



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

Board of County Commissioners Meeting

February 20, 2019
9:30 A.M.
Commission Chambers

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**BCC Meeting: February 20, 2019
Research Notes**

**Item No. 7A
File No. 182682**

Researcher: LE Reviewer: TD

ORDINANCE RELATING TO THE PUBLIC HEALTH TRUST; AMENDING SECTION 25A-3 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; MODIFYING THE TOTAL NUMBER OF NAMES REQUIRED FOR SUBMISSION BY THE NOMINATING COUNCIL FOR VACANCIES ON THE BOARD OF TRUSTEES; CLARIFYING TENURE LIMITS FOR APPOINTMENTS MADE TO FILL VACANCIES; MODIFYING THE TENURE OF TRUSTEES; PROVIDING THAT MEMBERS OF THE FINANCIAL RECOVERY BOARD WHO PRESENTLY SERVE AS TRUSTEES ARE PERMITTED TO SERVE THROUGH A TIME CERTAIN; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 25A-3 of the Miami-Dade County Code relating to the Public Health Trust to modify the total number of names required for submission by the nominating council for vacancies on the Board of Trustees, clarify tenure limits for appointments made to fill vacancies, modify the tenure of trustees, and provide that Financial Recovery Board members who presently serve as trustees are permitted to serve through a time certain.

APPLICABLE LEGISLATION/POLICY

Section 25A-3 of the Miami-Dade County Code relates to the Public Health Trust and its governing body and procedures.

https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH25APUHETR_S25A-3GOBO

Section 25A-9(c)(5) of the Miami-Dade County Code relates to the Financial Recovery Board of the Public Health Trust.

https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH25APUHETR_S25A-3GOBO

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Joe A. Martinez, District 11

Department/Requester: None

The item was adopted on first reading at the December 4, 2018 BCC meeting. The item was next heard at the January 16, 2019 meeting of the Public Safety and Health Committee wherein it was forwarded to the Board with a favorable recommendation.

ANALYSIS

The proposed ordinance amends Section 25A-3 of the Miami-Dade County Code, relating to the Public Health Trust, to modify the total number of names required for submission by the Nominating Council for Board of Trustees vacancies, clarify tenure limits for appointments made to fill vacancies, modify the Trustees' tenure, and provide that members of the Financial Recovery Board who presently serve as Trustees are permitted to serve through a time certain.

The item does not have a fiscal impact to the County or the Public Health Trust as it will not result in additional staffing needs or future operational costs.

The Public Health Trust Board of Trustees serves as the governing body of the Public Health Trust. There are seven Trustee appointments. Currently, five of the Trustees are appointed by the Board of County Commissioners and serve staggered terms of two or three years each. Under the proposed ordinance, these five Trustees appointed by the County Commission will serve staggered terms of three years each. The two other Trustees – the designees of the Mayor and Chairperson of the Miami-Dade Legislative Delegation – will serve terms of two years and be permitted to serve no more than three consecutive and complete

BCC Meeting: February 20, 2019
Research Notes

terms of two years. Additionally, members of the Financial Recovery Board who serve as Trustees appointed by resolution of the Board of County Commissioners will be able to serve through May 31, 2020.

The proposed ordinance also clarifies that appointments made to fill a Trustee vacancy created during a term in progress shall not count toward the tenure limits described above. Finally, the Public Health Trust's Nominating Council currently submits a list of nominees for potential appointments to the Board of Trustees equal to one nominee for each vacancy on the Board plus two additional nominees. The proposed ordinance would make this requirement discretionary for the Nominating Council.

The table below shows the original Section 25A-3 of the Code of Miami-Dade County and the proposed changes. Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed.

Section 25A-3 of the County Code	Proposed changes to Section 25A-3 of the County Code
<p>Sec. 25A-3. Governing Body.</p> <p style="text-align: center;">* * *</p> <p>(d) Appointment and removal of Trustees. Five (5) Voting Trustees shall be appointed by resolution of the Board of County Commissioners after having been selected by the Commission from persons nominated by a Nominating Council established and described herein. Prior to September 1st of each year, the Nominating Council shall submit to the Commission a list of nominees containing a total number of names which is equal to one (1) nominee for each vacancy on the Board of Trustees plus two (2) additional nominees. The Commission shall select and appoint the voting Trustees from the list of nominees submitted by the Nominating Council. The Nominating Council shall select each nominee by individual majority vote. In the event of a tie vote, the candidate shall not be designated as a nominee.</p> <p style="text-align: center;">* * *</p> <p>In the event of a vacancy during the term of a voting Trustee, the Trust shall notify the Commission of the vacancy and shall request that it be filled as part of the annual appointment process or by special convening of the Public Health Trust Nominating Council.</p> <p style="text-align: center;">* * *</p> <p>(e) Tenure of Trustees. Three (3) of the voting Trustees designated by the Nominating Council shall serve</p>	<p>Sec. 25A-3. Governing Body.</p> <p style="text-align: center;">* * *</p> <p>(d) Appointment and removal of Trustees. Five (5) Voting Trustees shall be appointed by resolution of the Board of County Commissioners after having been selected by the Commission from persons nominated by a Nominating Council established and described herein. >><u>Within a reasonable time prior to the expiration of a Trustee's term, and no later than May 1</u><< [[Prior to September 1st of each year]], the Nominating Council shall submit to the Commission a list of nominees containing a total number of names which is equal to one (1) nominee for each vacancy on the Board of Trustees plus >>, <u>at the discretion of the Nominating Council, up to</u><< two (2) additional nominees. The Commission shall select and appoint the voting Trustees from the list of nominees submitted by the Nominating Council. The Nominating Council shall select each nominee by individual majority vote. In the event of a tie vote, the candidate shall not be designated as a nominee.</p> <p style="text-align: center;">* * *</p> <p>In the event of a vacancy during the term of a voting Trustee, the Trust shall notify the Commission of the vacancy and shall request that it be filled as part of the annual appointment process or by special convening of the Public Health Trust Nominating Council. >><u>An appointment made to fill a vacancy created during a term</u></p>

BCC Meeting: February 20, 2019
Research Notes

staggered terms of three (3) years each. Said voting Trustees shall be permitted to serve no more than two (2) consecutive and complete terms of three (3) years each. The remaining voting Trustees shall serve staggered terms of two (2) years each. Said voting Trustees shall be permitted to serve no more than three (3) consecutive and complete terms of two (2) years each. The term of a designee of the Mayor shall be coterminous with the term of the appointing Mayor and until the successor Mayor replaces the designee. The term of a designee of the Miami-Dade Legislative Delegation shall be coterminous with the term of the appointing Chairperson of the Miami-Dade Legislative Delegation and until the successor Chairperson replaces the designee.

