consortium obtains Board or MDAD approval to perform aeronautical services that the participating airlines could legally perform for themselves, or obtains Board approval to provide services that conflict with services already approved by the Board of MDAD, then each signatory airline must pay the consortium for the price of the services.

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**Item No. 8A2
File No. 181343**

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING FIFTH AMENDMENT TO THE LEASE, CONSTRUCTION AND FINANCING AGREEMENT WITH AMERICAN AIRLINES TO CONFIRM ITS RIGHT TO USE PREFERENTIAL GATES ON THE NORTH TERMINAL AT MIAMI INTERNATIONAL AIRPORT

ISSUE/REQUESTED ACTION

Whether the Board should approve the Fifth Amendment to the Lease, Construction and Financing Agreement with American Airlines to confirm its right to use preferential gates on the North Terminal at Miami International Airport (MIA).

APPLICABLE LEGISLATION/POLICY

Resolution No. R-30-02, adopted by the Board on January 29, 2002, approves the second amendment to the lease, construction and financing agreement between Miami-Dade County and American Airlines Inc. to eliminate the 250 flights-per-day provision and authorizes County Manager to execute such amendment.

<http://intra/gia/matter.asp?matter=020026&file=false&yearFolder=Y2002>

Resolution R-872-99, adopted by the Board on July 27, 1999, amends the Lease, Construction and Financing Agreement between Miami-Dade County and American Airlines, Inc., and approves an addition to the improvement costs as well as authorizes the County Manager or their designee to approve additional improvements under the agreement and expenditure of additional funds.

<http://intra/gia/matter.asp?matter=991972&file=false&yearFolder=Y1999>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Rebeca Sosa, District 6

Department/Requester: Aviation Department

The proposed resolution was amended and forwarded to the BCC with a favorable recommendation by the Economic Development and Tourism Committee at its June 14, 2018 meeting. Prior to passage, the following discussion transpired:

- Commissioner Sosa asked the following questions:
 - Who is going to have the control of the preferential gates?
 - Subcontract that MDAD does not manage
 - How is MDAD going to manage the logos of the airlines at preferential gates?
- The director of MDAD, Lester Sola, provided the following response:
 - This item is an agreement between MIA and the airlines.
 - The ultimate control of all of the gates still remains with MDAD. As a result of the industry continuing to evolve, those airlines that have made a sizable investment should receive an economy of scale by continuing to invest and commit to MIA. The airlines realize a savings as the cost to enplane passengers is lower, while MIA receives the benefit of having more passengers travel out of MIA.
 - This agreement also isolates the cost for processing an international passenger versus the cost of processing a domestic passenger, breaking up the costs more fairly so that domestic carriers do not absorb additional international costs.

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- Airlines are able to brand preferential gates, but the ultimate control of the branding remains with MIA.
- The Miami Airline Affairs Committee (MAAC) negotiating on behalf of all the airlines at MIA found this agreement to be fair, particularly considering the similar agreements that exist in airports
- Commissioner Moss asked the following questions:
 - Are we seeing a shift in philosophy as it relates to gate usage?
 - How is MAAC having veto power over capital improvements different from the current situation?
- Director Lester Sola provided the following response:
 - With preferential gates, the more passengers an airline brings through the gate, the cost per passenger will go down. Small airlines with less flights have the incentive of bringing more flights to MIA to be able to utilize preferential gates and thus realize additional savings.
 - This agreement does not translate into leaseholds of these gates where an airline has use of the gates despite its financial difficulties. MIA remains in control of the preferential gates.
 - Any capital project valued less than \$15 million is at the sole discretion of MIA. Any project valued greater than \$15 million is now subject to the additional oversight and veto power of the MAAC. However, MIA receives the final say in the operating budget.
 - The Assistant County Attorney clarified that the difference between the current AUA and the proposed AUA in this regard is the threshold amount at which the MAAC's veto power would be triggered. Also, under the new AUA, the presumption is that the project is approved unless the MAAC exercises its veto authority within 45 days to disapprove of the project.
- Commissioner Heyman raised a concern regarding the length of time (15 years) before the agreement will be revisited. The Commissioner offered the following amendment to companion item 181788 (originally 181335):
 - On Handwritten page 11, Section C, 6A, of the Preferential Gate Use Agreement and on Handwritten page 93, of the Airline Lease Agreement, Tap D2, in Section 4E1 as the last paragraph:
At the end of each five-year period of their use, the County shall conduct an assessment to determine if the preferential gates, or any gate on "Exhibit A" to the Preferential Gate Use Agreement, are being utilized in the best interest of the efficiency and operating capability of the airport. Within 60 days of the completion of the assessment, a report of the findings will be placed on the appropriate agenda of the Board of County Commissioners (BCC). The resolution will also be amended to reflect that such report will be submitted to the BCC every five years in compliance with the Rules in effect of the Board at that time.
- Director Lester Sola proposed bringing the amendment before the MAAC prior to amending the Resolution.
- Commissioner Sosa accepted the amendment for companion item 181788 (originally 181335), and the proposed resolution was forwarded to the BCC as amended.

FISCAL IMPACT

There is no fiscal impact on the County's airport revenues arising from this resolution.

ANALYSIS

If the Board approves the proposed resolution, 61 of the 77 gates eligible for preferential use—subject to approval of the Airline Use Agreement (see companion item under File No. 181335)—will potentially be allocated to American Airlines based on its passenger volume.

In the proposed 2018 Airline Use Agreement, preferential gates are a proposed alternative to the common-use gates. Outlined below are the differences between the gates as well as their usage.

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Common-Use Gates

- Historical assignment of gates at MIA
- An airline pays for the gate only if and when it uses it (per-use charge).
- If all gates eligible for Preferential Gate usage are utilized as such, there would be 63 of 140 gates available to all airlines on a common-use basis.

Preferential Gates

- New Miami Airline Affairs Committee (MAAC) proposal for use of gates because of the airlines' desire for gate utilization efficiency and economies of scale that can be yielded from the continuous use of a preferential gate in its operations.
- An airline is contractually committed to pay a fixed amount over the life of the PGUA irrespective of how frequently it uses the gate (fixed charge). Considering the applied methodology, the charges for the gate on a fixed basis should be less than the charges that would be paid on a per-flight basis if the airline uses the gate efficiently.
- 77 of MIA's 140 are eligible for Preferential Gate usage

Preferential use of gates is found at most commercial airports in the U.S. At Fort Lauderdale-Hollywood International Airport, 47 gates are preferential-use and 11 are common use. The preferential use of gates does not mean exclusive use of the gates by an airline, but rather grants an airline a preferential right to use the assigned gate and that MDAD, absent certain circumstances, will not assign another airline to that gate. MDAD reserves the right to assign any of the preferential gates to other airlines during any period of time that American is not making use of them.

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**Item No. 8A3
File No. 181313**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING THE FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH BURNS & MCDONNELL ENGINEERING COMPANY, INC. FOR THE SOUTH & CENTRAL CBIS/CBRA/BHS PROGRAM FOR THE MIAMI-DADE AVIATION DEPARTMENT INCREASING THE AGREEMENT AMOUNT BY \$3,809,500.00 AND EXTENDING TERM ONE YEAR; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE AMENDMENT AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the First Amendment to the Professional Services Agreement with Burns & McDonnell Engineering Company, Inc. for the South and Central Checked Baggage Inspection System (CBIS)/Checked Baggage Reconciliation Areas (CBRA)/Baggage Handling System (BHS) Program for the Miami-Dade County Aviation Department, increasing the Agreement amount by \$3,809,500.00 and extending the term one year.

APPLICABLE LEGISLATION/POLICY

Florida Statutes Section 287.055 sets forth the Consultants' Competitive Negotiation Act, governing the processes for the acquisition of professional architectural, engineering, landscape architectural or surveying and mapping services.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0287/0287.html

County Code Section 2-10.4 governs the County's acquisition of professional architectural, engineering, landscape architectural or land surveying and mapping services.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4ACPRARENLAARLASUMASE

County Code Section 2-10.4.01 sets forth the County's Small Business Enterprise Architecture and Engineering Program.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4.01SMBUENARENPR

County Code Section 2-8.1 requires that the award recommendation memorandum presented to the Board identify each dedicated allowance, contingency allowance and additional services allowance including the specific purpose for each and the dollar amount that shall be available for each and the corresponding percentage of each dedicated allowance, contingency allowance and additional services allowance in relation to the actual contract price.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Administrative Order No. 3-39 establishes the County's policies and procedures for user departments for the construction of capital improvements, acquisition of professional services, construction contracting, change orders and reporting.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-39.pdf>

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Implementing Order No. 3-32 sets forth the County's procedures for the Community Business Enterprise Program for the purchase of professional architectural, landscape architectural, engineering or surveying and mapping services.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-32.pdf>

Resolution No. R-378-15, adopted by the Board on May 5, 2015, approved the award of a Professional Services Agreement to Burns & McDonnell Engineering Company, Inc., for the South and Central Checked Baggage Inspection System (CBIS)/Checked Baggage Reconciliation Areas (CBRA)/Baggage Handling System (BHS) Program at Miami International Airport, Project No. A14-MDAD-01 in an amount not to exceed \$16,102,752.00 for a term of five years.

<http://intra/gia/matter.asp?matter=150707&file=true&yearFolder=Y2015>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Aviation Department

The proposed resolution was considered at the June 14, 2018, Economic Development and Tourism Committee meeting; and was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

The proposed resolution seeks to increase the total authorized amount of the Professional Services agreement by \$3,809,500.00 from \$16,102,752.00. Thus, the total authorized amount will be \$19,912,252.

ANALYSIS

The proposed resolution seeks the Board's approval of the First Amendment to the Professional Services Agreement with Burns & McDonnell Engineering Company, Inc. for the South and Central Checked Baggage Inspection System (CBIS)/Checked Baggage Reconciliation Areas (CBRA)/Baggage Handling System (BHS) Program for the Miami-Dade County Aviation Department. It would extend the term of the agreement by one year to May 5, 2021, and increase the agreement amount by \$3,809,500.00.

The consultant provides Architectural/Engineering (A/E) design services including construction administration to facilitate the construction of the CBIS/CBRA four-story, 60,000-square-foot facility that will be integrated into the existing Central Terminal structure at Miami International Airport (MIA).

The pre-construction phase of this project required the Construction Manager at Risk (CMAR) to submit to MDAD a Guaranteed Maximum Price proposal for the cost of the construction. Upon completion of the pre-construction phase, the Final Guaranteed Maximum Price proposal from the CMAR exceeded the approved construction budget of \$177 million. In accordance with the CMAR contract, MDAD coordinated with its partner airlines and the CMAR to identify work that could be deferred to meet the initially approved construction budget and TSA grant requirements.

The First Amendment provides the funding and extends the term of the agreement for the Consultant and its sub-consultants to continue providing services for the design, construction administration and close-out of the project of the deferred work. The anticipated services may include, but are not limited to: south terminal generator, structural revisions for future CBRA expansion, third floor build-out, relocation of fire main, permit drawings for horizontal chase at BHS Control Room, permit drawings for IT room door change, new entrance to the BHS Control Room, revisions to documents for deleted BHS scope, additional cameras, cyber lock central control station, full-time on-

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site support for BHS inspections, extended work-related services and assistance with review and cost analysis of BHS related changes.

ADDITIONAL INFORMATION

Miami International Airport (MIA), located on 3,230 acres of land near downtown Miami, is operated by the Miami-Dade Aviation Department and is the property of Miami-Dade County government. Founded in 1928, MIA now offers more flights to Latin America and the Caribbean than any other U.S. airport, is America's second-busiest airport for international passengers, boasts a line-up of over 100 air carriers and is the top U.S. airport for international freight. MIA is also a leading economic engine for Miami-Dade County and the State of Florida, generating business revenue of \$33.7 billion annually and welcoming 70 percent of all international visitors to Florida.

http://www.miami-airport.com/about_us.asp

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Burns & McDonnell Engineering Company, Inc., has an active status as a Foreign Profit Corporation and first filed and registered on 12/16/1970. The principal address is registered as 9400 Ward Parkway, Kansas City, MO 64114. Its registered agent is Incorp Services, Inc., 17888 67th Court North, Loxahatchee, FL 33470.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

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**Item No. 8A4 & Supplements
File No. 181312, 181432 & 181476**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING CHANGE ORDER NO. 1 TO THE CONSTRUCTION MANAGER AT RISK FOR BAGGAGE HANDLING SYSTEM (BHS) IMPROVEMENTS AT MIAMI INTERNATIONAL AIRPORT (MIA) BETWEEN MIAMI-DADE COUNTY AND PARSONS ODEBRECHT JOINT VENTURE, IN THE AMOUNT OF \$46,315,500.00, AND EXTENDING THE PROJECT'S SUBSTANTIAL COMPLETION BY 178 CALENDAR DAYS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CHANGE ORDER AND TO ENFORCE ALL TERMS THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should authorize Change Order No. 1 to the construction contract with Parsons/Odebrecht Joint Venture (POJV) for Baggage Handling System (BHS) improvements at Miami International Airport (MIA) to increase the contract amount by \$46,315,500 and to extend the project's substantial completion date by 178 calendar days.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

[https://library.municode.com/fl/miami -
_dade county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

Administrative Order No. 3-39 sets forth the County's standard process for construction of capital improvements, acquisition of professional services, construction contracting, change orders and reporting.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-39.pdf>

Administrative Order No. 3-28 sets forth the County's policy for classifying, tracking, monitoring, and reporting all change orders under County construction projects.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-28.pdf>

Implementing Order No. 3-57 establishes a policy for the use of standard construction general conditions by all County departments.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-57.pdf>

Section 2-1701 of the County Code sets forth the Community Workforce Program, which requires review of Capital Construction Contracts/Work Orders for public improvements located in Designated Target Areas to determine the appropriateness of applying a local workforce goal requiring that a minimum of 10 percent of the persons performing the construction trades and labor work under the contract be residents of Designated Target Areas.

[https://library.municode.com/fl/miami -
_dade county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTCXIICOWOPR_S2-1701COWOPR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTCXIICOWOPR_S2-1701COWOPR)

Resolution No. R-704-16, adopted by the Board on July 19, 2016, awarded the Construction Manager at Risk (CMAR) contract for Baggage Handling System (BHS) improvements at Miami International Airport (MIA) to

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Parsons-Odebrecht Joint Venture (POJV) in the amount of \$7,497,824.42 for the pre-construction phase services and a not-to-exceed construction phase services budget of \$177 million.

<http://intra/gia/legistarfiles/MinMatters/Y2016/161557min.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Aviation

This item was considered at the June 14, 2018 meeting of the Economic Development and Tourism Committee and forwarded to the Board with a favorable recommendation. The vote was 3-1, with Commissioner Sosa voting against the item. At the committee meeting, Commissioner Moss commented that he hopes that the change order improves services relating to the issue of delayed receipt of luggage at the airport which is an ongoing frustration for the traveling public.

FISCAL IMPACT

The fiscal impact of this item is \$46,315,500, which represents the total value of the recommended modifications. The table below shows the cost breakdown of the recommended modifications per contract category. Note that the change order also extends the project's substantial completion date by 178 calendar days through September 6, 2020.

Recommended Modification	Estimated Increase to Contract
New Dedicated Allowance Account to reincorporate the deferred work	\$37,400,000
New Dedicated Allowance Account for 52 Mobile Inspection Table stations	\$4,600,000
Increase the Construction Phase Owner's Allowance Account for unforeseeable changes to the work	\$4,200,000
Increase the Inspector General Audit Account	\$115,500
Total:	\$46,315,500

The contract had an original Pre-Construction Phase (Including IG) amount of \$7,497,824.42 and a Construction Phase (Including IG) amount of \$176,986,870 for a Guaranteed Maximum Price (GMP) amount of \$184,484,694.42. If Change Order No. 1 is approved, the adjusted contract amount will be \$230,800,194.42. The change order represents a 25.11 percent increase to the contract.

ANALYSIS

This item is requesting Board approval to authorize Change Order No. 1 in the amount of \$46,315,500 for the County's construction contract with POJV for BHS improvements at MIA. The total adjusted contract amount will be \$230,800,194.42. The change order also extends the project's substantial completion date by 178 calendar days, from March 12, 2020 to September 6, 2020.

Pursuant to Resolution No. R-704-16, adopted by the Board on July 19, 2016, POJV was awarded the CMAR contract for BHS improvements at MIA in the amount of \$7,497,824.42 for the pre-construction phase services and a not-to-exceed construction phase services budget of \$177 million. The project consists of the replacement of the in-line security screening portion of the South Terminal BHS and the installation of an automated sortation system for the Central Terminal.

Upon completion of the preconstruction phase, the GMP proposal exceeded the approved construction budget. There were multiple reasons why the original estimate was exceeded, such as market conditions (increase in construction activity at MIA), additional scope requested by the airlines (larger control room and control system), and new revised

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standards by the TSA. Accordingly, MDAD instructed the CMAR and A/E to identify work to be deferred to meet the approved construction budget.

MDAD in consultation with the airlines and TSA concluded that certain portions of the original scope could be deferred because expected changes in the location of the airlines and growth projections would shift the demand on the system. However, MDAD needed more time to evaluate these alternatives. TSA agreed with MDAD but required MDAD to begin construction of the new facilities as soon as possible in order to meet grant deadlines. A plan was developed in consultation with the TSA and the airlines that would defer portions of the system in the central terminal and south terminal. TSA agreed but required that the deferral be temporary, i.e., until the evaluation could be conducted.

At this time, in consultation with the TSA and the airlines, MDAD has concluded that the Deferred Work needs to be reincorporated into the contract. Thus, the change order includes reincorporating the deferred work, building 52 Mobile Inspection Table stations in the Checked Baggage Resolution Area (CBRA) rooms, and extending the substantial completion date of the project.

The item includes two supplements in which the Miami Airport Affairs Committee (MAAC) expresses support for the change order while pointing out cost risk exposure and schedule delays that would occur if the deferred scope of work were repackaged into new bids.

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**Item No. 8F1
File No. 180336**

Researcher: MF Reviewer: TD

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-00566 IN A TOTAL AMOUNT UP TO \$225,000,000.00 FOR THE PURCHASE OF INJECTION WELL DRILLING SERVICES FOR THE WATER AND SEWER DEPARTMENT FOR AN INITIAL TERM OF FIVE YEARS AND ONE, FIVE-YEAR OPTION TO RENEW TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

ISSUE/REQUESTED ACTION

Whether the Board should approve the establishment of a pre-qualification pool, RTQ-00566, Injection Wells in a total amount of up to \$225,000,000 for the purchase of injection well drilling services, for the Water and Sewer Department, for an initial term of five years and one, five-year option to renew term.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the Miami-Dade County Code requires formal sealed bids for purchases over \$250,000; describes the circumstances under which competitive bidding may be waived; establishes requirements for legacy purchases, designated purchases, and provides that procurement procedures shall be established via an Implementing Order.

[https://library.municode.com/fl/miami -
_dade county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

Implementing Order No. 3-38 governs the County's processes for the purchase of goods and services including professional services. It establishes the roles and responsibilities of the Internal Services Department, methods of purchasing goods and services, and the authority to award contracts. It contains requirements for access contracts, emergency purchases, bid waivers, confirmation purchases, and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

Florida Statutes, Section 403.086 relates to sewage disposal facilities as well as advanced and secondary waste treatment.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0403/Sections/0403.086.html

Rule 62-528.435(9) of the Florida Administrative Code provides that upon determination by the Florida Department of Environmental Protection (FDEP) that a well poses a threat to waters of the State or within one year of determining that a well has been abandoned, the department shall order the well plugged, unless otherwise provided for in a consent order... Any applicant for an underground injection control permit shall be required to submit a plan for plugging and abandonment, which shall address post-closure monitoring of the injection operation... The permit shall require the permittee to demonstrate and maintain financial responsibility and resources necessary in the form of performance bonds or other equivalent form of financial assurance.