* * *

in progress shall not count toward the tenure limits described in subsection (e). <<

* * *

(e) Tenure of Trustees. ~~[[Three (3)]]~~ >>The five<< ~~[[of the]]~~ voting Trustees ~~[[designated by the Nominating Council]]~~ >>appointed by the resolution of the Board of County Commissioners<< shall serve staggered terms of three (3) years each. Said voting Trustees shall be permitted to serve no more than two (2) consecutive and complete terms of three (3) years each. ~~[[The remaining voting Trustees shall serve staggered terms of two (2) years each. Said voting Trustees shall be permitted to serve no more than three (3) consecutive and complete terms of two (2) years each.]]~~ The ~~[[term of a]]~~ designee of the Mayor shall >>serve a term of two years, and shall be permitted to serve no more than three consecutive and complete terms of two years. << ~~[[be coterminous with the term of the appointing Mayor and until the successor Mayor replaces the designee.]]~~ The ~~[[term of a]]~~ designee of the >>Chairperson of the<< Miami-Dade Legislative Delegation shall >>serve a term of two years, and shall be permitted to serve no more than three consecutive and complete terms of two years. Notwithstanding the prior provisions, the term of the designee of the Mayor and the term of the designee of the Chairperson of the Miami-Dade Legislative Delegation shall expire when the successor Mayor and the successor Chairperson respectively appoint new designees. << ~~[[be coterminous with the term of the appointing Chairperson of the Miami Dade Legislative Delegation and until the successor Chairperson replaces the designee.]]~~ >>Maximum years of service limitations shall continue to be governed by section 2-11.38.2 of the Code. <<

* * *

BCC Meeting: February 20, 2019
Research Notes

Item No. 8F1
File No. 190314

Researcher: MF Reviewer: TD

RESOLUTION APPROVING REJECTION OF ALL BIDS RECEIVED IN RESPONSE TO INVITATION TO BID NO. Z00099A GOB ESP FOR THE CONSTRUCTION OF THE LARCENIA J. BULLARD PLAZA FOR THE INTERNAL SERVICES DEPARTMENT

ISSUE/REQUESTED ACTION

Whether the Board should approve the rejection of all bids received in response to Invitation to Bid No. Z00099A GOB ESP for the construction of the Larcenia J. Bullard Plaza for the Internal Services Department.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 33-303, provides that, prior to the construction or operation of a governmental facility in the unincorporated areas of Miami-Dade County, a public hearing before the Board is required. “At the public hearing the Board of County Commissioners shall consider, among other factors, they type of function involved, the public need therefor, the existing l and use pattern in the area, alternative locations for the facility and the nature or the impact of the facility on surrounding properties.”

http://miamidade.fl.elaws.us/code/coor_ptiii_ch33_artxxxvi_sec33-303

Resolution No. R-917-04, adopted July 20, 2004 provided for holding of a General Obligation Special Election in Miami-Dade County on November 2, 2004 with respect to authorization of not exceeding \$255,070,000 General Obligation Bonds of the County to construct and improve public service outreach facilities.

<http://intra/gia/matter.asp?matter=042289&file=false&yearFolder=Y2004>

Resolution No. R-851-08, adopted July 17, 2008, approved a list of capital projects included in the County’s Economic Stimulus Plan.

<http://intra/gia/matter.asp?matter=082273&file=false&yearFolder=Y2008>

Resolution No. R-487-14, adopted June 3, 2014, renames the Richmond Heights Shopping Center located on Lincoln Boulevard and Carver Drive in Miami-Dade, as the Larcenia J. Bullard Plaza.

<http://intra/gia/matter.asp?matter=141078&file=true&yearFolder=Y2014>

Resolution No. R-40-15, adopted January 21, 2015, approved an allocation of \$4.5 million from the Building Better Communities General Obligation Bond Program Project Number 326 – “Acquire or Construct Multi-Purpose Facilities” to fund the development of the Richmond Heights Shopping Center buy Miami-Dade County.

<http://intra/gia/matter.asp?matter=142363&file=true&yearFolder=Y2014>

Resolution No. R-638-18, adopted June 19, 2018, approved as a Governmental Facility the development plan for the Larcenia J. Bullard Plaza located at 14518 and 14508 Lincoln Boulevard, in compliance with Section 33-303 of the Code of Miami-Dade County.

<http://intra/gia/matter.asp?matter=181257&file=true&yearFolder=Y2018>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

The proposed resolution has no procedural history.

BCC Meeting: February 20, 2019
Research Notes

ANALYSIS

In 1993, the Moss Plan, a re-development plan for the South area sponsored in the aftermath of Hurricane Andrew by Commissioner Moss, identified a section of the Richmond Heights neighborhood bounded by Lincoln Boulevard, SW 146th Street, Bethune Drive and Carver Drive as a slum and blighted area. Neighborhood residents, spearheaded by the Richmond Heights Homeowners Association (RHHA) and the Richmond Heights Community Development Corporation (RHCD), requested that Miami-Dade County fund a program to alleviate these slum and blighted conditions in their neighborhood through the acquisition of certain parcels.

Resolution No. R-917-04 lists projects eligible for funding from the Building Better Communities General Obligation Bond Program. One of the projects included in the list is Project No. 321 – “Redevelopment-Richmond Heights Shopping Center” with a project description that provides “Redevelopment of the Richmond Heights Shopping Center into a multi-use facility” and an allocation of \$3,600,000. The Bond Program also includes Project No. 326 – “Acquire or construct multi-purpose facilities for various uses” with an allocation of \$4,500,000. The County purchased one of the parcels for the development of the shopping center, and subsequently purchased two additional parcels.

In 2008, the national economic slowdown and the declining housing market had a significant adverse impact on the local labor market. Among the various labor sectors experiencing a decline in jobs, the construction industry was one of the hardest hit. In response to this economic slowdown, the County identified a number of projects that could be fast-tracked, as part of a comprehensive Economic Stimulus Plan. Resolution No. R-851-08, adopted by the Board on July 17, 2008, approved a list of capital projects included in the County’s Economic Stimulus Plan. The construction of the Richmond Heights Shopping Center was included in this list.

Resolution No. R-487-14, adopted by the Board on June 3, 2014, renamed the Richmond Heights Shopping Center as the Larcenia J. Bullard Plaza. Senator Bullard was the first woman to be elected to District 118 in the Florida House of Representatives. Some of her major career highlights include her role in helping to rebuild South Miami-Dade County in the aftermath of Hurricane Andrew. She spent most of her adulthood and all of her service in elected office living one block from the location of the shopping center. It was therefore fitting that the shopping center be renamed after her.