<https://www.flrules.org/gateway/RuleNo.asp?ID=62-528.435>

Implementing Order 2-13 sets forth guidelines and procedures regarding legal opinions with respect to County competitive processes.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO2-13.pdf>

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Resolution R-140-15 directs the County Mayor to conduct a full review, prior to re-procurement of replacement contracts for goods or services of the scopes of services or goods requested to ensure such contracts reflect the current needs of the County.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services Department

The proposed resolution was considered at the April 17, 2018 Infrastructure and Utilities Committee meeting; and was forwarded to the BCC with a favorable recommendation.

At the May 1, 2018 BCC meeting, the Administration requested that the item be deferred to no date certain.

FISCAL IMPACT

According to the Fiscal Impact Statement, the fiscal impact to the County for the five-year term is \$112,500,000. Should the County choose to exercise, at its sole discretion, the five-year option to renew, the estimated cumulative value will be \$225,000,000. The requested allocation is based on anticipated projects during the term of the pool.

ANALYSIS

The proposed resolution seeks the Board's approval for pre-qualification Pool RTQ-00566, Injection Wells, for a five-year term with one, five-year option to renew. It would provide the Water and Sewer Department (WASD) with prequalified vendors capable of performing drilling services for the construction of deep injection wells. This is an open pool and will remain open, allowing qualified vendors to be added once they have completed the prequalification criteria.

Chapter 2008-232, Laws of Florida, created the Leah Schadt Memorial Ocean Outfall Program that prohibits the construction of new domestic wastewater ocean outfalls and expansion of existing outfalls. The law requires the discharge of domestic wastewater through ocean outfalls to meet advanced wastewater treatment and management requirements by December 31, 2018. It also requires utilities that held a DEP permit for a domestic wastewater discharge through an ocean outfall on July 1, 2008, to install or cause to be installed, a reuse system that provides a minimum of 60 percent of a facility's "baseline flow" for beneficial purposes by December 31, 2025. In addition, it prohibits the discharge of domestic wastewater through ocean outfalls after December 31, 2025, except as a backup discharge during periods of reduced reclaimed water demands, or as a result of peak flow from wastewater management systems.

WASD prepared a preliminary Ocean Outfall Legislation Compliance Plan and submitted the plan to the Florida Department of Environmental Protection (FDEP) in July 2013. The legislation requires that WASD limit use of ocean outfalls to 5 percent of the baseline flow by the end of 2025, reduce the nutrient load discharged in the outfalls to a target goal before 2025, and install a technically and economically feasible reuse system with a capacity of 117.5 million gallons per day on an annual basis of treated wastewater. WASD has published the Ocean Outfall Legislation Program Compliance Plan on its website: <http://www.miamidade.gov/water/ocean-outfall-legislation.asp>.

The construction of deep injection wells will allow the County to dispose of treated wastewater into the Boulder Zone of the lower Floridian aquifer, and will eliminate the regular use of existing ocean outfalls to discharge wastewater into the Atlantic Ocean.

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Implementation of the Ocean Outfall Legislation Program requires a unique set of skills, experience and equipment. The solicitation's Scope of Work consists of drilling 23 new Injection Wells and approximately 12 nearby Floridan aquifer dual-zone monitoring wells by 2025 at the four wastewater treatment plant sites: North District, Central District, South District, and West District. The Injection Wells will have capacities of 18.65 million gallons per day. The Scope of Work is based on the Injection Well Implementation Plan. There is inherent uncertainty in sub-surface drilling conditions and the ultimate performance of each individual well. As such, the Scope of Work is subject to some variability in the precise number, location, and size of wells at the four wastewater treatment plant sites.

Four vendors responded to the solicitation regarding the pre-qualification pool. Two vendors are recommended for inclusion into the prequalification pool while two are pending the submission of required documentation. Of the two recommended vendors, one has a local address and the other is based out of state. The prequalification pool is intended to remain open and the County will continue to advertise this open pool on its website for possible inclusion of other vendors. Below is a summary of the vendor submission information:

Vendor	Local Address	Prequalification Status
Layne Christensen Company	No	Prequalified for Pool
Youngquist Brothers, Inc.	Yes	Prequalified for Pool
All Webbs Enterprises, Inc.	No	Not Prequalified for Pool
Florida Design Drilling Corporation	No	Not Prequalified for Pool

A review of the County's SBE list of certified vendors conducted on July 19, 2018, under the commodity code 96296 – Well Services (Including Oil, Gas, and Water): Drilling, Plugging, Consulting, Maintenance, Repair, etc., resulted in four SBE vendors.

- American Testing Materials Engineering, LLC, d/b/a ATM Engineering, LLC
- Barnes, Ferland and Associates, Inc., d/b/a BFA Environmental
- Dunol Construction Management, DCM LLC, d/b/a Dunol Engineering Corp.
- Placers Construction, Inc.

Per the information on the Bid Tracking System, on June 19, 2018, of the four firms found none has submitted bid proposal for inclusion into the prequalification pool.

ADDITIONAL INFORMATION

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Layne Christensen Company, has an active status as a Foreign Profit Corporation and first filed and registered on July 9, 1981. The principal address is registered as 1800 Hughes Landing Boulevard, Suite 800, The Woodlands, TX 77380. Its registered agent is CT Corporation System, 1200 S. Pine Island Road, Plantation, FL 33324.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Youngquist Brothers, Inc., has an active status as a Florida Profit Corporation and first filed and registered on March 15, 1977. The principal address is registered as 15465 Pine Ridge Road, Fort Myers, FL 33908. Its registered agent is Friday, Richard, 15465 Pine Ridge Road, Fort Myers, FL 33908.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

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Research Notes**

Item No. 8F2

File No. 181347

Researcher: MF Reviewer: TD

RESOLUTION AUTHORIZING DESIGNATED PURCHASE PURSUANT TO SECTION 2-8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; AUTHORIZING AWARD OF CONTRACT NO. BW9951-0/23 FOR THE PURCHASE OF AIRPORT SURFACE MANAGEMENT SYSTEM IN AN AMOUNT NOT TO EXCEED \$3,535,000.00 FOR A FIVE YEAR TERM FOR THE MIAMI-DADE AVIATION DEPARTMENT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should authorize award of Contract No. BW9951-0/23 for the Designated Purchase of an Airport Surface Management System to Saab Sensis Corporation, in an amount not to exceed \$3,535,000.00 for a five-year term for the Miami-Dade Aviation Department

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 2-8.1, applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Miami-Dade County Code, Section 2-8.1(b)(3), sets forth procedures for authorizing a designated purchase; under this section, designated purchase shall mean a purchase when the procurement through the use of formal sealed bids is not practicable, including, but not limited to: (1) sole source purchases; (2) services where no competition exists such as public utility services; (3) where purchases or rates are fixed by law or ordinance; (4) unique professional or artistic services not governed by the Consultants' Competitive Negotiations Act; (5) purchases of goods and services necessary to address an emergency or where additional formal competition would not be practicable; and (6) a solicitation where only a single proposer has responded to a competitive solicitation but such response contains material defects and the County still desires to enter into a contract with such proposer.

Any recommendation by the Mayor for the award of a Designated Purchase shall at a minimum: (i) provide a written explanation of why the purchase through formal sealed bids would not be practicable under the circumstances and is in the best interest of the County, (ii) provide a written explanation of the process followed resulting in the recommendation for a Designated Purchase, and (iii) provide a written description of any informal competition conducted and any and all efforts to obtain a valuation of the recommended purchase. The Board of County Commissioners shall adopt any resolution authorizing a Designated Purchase by a two-thirds vote of the members present.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of

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purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-1011-15, adopted by the Board on November 1, 2015, directs the County Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services Department

The proposed resolution was considered at the Economic Development and Tourism Committee meeting of June 14, 2018.

Chairwoman Sosa said she hoped that in the future the Miami-Dade County Airport Department would be in a position to handle its own procurement and that moving forward all airport procurement contracts would be competitively bid.

The proposed resolution was forwarded to the BCC by the EDTC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, the fiscal impact to the County for the five-year term is \$3,535,000.

Monthly Recurring Service Fees:

Item	Service Location or Product	Monthly Service Fee
1	MDAD Aerobahn Service (20 Simultaneous User Licenses)	\$20,000/month
2	Support for MLAT Surveillance System (after transfer of title)	\$5,000/month
3	ETA Data Fee Monthly recurring commencing implementation of ETA data feed	\$1,500/month

Deliverable Based Item Pricing:

	Milestone Description	Percentage	Price
1	Site Survey Report: <i>Requires Completion of Deliverable Acceptance Form</i>	10 percent	\$190,000
2	Materials Onsite in Syracuse, NY: <i>Requires Completion of Deliverable Acceptance Form</i>	30 percent	\$570,000

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3	Completion of Factory Acceptance Test in Syracuse: <i>Requires Completion of Deliverable Acceptance Form</i>	20 percent	\$380,000
4	Equipment Installed at MIA: <i>Requires Completion of Deliverable Acceptance Form</i>	20 percent	\$380,000
5	Completion of Site Acceptance Test: <i>Requires Completion of Deliverable Acceptance Form</i>	20 percent	\$380,000
	Total for MDAD MLAT Surveillance Installation Payment Milestones		\$1,900,000
1	FIDS Interface – Milestone Payment: <i>Requires Completion of Deliverable Acceptance Form</i>		\$45,000

ANALYSIS

The proposed resolution seeks Board approval for the award of Contract No. BW9951-0/23 for the Designated Purchase of an Airport Surface Management System (ASMS) to Saab Sensis Corporation, in an amount not to exceed \$3,535,000.00 for a five-year term for the Miami-Dade Aviation Department.

Miami International Airport (MIA) is operated by the Miami-Dade Aviation Department (MDAD) and is the second busiest airport in the United States for international passengers. More than 100 air carriers utilize MIA, and it is the top U.S. airport for international freight. MIA's vision is to grow from a recognized hemispheric hub to a global airport of choice that offers customers a world-class experience and an expanded route network with direct passenger and cargo access to all world regions.

To further this vision, MDAD desires to implement an ASMS to assist with the planning and allocation of airport resources by properly maintaining and controlling airport operations. These operations include the means by which aircrafts land, how they off-load passengers and cargo, prepare for the next flight, load passengers and cargo, and take off towards a new destination.

MDAD seeks to procure the Aerobahn Surface Management system (ASDX) and expand its use to the entire airport. MDAD does not currently have a surface management system providing coverage of aircraft movement throughout the airfield and alleys. Until recently, MDAD was provided a feed from American Airlines to their ASDX data. American Airlines recently procured the Aerobahn Surface Management system and is no longer supporting the ASDX direct data feed. The airport was provided access to this system as part of a pilot project between MDAD, American Airlines and the Federal Aviation Administration (FAA). However, the airport still does not have complete coverage until it can procure the system.

Staff conducted Market Research to determine the availability of firms offering Airport Surface Management Systems or solutions that would perform the same functions and tasks described in the Scope of Work. The following firms were identified as having the ability to provide an ASMS: Saab, Airbus, Lockheed Martin, Passur Aerospace and NASA AMES Research.

Staff determined that competition for this service was not practical at this time because American Airlines and the FAA were already using the system at Miami International Airport; and it was important that MIA, FAA and all major carriers be able to communicate efficiently.

Saab's Aerobahn is a clear industry leader in this technology space as evident in it being the most widely deployed airport operations management system. It is currently in use at 26 airports world-wide, including 3 of the top 5

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busiest airports in the U.S. The Aeroban Solution is a modular system that includes the ability to integrate and present airport surveillance data and flight details graphically to give airport planners and decision-makers the edge in situational awareness.

Saab will provide implementation, training, data storage, on-going maintenance, and customer service and support of its Aerobahn Service along with an airport-wide Multi-lateration Tracking System. Implementation services will include the installation and configuration of all software, system, sub-system and ancillary equipment necessary to provide the services that meet the design, functional and operations specifications as identified by Miami-Dade Aviation Department.

A review of the County's SBE list of certified vendors conducted on July 20, 2018, under the commodity code 20560 – Software, Communications Control, resulted in one SBE vendor: Network & Communication Services, Inc.

ADDITIONAL INFORMATION

Miami International Airport (MIA), located on 3,230 acres of land near downtown Miami, is operated by the Miami-Dade Aviation Department and is the property of Miami-Dade County government. Founded in 1928, MIA now offers more flights to Latin America and the Caribbean than any other U.S. airport, is America's second-busiest airport for international passengers, boasts a line-up of over 100 air carriers and is the top U.S. airport for international freight. MIA is also a leading economic engine for Miami-Dade County and the State of Florida, generating business revenue of \$33.7 billion annually and welcoming 70 percent of all international visitors to Florida.

http://www.miami-airport.com/about_us.asp

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Saab Sensis Corporation, has an active status as a Foreign Profit Corporation and first filed and registered on June 4, 2010. The principal address is registered as 85 Collamer Crossings, East Syracuse, NY 13057. Its registered agent is Corporate Creations Network, Inc., 11380 Prosperity Farms Road, #221E, Palm Beach Gardens, FL 33410.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

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**Item No. 8F3 & Supplement
File No. 181044, 181736**

Researcher: PGE Reviewer: TD

RESOLUTION AUTHORIZING THE APPOINTMENT OF BARCLAYS CAPITAL, INC.; CITIGROUP GLOBAL MARKETS, INC.; GOLDMAN SACHS CO. LLC; J.P. MORGAN BROKER-DEALER HOLDINGS, INC., D/B/A J.P. MORGAN SECURITIES LLC; MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED; MORGAN STANLEY DOMESTIC HOLDINGS, INC D/B/A MORGAN STANLEY & COMPANY, LLC; PNC CAPITAL MARKETS, LLC; RAYMOND JAMES & ASSOCIATES, INC.; RBC CAPITAL MARKETS; STIFEL, NICOLAUS & CO., INC.; UBS FINANCIAL SERVICES, INC.; WELLS FARGO SECURITIES, LLC TO SEGMENT 1; JANNEY MONTGOMERY SCOTT LLC; LOOP CAPITAL MARKETS LLC; ROBERT W. BAIRD & CO. INCORPORATED; SAMUEL A. RAMIREZ & CO., INC.; SIEBERT CISNEROS SHANK & CO., LLC.; UMB FINANCIAL SERVICES, INC. TO SEGMENT 2; AND BLAYLOCK VAN, LLC; DREXEL HAMILTON, LLC; ESTRADA HINOJOSA & COMPANY, INC.; MISCHLER FINANCIAL GROUP, INC.; RICE SECURITIES, LLC, D/B/A RICE FINANCIAL PRODUCTS COMPANY; STERN BROTHERS & CO. TO SEGMENT 3 OF THE MUNICIPAL BOND UNDERWRITING POOL FOR NEGOTIATED TRANSACTIONS RFQ NO. 00652

ISSUE/REQUESTED ACTION

Whether the Board should approve the establishment of a municipal bond underwriting pool for the Finance Department for a five-year term with a value of \$1,000,000.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Section 2-10.6 of the County Code sets forth the County's policy relating to competitive bidding for County bond transactions.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.6COBIREALCOBOTR

Section 2-8.4 of the County Code governs any protest made by a participant in any competitive process utilized for selection of a person or other entity to construct any public improvement, to provide any supplies, materials or services or to lease any County property.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.4PRPR

Resolution No. R-716-12, adopted by the Board on September 4, 2012, requires identification of a firm's small business enterprise program certification in any procurement item submitted for Board approval.

<http://intra.gia/matter.asp?matter=121265&file=true&yearFolder=Y2012>

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Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-1011-15, adopted by the Board on November 3, 2015, directs the County Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ in memoranda to the Board pertaining to vendors being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

Resolution No. R-477-18, adopted by the Board on May 1, 2018, directs the County Mayor to disclose to the Board the reasons goods and services are not being procured through local businesses when the recommendation is to award a contract to a non-local vendor or to establish a prequalification pool where less than 75 percent of the pool members are local businesses.

<http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018>

Resolution No. R-140-15, adopted by the Board on February 3, 2015, directs the County Mayor to conduct a full review prior to the re-procurement of replacement contracts for goods or services of the scope of services or goods requested to ensure such contracts reflect the current needs of the County and to include such information in recommendations to the Board.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

Resolution No. R-746-17, adopted by the Board on July 18, 2017, approved the rejection of all bids received in response to Request for Qualifications No. 00397 for a municipal bond underwriting pool for the Finance Department.

<http://intra/gia/matter.asp?matter=171590&file=true&yearFolder=Y2017>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

Implementing Order No. 3-21 establishes the requirements and procedures governing a bid protest brought by a participant in any competitive process utilized for selection of a person or other entity to construct any public improvement, to provide any supplies, materials or services or to lease any County property. The IO covers those professional services selections funded by the Federal Transit Administration.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-21.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

The item was submitted for the June 2018 Committee Cycle but was removed due to a protest of the award recommendation that was filed by Jefferies, LLC, one of the proposers, on April 30, 2018. The protest was heard by a Hearing Examiner on June 8, 2018.

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FISCAL IMPACT

The pool will be established for a five-year term. It is anticipated that the pool value will be \$1,000,000, depending on the commissions from the assigned bond contracts. The funding source is Bond Proceeds. The former pool (#RFQ751) was effective from May 13, 2011 to May 12, 2016 and valued at \$1,000,000.

ANALYSIS

This item is requesting Board authorization to approve the establishment of a pool for municipal bond underwriting services for the Finance Department for a five-year term for a value of \$1,000,000.

The County issued a competitive Request for Qualifications on October 3, 2017 to obtain proposals from qualified firms for inclusion in the municipal bond underwriting pool. The purpose of the pool is for participating firms to serve as Senior Manager, Co-Senior Manager and Co-Managers for the County's negotiated bond transactions on a non-exclusive, as-needed basis. Bonds include, but are not limited to, general obligation, special obligation and revenue for the County's enterprise operations, including the Aviation, PortMiami, Transportation and Public Works, Water and Sewer and Solid Waste Management departments. All proposers shall be registered broker/dealers with the applicable state agency. The pool members may serve as Senior Manager, Co-Senior Manager and Co-Manager on a rotational basis of their respective team as determined by the Mayor's Finance Committee.

The pool shall consist of not more than 24 firms selected for three segments: (1) 12 national firms with a Capital before Haircut greater than or equal to \$350,000,000; (2) six regional firms with a Capital before Haircut greater than or equal to \$5,000,000 and less than \$350,000,000; and (3) six small business firms with a Capital before Haircut greater than or equal to \$250,000 and less than \$10,000,000. Each firm shall submit Line 3640 (Capital before Haircut) of its Focus Report to the County upon each filing of the underwriting firm's Focus Report, and at the very least, every six months.

Per the mayoral memorandum, 34 vendors responded to the solicitation, of which 15 are local firms. A review of the vendor tables shows that 17 of the 24 recommended firms have a local address. Moreover, 12 of the recommended vendors were prequalified under the prior pool for these services.

Jefferies, LLC protested the non-responsiveness decision of the County Attorney's Office for its failure to submit its proposal by deadline through BidSync as required by the solicitation. The issue was referred to a Hearing Examiner who determined: (1) that the County did not act in any way that would qualify as arbitrary, capricious, fraudulent or illegal; (2) that the County has the right to make the determination regarding responsiveness; and (3) that Jefferies was ultimately responsible for its late submission.

Note that the Batter's Box is for firms that responded to the RFQ but were not selected for the pool; these firms shall fill any vacancy that may occur on one of the teams. Here, there are eight firms not selected in any of the segments that have been placed in the batter's box.

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Item No. 8F4

File No. 181650

Researcher: JFP Reviewer: TD

RESOLUTION WAIVING FORMAL BID PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1(B)(1) OF THE CODE OF MIAMI-DADE COUNTY BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT AND AUTHORIZING ADDITIONAL EXPENDITURE AUTHORITY IN AN AMOUNT UP TO \$1,600,000.00 TO CONTRACT NO. BW-00199 FOR THE PURCHASE OF FINANCIAL AND P3 ADVISORY SERVICES; AND AUTHORIZING THE COUNTY MAYOR TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should waive formal bid procedures by a two-thirds vote of the members present and authorize additional expenditure authority in an amount up to \$1,600,000 to Contract No. BW-00199 for the purchase of financial and P3 advisory services related to the ongoing Civil and Probate Courthouse Project.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code, *Contracts and Purchases Generally*, applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

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5.03(D) of the Home Rule Charter states that Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids.

<https://www.miamidade.gov/charter/library/charter.pdf>

Resolution No. R-706-16, adopted by the Board on July 19, 2016, approves award of Contract No. 00199 to KPMG LLP for the delivery of financial and public private partnership (P3) advisory services in a total amount not to exceed \$2,000,000.00 over the initial two-year term and two, one-year options to renew.

<http://intra/gia/matter.asp?matter=161687&file=true&yearFolder=Y2016>

Resolution No. R-391-17, adopted by the Board on April 4, 2017, directs the county mayor or county mayor's designee to conduct competitive selections whenever feasible instead of expanding the term or services under existing contracts, to include in any recommendation to this board for the expansion of term or services under existing contracts a written justification of why a competitive process is not feasible

<http://intra/gia/matter.asp?matter=170534&file=true&yearFolder=Y2017>

Resolution No. R-156-18, adopted by the Board on February 6, 2018, directs the County Mayor or County Mayor's designee to include in any request for proposals to design, build, operate and maintain a new county civil courthouse the key factors of the court master plan set forth in Resolution No. R-559-17; and directs the County Mayor that, in the event that the County Mayor decides to evaluate the unsolicited proposal to design, build, operate and maintain

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a new county civil courthouse, such evaluation be completed within 60 days of the submission of the unsolicited proposal.

<http://intra/gia/matter.asp?matter=180271&file=false&yearFolder=Y2018>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

The proposed resolution was forwarded to the BCC with a favorable recommendation by the Government Operations Committee at its July 16, 2018 meeting. Prior to passage, the following discussion transpired:

- Commissioner Rebecca Sosa asked for clarification on whether this item was for additional expenditure authority for a contract with a company that does not have a local address.
 - ISD Director, Tara Smith, responded that there is no local address for the awarded firm.
- Commissioner Joe Martinez expressed concern about the proposed resolution given that, although it is agreed that a civil courthouse is needed, there is no agreed location, nor is there a decided funding source, and two different methods are being considered.
- Director Tara Smith provided that this contract is necessary in order to continue to move the Civil Courthouse Project forward. ISD is simply replacing one contract for another with the proposed resolution. The item describes that KPMG LLP used to be the financial advisors on the project but has since been removed from the project. The requested increased expenditure authority is consistent with KPMG's prior contract, and is an even lesser amount since ISD deducted the amount for the work already completed by KPMG. Without this contract, the Civil Courthouse Project will be delayed for the time period it takes to contract with a new consultant.
- Commissioner Martinez shared his concern with continuing to spend money on a project that has yet to be decided on and is not definitive, and therefore does not support moving forward with the item.
- Chairman Moss requested that Director Tara Smith explain further why this increased expenditure is necessary.
 - Director Tara Smith explained that this contract is necessary for a procurement of this magnitude and complexity. The procurement method that the Board has directed to move the Civil Courthouse Project forward is one that requires the assistance of financial advisors because it involves a complex methodology for availability payments. These consultants have a great deal of experience with similar projects all over the country. Without a consultant for financial services, this type of procurement method would be difficult to proceed with using internal staff, and the time schedule for the project would need to be lengthened.
- Chairman Moss asked whether consideration of this item could wait until after the Civil Courthouse Project item regarding the project timeline is considered by the Board on July 24, 2018.
 - The method used for contracting with BMO Capital Markets in an expedited manner was utilizing the ISD Director's delegated authority to bring them on board because they were the second ranked consultants in the competitive process that resulted in KPMG being awarded the contract. That dollar value in the current contract is very limited and there is no further spending capacity in the current

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contract. If not approved in committee, there would be some amount of time wherein their work cannot move forward until the Board approves the item.

The proposed resolution passed with a vote of 3 to 1. A request was made for this item to be waived to the next BCC meeting, taking place on July 24, 2018.

FISCAL IMPACT

The contract has an existing allocation of \$250,000 for a two-year term. If the Board approves the increased expenditure of \$1,600,000, the modified cumulative allocation will be \$1,850,000.

A total of \$250,000 was allocated to the current pool's Blanket Purchase Order; of that amount \$0 have been released (as of July 19, 2018), leaving a balance of \$250,000.

ANALYSIS

The proposed resolution waives competitive bidding procedures as outlined in Section 2-8.1 of the County Code and Section 5.03(D) of the County Home Rule Charter by a two-thirds vote of the members present and authorizes additional expenditure authority in an amount up to \$1,600,000 to Contract No. BW-00199 for the purchase of financial and public-private partnership (P3) advisory services related to the ongoing Civil and Probate Courthouse Project.

The contract for financial and P3 services was awarded to BMO Capital Markets, Corp. (BMO), the second-ranked proposer among the firms that submitted responses for Request for Proposals No.-00199, when KPMG LLP (KPMG), the firm originally awarded the contract through a competitive process, was removed from the project after self-reporting a breach of confidentiality related to the evaluation of the unsolicited proposal submitted by New Flagler Courthouse Development Partners. The award of the contract to BMO following those events was to avoid the delays re-procurement activities would present.

The Mayoral Memorandum states that the initial allocation of \$250,000 only covered the cost of initial advisory services through July 2018, thus requiring the requested modification. According to the County's Bid Tracking System, the \$250,000 has yet to be released. ISD clarified that the \$250,000 has been committed in work orders, with invoices pending since they are issued quarterly. Thus, the released amount is not yet reflected in BTS. ISD has no authority for additional work orders under this contract without the passage of the proposed resolution. The requested additional allocation is anticipated to cover necessary P3 advisory services through the completion of the Courthouse Project.

Engaging in a competitive process for the acquisition of the required financial and P3 advisory services was evaluated and determined not to be feasible due to the expedited timeline that is being pursued by the County for the Courthouse Project. The County intends to establish a prequalification pool to allow additional qualified P3 advisors to perform work on other potential P3 projects. OCA performed a search for commodity code 94648: Financial Advisor Services on the Business Management Workforce System's Certified Vendor Directory on July 19, 2018. Listed below are the local SBEs identified:

- A. L. Jackson & Company, P.A.
- Anthony Brunson, P.A.
- C Borders-Byrd, CPA LLC

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**Item No. 8F5 & Supplement
File No. 181408, 181789**

Researcher: PGE Reviewer: TD

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-00676 IN A TOTAL AMOUNT UP TO \$301,303,000.00 FOR THE PURCHASE OF GASOLINE AND DIESEL FOR VARIOUS COUNTY DEPARTMENTS FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

ISSUE/REQUESTED ACTION

Whether the Board should authorize the establishment of a prequalification pool for the purchase of gasoline and diesel for various County departments in a total amount of up to \$301,303,000 for a five-year term.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

[https://library.municode.com/fl/miami -
_dade county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

Section 29-124 of the County Code sets forth the role of the Citizens' Independent Transportation Trust and provides that where no surtax proceeds are used to fund a contract, no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami-Dade Transit or for transit-related procurements is valued at over one million dollars unless the Trust has submitted a recommendation to the County Commission regarding said contract award. The County Commission, if in agreement with the Trust's recommendation, may award a contract by majority vote. The County Commission may modify or reject the recommendation of the Trust by a majority vote. If the Trust has failed to forward a recommendation to the County Commission within 45 days of the County Mayor or County Mayor's designee filing an award recommendation with the Clerk of the Board, the County Commission may take action on the contract award recommendation without any Trust recommendation. Notwithstanding any other provision to the contrary, a committee of the Commission may consider a contract award recommendation prior to receipt of a recommendation of the Trust.

[https://library.municode.com/fl/miami -
_dade county/codes/code_of_ordinances?nodeId=PTIICOOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA
SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRTR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRTR)

Resolution No. R-716-12, adopted by the Board on September 4, 2012, requires identification of a firm's small business enterprise program certification in any procurement item submitted for Board approval.

<http://intra/gia/matter.asp?matter=121265&file=true&yearFolder=Y2012>

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

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Resolution No. R-1011-15, adopted by the Board on November 3, 2015, directs the County Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ in memoranda to the Board pertaining to vendors being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

Resolution No. R-477-18, adopted by the Board on May 1, 2018, directs the County Mayor to disclose to the Board the reasons goods and services are not being procured through local businesses when the recommendation is to award a contract to a non-local vendor or to establish a prequalification pool where less than 75 percent of the pool members are local businesses.

<http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018>

Resolution No. R-140-15, adopted by the Board on February 3, 2015, directs the County Mayor to conduct a full review prior to the re-procurement of replacement contracts for goods or services of the scope of services or goods requested to ensure such contracts reflect the current needs of the County and to include such information in recommendations to the Board.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

The item was considered at the July 16, 2018 Government Operations Committee and forwarded to the Board with a favorable recommendation. At the meeting, Deputy Mayor Marquez requested that the item be waived to the July 24, 2018 Board meeting.

FISCAL IMPACT

The fiscal impact for the five-year term is \$301,303,000 and is based on each user department's Fiscal Year 2017-18 Adopted Budget. The current pool (#3143-9/18) was effective on May 1, 2008 and expires on October 31, 2018, a cumulative term of 10 years and six months, with a cumulative value of \$1,398,056,166.67. The annual allocation under the replacement pool is \$60,260,600 while the annual allocation under the current pool is \$133,148,206.32.

Presently, the current pool is in its ninth and final option to renew term that has a value of \$190,592,566.67. For this option term, \$190,142,560.67 was allocated to the pool's Blanket Purchase Order; of that amount, \$70,850,006.96 has been released, leaving a balance of \$119,292,553.71.

Prices are solicited via ITQ from pre-qualified bidders in the form of a fixed adder price, added to the corresponding Oil Price Information Service (OPIS) daily rack average or weekly average price for the various types of fuel sold by port operators to pool bidders. OPIS is a real-time news and pricing service, offering market-specific benchmark pricing reports. The County pays for the OPIS subscriptions to be able to independently verify the price charged on bidder invoices. The responsive and responsible bidder offering the lowest price(s) is awarded the purchase for the

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fuel type and/or group for a specific period. The County can change the ITQ terms, conditions and specifications to meet its changing needs. There are currently 17 bidders under the pool, and the County may add new bidders at any time upon meeting or exceeding the minimum criteria established in the solicitation.

ANALYSIS

This item is requesting Board approval to establish a replacement open prequalification pool for purchase of gasoline and diesel for multiple County departments in a total amount of \$301,303,000 for five years. The biggest user departments under the replacement pool are Internal Services, requesting \$110,430,000, and Transportation and Public Works, requesting \$75,995,000.

The County uses this pool for delivery of various types of fuel for its public safety departments. Fuel types include, but are not limited to, unbranded gasoline, clear and dyed diesel, Jet-A, aviation and recreational. The majority of diesel fuel purchased by the County are for transit buses, delivered to three sites operated by the Department of Transportation and Public Works. The majority of regular grade gasoline is purchased for automobiles and various types of trucks and vans such as police, general purpose and administrative vehicles, delivered to numerous fuel station sites operated by the Fleet Management Division of the Internal Services Department. The Water and Sewer Department and other departments with vehicles and equipment access this pool to support their operations. Dyed diesel fuel is mostly used for off-road equipment and for numerous standby generators at County facilities.

The pool has five groups: (1) Transport Truck and Tank Wagon Truck Delivery of Gasoline and Diesel Fuels; (2) Fueling Services for County Mobile Equipment; (3) Rec-90 Recreational/Marine Gasoline; (4) Jet-A and Aviation Fuel Delivery by Fixed Based Operators Only; and (5) Fuel Transportation Services. Note that no bids were received from Group 4, which will be re-solicited.

Five vendors responded to the solicitation, of which three are recommended for inclusion in the pool. The three recommended vendors are incumbents and are considered non-local business entities. One of three incumbents – Indigo Energy Partners, LLC – sold the County contaminated fuel, impacting 249 County vehicles. The County estimates that repair costs could exceed \$1,000,000 and has contacted Indigo to demand payment. The firm may be removed from the pool if it does not compensate the County for the damages. The parties are currently executing a written settlement agreement whereby Indigo Energy Partners will pay for all damages to County vehicles. The first payment in the amount of \$194,758.92 is in the process of being remitted to the County.

The commodity codes for this solicitation are 40509 (Fuel Oil, Diesel) and 40515 (Gasoline, Automotive). A search of the Business Management Workforce System on July 13, 2018 under the codes yielded no certified firms.

ADDITIONAL INFORMATION

See the link below to an article from the Palm Beach Post regarding tainted police car fuel impacting Miami-Dade and Palm Beach counties that was traced to two of the prequalified vendors, Indigo Energy Partners, LLC and Mansfield Oil Company of Gainesville, Inc. The article reveals that the companies are owned by competing brothers.
<https://www.mypalmbeachpost.com/news/tainted-police-car-fuel-tracked-suppliers-and-their-distributor/iwcWUP8MqJdEFEyDsMz7kK/>

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Item No. 8J1

File No. 181690

Researcher: LE Reviewer: TD

RESOLUTION APPROVING AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE A FEDERAL COST SHARE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE DEPARTMENT OF THE ARMY FOR A MIAMI HARBOR NAVIGATION IMPROVEMENT STUDY; AUTHORIZING EXPENDITURES OF UP TO \$2,443,750.00 AS PART OF THE COUNTY'S COST SHARE FOR THE STUDY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE ANY TERMINATION, RENEWAL, AND OTHER RIGHTS CONFERRED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve and authorize the County Mayor or the County Mayor's Designee to execute a Federal Cost Share Agreement between Miami-Dade County and the Department of the Army (ARMY) for a Miami harbor navigation improvement study; authorize expenditures as part of the County's cost share for the study of up to \$2,443,750.00; and authorize the County Mayor or the County Mayor's Designee to exercise termination, renewal, and other rights.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-650-12 approves and authorizes the execution of Project Partnership Agreement between Miami-Dade County and the United States Department of the Army in the approximate amount of \$180,000,000 and expressing the County's intent to issue port revenue bonds to finance part of Port's Phase III Dredging Project's costs.

<http://intra/gia/legistarfiles/Matters/Y2012/121384.pdf>

Water Resources Development Act of 1986 provides guidance for the conservation and **development** of **water** and related **resources** and the improvement and rehabilitation of the Nation's **water resources** infrastructure. Provides cost sharing guidance as described in the item.

<https://www.fws.gov/habitatconservation/Omnibus/WRDA1986.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Port of Miami

FISCAL IMPACT

Per the Fiscal Impact Statement, the Army and the County will each bear 50 percent of the total study costs which are estimated to be \$3,000,000 under the Federal Cost Share Agreement. The U.S. Army Corps of Engineers 2018 Civil Works Plan allocated \$556,250 in federal funds and the Seaport Department's FY 2018 share will be \$556,250 for FY 2018. The 2019 Civil Works Plan will include the study's balance of \$943,750 and the Seaport Department would be required to allocate a similar amount in FY 2019, but the FY 2019 Plan is yet not available. As a result, the Seaport Department may need to advance fund the federal and local share for County expenditures of \$1,887,500 for FY 2019. Seaport Bonds in FY 2018-FY 2019 will pay the transfer of funds for a total of approximately \$2,443,750. The Federal Cost Share Agreement will not cause the County to incur any other annual recurring costs.

ANALYSIS

The proposed Resolution seeks to approve and authorize the execution of a Federal Cost Share Agreement between Miami-Dade County and the Department of the Army for a Miami harbor navigation improvement study.

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On July 17, 2012, Resolution No. R-650-12 authorized the County to execute a Project Partnership Agreement between Miami-Dade County and the United States Army Corps of Engineers ('COE') for the construction of the Miami Harbor Navigation Project ("Deep Dredge Project"). The project was completed in September 2015. Since project completion, navigational and safety harbor improvements have been requested by the Biscayne Bay Pilots. Such requests include deepening and widening portions of the Outer Channel and the Lummus Island Turning Basin, and widening the South Shipping Channel.

PortMiami is one of America's the fastest growing ports and recognized as the Cruise Capital of the World and a Global Gateway. Proposed channel improvements will allow larger cargo vessels to enter PortMiami. The Port is expected to receive 14,000 TEU cargo vessels and continued economic growth is anticipated with an estimated additional 3,000 annual jobs per new cruise terminal, over \$150 million of personal income, and 1,000 jobs for every 200,000 containers brought to the US, creating \$69 million in personal income.

The navigation improvement study will deem if the channel improvements are economically and environmentally viable.

ADDITIONAL INFORMATION

PortMiami plays a critical role to the Miami-Dade County and State of Florida's economy. It is Miami-Dade County's second most important economic source as they contribute \$41.4 billion annually and support more than 324,352 jobs in South Florida. PortMiami is also considered cruise capital of the world and an accessible point of trade with global markets.

<http://www.miamidade.gov/portmiami/about.asp>

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Item No. 8J2

File No. 181750

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING PURSUANT TO SECTION 125.35(B)1, FLORIDA STATUTES, AN EQUIPMENT LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND WESCO CONSTRUCTION COMPANY, INC. (WESCO), PROVIDING FOR THE RENTAL OF TWO PASSENGER BOARDING BRIDGES FOR USE AT PORTMIAMI CRUISE TERMINAL A IN EXCHANGE FOR MINIMUM RENTAL PAYMENTS TO THE COUNTY IN THE AMOUNT OF \$102,000.00 OVER A RENTAL TERM OF UP TO 54 MONTHS OR A LONG-TERM LEASE OPTION FOR A TERM OF UP TO 60 YEARS FOR A ONE-TIME RENTAL PAYMENT OF \$3,000,000.00; APPROVING PURSUANT TO SECTION 125.045, FLORIDA STATUTES, AN OPTION FOR WESCO TO PURCHASE THE PASSENGER BOARDING BRIDGES IN EXCHANGE FOR A \$3,000,000.00 PAYMENT TO THE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE EQUIPMENT LEASE AGREEMENT AND EXERCISE ALL RIGHTS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve an equipment lease agreement between the County and Wesco Construction Company, Inc. (Wesco) for Wesco's rental of two Passenger Boarding Brides that the County does not need for a County purpose. The Passenger Boarding Bridges (PBBs) would be used at PortMiami Cruise Terminal A. In exchange, the County would receive minimum rental payments in the amount of \$102,000 over a rental term of up to 54 months or a long-term lease option for a term of up to 60 years for a one-time rental payment of \$3,000,000. The proposed resolution also approves an option for Wesco to purchase the PBBs in exchange for payment to the County in the amount of \$3,000,000.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-580-16, adopted by the Board on July 6 2016, authorized the County to enter into a Ground Lease with Miami Cruise Terminal A LLC, and approved the construction of Cruise Terminal A, a \$100,000,000 facility at PortMiami to be used by Royal Caribbean Cruises, Ltd.

<http://intra/gia/matter.asp?matter=161584&file=true&yearFolder=Y2016>

Florida Statutes 125.045 governs County economic development powers, conferring powers and duties on the governing body of a county, specifying that the governing body of a county may expend public funds to attract and retain business enterprises, and the use of public funds toward the achievement of such economic development goals constitutes a public purpose.

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.045&URL=0100-0199/0125/Sections/0125.045.html

Florida Statutes 125.35(b)1 prescribes that the Board of County Commissioners is expressly authorized to sell and convey any real or personal property, and to lease real property, belonging to the county, whenever the board determines that it is to the best interest of the county to do so, to the highest and best bidder for the particular use the board deems to be the highest and best, for such length of term and such conditions as the governing body may in its discretion determine. Under terms and conditions negotiated by the board, the board of county commissioners may negotiate the lease of an airport or seaport facility.