The proposed Larcenia J. Bullard Plaza is located at 14518 and 14508 Lincoln Boulevard, in Commission District 9, represented by Dennis C. Moss, on approximately 1 acre (43,483 sq. ft.). Once development is completed, the Plaza will consist of a two-story building with approximately 14,000 square feet of total constructed area. The first floor will be dedicated to a South Miami-Dade Black History Area, gallery/exhibit space, retail/dry goods space, and support space, including restrooms, and storage space. The second floor will have offices to house the Richmond Heights Community Development Corporation, the designated manager for the Plaza.

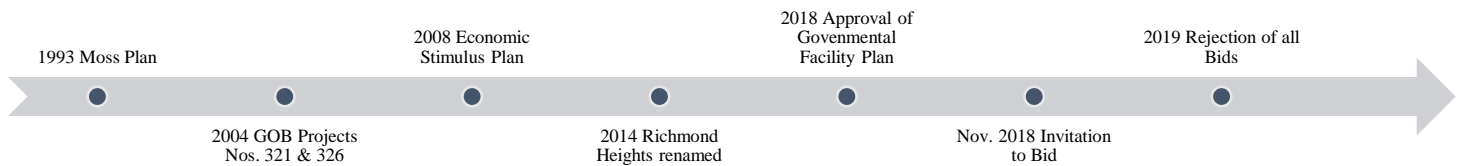
Resolution No. R-638-18, adopted by the Board on June 19, 2018, approved as a Governmental Facility the development plan for the Larcenia J. Bullard Plaza located at 14518 and 14508 Lincoln Boulevard, in compliance with Section 33-303 of the Code of Miami-Dade County.

An Invitation to Bid was issued on November 16, 2018 for the purpose of obtaining services to construct the two-story multi-use facility. Three bids were received on January 10, 2019; however the lowest responsive bid was 44 percent higher than the project budget estimate developed by the architect of record. Negotiations with the lowest bidder took place on January 29, 2019 in an attempt to reach a price within the project estimate, but the negotiations were unsuccessful.

The proposed resolution requests the Board to approve the rejection of all bids received in response to Invitation to Bid No. Z00099A GOB ESP for the construction of the Larcenia J. Bullard Plaza for the Internal Services Department.

BCC Meeting: February 20, 2019
Research Notes

According to the Fiscal Impact Statement, approval of the rejection of all bids will have no fiscal impact for the County.



ADDITIONAL INFORMATION

Below is an aerial view of the parcels bought by the County for the shopping center:



BCC Meeting: February 20, 2019
Research Notes

Item No. 8F2
File No. 190109

Researcher: IL Reviewer: TD

RESOLUTION AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE THE REMAINING TWO, TWO-YEAR OPTION TO RENEW PERIODS FOR CONTRACT NO. L9152-2/17, TELEPHONE SURVEILLANCE SYSTEM, FOR THE MIAMI-DADE POLICE DEPARTMENT IN AN AMOUNT NOT TO EXCEED \$318,000.00; 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 the remaining two, two-year option to renew for a legacy contract to Pen-Link, Ltd, for a two-year term in an amount not to exceed \$318,000.00 to obtain upgrades, software maintenance and support services for the Miami-Dade Police Department.

APPLICABLE LEGISLATION/POLICY

47 U.S.C. 1001 Communications Assistance for Law Enforcement Act (CALEA), intended to preserve the ability of law enforcement officials to conduct electronic surveillance effectively and efficiently despite the deployment of new digital technologies and wireless services that have altered the character of electronic surveillance. CALEA requires telecommunications carriers to modify their equipment, facilities, and services, wherever reasonably achievable, to ensure that they are able to comply with authorized electronic surveillance actions...Among other clarifications, the FCC (1) affirmed that the CALEA compliance deadline for facilities-based broadband Internet access and interconnected VoIP services

<https://legcounsel.house.gov/Comps/Communications%20Assistance%20For%20Law%20Enforcement%20Act.pdf>

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 2-8.1(b)(2) of the County Code provides for legacy purchases upon a majority vote of the Board members present. A legacy purchase is defined as a purchase of goods and services where competition is unavailable, impractical or constrained as a result of the need to continue to operate an existing County system which may not be replaced without substantial expenditure. In any legacy purchase award recommendation, the County Mayor shall include a statement as to the need for such purchase and the provisions taken to reduce or eliminate the future need for legacy purchases for the particular good or service.

[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)

Resolution No. R-1433-06, adopted December 19, 2006, directs the Mayor to develop an administrative process for review of all contracts for procurement of goods and services for opportunities for Small Business Enterprise participation prior to exercising the options-to-renew.

<http://intra/gia/matter.asp?matter=063176&file=true&yearFolder=Y2006>

BCC Meeting: February 20, 2019
Research Notes

Resolution No. R-98-12, adopted January 26, 2012, directs the Mayor or his designee to negotiate better prices on all awarded contracts for the purchase of goods and services and prior to the exercise of any options-to-renew and delegating authority to County Mayor or designee to amend contracts to provide better prices for the County.

<http://intra/gia/matter.asp?matter=112444&file=true&yearFolder=Y2011>

Resolution No. R-187-12, adopted 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 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>

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:

Department/Requester: Internal Services Department

This item was brought before the Public Safety and Rehabilitation Committee on February 12, 2019, where the item was forwarded to the BCC with a favorable recommendation. Prior to the passage of the item, the following request:

Commissioner Joe Martinez: requested that staff prepare appropriate memorandum requesting that Chairwoman Edmonson waive the Board Rules of Procedure and allow the foregoing resolution to be forwarded to the February 20, 2019 BCC meeting.

ANALYSIS

This item is requesting Board to authorize the remaining two, two-year option to renew for a legacy contract to Pen-Link, Ltd, for a two-year term in an amount not to exceed \$318,000.00 to obtain upgrades, software maintenance and support services for the Miami-Dade Police Department.

The time line below is intended to show the life of this contract with Miami-Dade County.

Time Line

Contract No.	Effective Date	Expiration	Value
SS9152-0/11	02/15/2010	02/14/2012	\$ 75,000.00
SS9152-4/17	04/04/2012(OTR)	03/31/2013	\$ 133,000.00
SS9152-4/17-1	04/01/2013(OTR)	03/31/2014	\$ 53,000.00
SS9152-4/17-2	04/01/2014(OTR)	03/31/2015	\$ 53,000.00

BCC Meeting: February 20, 2019
Research Notes

L9152-2-17	04/08/2015 (New Contract)	04/30/2019	\$ 212,000.00
L9152-2-17-1	(OTR)	TBD	\$ 318,000.00
		Total	\$ 844,000.00

Under the contract, Pen Link Ltd. provides MDPD with the latest telecommunications technology, enabling the department to collect critical evidence by providing a mechanism to record intercepted communications through wired, wireless, Voice Over Internet Protocol (VoIP), and third generation mobile technologies. Pen-Link, Ltd. is the sole source proprietor of all Pen-Link software products, including maintenance and support services, and thus is the only vendor able to maintain and update MDPD's System. Due to the critical role the System plays in MDPD's ability to track and locate suspects for police investigations, it is vital that the System be functional and upgraded with emerging technologies. Accordingly, pursuant to Section 2-8.1(b)(2) of the County Code, it is in the best interest of the County to award this legacy contract to Pen-Link, Ltd. as no other vendor is capable of providing the required maintenance and support services.

A review of the Bid Tracking System was conducted on February 6 2019, the table below illustrates Blanket Purchase Order(s) balance:

Department	Allocation Amount	Released Amount	Balance
MDPD	\$212,000.00	\$210,500.00	\$1,500.00

The initial contract term (L9152-2/17) was effective on April 8, 2015 and was scheduled to expire on April 30, 2019. The yearly allocation under the current contract is \$70,666.00 while the yearly allocation under the option-to-renew is \$159,000.00.

Pen-Link, Ltd. is the sole source proprietor of all Pen-Link software products, including maintenance and support services, and thus is the only vendor able to maintain and update MDPD's System. Due to the critical role the System plays in MDPD's ability to track and locate suspects for police investigations, it is vital that the System be functional and upgraded with emerging technologies.

Under the contract, Pen-Link, Ltd., will perform the following :

- Premium maintenance and Support: Premium Maintenance includes Software Updates, Software Upgrades, and Premium Technical Support as defined herein.
- Software Update: A Software Update is an enhancement—including additions, changes, and bug fixes—to Pen-Link Software. Software Updates occur within the same major version number of an existing software product. For example, replacing Pen-Link v8.1.29.0 with Pen-Link v8.1.30.0 would constitute a Software Update. Such an update is often referred to as a "New Build" of the Pen-Link Software.
- Software Upgrade: A Software Upgrade is the replacement of an older major version of an existing Pen-Link Software product or products, with a newer major version of a Pen-Link Software product or products, to the extent required to maintain the same operational functionality that was supported by the Pen-Link Software prior to the upgrade. For example, upgrading from Pen-Link Version 7 to Pen-Link Version 8 (where 8 is the newer major version) would constitute a Software Upgrade, so long as the installation of the newer version of the Pen-Link Software supported at least the same operational functionality that the Customer had under Pen-Link version 7. Upgrades do **not** apply to *new* software products that Pen-Link, Ltd. may release to the commercial market from time to time in the future.

The agenda item indicates that it would be cost prohibitive for the County to compete this project despite the availability of competition.

BCC Meeting: February 20, 2019
Research Notes

OCA conducted a search of the contract's Commodity Code is 68087 (Surveillance and Counter Surveillance Equipment). One local SBE-G&S certified firms was found on the Business Management Workforce System under the aforementioned code.

OCA reviewed the "Non-Competitive IT Project Review" sheet located in the BTS system. A question on the sheet inquires as to "How long would the legacy system need to be maintained and operational" to which the stated response is indefinitely. This same sheet identifies JSI Telecom as another vendor that offers similar services. Pen-Link, LTD is a foreign corporation with an address of 5944 Vandervoort Drive, Lincoln Drive, Lincoln, NE 68516, according to Sunbiz, the official website for the Division of Corporations for the State of Florida. Pen-Link, LTD does not have an account with the Miami-Dade County Tax Collector's office. OCA conducted a search for any filed or adjudicated law-suits for this firm, no law-suits were found.

DEPARTMENTAL INPUT

OCA posed the following questions to the Internal Services Department on February 12, 2019. The departments responses are below in bold:

- **What is the cost estimate for this service from JSI Telecom?** ISD- Procurement does not have a cost estimate from JSI Telecom. JSI Telecom has not contacted us. Traditionally, police departments and federal agencies are remarkably secretive about the details of the subject services. Important information like pricing, components that are sold with the devices, how the devices are actually operated, has been withheld from the public due to law enforcement fears that this investigative tool will be compromised. A similar system (King Fish) costs about \$160,000 plus annual maintenance and support is \$169,000. These figures are based on a confidential quote by Harris for the City of Rochester. In comparison, the associated maintenance and support fees for each option-to-renew being requested is \$105,250.
- **In two years when the option to renew expires, how will the County open this contract to other service providers?** The market and confidential nature of the agreement will be continually monitored so that the need for a non-competitive procurement is eliminated as soon as practicable.
- **Does MDPD prefer a proprietary system due to privacy and security concerns?** A preference for a proprietary system has never been expressed to procurement by MDPD. However, a proprietary system offers security through obscurity oppose to that of open source. Its owners/designers believe that because the system's flaws are not known, then attackers are unlikely to find them. On the other hand, flaws of open systems are fully known and can be audited. In essence, there is no 100 percent secure proprietary or open source system. Both have their pros and cons.

ADDITIONAL INFORMATION.

Pen-Link, LTD has been awarded a Single Source Purchase Contract (PUR 7776) with the Florida Department of Law Enforcement for annual software licensing and maintenance renewal for the Pen-Link software site license professional version. Also includes replacement servers for the Pen-Link system. The justification used by the Florida Department of Law Enforcement was identical to the justification provided by MDPD.

"FDLE currently owns a LINCOLN/Pen-Link system. This system is active and requires annual maintenance to include updates to software, new configurations to overcome identified challenges and troubleshooting support during investigative activities. Additionally, data retrieved from this technology must be analyzed to provide useful leads to investigators. This analysis is accomplished by providing both FDLE and outside agencies, analysts and investigators with technology to collate and analyze raw data."

http://www.myflorida.com/apps/vbs/adoc/F17073_SS1736PenLinkPUR7776.pdf

BCC Meeting: February 20, 2019
Research Notes

Item No. 8H1
File No. 190282

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING RETROACTIVE CHANGE ORDER NUMBER ONE AND FINAL WITH J.R.T. CONSTRUCTION, CO. FOR AN INCREASE TO THE CONTRACT AMOUNT OF \$358,183.00 FUNDED FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND FUNDS FOR CONSTRUCTION OF OAK GROVE PARK FATHER GERARD JEAN-JUSTE COMMUNITY CENTER, CONTRACT NO. 221801-13-002, PROJECT NO. DB-15-PROS-01, ESP; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the first and final (retroactive) change order with J.R.T. Construction, Co. for an increase to the contract by the amount of \$358,183, to be funded from Building Better Communities General Obligation Bond funds, for construction of Oak Grove Park Father Gerard Jean-Juste Community Center.