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.35&URL=0100-0199/0125/Sections/0125.35.html

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PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Port of Miami

The proposed resolution has no procedural history.

FISCAL IMPACT

The County is guaranteed \$102,000 in minimum rental payments over a rental term of up to 54 months, with the County receiving \$17,000 per month for the initial six month term of the lease. Should the eight, six-month extensions be exercised, the cumulative value of the contract will be \$918,000 in revenue to the County. At any point during the term of the Agreement, Wesco may elect to 1) purchase the PBBs for \$3,000,000 or 2) extend the term of the lease for 60 years for \$3,000,000.

The County realizes additional economic benefits as the modification of these PBBs for service at Cruise Terminal A will allow PortMiami to accommodate the world's largest cruise vessels capable of carrying over 6,000 passengers, increasing its cruise passenger throughput capacity by approximately 20 percent. The County also receives the base rent from Miami Cruise Terminal A LLC (MCTA) in the amount of \$9.5 million per year, (outlined in the Ground Lease with MCTA approved by the Board in 2016), earlier than anticipated since the proposed agreement will facilitate an expedited completion of the construction of Cruise Terminal A.

ANALYSIS

The proposed resolution approves an equipment lease agreement between the County and Wesco for Wesco's rental of two Passenger Boarding Bridges that the County does not need for a County purpose for use at PortMiami Cruise Terminal A.

In July 2016, the County authorized the designing, financing, building, operation, and maintenance of Cruise Terminal A at Port Miami, for use by Royal Caribbean Cruises, Ltd, through the approval of the Ground Lease with MCTA via Resolution No. R-580-16. The construction of Cruise Terminal A, including construction of a cruise terminal, a pier, and a parking garage, was scheduled to be substantially completed by December 31, 2018. While the construction of the cruise terminal is now expected to be substantially completed earlier than originally anticipated, by October 1, 2018, PortMiami's PBBs currently located in Cruise Terminal E need to be relocated to Cruise Terminal A in order to meet the accelerated completion schedule. These PBBs are no longer needed in Cruise Terminal E by PortMiami due to new ship deployment, yet are critical to Cruise Terminal A's operation.

Wesco, a Port tenant providing project administration and project construction services to MCTA, will lease these PBBs under the proposed agreement for modification and placement into Cruise Terminal A. They will provide for the safe disembarkment and embarkment of passengers in the terminal. Per the agreement, Wesco is required to assign the agreement to MCTA for exclusive use of the PBBs, with MCTA being required to assume all rights and obligations previously held by Wesco under the equipment lease agreement.

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Research Notes**

**Item No. 8J3
File No. 181822**

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE FIRST AMENDMENT TO AMENDED AND RESTATED CRUISE TERMINAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND NCL (BAHAMAS) LTD; DELEGATING AUTHORITY TO THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO AUTHORIZE CERTAIN COUNTY INFRASTRUCTURE CONTRIBUTIONS BEYOND JULY 15, 2018 GUARANTEED MAXIMUM PRICE APPROVAL DEADLINE SUBJECT TO SATISFACTION OF CERTAIN LIMITATIONS AND CONDITIONS; AND DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO CONSIDER AND EVALUATE PROPOSED CHANGES TO POTENTIAL NEW CRUISE TERMINAL PROJECT'S SCOPE, BUDGET, AND FINANCING SCHEME AND TO BRING BACK RECOMMENDED CHANGES AND/OR PROPOSED CONTRACT AMENDMENTS TO THE BOARD FOR ITS CONSIDERATION WITHIN FORTY-FIVE (45) DAYS

ISSUE/REQUESTED ACTION

Whether the Board should approve and authorize the execution of the First Amendment to Amended and Restated Cruise Terminal Agreement between Miami-Dade County and NCL (Bahamas) LTD (NCLB) and authority to the County Mayor or his designee to authorize certain County infrastructure contributions beyond the July 15, 2018 Guaranteed Maximum Price Approval Deadline as well as consider and evaluate proposed changes to potential new cruise terminal project's scope, budget, and financing scheme and to bring forward recommended changes and/or proposed contract amendments to the Board for its consideration within 45 days.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-291-18, adopted by the Board on April 10, 2018, approves Amended and Restated Cruise Terminal Agreement with NCLB, obligating lessee to design and construct cruise Terminal B and supporting infrastructure on County-owned land at PortMiami.

<http://intra/gia/matter.asp?matter=180857&file=true&yearFolder=Y2018>

Resolution No. R-791-14, adopted by the Board on September 3, 2014, directs the Mayor or Mayor's designee to provide the Miami-Dade County Property Appraiser a copy of all leases and operating agreements involving County-owned property

<http://intra/gia/matter.asp?matter=141723&file=true&yearFolder=Y2014>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Rebeca Sosa, District 6

Department/Requester: PortMiami

The proposed resolution has no procedural history.

FISCAL IMPACT

As stated in the item's Fiscal Impact Statement, it is anticipated that the County's contribution to the Terminal B Project, not subject to reimbursement by NCLB, will remain at \$100 million, and that any additional contribution toward costs for the redesigned project above the County's \$100 million will be advanced by the County, but reimbursed by NCLB over time with interest. The County shall negotiate with NCLB changes to the Terminal B scope, budget, financial plan (including an increase in NCLB's reimbursement obligations to the County), and

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potential NCLB passenger guarantee increases, and bring an item back to the Board for its consideration and approval within approximately 45 of the effective date of this resolution.

While the fiscal impact cannot be precisely calculated prior to such future negotiations being consummated, it is presently anticipated that the revised cruise Terminal B construction cost will require the County to advance approximately \$30 million more than previously estimated, although such additional County advances are expected to be reimbursed by NCLB over time with interest. These additional advances shall be allocated from the Port's Fiscal Year 2018, 2019, and 2020 capital budgets, using available proceeds from the Port's commercial paper program, capital reserves, bond proceeds, grants and tenant reimbursements.

Although not contractually part of this item, NCLB has indicated its commitment to the following:

(1) increase its Minimum Annual Guarantee (MAG) by 500,000 annual passenger moves by Fiscal Year 2032; and
(2) increase the Capital Recovery Surcharge and reimbursement obligation to the County over 25 years with interest. These provisions, among other items, shall be brought back to the Board for consideration and approval in September 2018.

ANALYSIS

In effect, the proposed resolution:

- Approves and authorizes the County Mayor to execute the First Amendment to Amended and Restated Cruise Terminal Agreement between the County and NCLB
- Delegates to the County Mayor the authority to authorize County Infrastructure Contribution purchases and/or work, not to exceed a total of \$30,000,000 in aggregate, including certain Infrastructure Contribution purchases or work that may be authorized beyond the July 15, 2018 Guaranteed Maximum Price Approval deadline, subject to the requirements, limits, and conditions set forth in the amended Development Rider to the First Amendment of the Amended Restated Cruise Terminal Agreement, including, without limitation, the required prior written approval of the Port Director.
- Authorizes and directs the County Mayor or his designee to promptly consider and evaluate potential changes to the new Cruise Terminal B Project's scope, budget and financing scheme and, as appropriate, recommend and/or negotiate changes to the prior Amended and Restated Cruise Terminal Agreement to be brought before the Board for its consideration and approval within 45 dates of the effective date of the proposed resolution.

The Development Rider, approved by the Board through Resolution No. R-291-18 on April 10, 2018, authorized the County to contribute \$100 million in unreimbursable project costs, and advance an additional amount not to exceed \$65 million in project costs, which would be subject to reimbursement by NCLB over time, totaling an amount to be referred to as the Maximum Authorized amount—\$165 million.

The Guaranteed Maximum Price Package (GMP) for new Terminal B presented to the Port on June 29, 2018 was approximately \$67 million above the maximum authorized amount set forth in the recently approved Restated Agreement. Given the disparity, the Port did not approve the GMP. The parties are working on a redesign of the terminal to reduce the degree by which estimated terminal completion costs will exceed the previously contemplated budget, targeting an estimated \$195 million project budget. In the meantime, the proposed resolution would allow certain infrastructure work and purchases to continue to be funded beyond the July 15, 2018 deadline for approval of the GMP, in total amount not to exceed \$30 million in aggregate.

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Research Notes**

**Item No. 8N1
File No. 181199**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AWARD OF MISCELLANEOUS CONSTRUCTION CONTRACT 7360 PLAN - RPQ NUMBER: 362336 FOR DADELAND NORTH PARKING GARAGE FIRE SUPPRESSION PROJECT TO NATIONAL FIRE PROTECTION, LLC, IN THE AMOUNT OF \$2,488,200.00 AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSES

ISSUE/REQUESTED ACTION

Whether the Board should approve award of Miscellaneous Construction Contract (MCC) 7360 Plan RFQ No. 362336, *Dadeland North Parking Garage Fire Suppression Project*, to National Fire Protection, LLC in the amount of \$2,488,200 for a one-year period for the Department of Transportation and Public Works (DTPW).

APPLICABLE LEGISLATION/POLICY

Section 2-8.2.7 of the County Code (Miscellaneous Construction Contracts Program) is intended to enhance the contracting opportunities of Small Business Enterprises for construction services and to facilitate and expedite the award of construction contracts to small businesses. MCC participants are allowed to participate in the contracting plans (i.e., 7040 Plan and 7360 Plan) in accordance with the contracting procedures and specifications to be developed, maintained and amended by the Small Business Development Division of the Internal Services Department.

The 7040 Plan is a rotational set-aside, and the 7360 Plan is an open competitive plan. The 7360 Plan is used whenever the funding source prohibits the use of SBE-Con set-asides or when SBD determines that there is insufficient availability for a SBE-Con set aside within the 7040 Plan to accomplish the proposed work.

[https://library.municode.com/fl/miami -
dade county/codes/code of ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.2.7.01MICOCOPR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.2.7.01MICOCOPR)

Section 29-124 of the County Code sets forth the role of the Citizens' Independent Transportation Trust (CITT) and the proper use of surtax proceeds. Under this Code Section, no surtax proceeds may be used to pay the costs of a contract unless the Trust has submitted a recommendation to the County Commission regarding said contract award. The County Commission, if in agreement with the Trust's recommendation, may award a contract by majority vote. The County Commission may modify or reject the recommendation of the Trust by a two-thirds (2/3) vote of the Commission's membership. If the Trust has failed to forward a recommendation to the County Commission within 45 days of the County Mayor or County Mayor's designee filing an award recommendation with the Clerk of the Board, the County Commission may take action on the contract award recommendation without any Trust recommendation. Notwithstanding any other provision to the contrary, a committee of the Commission may consider a contract award recommendation prior to receipt of a recommendation of the Trust.

[https://library.municode.com/fl/miami -
dade county/codes/code of ordinances?nodeId=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRR)

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

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The Mayor is delegated the authority to award and reject bids or proposals for contracts for public improvements (construction), and purchases of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to section 2-10.4 and Section 287.055, Florida Statutes) costing \$1,000,000 or less, or in the case of miscellaneous construction contracts designed to provide opportunities for Community Small Business Enterprises specifically authorized by Board resolution \$5,000,000 or less, without the need for action by the County Commission.

For contract awards, information shall be added to the recommendation for award memorandum presented by the County Mayor to the Board of County Commissioners identifying (1) each dedicated allowance, contingency allowance and additional services allowance including the specific purpose for each and the dollar amount that shall be available for each, and (2) the corresponding percentage of each dedicated allowance, contingency allowance and additional services allowance in relation to the actual contract price.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

NFPA 13 sets forth the industry benchmark for design and installation of automatic fire sprinkler systems and component options to prevent fire deaths and property loss.

<https://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards/detail?code=13>

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-54-10, adopted by the Board on January 21, 2010, rescinds Administrative Order No. 3-24, Responsible Wages and Benefits for County Construction Contracts, and approves Implementing Order No. 3-24 to clarify terms requiring the use of the higher wage rates between Davis-Bacon and the County's prevailing wage rate structure unless prohibited by state or federal law or disallowed by a governmental funding source.

<http://intra/gia/matter.asp?matter=093210&file=true&yearFolder=Y2009>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Transportation and Public Works

The item was considered at the June 14, 2018 meeting of the Transportation and Public Works Committee and forwarded to the Board with a favorable recommendation. At the meeting, the following discussion transpired:

- Commissioner Heyman noted that issues relating to the Miami-Dade Fire Rescue Department were usually considered by the Public Safety and Health Committee. She requested that in the future representatives of the Fire Rescue Department be advised of items placed on the Transportation and Public Works Committee agenda that pertained to their department.

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- Commissioner Edmonson noted the item was on the transit committee agenda because it relates to one of the County's parking garages which is managed by the Department of Transportation and Public Works.
- Deputy Mayor Hudak advised that items assigned to committees were done through the Chair's Office. She noted the proposed item was a construction type project that was managed by the Department of Transportation and Public Works as a facilities project; she further advised that the item would be shared with the Fire Rescue Department.

The item was deferred by the Board at its July 10, 2018 meeting.

FISCAL IMPACT

The fiscal impact for the project is \$2,488,200 (i.e., a base estimate of \$2,262,000 and contingency allowance of \$226,200) for a total contract period of 365 days. The contingency amount of \$226,200 is only to be used for unforeseen conditions as determined by DTPW.

ANALYSIS

This item is requesting approval to award a contract under the MCC 7360 Plan to National Fire Protection, LLC in the amount of \$2,488,200 for the Dadeland North Parking Garage Fire Suppression project. The project duration is a period of 365 days and includes a two percent SBE-GS goal. Per the RPQ, the work is to be conducted in accord with National Fire Protection Association standards and requires a mechanical license. The awardee is a foreign limited liability company with a principal address of 515 Dover Road, Rockville, Maryland and holds an Electrical Course Provider, Electrical Business Information and Certified Alarm System Contractor licenses. The project is located in District 7, which is represented by Commissioner Xavier L. Suarez.

Due to the deteriorated condition of the fire suppression system at the Dadeland North Parking Garage, DTPW solicited construction services through the County's MCC Program to replace the entire fire protection system throughout the parking garage and for fire alarm replacement of valve tamper and flow switches to the existing fire alarm in the building. Only two bids were received in response to the RPQ, one of which was found nonresponsive. However, a responsiveness opinion from the County Attorney's Office was not included in the agenda package as required by Implementing Order No. 2-13.

Under the RPQ, the awardee shall submit all required permits to the County prior to performing any work. The awardee shall also provide all necessary labor, equipment and materials for a complete functioning fire suppression system and associated fire alarm connections to replace the existing fire suppression system at the Dadeland North Parking Garage, including painting in accordance to the National Fire Protection Association Code, County Code and per DTPW project scope and technical specifications.

OCA concluded that National Fire Protection LLC is not a County certified small business enterprise based on a certified vendor directory search in the Business Management Workforce System on July 20, 2018. It is unclear from the agenda package what efforts were taken by DTPW to maximize local vendor participation in this RPQ, particularly considering the availability of local certified firms under the commodity codes linked to the RPQ – 90638 and 90963.

ADDITIONAL INFORMATION

The National Fire Protection Association (NFPA) is a global nonprofit organization, established in 1896, devoted to eliminating death, injury, property and economic loss due to fire, electrical and related hazards. The organization

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delivers information through more than 300 consensus codes and standards, research, training, education, outreach and advocacy. See the link below to NFPA's website.

<https://www.nfpa.org/About-NFPA>

The Electrical Contractors' Licensing Board licenses individuals as contractors to perform electrical and alarm work pursuant to Chapter 489 Part II, Florida Statutes. In order to do business as a corporation, partnership, limited liability company or any business entity other than a sole proprietorship, the contractor must be approved to qualify that business entity. Each electrical or alarm business must be qualified by a properly licensed individual contractor in order to engage in construction activities in Florida.

<http://www.myfloridalicense.com/DBPR/electrical-contractors/electrical-contractors-business-information/>

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**Item No. 801
File No. 181545**

Researcher: MF Reviewer: TD

RESOLUTION RATIFYING ACTION BY COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE RELATED TO MIAMI-DADE WATER AND SEWER DEPARTMENT'S CONSENT DECREE AND CAPITAL IMPROVEMENT PROGRAMS ACCELERATION ORDINANCE PURSUANT TO SECTION 2-8.2.12 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA SPECIFICALLY APPROVING AWARD OF A CONSTRUCTION CONTRACT TO CONSTRUCT A 42-INCH PCCP/HDPE FORCE MAIN ALONG NORTH MIAMI AVENUE FROM NE 36 STREET TO NE 62 STREET, CONTRACT NO. S-904, TO METRO EQUIPMENT SERVICES, INC. IN THE AMOUNT OF \$16,146,343.93; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE THE PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should ratify the award of a construction contract to construct a 42-inch pre-stressed concrete cylinder pipe (PCCP) high density polyethylene (HDPE) force main along North Miami Avenue from NE 36 Street to NE 62 Street, Contract No. S-904, to Metro Equipment Service, Inc., in the amount of \$16,146,343.93 for a total contract term of 411 days.

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Chapter 287.055 governs the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0287/Sections/0287.055.html

Miami-Dade County Code, Section 2-8.2.12 governs the Miami-Dade County Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.2.12MIDEWASEDECODECAIMPRACOR

Administrative Order 3-39 establishes the standard procedures for user departments to implement, classify, track, monitor and report capital construction projects unless specifically exempted by State or federal law.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-39.pdf>

Ordinance No. 14-77, adopted by the Board on September 3, 2014, created Section 2-8.2.12 of the Code of Miami-Dade County, and delegated to the County Mayor the authority to advertise, award, amend and negotiate contracts for goods and services, construction and professional services for the Miami-Dade Water and Sewer Department, to extend contract duration, to execute change orders and to settle claims without need for prior Board approval.

<http://intra/gia/matter.asp?matter=141981&file=false&yearFolder=Y2014>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Water and Sewer

The proposed resolution does not have a procedural history.

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FISCAL IMPACT

The Fiscal Impact to the County for the implementation of this contract will be of \$16,146,343.93.

ANALYSIS

On September 3, 2014, the Board approved Ordinance No. 14-77 authorizing the County Mayor to award contracts for funded projects and related goods and services, to reject bids and proposals received in connection with any competitive procurement, and to accelerate the approval of WASD's (1) Consent Decree projects and (2) projects identified in WASD Multi-Year Capital Plan's Capital Improvements Program without the need for prior Board approval but subject to ratification by the Board.

The Miami-Dade Water and Sewer Department Consent Decree Work consists of all projects needed to comply with the Consent Decree approved on April 9, 2014 by the United States District Court for the Southern District of Florida. The Miami-Dade Water and Sewer Department Capital Improvement Program consists of only those projects approved by the Board as part of the Multi-Year Capital Plan.

The proposed resolution seeks the Board's ratification of the award of a construction contract to construct a 42-inch pre-stressed concrete cylinder pipe (PCCP) high density polyethylene (HDPE) force main along North Miami Avenue from NE 36 Street to NE 62 Street, Contract No. S-904, to Metro Equipment Service, Inc., in the amount of \$16,146,343.93 with a total contract term of 411 days.

This project is one in a series of projects processed under Section 2-8.2.12 of the Code, which governs the Miami-Dade County Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance.

WASD determined that facilities currently serving the Brickell service area are inadequate to serve increased usage in existing buildings, new facilities under construction and expected to be constructed. The force main proposed under this project will provide a second reinforcing force main and will facilitate the rehabilitation of the existing 36-inch force main north of 36th Street and Miami Avenue.

The project consists of furnishing and installing approximately 3,010 lineal feet of 42-inch diameter pre-stressed concrete cylinder pipe and 8,216 lineal feet of high-density polyethylene valves and fittings. It also includes the furnishing and installation of 60 lineal feet of 24-inch ductile iron pipe, valves and fittings for force mains.