APPLICABLE LEGISLATION/POLICY

Section 287.055 of the Florida Statutes 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

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

[https://library.municode.com/fl/miami](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4ACPRARENLAARLASUMASE) -

[_dade county/codes/code of ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4ACPRARENLAARLASUMASE](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4ACPRARENLAARLASUMASE)

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

[https://library.municode.com/fl/miami](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4.01SMBUENARENPR) -

[_dade county/codes/code of ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4.01SMBUENARENPR](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10.4.01SMBUENARENPR)

Section 2-8.1 of the County Code 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](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE) -

[_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 2-8.3 of the County Code (County Mayor's Recommendation) states that whenever a competitive process is utilized for selection of a contractor, vendor, consultant, tenant or concessionaire, the County Mayor shall review the responses to the solicitation and recommend to the County Commission award or other appropriate action. Such recommendation shall be in writing and shall be filed with the Clerk of the Board, with copies mailed to all participants in the competitive process, no later than 10 days prior to any Commission meeting at which such recommendation is scheduled to be presented. Such recommendation shall be accompanied by a memorandum from the County Mayor that clearly identifies any and all delegations of Board authority contained in the body of the proposed contract.

[https://library.municode.com/fl/miami](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.3MARE) -

[_dade county/codes/code of ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.3MARE](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.3MARE)

BCC Meeting: February 20, 2019
Research Notes

Section 2-8.5 of the County Code provides a definition for “local business/firm” as well as sets forth the procedure for application of a preference to local business in County contracts.

[https://library.municode.com/fl/miami - dade county/codes/code of ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.5PRPRPRLOBUCOCO](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.5PRPRPRLOBUCOCO)

Implementing Order No. 3-34 establishes procedures for the formation and performance of selection committees in the competitive procurement process, including competitive selection committees utilized in the acquisition of architectural and engineering professional services.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-34.pdf>

Implementing Order No. 8-8 establishes the Sustainable Buildings Program, requiring the County to incorporate sustainable development building measures into the design, construction, renovation and maintenance of County-owned, County-financed and County-operated buildings.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO8-8.pdf>

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>

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-187-12, adopted February 21, 2012, directs the County Mayor to include due diligence information in memoranda recommending certain contract awards.

<http://intra/gia/matter.asp?matter=120287&file=true&yearFolder=Y2012>

Resolution No. R-1001-15, adopted November 3, 2015, requires that contracts with small business measures meet at least 85 percent of the small business goals applicable to the portion(s) of the contract work performed to date before a change order or contract amendment be considered for Board approval.

<http://intra/gia/matter.asp?matter=151746&file=true&yearFolder=Y2015>

Resolution No. R-421-16, adopted May 17, 2016, requires the County Mayor or the County Mayor’s designee to attach to all items recommending design and/or construction contract awards of \$1,000,000 or greater a list of all County contracts awarded in the previous three years to the recommended contractor and a summary of County evaluations of the recommended contractor’s work.

<http://intra/gia/matter.asp?matter=160124&file=true&yearFolder=Y2016>

Resolution No. R-1176-17, adopted on December 5, 2017, ratifies actions of the County Mayor related to capital improvement contracts totaling \$31,134,047.20 which are funded with Building Better Communities General Obligation Bond funds, pursuant to the Economic Stimulus Ordinance, Section 2-8.2.7 of the County Code, including Design-Build Services for the Oak Grove Park Father Gerard Jean-Juste Community Center: ratifies a contract award in the amount of \$9,423,197.20 to J.R.T Construction Company to design and build a community building and center.

<http://intra/gia/matter.asp?matter=172659&file=true&yearFolder=Y2017>

BCC Meeting: February 20, 2019
Research Notes

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Jean Monestime, District 2

Department/Requester: Parks, Recreation and Open Spaces

This item has no procedural history.

ANALYSIS

This item is requesting Board approval to the first and final (retroactive) change order with J.R.T. Construction, Co. for an increase to the contract by the amount of \$358,183—a 3.8% increase to the original contract amount of \$9,423,197.20. The increase is to be funded from Building Better Communities General Obligation Bond funds for the construction of a restroom building in the Oak Grove Park Father Gerard Jean-Juste Community Center.

The project is located at 690 NE 159th Street, Miami, FL 33162 in District 2, represented by Commissioner Monestime. The Father Gerard Jean-Juste Community Center at Oak Grove Park, currently under construction, is intended to be the centerpiece of its community. The contract award for design and construction of the Community Center was issued to J.R.T. Construction, Co. on September 29, 2016. A detached restroom building, while part of the original scope of work, was not accepted at the time of award due to insufficient funding. GOB funding later became available and the additional work was approved, and the contractor was authorized to proceed with construction. This resolution retroactively approves this action. No adjustments to the contract period of 840 days are necessary as the additional work is being performed concurrently with that of the other components of the Community Center.

Contract No. DB15-PROS-01 GOB was awarded with a 22% Small Business Enterprise - Architectural and Engineering (SBE-A/E) goal, a 25.7% Small Business Enterprise - Construction Services (SBE-Con) goal, a 1.23% Small Business Enterprise - Goods and Services (SBE-G/S) goal, a 10% Community Workforce Program (CWP) goal, and Responsible Wages and Benefits requirements. Pursuant to Resolution R-1001-15, 85% of the SBE goals applicable to the portion of the contract work performed to date must be met before a change order or contract amendment is considered for approval by the Board. Small Business Development has deemed J.R.T compliant with the requirements of the resolution, per its January 15, 2019 memorandum (see attached).

J.R.T. Construction Co. has received four contracts from Miami-Dade County in the last five years. Pursuant to Resolution No. R-421-16, a performance record verification was conducted in the Capital Improvements Information System on February 14, 2019, finding that J.R.T. Construction Co. has nine evaluations with an average evaluation rating of 3.6 out of 4.0.

Per sunbiz.org, the official State of Florida Division of Corporations website, J.R.T. Construction Co. is an active, local, Florida for-profit corporation, with a principal address of 3050 NW 77th Ct., Doral, FL 33122 (address changed March 22, 2017).

ADDITIONAL INFORMATION

Building Better Communities Bond Program

Miami-Dade County voters approved the \$2.9 billion Building Better Communities Bond Program on Nov. 2, 2004, which allowed Miami-Dade County to issue long-term bonds to fund more than 300 neighborhood and regional capital projects,

<https://www8.miamidade.gov/global/management/building-better-communities.page>

BCC Meeting: February 20, 2019
Research Notes

Item No. 801
File No. 190182

Researcher: IL 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 AWARD OF A CONSTRUCTION CONTRACT FOR CD 5.03 UPGRADE OF PUMP STATION 0692, CONTRACT NO. S-908R, TO POOLE & KENT COMPANY OF FLORIDA IN THE AMOUNT OF \$10,118,300.00; 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 for Consent Decree Project No. 5.03 Upgrades of Pump Station 0692, Contract No. S-908R, to Poole & Kent Company (Poole) in the amount of \$10,118,300.00 for a total contract term of 402 days for the Miami-Dade Water and Sewer Department (WASD).

APPLICABLE LEGISLATION/POLICY

United States of America, the State of Florida Department of Environmental Protection and the State of Florida v. Miami-Dade County, Florida, Case No. 1:12-cv-24400-FAM

<https://www.epa.gov/sites/production/files/2013-08/documents/miami-dade-cd.pdf>

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

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 2-8.2.12(4)(d) and (e) of the County Code (WASD Consent Decree) provides for the acceleration of Miami-Dade Water and Sewer Department Consent Decree and Capital Improvement Program projects, establishes policies and procedures for the approval of contracts related to those projects, specifically the right to amend contracts and extend the time for completion of any contract for construction, materials or professional services, including waivers of liquidated damages and other compensable and/or non-compensable time extensions as well as to negotiate and settle claims, and issue settlement agreement(s) or change orders for additional work under contracts and amendments where: the change order or claim does not exceed ten percent (10%) of the base contract amount; and the contingency allowance shall be utilized to ensure minimal disruption in work flow and shall be documented on the appropriate contingency authorization draw. Change orders shall be submitted to replenish the contingency account in a timely manner; and the limitations provided in (4)(e)(i) above shall not apply to any change order or amendment related to emergency actions impacting remediation, public safety, health requirements or recovery from natural disaster.

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

BCC Meeting: February 20, 2019
Research Notes

Section 2-8.5 of the County Code Provides definitions, establishes a preference for local businesses and locally headquartered businesses, establishes exceptions, and allows for reciprocity agreements.

Section 2-10.4 of the County Code provides, the rules and regulations associated with the procurement of professional, architectural, engineering, landscape architectural or land surveying and mapping services. Requires a public announcement, submission of qualifications, certification committee, competitive selection committee, and competitive negotiations.

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

Section 2-10.4(7) of the County Code provides, Each contract for professional services shall contain a prohibition against contingent fees, as required by Chapter 287, Florida Statutes. For the breach or violation of this provision the County Commission may terminate the agreement without liability or, at its discretion, deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

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

Ordinance 14-79 (Sea Level Rise), adopted on September 3, 2014, amending Section 2-1 of the Code of Miami-Dade County, Florida, to require that in all agenda items related to planning, design and construction of County infrastructure a statement be included that the impact of sea level rise has been considered; providing severability, inclusion in the code, and an effective date.

<http://www.miamidade.gov/govaction/matter.asp?matter=141211&file=true&fileAnalysis=false&yearFolder=Y2014>

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>

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>

Implementation Order (I.O.) 8-8 (Sustainable Buildings Program), adopted on December 4, 2007, authorizing approval of Implementing Order 8-8: establishing guidelines to further the County's sustainable buildings program initiative; and authorizing the County Mayor or his designee to exercise any and all other rights conferred therein.

<http://www.miamidade.gov/govaction/matter.asp?matter=080263&file=true&fileAnalysis=false&yearFolder=Y2008>

Implementation Order (I.O.) 3-41, (SBE Program), establishes procedures related to the Miami-Dade County Small Business Enterprise Program.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-41.pdf>

Implementing Order (I.O.) 3-32, (Small Business Enterprise Architecture And Engineering Program): It is the policy of Miami-Dade County that not less than 10% of the County's total annual expenditures of all project specific contracts for professional architectural, landscape architectural, engineering, and surveying and mapping services, shall be expended with CBE-A/E's certified under the CBE-A/E ordinance.

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

Implementing Order (I.O.) 3-22, (Small Business Enterprise Construction Services Program): Except where Federal or State laws or regulations mandate to the contrary, this Implementing Order governs construction services (including design build,

BCC Meeting: February 20, 2019
Research Notes

alteration, installation, painting, maintaining or repairing a public improvement), funded in whole or in part by County funds for all Miami-Dade County departments and agencies.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO03-22.pdf>

Implementing Order (I.O.) 3-32 (Small Business Enterprise Architecture and Engineering Program) Except where federal or state laws or regulations mandate to the contrary, this Implementing Order applies to all project specific awards, and multiple project contracts as mandated in the CBE-A/E ordinance.

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

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

<http://www.miamidade.gov/govaction/matter.asp?matter=120287&file=true&yearFolder=Y2012>

Resolution No. R-281-14, adopted on March 18, 2014, approving Mayor's recommendations relating to proposed Consent Decree with federal and state environmental enforcement agencies and authorizing the Mayor and County Attorney to modify proposed Consent Decree and advise the Court accordingly.

<http://www.miamidade.gov/govaction/matter.asp?matter=140568&file=true&fileAnalysis=false&yearFolder=Y2014>

Resolution No. R-421-16, adopted on May 17, 2016, direction the Mayor or Mayor's designee to attach to all items recommending Design and/or Construction Contract Awards of \$1,000,000/00 or greater a list of all County Contracts awarded in the previous three years to the recommended contractor and a summary of County Evaluations of the recommended contractors work.

<http://intra/gia/matter.asp?matter=160124&file=true&yearFolder=Y2016>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Water and Sewer

The proposed resolution has no procedural history.

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 for Consent Decree Project No. 5.03 Upgrades of Pump Station 0692, Contract No. S-908R, to Poole & Kent Company (Poole), in the amount of \$10,118,300.00 for a total contract term of 402 days for the Miami-Dade Water and Sewer Department (WASD).

The Fiscal Impact to the County for the implementation of this contract will be of \$10,118,300.00, and will impact Commission District 8, represented by Daniella Levine Cava. The funding sources for this project are: "Future WASD Revenue Bonds, WASD Revenue Bonds Sold, and Wastewater Connection Charges, "Project No.964440 Sewer Pump Station Systems -Consent Decree Projects in the adopted 2018/2019 Budget book page 61".