In response to WASD's competitive solicitation for Contract No. S-904, the department received nine bids, with the three lowest bids from Metro Equipment Service, Inc.; American Pipeline Construction; and Lanzo Construction Co. Florida. The project's Engineer of Record, A&P Consulting and Transportation Engineers, advised that Metro Equipment Service, Inc., and its trenchless construction sub-contractor meet the minimum experience qualifications. Since Metro Equipment Service, Inc. provided the lowest bid, WASD recommends that it be awarded the project.

ADDITIONAL INFORMATION

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Metro Equipment Service, Inc., has an active status as a Florida Profit Corporation and first filed and registered on May 28, 1987. The principal address is registered as 9425 SW 72nd Street, Suite 150, Miami, FL 33173. Its registered agent is Godoy, Jorge, 9425, SW 72nd Street, Miami, FL 33173.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

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Item 803

File No. 181586

Researcher: MF Reviewer: TD

RESOLUTION RATIFYING ACTION BY COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE RELATED TO MIAMI-DADE WATER AND SEWER DEPARTMENT'S CONSENT DECREE AND CAPITAL IMPROVEMENT PROGRAMS ACCELERATION ORDINANCE PURSUANT TO SECTION 2-8.2.12 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA SPECIFICALLY THE REJECTION OF ALL PROPOSALS FOR DESIGN-BUILD CONTRACT FOR DESIGN-BUILD SERVICES FOR THE INSTALLATION OF A 36-INCH DIAMETER SANITARY SEWER FORCE MAIN ON N.W. 107 AVENUE FROM N.W. 7 STREET TO N.W. 25 STREET – PROJECT NO. DB14-WASD-09

ISSUE/REQUESTED ACTION

Whether the Board should ratify the action by the County Mayor related to Miami-Dade Water and Sewer Department's Consent Decree and Capital Improvement Programs Acceleration Ordinance pursuant to Section 2-8.2.12 of the Code, to reject all proposals for the Design-Build contract for Design-Build services for the installation of a 36-inch diameter sanitary sewer force main on NW 107th Avenue from NW 7th Street to NW 25th Street – Project No. DB14-WASD-09.

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Chapter 287.055 governs the acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0287/Sections/0287.055.html

Miami-Dade County Code, Section 2-8.2.12 governs the Miami-Dade County Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.2.12MIDEWASEDECODECAIMPRACOR

Administrative Order 3-39 establishes the standard procedures for user departments to implement, classify, track, monitor and report capital construction projects unless specifically exempted by State or federal law.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-39.pdf>

Ordinance No. 14-77, adopted by the Board on September 3, 2014, created Section 2-8.2.12 of the Code of Miami-Dade County, and delegated to the County Mayor the authority to advertise, award, amend and negotiate contracts for goods and services, construction and professional services for the Miami-Dade Water and Sewer Department, to extend contract duration, to execute change orders and to settle claims without need for prior Board approval.

<http://intra/gia/matter.asp?matter=141981&file=false&yearFolder=Y2014>

Ordinance No. 13-73, adopted by the Board on July 2, 2013, authorizing and approving sanitary sewer special connection charge for construction of sewer improvements to buildings and properties in the Doral Basin.

<http://www.miamidade.gov/govaction/matter.asp?matter=130803&file=true&fileAnalysis=false&yearFolder=Y2013>

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PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Water and Sewer

The proposed resolution does not have a procedural history.

FISCAL IMPACT

According to the Fiscal Impact Statement, the proposed resolution would not have a fiscal impact for the County, as it involves a rejection of all bids.

ANALYSIS

On September 3, 2014, the Board approved Ordinance No. 14-77 authorizing the County Mayor to award contracts for funded projects and related goods and serviced, to reject bids and proposals received in connection with any competitive procurement, and to accelerate the approval of WASD's (1) Consent Decree projects and (2) projects identified in WASD Multi-Year Capital Plan's Capital Improvements Program without the need for prior Board approval but subject to ratification by the Board.

The Miami-Dade Water and Sewer Department Consent Decree Work consists of all those projects needed to comply with the Consent Decree approved on April 9, 2014 by the United States District Court for the Southern District of Florida. The Miami-Dade Water and Sewer Department Capital Improvement Program consists of only those projects approved by the Board as part of the Multi-Year Capital Plan.

On April 27, 2015, a Request for Design-Build Services was issued under full and open competition for Design-Build services for the installation of a 36-inch diameter sanitary sewer force main on NW 107th Avenue from NW 7th Street to NW 25th Street. Project No. DB14-WASD-09 is part of the Doral Basin Projects. The existing 24-inch force main was identified as a corroded cement lined pipe in need of replacement. The new 36-inch force main would replace the existing 24-inch force main correspondingly increase the system's capacity. The corroded 24-inch force main will be placed out of service upon the completion of the project.

The County received six proposals in response to this solicitation. The Competitive Selection Committee recommended that the County Mayor approve negotiations with Layne Heavy Civil, Inc., as the highest ranked and most responsive proposer. The County Mayor approved the recommendation on May 6, 2016.

Prior to the award of the Design-Build contract, on July 24, 2017, Reynolds Construction, which acquired Layne Heavy Civil, Inc., notified the County that the firm could not perform the project for the original price because the local construction industry experienced significant price increases across many sectors.

The County, unable to accept the proposed increase in cost, recommends the rejection of all proposals for this project. The project will be re-advertised upon the Board's approval of this rejection.

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**Item No. 11A8
File No. 181677**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING AMENDMENT NO. 2 TO THE MARQUEE EVENT PERFORMANCE-BASED GRANT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND SOUTH FLORIDA STADIUM LLC; INCREASING THE MAXIMUM AMOUNTS THAT CAN BE EARNED AND PAID TO SOUTH FLORIDA STADIUM LLC DURING THE TERM OF THE AGREEMENT BY \$750,000.00 PER YEAR UPON COMPLETION OF A NEW PRACTICE FACILITY IN MIAMI-DADE COUNTY; WAIVING REQUIREMENTS OF RESOLUTION NO. R-130-06 AND AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE AMENDMENT NO. 2 ON BEHALF OF THE COUNTY AND TO EXERCISE ALL RIGHTS CONFERRED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve Amendment No. 2 to the Marquee Event Performance-Based Agreement between Miami-Dade County and South Florida Stadium, LLC, increasing the maximum amounts that can be earned and paid to South Florida Stadium, LLC during the term of the agreement by \$750,000.00 per year upon completion of a new practice facility in Miami-Dade County.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-279-13, adopted by the Board on April 10, 2013, approved a Modernization Agreement for renovation of Sun Life Stadium, personal guaranty for certain payment obligations, and non-relocation agreement regarding the Dolphins Franchise.

<http://intra/gia/matter.asp?matter=130701&file=false&yearFolder=Y2013>

Resolution No. R-560-14, adopted by the Board on June 17, 2014, authorized the County Mayor to execute the performance-based Marquee Event Grant Agreement between the county and South Florida Stadium, LLC d/b/a Sun Life Stadium.

<http://www.miamidade.gov/govaction/matter.asp?matter=141367&file=true&fileAnalysis=false&yearFolder=Y2014>

Resolution No. R-1219-17, adopted by the Board on December 19, 2017, approved a form of Contact Termination Agreement between Miami-Dade County and International Players Championship, LLC and IMG Worlwide, LLC; and delegated to the County Mayor the authority to resolve pending audits via binding arbitration or agreement of the parties, and, subject to certain limitations, to negotiate the terms of and finalize said agreement; and approved Amendment No. 1 to the Marquee Event Performance-Based Grant Agreement between Miami-Dade County and South Florida Stadium LLC with estimated payments of up to \$13,000,000.00 to South Florida Stadium, LLC.

<http://intra/gia/matter.asp?matter=172896&file=false&yearFolder=Y2017>

Resolution No. R-130-06, adopted by the Board on January 24, 2006, amended Resolution No. R-1198-05 to clarify that proposed agenda items seeking approval of a contract or conveyance and authority to execute the same shall not be placed on any committee or commission agenda unless the underlying contract or conveyance is completely negotiated, in final form and executed by all non-County parties.

<http://intra/gia/matter.asp?matter=060239&file=false&yearFolder=Y2006>

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PROCEDURAL HISTORY

Prime Sponsor: Barbara J. Jordan, District 1

Department/Requester: N/A

The proposed resolution does not have a procedural history.

FISCAL IMPACT

The funding source for the Marquee Event Performance-Based Grant Agreement is certain Convention Development Tax funds. There is no impact to the County's General Fund.

ANALYSIS

In April 2013, through Resolution No. R-279-13, the Board approved a Stadium Modification Agreement with the Dolphins organization for the construction of a minimum of \$350 million of capital improvements to Sun Life Stadium, which was to be funded by private monies, a State Sales Tax Rebate of up to \$3 million for 3 years, and 75 percent of an annual levy of an additional 1 percent Tourist Development Tax over 30 years. This agreement was not executed as the latter two funding items required State legislative action and local referendum, which was not achieved.

In 2014, through Resolution No. R-560-14, the Board approved and executed the Marquee Event Performance-Based Grant Agreement, which incentivizes South Florida Stadium, LLC, to take necessary steps to host major tourist generating events at Sun Life Stadium. These events, such as the Super Bowl or a College Championship Football game, have the potential to greatly benefit the County's local economy and enhance the County's brand throughout the nation and the world. Pursuant to the Grant Agreement, the Dolphins committed to make a \$350,000,000.00 investment in the modernization and improvement of the stadium. In exchange, the County agreed to make grants to the Dolphins funded from available Convention Development Tax. To best protect the interests of the County, these incentives are performance-based. Additionally the grants are also capped to a maximum \$5 million per year and payable solely from certain Convention Development Tax (CDT) funds.

In 2017, through Resolution No. R-1219-17, the Board approved an Amendment No. 1 to the Grant Agreement in order to clarify that only events held within the stadium itself would meet the eligibility criteria for grants and that beginning in 2024, the hosting of the tennis tournament currently known as the Miami Open Tennis Tournament at the stadium would make the Dolphins eligible to receive \$1 million per year for such event.

The Miami Dolphins are interested in building a new privately-funded practice facility, at an expected cost of at least \$50 million. This new facility is expected to generate significant economic development to the County and to have a positive economic impact on the County's residents and businesses.

Accordingly, the proposed resolution seeks the Board's approval for Amendment No. 2 to the Marquee Event Performance-Based Agreement between Miami-Dade County and South Florida Stadium, LLC, increasing the maximum amounts that can be earned and paid to South Florida Stadium, LLC during the term of the agreement by \$750,000.00 per year upon completion of the new practice facility in Miami-Dade County.

Pursuant to Amendment No. 2, the Dolphins would be required to construct the New Practice Facility at a minimum cost of \$50,000,000.00 in Miami-Dade County on or before September 30, 2024 and to:

- relocate and maintain its football operations headquarters within the New Practice Facility;
- relocate and maintain the permanent, day-to-day office for all of its football operations support and administrative staff at the New Practice Facility;

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- require and ensure that a substantial majority of home practices for the Miami Dolphins football team occur at the New Practice Facility; and
- use reasonable, diligent and good faith efforts to urge promoters at large, marquee events at the stadium to use the New Practice Facility to practice and prepare for events.

In addition, the cap on the number of Tier Two events (defined as an “international soccer match or other sporting event which attract significant tourists to Miami-Dade County with at least 55,000 paid tickets distributed”) that are eligible on an annual basis for grants would be increased from two to three, or from \$1,500,000.00 to \$2,250,000.00.

The term of this agreement will commence on the effective date of the resolution and will continue until September 30 of the year which is 30 years from the effective date. Alternatively, the agreement may terminate upon the mutual written agreement of the parties, or following written Termination Notice from the County to Stadium LLC.

ADDITIONAL INFORMATION

According to the Florida Department of State Division of Corporations website (Sunbiz.org), the South Florida Stadium, LLC, has an active status as a Florida Profit Corporation and first filed and registered on May 28, 1987. The principal address is registered as 9425 SW 72nd Street, Suite 150, Miami, FL 33173. Its registered agent is Goddy, Jorge, 9425, SW 72nd Street, Miami, FL 33173.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

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**Item No. 14A2
File No. 181613**

Researcher: PGE Reviewer: TD

RESOLUTION DECLARING SURPLUS COUNTY-OWNED LAND AND IMPROVEMENTS LOCATED AT 1394 NW 62ND STREET, MIAMI, FLORIDA, WAIVING THE REQUIREMENTS OF ADMINISTRATIVE ORDER 8-4 AS THEY RELATE TO REVIEW BY PLANNING ADVISORY BOARD, AND APPROVING, PURSUANT TO SECTION 125.38, FLORIDA STATUTES, TERMS OF LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY (LANDLORD) AND FLORIDA SICKLE, INC., (TENANT), A FLORIDA NOT-FOR-PROFIT CORPORATION, FOR A 30-YEAR TERM PLUS TWO TEN YEAR OPTIONS TO RENEW, FOR THE PURPOSE OF PROVIDING FAMILY AND CHILD CARE SERVICES AND RELATED PROGRAMS AT AN ANNUAL RENT OF \$2,033.68 FOR THE INITIAL YEAR, AND ADJUSTED ANNUALLY BY THREE PERCENT FOR THE REMAINDER OF THE TERM, AND INCLUDING THE GRANT OF A FIVE YEAR OPTION TO PURCHASE SUCH PROPERTY AT THE MARKET VALUE OF THE LAND OF \$96,000.00 AS SET FORTH IN THE PROPERTY APPRAISER'S WEBSITE; APPROVING BY TWO-THIRDS VOTE THE CONVEYANCE BY DEED IN THE EVENT OF THE EXERCISE OF SUCH OPTION IN ACCORDANCE WITH SECTION 2-8.6.5 OF THE CODE OF MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE LEASE AGREEMENT, TO EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN, AND TO TAKE ALL NECESSARY STEPS TO EFFECTUATE THE FOREGOING

ISSUE/REQUESTED ACTION

Whether the Board should: (1) declare surplus County-owned property located at 1394 NW 62 Street, Miami, Florida; (2) waive review by the Planning Advisory Board as required by Administrative Order No. 8-4; and (3) enter a Ground Lease with Florida Sickle, Inc. for a 30-year term plus two, 10-year options to renew for delivery of family and childcare services at an annual rent of \$2,033.68 for the initial year and adjusted annually by three percent for the remainder of the term, including the grant of an option to purchase such property within five years of the lease agreement's effective date for \$96,000.

APPLICABLE LEGISLATION/POLICY

Section 125.38 of the Florida Statutes provides that if the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of this state, or corporation or other organization not for profit which may be organized for the purposes of promoting community interest and welfare, should desire any real or personal property that may be owned by any county of this state or by its board of county commissioners, for public or community interest and welfare, then the United States, or any department or agency thereof, state or such political subdivision, agency, municipality, corporation or organization may apply to the board of county commissioners for a conveyance or lease of such property. Such board, if satisfied that such property is required for such use and is not needed for county purposes, may thereupon convey or lease the same at private sale to the applicant for such price, whether nominal or otherwise, as such board may fix, regardless of the actual value of such property. The fact of such application being made, the purpose for which such property is to be used, and the price or rent therefor shall be set out in a resolution duly adopted by such board. In case of a lease, the term of such lease shall be recited in such resolution.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0125/Sections/0125.38.html

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Section 2-8.6.5 of the County Code sets forth the County's policy relating to the purchase, sale and lease of real property.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR

Resolution No. R-333-15, adopted by the Board on April 21, 2015, establishes the County policy requiring disclosure of market value or market rental in legislative items authorizing the conveyance or lease of County-owned property to promote public disclosure and fiscal responsibility.

<http://intra/gia/matter.asp?matter=150446&file=true&yearFolder=Y2015>

Resolution No. R-974-09, adopted by the Board on July 21, 2009, directs that any resolution authorizing the execution of instruments creating a County interest in real property shall require such instruments to be recorded in the public records of Miami-Dade County and attached by the Clerk of the Board to the authorizing resolution.

<http://intra/gia/matter.asp?matter=091900&file=true&yearFolder=Y2009>

Administrative Order No. 8-4 sets forth the County policy relating to the authority to sell, lease or otherwise dispose of County-owned property. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded herein, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification if applicable. Should a recommendation not be received from the Planning Advisory Board within the time period provided within this administrative order, the Planning Department Director will provide a recommendation on the proposal.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

The Community Development Block Grant (CDBG) program provides communities with resources to address a wide range of unique community development needs. The program provides annual grants on a formula basis to 1209 general units of local government and States. The program works to ensure decent affordable housing, to provide services to the most vulnerable and to create jobs through the expansion and retention of businesses.

https://www.hud.gov/program_offices/comm_planning/communitydevelopment/programs

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Audrey M. Edmonson, District 3

Requester/Department: N/A

The item was considered at the July 17, 2018 Housing and Social Services Committee meeting and forwarded to the Board with a favorable recommendation. At the meeting, the Administration requested that the item be waived to the July 24, 2018 BCC meeting.

FISCAL IMPACT

The Tenant shall pay rent to the County in the amount of \$2,033.64 for the first year either in one lump sum or at the monthly installment rate of \$169.47. That first year rate of \$2,033.64 seen in the lease differs from the \$2,033.68 rate seen in the resolution. On the anniversary of the lease, the rent shall increase annually by three percent for each year thereafter throughout the term of the lease.

In the event the Tenant exercises its option to purchase the premises, the purchase price shall be \$96,000, the market value of the land at the time the lease was executed.

Note that the annual market rental for the property ranges from \$2.00 to \$3.85 per square foot.

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ANALYSIS

This item declares surplus County-owned property located at 1394 NW 62 Street, Miami, Florida, and authorizes a lease agreement with Florida Sickle, Inc. (Tenant) for an annual payment of \$2,033.68 for a term of 30 years plus two, 10-year options to renew. The rent increases annually at a rate of three percent for the term of the agreement. The item also provides, within the first five years of the lease, the right of the Tenant to exercise a one-time option to purchase the premises for \$96,000, the market value as seen on the County Property Appraiser's website at the time of lease execution. Exercise of that option will be formalized through the execution of a County Deed, requiring a two-thirds vote of the Board.

The property to be leased is 12,000 square feet and is located in District 3, represented by Commissioner Edmonson. Florida Sickle, Inc., is a nonprofit corporation, engaged in the clinical research of sickle cell disease and the delivery of medical care to those in need. The leased premises will be used for the delivery of treatment for sickle cell disease.

The property is currently unused and occasionally occupied by homeless individuals. The Tenant proposes to construct a Sickle Cell Disease Research Center with 20 to 30 beds for overnight stays, state-of-the-art operating rooms, an infusion center and supportive wrap around social services to assist individuals with sickle cell disease, their families and the surrounding neighborhood. Per the lease agreement, the Tenant shall complete the construction, as evidenced by a certificate of occupancy, no later than three years from the commencement date.

Florida Sickle, Incorporated is an active Florida non-profit corporation, with a principal address of 3858 Sheridan Street, Suite S, Hollywood, Florida. Per Exhibit A, Florida Sickle is also a 501(c)(3) non-profit charitable foundation.

ADDITIONAL INFORMATION

See the link below to the website for the Florida Sickle, Inc.

<https://fscdr.org/>

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**Item No. 14A5
File No. 181308**

Researcher: LE Reviewer: TD

RESOLUTION AUTHORIZING CONVEYANCE OF AN EASEMENT FOR \$10.00 TO FLORIDA POWER AND LIGHT COMPANY THROUGH COUNTY-OWNED LAND TO SERVICE THE COMPRESSED NATURAL GAS FUELING STATION AT THE CENTRAL BUS MAINTENANCE FACILITY, 3300 NW 32 AVENUE, MIAMI-DADE COUNTY, FLORIDA; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME AND TO EXERCISE ALL PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should authorize the conveyance of an easement for \$10.00 to Florida Power and Light Company through County-owned land to service the compressed natural gas fueling station at the central bus maintenance facility located at 3300 NW 32 Avenue, Miami-Dade County, Florida.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-974-09, adopted on July 21, 2009, directs that any resolution authorizing the execution of instruments creating a County interest in real property shall require such to be recorded in the Miami-Dade County public record and attached by the Clerk of the Board to the authorizing resolution.