BCC Meeting: February 20, 2019
Research Notes

On May 21, 2013, the Board of County Commissioners authorize the execution of a Consent Decree between Miami-Dade County, the United States of America, the State of Florida and the Florida Department of Environmental Protection, for improvements to the County's wastewater collection and treatment system. WASD determined that the North District Primary Clarifiers and Odor Control System require repairs and upgrades. The Compliance date for Consent Decree project 3.02(2) is April 18, 2021. Improvements to the facilities are required pursuant to the Consent decree from the U.S. Environmental Protection Agency (U.S. EPA), Department of Justice (DOJ) and the Florida Department of Environmental Protection (FDEP), Case No 1:12-cv-24400-FAM. Loss of primary clarifier capacity would increase workload of the secondary treatment process and could result in effluent limit violations. Additionally, complaints of nuisance odors by nearby residents could result from a lack of properly functioning odor control systems. This project aims to restore the loss of digestion capacity at the North District Wastewater Treatment Plant.

On October 4, 2018, in response to WASD's competitive solicitation for Project No. S-908R, the department received two bids, the respondents were Poole & Kent Company of Florida and Kiewit Infrastructure South, Co. The opinion of probable construction cost (OPCC) as advertised was \$8,766,886.24. The lowest price bid was 1.6% higher than the advertised OPCC not inclusive of allowance and contingency. The project's Engineer of Record, CDM Smith, Inc., deemed the bid competitive and advised upon review of the low bidder's submittal a recommendation of award to Poole subject to a compliance review by the Small Business Development (SBD) division. SBE deemed both Poole and Kiewit Infrastructure South, Co. compliant with the SBE measures stipulated in the advertisement. Since Poole provided the lowest bid, WASD recommends that it be awarded the project. See a summary of the bid proposals below.

Bid submittals (October 4, 2018)

Firm	Base Bid	Engineer of Records estimate
Poole & Kent Company of Florida	\$ 8,910,000.00	\$8,766,886.24
Kiewit Infrastructure South, Co.	\$10,331,000.00	

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Poole and Kent Company of Florida, has an active status as a Florida Profit Corporation and first filed and registered on July 1, 2004. The principal address is registered as 1781 N.W. North River Drive, Miami, FL 33125.

BCC Meeting: February 20, 2019
Research Notes

Poole and Kent Company of Florida **list of sub-consultants as well as the firms that will satisfy the SBE measures:**

Sub	Address	SBE Construction Measure 14.59%	SBE Goods and Services 6.80%
A-1 Duran Roofing Inc	8095 NW 64 Street, Miami, FL 33166	N/A	N/A
Concrete Products of Palm Beaches	1491 N.W. 24 th Drive, Okeechobee, FL 34972	N/A	N/A
Corcel Corp.	2461 N.W. 23 rd Street, Miami, FL 33142	N/A	6.80%
Cypress Construction & Coating, Inc.	216 Waldo Ave North Unit 1 Lehigh Acres, FL 33971	N/A	N/A
Eli's Mechanical Corp.	Unable to locate on Sunbiz	14.59%	N/A
Ferguson Waterworks	Unable to locate on Sunbiz		
Holland Pump Company	7312 West Port Place, West Palm Beach, FL 33413	N/A	N/A
JJAS Door Installations	7302 NW 70 th Street, Miami, FL 33166	N/A	N/A
Pantropic Power	8205 N.W. 58 th Street, Maimi, FL 33166	N/A	N/A
The BG Group, LLC	15560 Lyons Road, Delray Beach, FL 33446	N/A	N/A
Tom Evans Environmental, Inc.	3200 Flightline Drive, Suite #302 Lakeland, FL 33811	N/A	N/A
Transamerica Construction Company	234 N.E. 34 th Street, Miami, FL 33137	N/A	N/A

The Division of Policy and Legislation of OCA conducted a review of the following commodity codes: 67076 (Valves and Valve Parts, Miscellaneous), 65800 (Pipe, Tubing, and Accessories, Not fittings), 65900 (Pipe and Tube Fittings), 63000 (Paint, Protective Coatings, Varnish, Wallpaper and related products) 67000 (Plumbing Equipment Fixtures and Supplies), 15010 (Construction Materials), 98552 (Library Machine Rental or lease), 57000 (Metals, Bars, Plates, Rods, Sheets, Strips, Structural Shape, Tubing, and Fabricated Items) and 77000 (Roofing Materials and Supplies) in the Business Management Workforce System on February 13, 2019. Approximately 35 SBE Firms were identified under the aforementioned commodity codes.

The Division of Policy and Legislation of OCA conducted a review of the Capital Improvement Information System on February 11, 2019, Pursuant to Resolution No. R-421-16 and found that Poole and Kent Company of Florida had an average rating of 3.6 out 4.0. This firm has been awarded \$188,650,740.00 according to the firm history report from November 2, 2013 through November 2, 2018.

ADDITIONAL INFORMATION

Poole constructed cast-in-place Wastewater Treatment Plant clarifiers, as well as projects at the South District Wastewater Treatment Plant Chlorine Contact Tanks 5-9 and South District Wastewater Treatment Plant Filter System.

<https://pkflorida.com/services/water-wastewater-construction>

**BCC Meeting: February 20, 2019
Research Notes**

**Item No. 11A8
File No. 183004**

Researcher: LE Reviewer: TD

RESOLUTION APPROVING THE AMENDMENT TO THE BYLAWS OF THE PUBLIC HEALTH TRUST OF MIAMI-DADE COUNTY TO ALLOW THE BOARD OF COUNTY COMMISSIONERS TO WAIVE THE HEIGHTENED CONFLICT OF INTEREST STANDARD APPLICABLE TO TRUSTEE APPOINTMENTS OF THE PUBLIC HEALTH TRUST BY A TWO-THIRDS VOTE OF THE FULL BOARD

ISSUE/REQUESTED ACTION

Whether the Board should approve, by a two-thirds vote of the full board, amendment to the bylaws of the Public Health Trust of Miami-Dade County to allow the Board of County Commissioners to waive the heightened conflict of interest standard applicable to trustee appointments of the Public Health Trust.

APPLICABLE LEGISLATION/POLICY

Section 25A-3 of the Miami-Dade County Code relates to the Public Health Trust and its governing body.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH25APUHETR_S25A-3GOBO

Article 3, Section 3 of the Bylaws of the Board of Trustees of the Public Health Trust of Miami-Dade County delineates the heightened conflict of interest standard.

<http://www.jacksonhealth.org/library/trust/public-health-trust-bylaws-2013.pdf>

Resolution No. R-1020-11, adopted on November 15, 2011, creates a conflict of interest policy that includes a heightened standard to eliminate the perception and any actual conflict of interest for the Public Health Trust Board Members.