<http://intra/gia/matter.asp?matter=091900&file=true&yearFolder=Y2009>

Resolution R-504-15, adopted on June 2, 2015, requires the County to undertake certain measures to minimize negative aesthetic impact to the public prior to conveyance of an easement or license for the installment of utility lines and equipment on County-owned property.

<http://www.miamidade.gov/govaction/matter.asp?matter=151008&file=true&fileAnalysis=false&yearFolder=Y2015>

PROCEDURAL HISTORY

**Prime Sponsor: Commissioner Jean Monestime, District 2
Department/Requester: Transportation and Public Works**

The proposed Resolution was considered at the Transportation and Public Works Committee of July 18, 2018.

During the Committee meeting, Ms. Alice Bravo, Director, Department of Transportation and Public Works, requested the proposed Resolution be waived to the July 24, 2018 BCC. Vice Chairman Moss asked staff to prepare the appropriate memorandum requesting BCC Chairman Bovo to waive the Board's rules and allow the proposed resolution to be forwarded to the July 24, 2018 BCC. Commissioner Heyman moved for the item to be waived and the motion was seconded by Commissioner Moss, and passed by a unanimous vote of those members present.

The proposed Resolution was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

There is no fiscal impact to Miami-Dade County.

BCC Meeting: July 10, 2018
Research Notes

ANALYSIS

The proposed Resolution seeks to authorize the conveyance of an approximately 1,000 square foot easement to the Florida Power and Light Company (FPL) for electrical power service at the new natural gas fueling station that will serve the Miami-Dade County CNG bus fleet at the central bus maintenance facility located at 3300 NW 32 Avenue, Miami-Dade County, Florida.

FPL's request for the easement will assist in building the required FPL facilities to supply the electrical power to the Compressed Natural Gas fueling station, operating the fueling equipment. Buses that use CNG are considered environmentally friendly because they produce little to no air pollution.

The County is currently transitioning from traditional diesel fueled buses to CNG powered buses.

**BCC Meeting: July 10, 2018
Research Notes**

**Item No. 14A6
File No. 181526**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING ADDITIONAL EXPENDITURE AUTHORITY IN A TOTAL AMOUNT UP TO \$1,600,000.00 FOR PREQUALIFICATION POOL NO. 6939-0/15 FOR PURCHASE OF NEW AWNINGS AND CANOPIES FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS(Internal Services)

ISSUE/REQUESTED ACTION

Whether the Board should authorize additional expenditure authority of up to \$1,600,000 for *Prequalification Pool No. 6939-0/15* for purchase of new awnings and canopies for the Department of Transportation and Public Works (DTPW).

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code (Contracts and Purchases Generally) applies to all contracts for public improvements and purchases of all supplies, materials and services other than professional services and (1) requires formal sealed bids for purchases over \$250,000; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

[https://library.municode.com/fl/miami -
dade county/codes/code of ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

Section 29-124 of the County Code sets forth the role of the Citizens' Independent Transportation Trust and provides that where no surtax proceeds are used to fund a contract, no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami-Dade Transit or for transit-related procurements is valued at over one million dollars unless the Trust has submitted a recommendation to the County Commission regarding said contract award. The County Commission, if in agreement with the Trust's recommendation, may award a contract by majority vote. The County Commission may modify or reject the recommendation of the Trust by a majority vote. If the Trust has failed to forward a recommendation to the County Commission within 45 days of the County Mayor or County Mayor's designee filing an award recommendation with the Clerk of the Board, the County Commission may take action on the contract award recommendation without any Trust recommendation. Notwithstanding any other provision to the contrary, a committee of the Commission may consider a contract award recommendation prior to receipt of a recommendation of the Trust.

[https://library.municode.com/fl/miami -
dade county/codes/code of ordinances?nodeId=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRTR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRTR)

Section 10-3(b) of the County Code provides that no person or entity shall submit a bid, nor shall any contract be awarded, on any County or municipal public works project in the County unless such person or firm has complied with the required certificate of competency.

[https://library.municode.com/fl/miami -
dade county/codes/code of ordinances?nodeId=PTIIICOR_CH10CO_ARTIINGE_S10-3CECOREDOBU](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH10CO_ARTIINGE_S10-3CECOREDOBU)

Resolution No. R-716-12, adopted by the Board on September 4, 2012, requires identification of a firm's small business enterprise program certification in any procurement item submitted for Board approval.

<http://intra/gia/matter.asp?matter=121265&file=true&yearFolder=Y2012>

BCC Meeting: July 10, 2018
Research Notes

Resolution No. R-187-12, adopted by the Board on February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120287min.pdf>

Resolution No. R-1179-10, adopted by the Board on December 7, 2010, authorized award of a prequalification pool for purchase of repair, replacement, and installation services for awnings and canopies for County departments for a five-year term in the amount of \$2,462,500.

<http://intra/gia/matter.asp?matter=102518&file=true&yearFolder=Y2010>

Resolution No. R-31-16, adopted by the Board on January 20, 2016, authorized additional time of five years and expenditure authority in a total amount of up to \$1,922,000 for the prequalification pool for purchase of repair, replacement and installation services for awnings and canopies for County departments.

<http://intra/gia/matter.asp?matter=171912&file=false&yearFolder=Y2017>

Implementing Order No. 3-38 sets forth the County's processes and procedures for the purchase of goods and services. The I.O. outlines: the roles and responsibilities of the Internal Services Department; the methods of purchasing goods

and services; the authority to award and modify contracts; and the requirements for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

This item was considered by the Transportation and Public Works Committee at its July 18, 2018 meeting and forwarded to the Board with a favorable recommendation. At the meeting, the Director of the Department of Transportation and Public Works requested that the item be waived to the July 24, 2018 Board meeting. The following discussion transpired at the Committee meeting:

- Commissioner Heyman asked the Administration: (1) how much of the \$6,476,000 existing cumulative allocation is for DTPW; (2) whether there is canopy damage countywide; (3) if the requested increase is sufficient to cover countywide needs; and (4) if the requested increase will be reimbursed by FEMA; the Director of DTPW responded that the department's allocation is \$355,000; that the allocation has been completely exhausted; that the money will be used to replace canopies along the South Dade Busy Way that were damaged during Hurricane Irma; and that the allocation is sufficient to address the department's needs countywide. Deputy Mayor Hudak, addressing the FEMA reimbursement question, said that the funds will be returned to the County subject to FEMA's review.
- Commissioner Moss inquired what took the County so long to replace the canopies along the bus way, considering Hurricane Irma was in September 2017, and what will be done differently in the future to prevent a reoccurrence; the Director of DTPW responded that a structural evaluation of damaged canopies was conducted to determine what could be retrofitted to a metallic roof; that in addition to routine wear, the canopies are subject to vandalism; it took time to find a vendor with the materials to perform the required work; the department has identified a local vendor that is now prepping the structures; the vendor will perform the installation work over the next two weeks; and to prevent future recurrence, there will be a pre-contract wherein the selected vendor will have materials specially stockpiled for the County.

BCC Meeting: July 10, 2018
Research Notes

- Commissioner Sosa also inquired why it took almost a year to request additional funds to repair the canopies; she further inquired whether the competition to perform the repair work could be limited via a MOU to only local vendors and requested clarification regarding whether the damaged canopies are exclusively along the South Dade Bus Way; the Director of DTPW responded that a local vendor has received a Notice to Proceed to complete the work and that the damage is only to the South Dade Bus Way as the other locations have metallic roofs.

FISCAL IMPACT

The value of the current pool, which expires on February 28, 2021, is \$6,475,165. If the requested increase of \$1,600,000 is approved, the pool's modified allocation will be \$8,075,165. The funding source for the increase is DTPW Operating. Per information seen in the Bid Tracking System on July 19, 2018, of the \$6,475,165 allocated to the pool's Blanket Purchase Order, \$3,374,212.44 has been released, leaving a balance of \$3,100,952.56. Of the \$354,354.44 allocated to DTPW, only \$1,091.51 remains.

ANALYSIS

This item is requesting Board approval to increase spending authority under this pool by \$1,600,000 for the DTPW to repair damaged bus shelters along the South Dade Bus Way. The majority of the damage was due to Hurricane Irma. Some of the damaged canopies have been fixed several times; however, persistent wind continues to tear the ropes. DTPW claims it is imperative that the canopies are repaired and restored immediately since this is the rainy season.

Currently, there is insufficient funding to proceed with the repairs based on DTPW's remaining allocation, which has already been slated for expenditure. In the event of a hurricane or other major catastrophe, the requested funding will cover repair and installation work to any of the damaged shelters along the bus way. The repair of damages from a major catastrophe at any given time throughout the life of the pool could cost as much as \$300,000 to \$800,000, with a portion of that sum potentially being reimbursed by FTA. The Internal Services Department will use a portion of the current allocation to award a contract for \$123,000 for the federal reimbursable portion of the damaged canopies. DTPW will issue a solicitation for the non-federal reimbursable damages and estimates the cost at \$34,000 for a low bid and as high as \$100,000 if fabric is not readily available.

The pool is used by various County departments to purchase repair, replacement and installation services for new awnings and canopies as needed. The contracted vendor shall furnish all labor, material and equipment necessary for satisfactory contract performance. The canopy and awning work under the pool may include the following:

- Patch torn area
- Sew torn area
- Reinforce torn area
- Reinforce seams
- Replace pipe connectors, plates, anchors and bolts
- Priming framework
- Painting framework
- Re-welding framework
- Sanding framework
- Shaping fabric
- Connect fabric to current structure
- Replace covers
- Remove old fabric and replace with new fabric

BCC Meeting: July 10, 2018
Research Notes

- Discard old structures

To participate in the pool, the vendor shall hold any of the following valid Certificates of Competency and/or license issued by the State or County Examining Board:

- Miami Dade County Canvas Awning Contractor
- Miami Dade County Miscellaneous Metals Contractor
- Miami Dade County General Contractor
- Miami Dade County Building Contractor
- State of Florida General Contractor
- State of Florida Building Contractor
- State of Florida Specialty Structure Contractor

There are six vendors currently prequalified in the pool, of which four are local and three are certified SBE firms. The commodity code for the pool is 87022 (Awnings, Vinyl). A search of the Business Management Workforce System on July 17, 2018 found the following vendors under that commodity code: (1) Flex Florida Corp.; (2) Miami Beach Awning Co.; and (3) Paradise Awnings Corporation. The latter two vendors are prequalified under this pool. Note that Awnings by Design Corp is identified as a SBE in the Prequalified Vendors table in the mayoral memorandum. However, OCA was not able to verify the SBE designation via a search on the Business Management Workforce System.

ADDITIONAL INFORMATION

See the attached case wherein Paradise Awnings Corporation, one of the prequalified vendors, unsuccessfully brought a Motion for Sanctions before the U.S. District Court, Miami Division, against former employees and their counsel in a cause of action alleging unpaid overtime and minimum wage violations under the Fair Labor Standards Act.

2014 WL 633581

Only the Westlaw citation is currently available.
United States District Court, S.D. Florida,
Miami Division.

William RAKIP, Plaintiff/Counter-Defendant,
and
Cesar Jeronimo, Plaintiff,
v.
PARADISE AWNINGS CORPORATION,
et al., Defendants/Counter-Plaintiffs.

No. 10-20004-CIV.

Feb. 18, 2014.

Attorneys and Law Firms

Edilberto O. Marban, Coral Gables, FL, Alexis Gonzalez,
Coconut Grove, FL, for Plaintiff/Counter-Defendant.

Chris Kleppin, Kristopher Walter Zinchiak, Glasser
Boreth & Kleppin, Plantation, FL, for Defendants/
Counter-Plaintiffs.

ORDER ON DEFENDANTS/COUNTER- PLAINTIFFS' MOTION FOR SANCTIONS

JONATHAN GOODMAN, United States Magistrate
Judge.

*1 This Cause is before the Undersigned on Defendants/Counter-Plaintiffs Paradise Awnings Corporation ("Paradise Awnings"), Manual Alcibar, and Juan Carlos Chaviano's (collectively "Defendants") Motion for Sanctions and Attorney's Fees against Plaintiff/Counter-Defendant William Rakip ("Rakip"), Plaintiff Cesar Jeronimo ("Jeronimo") (collectively "Plaintiffs"), and Plaintiffs' counsel. [ECF No. 333]. The District Court referred Defendants' motion to the Undersigned. [ECF No. 334].¹ The Undersigned has reviewed Defendants' motion, Plaintiffs' response in opposition [ECF No. 337], Defendants' reply [ECF No. 344], and the other relevant portions of the record. For the reasons set out below, the Undersigned **denies** Defendants' motion.²

I. BACKGROUND

This case has a long and tortured history. The Undersigned will endeavor here to provide a general background of this case and Defendants' motion. Additional relevant facts will be discussed in the Analysis portion of this Order.

A. General Factual Overview

Plaintiffs filed this action alleging unpaid overtime and minimum wage violations under the Fair Labor Standards Act ("FLSA"). [ECF No. 32]. Defendants answered and filed a counterclaim against Rakip for civil theft. [ECF No. 36].

The District Court initially denied Defendants' summary judgment motion on Rakip's FLSA claims. [ECF No. 188]. During trial, however, the District Court reconsidered its prior ruling and granted Defendants summary judgment on Rakip's FLSA claims. [ECF No. 250, pp. 113-15]. Near the end of the trial, the District Court allowed Defendants to conform their pleadings to the evidence and convert their civil theft counterclaim to a breach of contract counterclaim. [ECF No. 254, pp. 199-200].

The jury returned a verdict in Defendants' favor on both Jeronimo's remaining FLSA claim and Defendants' breach of contract counterclaim against Rakip. The jury awarded Defendants \$1,320.00 on their counterclaim. [ECF No. 233]. On December 10, 2010, the District Court entered Final Judgment for Defendants on all claims, including their breach of contract counterclaim against Rakip. [ECF No. 236].

That same day (December 10, 2010), Plaintiffs moved to correct the Final Judgment because they contended they prevailed on Defendants' civil theft counterclaim against Rakip because it was conformed to a breach of contract claim. [ECF No. 237]. Defendants opposed the requested relief. [ECF No. 238]. On December 21, 2010, the District Court entered an Amended Final Judgment. [ECF No. 240]. The Amended Final Judgment reflects that, while Defendants prevailed on all claims, including the breach of contract counterclaim, Rakip received judgment as a matter of law on Defendants' civil theft counterclaim. [*Id.*].

Defendants and Plaintiffs then filed motions to amend the Amended Final Judgment. [ECF Nos. 241; 242]. On November 30, 2011, the District Court granted in part and denied in part the respective motions to amend

the Amended Final Judgment. [ECF No. 287]. Shortly thereafter, the District Court entered a Second Amended Final Judgment. [ECF No. 300]. Rakip and Defendants then appealed, among other things, the District Court's order amending the Amended Final Judgment. [ECF Nos. 294; 302].

*2 On appeal, the appellate court affirmed in part and reversed in part the District Court. [ECF No. 321]. In short, the appellate court ruled against Rakip and in favor of Defendants and **reinstated the original Final Judgment**. [*Id.*]. Following this appellate ruling, the District Court then entered a Third Amended Final Judgment on May 21, 2013. [ECF No. 325]. The Third Amended Final Judgment vacated the Amended Final Judgment and the Second Amended Final Judgment and reinstated the Final Judgment. [*Id.*]. Rakip then filed a suggestion of bankruptcy. [ECF No. 345].

B. The Instant Motion

Defendants are seeking sanctions under 28 U.S.C. § 1927 against Plaintiffs' counsel and sanctions against Plaintiffs under the court's inherent power. [ECF No. 333]. In particular, Defendants assert the following conduct warrants sanctions: (1) Rakip and his counsel knew that Rakip's FLSA claims had been settled in a prior worker's compensation suit with Paradise Awnings, but continued aggressively litigating Rakip's claims anyway [*Id.* at pp. 2–5, 7]; (2) Plaintiffs' counsel and Jeronimo refused to settle Jeronimo's FLSA claim at the same time Jeronimo settled his worker's compensation claim [*Id.* at pp. 5–7]; and (3) the argument, urged by Plaintiffs' counsel and Rakip, that Defendants had released their breach of contract counterclaim by virtue of the settlement agreement with Paradise Awnings. [*Id.* at pp. 6–7].

In response, Plaintiffs and their counsel dispute all of Defendants' assertions and assert that they had a good-faith basis to take the legal and factual positions they did. [ECF No. 337]. They also assert that Defendants' motion for sanctions is untimely.

Defendants submitted a ten-page, one-paragraph reply. [ECF No. 344]. In it, they reassert the same grounds in their motion and also argue that their motion was timely.

II. APPLICABLE LEGAL PRINCIPLES

A. Sanctions Under 28 U.S.C. § 1927

28 U.S.C. § 1927 “is not a ‘catch-all’ provision for sanctioning objectionable conduct by counsel.” *Peterson v. BMI Refractories*, 124 F.3d 1386, 1396 (11th Cir.1997). Rather, to impose sanctions under § 1927, a court must find the following: (1) the attorney engaged in unreasonable and vexatious conduct; (2) that conduct multiplied the proceedings; and (3) the dollar amount of the sanction bears a financial nexus to the excess proceedings, i.e., the sanctions may not exceed the expenses and fees reasonably incurred because of the conduct. *Hudson v. Int'l Computer Negotiations, Inc.*, 499 F.3d 1252, 1262 (11th Cir.2007) (internal citation omitted). “[T]he provisions of § 1927, being penal in nature, must be strictly construed.” *Peterson*, 124 F.3d at 1395 (internal citations omitted).

Bad faith is the touchstone for the imposition of sanctions under § 1927 and it is measured by the attorney's objective conduct. *Amlong & Amlong v. Denny's, Inc.*, 500 F.3d 1230, 1239–40 (11th Cir.2007). An attorney litigates in bad faith when he knowingly or recklessly pursues a frivolous claim, delaying its dismissal by unreasonably and vexatiously multiplying the proceedings. *Schwartz v. Millon Air, Inc.*, 341 F.3d 1220, 1225 (11th Cir.2003). The claim must be more than merely lacking in merit; it must be without a plausible legal or factual basis and lacking in justification. *Id.*; *Robinson v. Alutiq-Mele, LLC*, 643 F.Supp.2d 1342, 1348 (S.D.Fla.2009). Claims are frivolous where they are: (1) groundless and baseless and predicated upon untruthful, outrageous, scandalous, and slanderous allegations; (2) based upon false and unsupported allegations; or (3) unsupported by any evidence at all or having no reasonable basis in fact. *Robinson*, 643 F.Supp.2d at 1348 (internal citations omitted).

*3 Finally, § 1927 sanctions can only be imposed against attorneys or persons admitted to conduct cases in a court of law, not non-attorney parties. See *Avirgan v. Hull*, 932 F.2d 1572, 1582 (11th Cir.1991).

B. Sanctions Under the Court's Inherent Power

A court may impose sanctions for litigation misconduct under its inherent power. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43–44, 111 S.Ct. 2123, 115 L.Ed.2d 27 (1991). A court's inherent power derives from its need “to manage [its] own affairs so as to achieve the orderly

and expeditious disposition of cases.” *Id.* at 43 (internal citations and quotations omitted). This inherent power to impose sanctions, however, “must be exercised with restraint and discretion.” *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764, 100 S.Ct. 2455, 65 L.Ed.2d 488 (1980).

Like § 1927, the “key to unlocking a court’s inherent power [to impose sanctions] is a finding of bad faith.” *Barnes v. Dalton*, 158 F.3d 1212, 1214 (11th Cir.1998) (citing *In re Mroz*, 65 F.3d 1567, 1575 (11th Cir.1995)). When considering sanctions under “the court’s inherent power, the threshold of bad faith conduct is at least as high as the threshold of bad faith conduct for sanctions under 28 U.S.C. § 1927.” *Peer v. Lewis*, 606 F.3d 1306, 1316 (11th Cir.2010) (internal citations and quotations omitted) (emphasis added). Unlike § 1927 sanctions, however, sanctions under the court’s inherent power may be imposed against a party and/or its counsel. *In re Mroz*, 65 F.3d at 1576.

III. ANALYSIS

Defendants are seeking sanctions against Plaintiffs’ counsel under § 1927 and against Rakip and Jeronimo under the court’s inherent power.

A. Was Defendants’ Motion Timely Filed?

Plaintiffs assert that as to Rakip’s release of his FLSA claims, Defendants’ motion is untimely under Local Rule 7.3(a) because it was not filed within 60 days of the District Court’s ruling on the issue at trial. [ECF No. 337, p. 6]. Defendants contend that they timely filed the motion after the entry of the Third Amended Final Judgment. [ECF No. 344, p. 6]. The Undersigned need not decide this issue because, regardless of whether the motion was timely filed, the Undersigned is denying it on the merits.

B. Sanctions for Rakip’s FLSA Claims

1. Relevant Background

At around the same time that Rakip filed this FLSA lawsuit in January 2010, he was also pursuing a worker’s compensation claim against Paradise Awnings. In February 2010, Rakip, with the advice of counsel, executed a settlement agreement with Paradise Awnings to settle his worker’s compensation claim (the “Settlement Agreement”). [ECF Nos. 55–4; 55–6; 188, p. 3]. In August 2010, Defendants moved for summary judgment, arguing

Rakip released his FLSA and worker’s compensation claims under the Settlement Agreement in exchange for \$7,000. [ECF No. 55, p. 2]. In the alternative, Defendants moved to approve the Settlement Agreement as to Rakip’s FLSA claims. [*Id.*]. The District Court denied the motion because Defendants contended that Rakip received \$7,000, but the language of the Settlement Agreement stated that Rakip received \$100. [ECF Nos. 55–6; 188].

*4 On the first day of trial, however, the District Court conducted an evidentiary hearing regarding whether Rakip released his FLSA claims under the Settlement Agreement. [ECF No. 250]. The District Court approved the settlement after finding that Rakip had settled his FLSA claims in the Settlement Agreement. Consequently, the District Court reconsidered its prior ruling and granted Defendants summary judgment on Rakip’s FLSA claims. [ECF No. 250, pp. 113–15].

Defendants now contend that Rakip and his counsel should be sanctioned because they knew all along that Rakip had settled his FLSA claims in February 2010, but nevertheless kept on pursuing his FLSA claims. [ECF No. 333, p. 3]. Rakip and his counsel argue that their reading of the Settlement Agreement was that the \$7,000 was for medical expenses relating to Rakip’s worker’s compensation claim, not for his FLSA claims. [ECF No. 337, p. 4]. They also argue that the Settlement Agreement was by itself insufficient to release Rakip’s FLSA claims because it had not been approved by the District Court, as required.

2. Discussion

The underlying basis of Defendants’ sanctions argument is that the Settlement Agreement was clear that Rakip had released his FLSA claims and that Rakip and his counsel knew that he had done so but continued to litigate Rakip’s FLSA claims anyway. The record, however, does not support Defendants’ argument.

First, the Settlement Agreement is not as clear as Defendants portray it to be. As the District Court made clear in denying Defendants summary judgment motion, on its face the Settlement Agreement [ECF No. 55–6] is ambiguous as to whether Rakip released his FLSA claims. [ECF No. 188, p. 3]. Indeed, it was only after the District Court received extensive testimony that it was able to determine that the Settlement Agreement released Rakip’s

FLSA claims and was able to approve the settlement. [ECF No. 250, pp. 113–15]. And even then, the District Court lamented the fact that *it required* an evidentiary hearing to determine such a basic issue. [*Id.* at pp. 114:24–115:5].

Second, Defendants complain much about the fees and expenses incurred in litigating this purportedly clear issue. But the record reveals that they are in part to blame for this. For instance, despite Defendants' contentions that the Settlement Agreement (executed in February 2010) was clear that Rakip had released his FLSA claims, Defendants did not move for summary judgment on this issue or for approval of the Settlement Agreement until August 2010—six months later. [ECF Nos. 55; 55–6]. In those six months, Defendants and Plaintiffs aggressively litigated this case with numerous discovery motions. [See ECF Nos. 38; 39; 40; 43; 46].

The fact that Rakip ultimately did not prevail on his argument that he had not released his FLSA claims does not automatically mean that he and his counsel should be sanctioned. As the Eleventh Circuit has pointed out, “[s]omething more than a lack of merit is required for § 1927 sanctions or they would be due in every case.” *McMahan v. Toto*, 256 F.3d 1120, 1129 (11th Cir.2001), *amended on reh'g*, 311 F.3d 1077 (11th Cir.2002). Here, it took a multi-hour evidentiary hearing to determine that the Settlement Agreement released Rakip's FLSA claims. As such, the Undersigned does not find that Rakip or his counsel vexatiously multiplied the proceedings by continuing to litigate Rakip's FLSA claims where it was ambiguous as to whether he had released his FLSA claims. Consequently, the Undersigned denies Defendants' request for sanctions against Rakip or his counsel on this basis.

C. Sanctions for Jeronimo's Claims

1. Relevant Background

*5 Jeronimo originally had two FLSA claims, overtime wages and minimum wage. [ECF No. 32]. On August 17, 2010, Jeronimo moved to dismiss his minimum wage claim. [ECF No. 67]. Defendants objected to the dismissal. [ECF No. 94]. Defendants first argued that the District Court should condition the dismissal with an award of attorney's fees against Jeronimo and his counsel. [*Id.* at pp. 2–3]. But the bulk of Defendants' response was for the **imposition of sanctions under § 1927** against Jeronimo's

counsel for pursuing the minimum wage claim. [*Id.* at pp. 4–10]. The District Court denied Defendants' request to condition Jeronimo's dismissal on the payment of attorney's fees and **also denied the § 1927 sanctions request**. [ECF No. 177, pp. 2–3].

Defendants now argue that Jeronimo and his counsel should be sanctioned because they did not release his FLSA claims when Jeronimo settled his worker's compensation claim and because they pursued a frivolous claim. [ECF No. 333, pp. 5–7].

Jeronimo and his counsel contend that they offered to settle for \$1,000 in August 2010 and to have the Court determine attorney's fees and costs, but Defendants refused. [ECF No. 337, p. 6]. They also contend that the non-frivolous nature of Jeronimo's claim is evidenced by the District Court's denial of both Defendants' summary judgment motion and Rule 50 motion at trial. [*Id.*].

In their reply, Defendants argue that Jeronimo's offer to settle for \$1,000 was too late because by then Jeronimo's counsel had churned the file, thereby creating an unreasonable amount of attorney's fees costs. [ECF No. 344, pp. 2, 7].

2. Discussion

As a threshold matter, the Undersigned finds that Defendants are, in part, attempting to take another bite at the apple in seeking sanctions against Jeronimo's counsel. As noted above, when Jeronimo moved to dismiss his minimum wage claim, Defendants sought sanctions against Jeronimo's counsel for purportedly churning the litigation file. [ECF No. 94, pp. 4–10]. The District Court denied that request and stated:

I do not find that the Plaintiff's attorney unreasonably and vexatiously multiplied the proceedings with respect to the Mr. Jeronimo's minimum wage claim. To the contrary, once the discovery revealing that the Mr. Jeronimo's minimum wage claim was unsupportable, his attorney promptly sought to dismiss the claim. From the record, it seems as if the only thing that has extended the resolution of this issue is the

Defendants unwillingness to agree to dismissal of this claim absent an order of sanctions under 28 U.S.C. § 1927.

[ECF No. 177, p. 2]. Defendants never appealed the District Court's ruling or sought reconsideration.

Defendants are now moving for sanctions against Jeronimo's counsel's conduct for, again, purportedly churning the file. This time, however, Defendants attempt to seek sanctions for counsel's churning the file relating to the *overtime wage claim*. Inherent in Defendants' argument is that somehow Jeronimo's counsel's churning of the file on Jeronimo's minimum wage claim is separate and distinct from the churning related to the overtime wage claim. The Undersigned is not persuaded by that proposition.

*6 For instance, much of the conduct Defendants complain about occurred before Jeronimo moved to dismiss his minimum wage claim in August 2010. Therefore, it is difficult to logically separate counsel's work relating to the minimum wage claim as separate and distinct from counsel's work regarding the overtime claim. And Defendants have not even attempted to make such a showing. Likewise, it is difficult to tell if Jeronimo, in stating the amount of his claim at his deposition, was referring only to the overtime claim or both the minimum wage and overtime claim. [ECF No. 55-5, p. 38]. Thus, to a large extent, Defendants are seeking to revisit the same conduct by Jeronimo's counsel that the District Court already found did not warrant sanctions. The Undersigned will not issue a ruling based on a reconsideration of the District Court's factual findings and finds that Defendants' motion can be denied on this basis alone. Nevertheless, in an abundance of caution, the Undersigned will examine the merits of Defendants' sanctions motion against Jeronimo and his counsel.

Defendants' request for sanctions against Jeronimo and his counsel can be separated into two parts. First, Defendants assert that Jeronimo and his counsel were pursuing a frivolous claim. Second, Defendants contend that Jeronimo's counsel's advice to Jeronimo to not settle his FLSA claim when he was settling his worker's compensation claim is sanctionable.

Concerning the merits of this lawsuit, the crux of Defendants' argument on Jeronimo's FLSA overtime

claim was that he was exempt under the FLSA's executive exemption. But it is difficult to see how Jeronimo and his counsel's pursuit of this overtime claim was **frivolous** when the District Court denied Defendants' summary judgment motion on this issue and also later denied their Rule 50 motion at trial. [ECF Nos. 188, pp. 6-7; 254, p. 26]. In both cases, the District Court noted that there were genuine issues of material fact concerning the claimed exemption. [*Id.*].

To be sure, surviving a summary judgment motion or a Rule 50 motion is not necessarily dispositive of whether a party or its counsel should be sanctioned for pursuing a meritless claim. Nevertheless, the Undersigned finds that neither Jeronimo nor his counsel should be sanctioned here for pursuing a claim which survived summary judgment and a Rule 50 motion. *See E.E.O.C. v. Tandem Computers Inc.*, 158 F.R.D. 224, 229 (D.Mass.1994) (denying motion to sanction EEOC on claim it ultimately lost on where EEOC's claim survived summary judgment and two Rule 50 motions).

Likewise, the Undersigned does not find that Jeronimo or his counsel should be sanctioned for refusing to settle his FLSA claims when he settled his worker's compensation claim. Defendants have cited to no authority that a refusal to settle a claim is *per se* sanctionable. More importantly, Defendants omit the fact that Jeronimo and his counsel *did* offer to settle his FLSA claims for \$1,000, exclusive of attorney's fees and costs, in August 2010. Defendants contend that this settlement offer was meaningless because Jeronimo's counsel had incurred a large amount of attorney's fees by this point. But as the District Court found, that was in large part due to Defendants' litigation tactics. [ECF Nos. 177, p. 2; 250, p. 100]. Defendants cannot "litigate tenaciously and then be heard to complain about the time necessarily spent by the plaintiff in response." *Copeland v. Marshall*, 641 F.2d 880, 904 (D.C.Cir.1980).

D. Sanctions for Rakip's Release of Defendants' Counterclaims

*7 Defendants contend that Rakip and his counsel's argument that the release in the Settlement Agreement released Defendants' counterclaim against him was frivolous and they both should therefore be sanctioned. [ECF No. 333, pp. 6-7].

While Rakip's argument was ultimately unsuccessful, the Undersigned finds that it does not warrant the imposition of sanctions. The Undersigned is persuaded by the fact that on appeal the Eleventh Circuit did not find that Rakip's argument was frivolous. Rather, the appellate court simply noted that Rakip had waived this argument because he had not asserted release as an affirmative defense. [ECF No. 321, pp. 8–9]. The Undersigned also notes that the issue of Defendants' civil theft/breach of contract counterclaim was the subject of much confusion during trial and post-trial and resulted in the entry of ultimately four judgments. *See supra* pp. 3–4. While Rakip's argument was ultimately found to lack merit, “[s]omething more than a lack of merit is required for § 1927 sanctions or they would be due in every case.” *McMahan*, 256 F.3d at 1129.

In light of the appellate court's opinion on this issue and the overall confusion regarding Defendants' counterclaim, the Undersigned finds that this “[s]omething more” is not present here. Accordingly, the Undersigned denies Defendants' request for sanctions against Rakip and his counsel on this basis.

IV. CONCLUSION

For the foregoing reasons, Defendants' Motion for Sanctions is **denied**.

DONE AND ORDERED.

All Citations

Not Reported in F.Supp.3d, 2014 WL 633581

Footnotes

- 1 This matter was referred to the Undersigned following the Order of Recusal and Reassignment of this matter from Magistrate Judge William C. Turnoff. [ECF No. 340].
- 2 A United States Magistrate Judge has the authority to enter an order denying sanctions (as opposed to a report and recommendations). *QBE Ins. Corp. v. Jorda Enterprises, Inc.*, 277 F.R.D. 676, 683 n. 2 (S.D.Fla.2012) (internal citations omitted).

End of Document

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**BCC Meeting: July 10, 2018
Research Notes**

**Item No. 14A7
File No. 181666**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING SELECTION OF BANC OF AMERICA PUBLIC CAPITAL CORPORATION ("BAPCC") TO PROVIDE CAPITAL IN AN AMOUNT NOT TO EXCEED \$120,000,000.00 FOR LEASE/PURCHASE OF VEHICLES AND EQUIPMENT AND TO PAY FINANCING COSTS TO BE UTILIZED BY MULTIPLE MIAMI-DADE COUNTY DEPARTMENTS; APPROVING TERMS OF RELATED COMMITMENT LETTER; WAIVING PROVISIONS OF RESOLUTION NO. R-130-06, AS AMENDED AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO CONSUMMATE THE LEASE/PURCHASE INCLUDING ENTERING INTO RELATED AGREEMENTS AND DOCUMENTS WITH TERMS CONSISTENT WITH THOSE SET FORTH IN THE COMMITMENT LETTER

ISSUE/REQUESTED ACTION

Whether the Board should approve the selection of Banc of America Public Capital Corporation to provide capital in an amount not to exceed \$120,000,000.00 over a two-year period for the lease/purchase of vehicles and equipment and to pay financing costs to be utilized by multiple Miami-Dade County departments; reimburse the operating funds that were used to purchase vehicles and equipment for the FY 2016-17 and 2017-18 adopted budgets; and waive Resolution No. R-130-06, which requires that any contracts of the County with third parties be executed and finalized prior to their placement on an agenda for Board consideration.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the Miami-Dade County Code requires formal sealed bids for purchases over \$250,000; describes the circumstances under which competitive bidding may be waived; establishes requirements for legacy purchases, designated purchases, and provides that procurement procedures shall be established via an Implementing Order.

https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

Implementing Order No. 3-38 governs the County's processes for the purchase of goods and services including professional services. It establishes the roles and responsibilities of the Internal Services Department, methods of purchasing goods and services, and the authority to award contracts. It contains requirements for access contracts, emergency purchases, bid waivers, confirmation purchases, and sole sources.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf>

Miami-Dade County Code, Section 2-8.4, governs any protest made by a participant in any competitive process utilized for selection of a person or other entity to construct any public improvement, to provide any supplies, materials or services, or to lease any County property.

http://miamidade.fl.elaws.us/code/coord_ptiii_ch2_arti_sec2-8.4

Resolution No. R-325-18, adopted on April 10, 2018, delegates contracting authority to the County Mayor to award, access, and modify competitively solicited contracts to purchase police vehicles, fire trucks, mobile equipment and other light and heavy fleet vehicles in an aggregate amount not to exceed \$80,480,706.00 for Fiscal Year 2017-18, subject to ratification by the Board on a bi-annual basis.

<http://intra/gia/matter.asp?matter=181175&file=false&yearFolder=Y2018>

Resolution No. R-130-06, adopted on January 24, 2006, amended Resolution No. R-1198-05 to clarify that proposed agenda items seeking approval of a contract or conveyance and authority to execute same shall not be placed on any

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committee or commission agenda unless the underlying contract or conveyance is completely negotiated, in final form, and executed by all non-County parties.

<http://intra/gia/matter.asp?matter=060239&file=false&yearFolder=Y2006>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Finance Department

The proposed resolution was considered at the July 16, 2018 meeting of the Government Operations Committee; and was forwarded to the BCC with a favorable recommendation.

After consideration of the item, Deputy Mayor Ed Marquez requested that the item be waived to the July 24, 2018 BCC meeting.

FISCAL IMPACT

According to the Fiscal Impact Statement, the amount to be financed to fund the vehicle/equipment purchases and related costs will not exceed \$120,000,000.00 over a two-year period.

ANALYSIS

The proposed resolution seeks the Board's approval of the selection of Banc of America Public Capital Corporation to provide capital in an amount not to exceed \$120,000,000.00 for the lease/purchase of vehicles and equipment and to pay financing costs to be utilized by multiple Miami-Dade County departments. It also seeks the Board's approval to reimburse the operating funds that were used to purchase vehicles and equipment for the FY 2016-17 and 2017-18 adopted budgets; and to waive Resolution No. R-130-06, which requires that any contracts of the County with third parties be executed and finalized prior to their placement on an agenda for Board consideration.

On April 10, 2018, the Board adopted Resolution No. R-325-18, which delegated contracting authority to the County Mayor to award, access, and modify competitively solicited contracts to purchase police vehicles, fire trucks, mobile equipment and other light and heavy fleet vehicles in an aggregate amount not to exceed \$80,480,706.00 for Fiscal Year 2017-18, subject to ratification by the Board on a bi-annual basis.

The County has a fleet of approximately 11,068 vehicles, a quarter of which have over 100,000 miles. These aging vehicles cost the County significantly more to maintain than the newer vehicles. As a part of the Budget process, all County departments prepare a Proposed Five-year replacement plan which is reviewed by the Internal Services Department's Fleet Management Division and the Office of Management and Budget. This plan is reviewed on an annual basis and updated accordingly as part of the budget development process and subject to available resources. As part of this fleet replacement initiative, all vehicles requested are reviewed to ensure that they are strategic, operationally necessary and economically sound. During this review process, changes are frequently made to the plan that remains static until finalized.

The following are the forecasted fleet replacement plans for the Aviation, Miami-Dade Police, the Water and Sewer, and the Miami-Dade Fire Rescue Departments for Fiscal Year 2017-18:

Department	Cost	Number	Finan Purchases	Number	Cash Purchases	Number	Grants
Aviation	\$10,000,000	161			\$10,000,000	161	
MDPD	\$10,420,000	472	\$10,400,000	471			\$20,000

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Water and Sewer	\$33,499,000	433		\$33,499,000	433	
MDFR	\$16,525,000	100	\$14,200,000	21	\$ 2,325,000	79

On May 4, 2018 the County issued a Request for Proposals to the banking and financial industry to finance the cost of the lease/purchase and reimbursement of budgeted vehicles and equipment for various departments and agencies. The vehicles and/or equipment to be leased/purchased were those that were approved by the Board when it adopted the Fiscal Year 2016-17 and 2017-18 budgets and any subsequent vehicle and/or equipment lease/purchase approved by the Board in subsequent fiscal years.

On May 18, 2018, Public Financial Management (PFM), which is serving as financial advisor to the County, received five proposals from major banking institutions. The County and Public Financial Management selected the proposals received from the Banc of America Public Capital Corporation (BAPCC) as being the most responsive to the requirements of the solicitation, and as having the most favorable interest rates and terms and conditions.

According to the Fiscal Impact Statement, the interest rates offered by BAPCC are locked in until August 8, 2018, which is the expected closing date of the financing. BCPCC will provide an upfront escrow structure to allow them to fund and control escrow and distribute funding upon requisition from the County and delivery of the vehicles/equipment. There will be no fees associated with the committed but unissued lease amount; and there will be no up-front bank charges, underwriting fees, or payment processing fees associated with the escrow. The departments will hold title to the vehicles upon delivery, acceptance and payment to the vehicle vendor.

DEPARTMENT INPUT

The Office of the Commission Auditor posed the following questions to the Internal Services Department, to which the following answers were received:

1. What are the current contracts in place to purchase police vehicles, fire trucks, mobile equipment and other light and heavy fleet? **Below is a list of contracts that may be used for purchase of vehicles, truck, heavy and light fleet as contemplated in this agenda item. Staff may identify additional contracts through market research to obtain the best value or advertise a new solicitation if the needs cannot be met with existing contracts.**

No.	BID No.	Contract Title
1	FSA17-VEL25.0	POLICE RATED, ADMIN, UTILITY VEHICLES, TRUCKS, VAN
2	FSA17-VEH15.0	CAB & CHASSIS TRUCKS AND OTHER FLEET EQUIPMENT
3	FSA16-VEF12.0	FIRE RESCUE VEHICLES & OTHER EQUIPMENT
4	8193-0/12	AUTOMOTIVE VEHICLES - PREQUALIFICATION
5	3708	VEHICLES , TRAILERS AND EQUIPMENT
6	3921	LIGHT DUTY VEHICLES, INCLUDING ASSOCIATED ACCESSORIES AND EQUIPMENT
7	7855-4/15-4	SPECIAL PURPOSE TRUCKS-PREQUALIFICATION
8	8535-5/13-5	VAR.OFF-ROAD, LANDFILL, HVY EQUIP-PREQUAL
9	011714-RSD 011714-RMN	FIRE TRUCKS AND FIRE APPARATUS WITH RELATED ACCESSORIES AND SUPPLIES

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10	090512-VTH	EMERGENCY RESPONSE VEHICLES TOGETHER WITH RELATED EQUIPMENT, ACCESSORIES, AND SUPPLIES
11	122017-SCA 122017-AMI 122017-FSC	SEWER VACUUM, HYDRO-EXCAVATION, AND STREET SWEEPER EQUIPMENT, WITH RELATED ACCESSORIES AND SUPPLIES
12	25101600-16-1	MEDIUM AND HEAVY TRUCKS
13	25100000-18-1	MOTOR VEHICLES

2. Who reviews and approves the five-year plans? As a part of the Budget process, all County departments prepare a Proposed Five-year replacement plan which is reviewed by the Internal Services Department's Fleet Management Division and the Office of Management and Budget. This plan is reviewed on an annual basis and updated accordingly as part of the budget development process and subject to available resources. As part of this fleet replacement initiative, all vehicles requested are reviewed to be strategic, operationally necessary and economically sound; moreover, environmentally conscious technologies will be utilized where practical. During this review process, changes are frequently made to the plan that remains static until finalized.

Departments are also required to prepare and submit a "Vehicle Request Form" which is approved by the respective Department Directors, the Office of Management and Budget, and the Office of the Mayor. Once approved, the forms are submitted to the Internal Services Department's Fleet Management Division for coordination of the vehicle purchases with the Internal Services Department's Procurement Management.

3. Please send us a copy, if available, of the value of planned purchases per year per department under the five-year plans.

FY2017-18 Forecated Fleet Replacement Plan

Department	Cost of Vehicles	Number of Vehicles	Financed Purchases		Cash Purchases		GRANTS	
			Dollar Amount	Qty of Vehicles	Dollar Amount	Qty of Vehicles	Dollar Amount	Qty of Vehicles
Animal Services	\$ 364,000	8	\$ 364,000	8	\$ -	-	\$ -	-
Aviation	\$ 10,000,000	161	\$ -	-	\$ 10,000,000	161	\$ -	-
Seaport	\$ 332,000	20	\$ -	-	\$ 332,000	20	\$ -	-
DTPW	\$ 7,812,000	113	\$ 3,491,000	33	\$ 3,461,000	32	\$ 856,000	28
MDPD	\$ 10,420,000	472	\$ 10,400,000	471	\$ -	-	\$ 20,000	1
MDCR	\$ 1,073,000	40	\$ 1,073,000	40	\$ -	-	\$ -	-
PROS	\$ 991,000	12	\$ 337,000	4	\$ 634,000	8	\$ -	-
Elections	\$ 67,000	3	\$ 67,000	3	\$ -	-	\$ -	-
Communications	\$ 29,000	1	\$ 29,000	1	\$ -	-	\$ -	-
WASD	\$ 33,499,000	433	\$ -	-	\$ 33,499,000	433	\$ -	-
MDFR	\$ 16,325,000	100	\$ 14,200,000	21	\$ 2,325,000	79	\$ -	-
DSWM	\$ 22,375,000	134	\$ 22,375,000	134	\$ -	-	\$ -	-
CUA	\$ 114,000	3	\$ 61,000	2	\$ 53,000	1	\$ -	-
JSD	\$ 60,000	2	\$ 60,000	2	\$ -	-	\$ -	-
ME	\$ 288,000	6	\$ 288,000	6	\$ -	-	\$ -	-
RER	\$ 1,803,000	89	\$ -	-	\$ 1,803,000	89	\$ -	-
BCC	\$ 130,000	6	\$ 130,000	6	\$ -	-	\$ -	-
ISD	\$ 1,368,000	41	\$ 1,368,000	41	\$ -	-	\$ -	-
ITD	\$ 115,000	3	\$ 115,000	3	\$ -	-	\$ -	-
Library	\$ 204,000	4	\$ -	-	\$ 204,000	4	\$ -	-
COC	\$ 70,000	3	\$ -	-	\$ 70,000	3	\$ -	-
JA	\$ 30,000	1	\$ 30,000	1	\$ -	-	\$ -	-
CAHSD	\$ -	-	\$ -	-	\$ -	-	\$ -	-
PA	\$ 69,000	2	\$ 69,000	4	\$ -	-	\$ -	-
PHCD	\$ 734,000	27	\$ -	-	\$ 734,000	27	\$ -	-
Total	\$ 108,712,000	1,686	\$ 54,497,000	802	\$ 53,335,000	857	\$ 876,000	29

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FY2018-19 Proposed Fleet Replacement Plan

Department	Cost of Vehicles	Number of Vehicles	Financed Purchases		Cash Purchases		GRANTS	
			Dollar Amount	Qty of Vehicles	Dollar Amount	Qty of Vehicles	Dollar Amount	Qty of Vehicles
Animal Services	\$ 340,000	10	\$ 340,000	10	\$ -	-	\$ -	-
Aviation	\$ 5,681,000	80	\$ -	-	\$ 5,681,000	80	\$ -	-
Seaport	\$ 271,000	10	\$ -	-	\$ 271,000	10	\$ -	-
DTPW	\$ 3,474,000	126	\$ 1,436,000	34	\$ 1,425,000	3	\$ -	-
MDPD	\$ 10,700,000	484	\$ 10,700,000	484	\$ -	-	\$ -	-
MDCR	\$ -	-	\$ -	-	\$ -	-	\$ -	-
PROS	\$ 3,763,000	127	\$ 3,763,000	127	\$ -	-	\$ -	-
Elections	\$ -	-	\$ -	-	\$ -	-	\$ -	-
Communications	\$ -	-	\$ -	-	\$ -	-	\$ -	-
WASD	\$ 16,871,000	306	\$ -	-	\$ 16,871,000	306	\$ -	-
MDFR	\$ 5,825,000	89	\$ 3,500,000	10	\$ 2,325,000	79	\$ -	-
DSWM	\$ 18,883,000	120	\$ 18,883,000	120	\$ -	-	\$ -	-
CUA	\$ -	-	\$ -	-	\$ -	-	\$ -	-
JSD	\$ -	-	\$ -	-	\$ -	-	\$ -	-
ME	\$ 42,000	1	\$ 42,000	1	\$ -	-	\$ -	-
RER	\$ 880,000	39	\$ -	-	\$ 880,000	39	\$ -	-
BCC	\$ 150,000	6	\$ 150,000	6	\$ -	-	\$ -	-
ISD	\$ 1,905,000	41	\$ 1,905,000	41	\$ -	-	\$ -	-
ITD	\$ 232,000	10	\$ 232,000	10	\$ -	-	\$ -	-
Library	\$ 205,000	5	\$ -	-	\$ 205,000	5	\$ -	-
COC	\$ 130,000	4	\$ -	-	\$ 130,000	4	\$ -	-
JA	\$ 25,000	1	\$ -	-	\$ 25,000	1	\$ -	-
CAHSD	\$ 163,000	6	\$ -	-	\$ 163,000	6	\$ -	-
PA	\$ 69,000	2	\$ 69,000	4	\$ -	-	\$ -	-
PHCD	\$ -	-	\$ -	-	\$ -	-	\$ -	-
Total	\$ 71,609,000	1,467	\$ 41,020,000	847	\$ 27,976,000	535	\$ -	-

Total	\$ 95,517,000	1,649	\$ 81,311,000	\$ 1,392	\$ 876,000	\$ 29
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4. What is the criteria used for fleet replacement? **Vehicle replacement guidelines are governed under Administrative Order 6-2 and Procedure Number 803 which delineate guidelines as follows:**

“The minimum expected service life for general application gasoline powered light equipment is 100,000 operating miles, irrespective of the age or model year of the vehicle, and many vehicles will operate further in a highly cost effective manner. As vehicles approach this usage level, they will receive appropriate scrutiny at scheduled PM’s to assure they are in safe and proper operating condition. Vehicles that are in need of repairs that may not be economical to perform will receive a retirement/replacement recommendation from the service facility performing the PM.

Diesel engine powered light equipment has an expected minimum service life of 150,000 miles of operation and is treated similarly in other respects.

Heavy equipment has different parameters for determining aging, including application usage, operated annual hours, and estimated remaining body function life, among other parameters.”

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Research Notes**

**Item No. 14A9
File No. 181649**

Researcher: JFP Reviewer: TD

RESOLUTION RESCINDING RESOLUTION NO. R-698-17; ACCEPTING "ASSIGNMENT OF OPTION TO PURCHASE" AND AUTHORIZING PURCHASE OF APPROXIMATELY 7.00 ACRES OF CUTLER WETLANDS PROJECT WITHIN THE ENVIRONMENTALLY ENDANGERED LANDS PROGRAM ACQUISITION SITE WITH THE NATURE CONSERVANCY AS ASSIGNOR, MIAMI-DADE COUNTY AS ASSIGNEE, AND MHONE CORP. AS SELLER FOR A PURCHASE PRICE OF \$55,000.00 USING BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM FUNDS; AUTHORIZING USE OF ENVIRONMENTALLY ENDANGERED LANDS ACQUISITION TRUST FUND FOR THIS PURCHASE IN THE EVENT BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM FUNDS ARE NOT AVAILABLE; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE ASSIGNMENT OF OPTION TO PURCHASE, TO EXERCISE THE PROVISIONS CONTAINED THEREIN, AND TO PERFORM ALL ACTS NECESSARY TO EFFECTUATE SUCH TRANSACTION; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY THE INSTRUMENT OF CONVEYANCE AS REQUIRED BY RESOLUTION NO. R-974-09

ISSUE/REQUESTED ACTION

The proposed resolution accepts the "Assignment of Option to Purchase" and authorizes purchase of approximately 7 acres of Cutler Wetlands Project within the Environmentally Endangered Lands Program acquisition site for a purchase price of \$55,000 using Building Better Communities General Obligation Bond Program (BBC-GOB) funds, and authorizing use of Environmentally Endangered Lands Acquisition Trust Fund for this purchase in the event BBC-GOB funds are not available. Nature Conservancy is the assignor, Miami-Dade County is the assignee, and MHONE Corp. is the seller in this County acquisition.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 2-8.6.5, governs the purchase, sale and lease of real property.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR

Resolution No. R-974-09, adopted by the Board on July 21, 2009, directs that any resolution authorizing the execution of instruments creating a county interest in real property are to be recorded in the Miami-Dade County Public Records and attached by the Clerk of the Board to the authorizing resolution.

<http://intra/gia/matter.asp?matter=091900&file=true&yearFolder=Y2009>

Resolution No. 698-17, adopted by the Board on July 6, 2017, approved an Assignment of Option to Purchase for the proposed property at a parcel size of 7.59 acres.

<http://intra/gia/matter.asp?matter=171383&file=true&yearFolder=Y2017>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Daniela Levine Cava, District 8

Requester/Department: Regulatory and Economic Resources

This proposed resolution was forwarded to the BCC with a favorable recommendation by the Infrastructure and Utilities Committee at its July 16, 2018 meeting. The Regulatory and Economic Resources Department requested that the item be waived to the next BCC meeting, taking place July 24, 2018, to avoid any further delay in the purchase of the property.

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Research Notes

FISCAL IMPACT

The negotiated purchase price of the subject property is \$55,000, with the re-appraised value of the 7-acre parcel also being \$55,000.

Building Better Communities General Obligation Bond (BBC-GOB) Program funding under Project No. 2, Site #70230 will be used for this purchase. As of April 30, 2018, the remaining balance under the BBC-GOB Program for allocations towards EEL acquisitions is \$11,028,999.23.

In the unlikely event that BBC-GOB Program funds are not available, the EEL Acquisition Trust Fund may be used towards the acquisition of the property. As of April 30, 2018, the balance of the EEL Trust Fund (GF 080) is \$33,443,475.53, of which \$21,354,536.96 is reserved for acquisition and \$12,088,938.57 is reserved for management.

ANALYSIS

The proposed resolution authorizes the County's acquisition of approximately 7 acres within the Cutler Wetlands Environmentally Endangered Lands Project, a critical wetland system situated in District 8, making corrections to a July 2017 Board approved resolution much to the same effect. This resolution reflects adjustments made in the parcel size, legal description, appraised value, and purchase price as a result of findings of a certified survey obtained after title work revealed discrepancies in property boundary. With the parcel size adjusted to approximately 7 acres from 7.59 acres, the re-appraised value (appraised on February 2, 2018) is \$55,000. The new purchase price of \$55,000 adjusted from \$60,000 reflects the changes in appraised value.

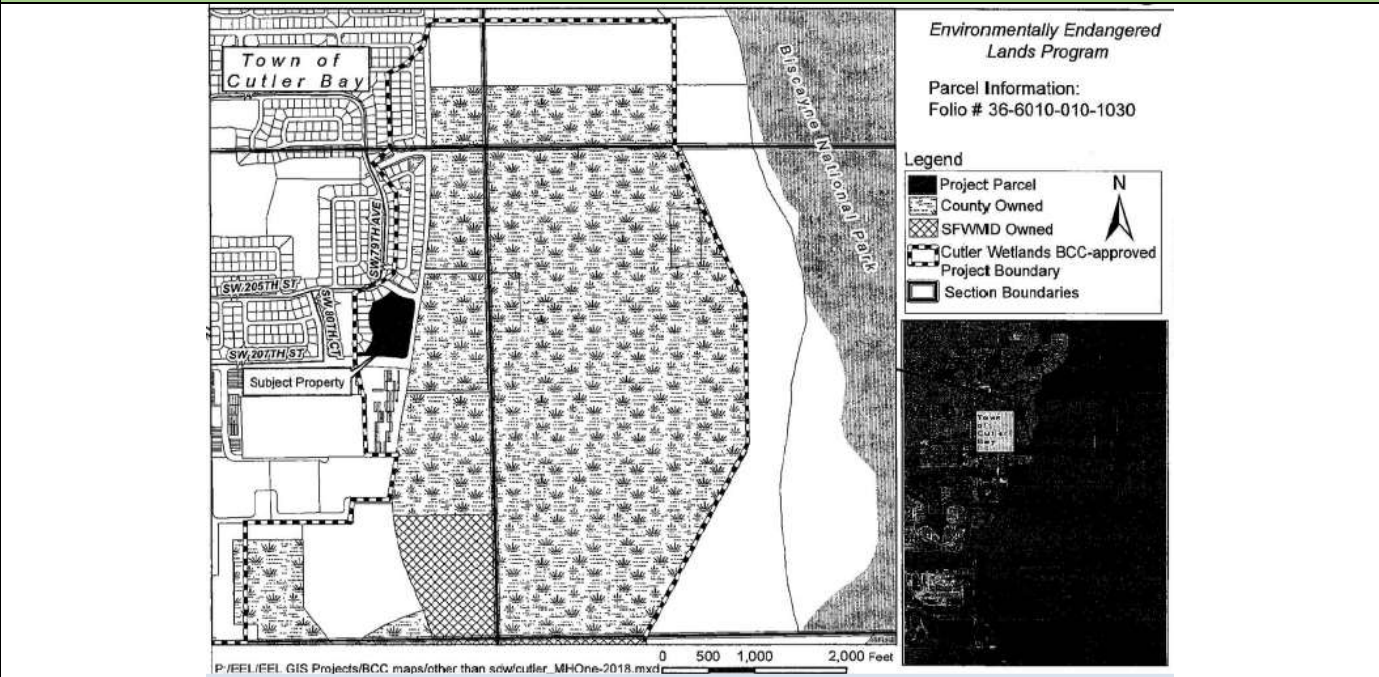
In furtherance of the Environmentally Endangered Lands (EEL) Program, the Board first approved the Cutler Wetlands Acquisition Project Area, of which the subject property is a part, in 1996. Miami-Dade County's EEL Program's focus is the protection and conservation of endangered lands, funded by a voter-approved property tax that was collected between 1990 and 1992 to fund the acquisition, protection and maintenance of environmentally endangered lands. As of February 28, 2018, approximately 22,211 acres have been acquired through the EEL Program since its inception. This particular parcel is characterized by high-quality mangrove wetlands that are important to the endangered and threatened species in the region, the acquisition of which is consistent with the Sea Level Rise Task Force Recommendations.

Below are the details of the subject property:

Folio	Size	Value	Purchase Price	Sellers
36-6010-010-1030	Approximately 7 acres	\$55,000	\$55,000	MHONE Corp.

The parcel is located at the southeast corner of theoretical SW 205 Terrace and theoretical SW 78 Avenue, Cutler Bay, Miami-Dade County. The parcel is inside the Urban Development Boundary.

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Research Notes



ADDITIONAL INFORMATION

Environmentally Endangered Lands (EEL) Program

The EEL Program and its partners have brought more than 22,211 acres of environmentally endangered lands into public ownership since 1990 (through February 28, 2018). Additionally, the EEL Program manages 2,800 acres of natural lands within Miami-Dade County Parks, for a total of more than 23,500 acres protected.

<https://www.miamidade.gov/environment/endangered-lands.asp>

The Building Better Communities General Obligation Bond (BBC-GOB) Program

On November 2, 2004 the voters of Miami-Dade County approved the \$2.9 billion Building Better Communities Bond Program which allows the County to issue long-term bonds to fund more than 300 neighborhood and regional capital projects to be completed over the next 15 years.

<https://www.miamidade.gov/bondprogram/building-better-communities.asp>

Mayor's Response to County Commission's Resolutions on Sea Level Rise – September 2016 Executive Summary

Miami-Dade County's natural environments, like coastal barrier islands, mangrove forests, shallow bays, estuaries, and wetlands, are an important first line of defense against climate change. In addition to their intrinsic value as conservation lands, these rich natural resources are also the best insurance to protect our drinking water and coasts from the impacts of gradual sea level rise and extreme weather. These areas provide protection for our coastlines from erosion and storm surge. The wider and the thicker the natural buffer, the more the mangrove forest can protect the communities behind it by dampening wave energy and potentially delaying or reducing the height of storm surges.

<https://www.miamidade.gov/green/library/sea-level-rise-executive-summary.pdf>