<http://intra/gia/matter.asp?matter=112279&file=true&yearFolder=Y2011>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Rebeca Sosa, District 6

Department/Requester: None

During the PSHC meeting on January 16, 2019, Commissioner Heyman commented that there was an amendment to add onto the item. The amendment regards working with the Public Health Trust and the Ethics Department, but because of the rules under Jackson Hospital and the Trust, a board meetings need to occur in order to approve the amended language supported by Sponsor Commissioner Sosa. The amendment was presented but could not be offered without Trust approval that comes at the end of the week. The amendment item will be seen on February 20, 2019.

Commissioner Cava mentioned that the item is not lowering the conflict of interest threshold, but allows the Board to waive the rules by a supermajority vote if necessary. Additionally, the ethics department will look into the item for clarity.

The prime sponsor requested a deferral of this item to the February 20, 2019 BCC meeting.

ANALYSIS

The proposed ordinance amends the bylaws of the Public Health Trust of Miami-Dade County to allow the Board of County Commissioners to waive the heightened conflict of interest standard applicable to trustee appointments of the Public Health Trust, through a two-thirds vote of the full board.

This item does not have a fiscal impact.

BCC Meeting: February 20, 2019
Research Notes

The Public Health Trust (PHT) Board of Trustees argues that they have encountered challenges in identifying qualified volunteers under the existing bylaws and recommends amending their bylaws to waive the Trust Board heightened conflict of interest standard while the County's conflict-of-interest standard is applied after a review and two-thirds vote of the full Board of County Commissioners. PHT proposes The Trust Board has also noted that other highly responsible Miami-Dade County board appointments have existed with a different set of standards.

Broward County and Monroe County do not have a Public Health Trust.

The heightened conflict of interest standard was created to eliminate the perception of as well as any actual conflict of interest for the Public Health Trust Board members. Board members shall not have conflicts of interest for one year before or after serving in the outcome of their decisions as the governing body's sole interest should be in the future of Jackson Health System.

There are seven Trustee appointments and currently five of the Trustees are appointed by the Board of County Commissioners who serve staggered terms of two or three years each. The proposed ordinance will allow these five Trustees to serve staggered terms of three years each. The two other Trustees, the Mayor's designees and Chairperson of the Miami-Dade Legislative Delegation, will serve two year terms and be permitted to serve no more than three consecutive and complete two year terms. The Financial Recovery Board members who serve as Trustees as appointed by the Board will be able to serve through May 31, 2020.

Furthermore, the appointments made to fill a Trustee vacancy created during a term in progress shall not count toward the tenure limits described. The PHT's Nominating Council currently submits a list of nominees for potential appointments to the Board of Trustees and the proposed ordinance would allow this requirement to be discretionary for the Nominating Council.

The table below shows the original Article 3, Section 3 of the Bylaws of the Board of Trustees of the Public Health Trust of Miami-Dade County and the proposed changes. Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed.

Article 3, Section 3 of the Public Health Trust Bylaws	Proposed changes to Article 3, Section 3 of the Public Health Trust Bylaws
<p style="text-align: center;">* * *</p> <p style="text-align: center;">ARTICLE III</p> <p style="text-align: center;"><u>THE JACKSON BOARD</u></p> <p style="text-align: center;">* * *</p> <p>Section 3. <u>Heightened Conflict of Interest Standard.</u></p> <p>Pursuant to Resolution No. R-1020-11 adopted by the Commission on November 15, 2011, the Commission mandated that any future appointees to the governing body of the Public Health Trust, except for appointees specifically designated by Section 25A-3(a), shall be subject to the following Ethics Requirement:</p>	<p style="text-align: center;">* * *</p> <p style="text-align: center;">ARTICLE III</p> <p style="text-align: center;"><u>THE JACKSON BOARD</u></p> <p style="text-align: center;">* * *</p> <p>Section 3. <u>Heightened Conflict of Interest Standard.</u></p> <p>Pursuant to Resolution No. R-1020-11 adopted by the Commission on November 15, 2011, the Commission mandated that any future appointees to the governing body of the Public Health Trust, except for appointees specifically designated by Section 25A-3(a), shall be subject to the following Ethics Requirement:</p>

BCC Meeting: February 20, 2019
Research Notes

The governing board shall reflect and embrace a rigorous conflict of interest policy which includes a heightened standard, eliminating both the perception of as well as any actual conflict of interest for board members. Board members shall have no conflicts of interest for one year before or after serving, personally or as stakeholders, in the outcome of their decisions. The governing body's sole interest should be in the future of Jackson Health System.

The immediate family of a member of the board of Jackson Health System, and organizations in which the immediate family is employed, has control of, or has a material interest in, shall not be engaged to do business with or provide services to Jackson Health System. The immediate family of a member of the board shall not be employed in a management capacity as a director or above at Jackson Health System. Additionally, the immediate family of the member of the board shall not be employed as senior management, have control of, or have a material interest in an organization that competes with Jackson Health System. Immediate family member is defined to mean: the spouse, parents, step-parents, brothers and sisters, step-brothers and step-sisters, children and stepchildren, of a governing board member.

The Jackson Board hereby empowers the Miami-Dade County Commission on Ethics and Public Trust to issue opinions concerning this Ethics Requirement and any questions arising therefrom.

The governing board shall reflect and embrace a rigorous conflict of interest policy which includes a heightened standard, eliminating both the perception of as well as any actual conflict of interest for board members. Board members shall have no conflicts of interest for one year before or after serving, personally or as stakeholders, in the outcome of their decisions. The governing body's sole interest should be in the future of Jackson Health System.

The immediate family of a member of the board of Jackson Health System, and organizations in which the immediate family is employed, has control of, or has a material interest in, shall not be engaged to do business with or provide services to Jackson Health System. The immediate family of a member of the board shall not be employed in a management capacity as a director or above at Jackson Health System. Additionally, the immediate family of the member of the board shall not be employed as senior management, have control of, or have a material interest in an organization that competes with Jackson Health System. Immediate family member is defined to mean: the spouse, parents, step-parents, brothers and sisters, step-brothers and step-sisters, children and stepchildren, of a governing board member.

>>The provisions of this subsection may be waived by a resolution requiring a two-thirds vote of the full Board of County Commissioners.<<

The Jackson Board hereby empowers the Miami-Dade County Commission on Ethics and Public Trust to issue opinions concerning this Ethics Requirement and any questions arising therefrom.

DEPARTMENTAL INPUT

On January 15, 2019, the Office of the Commission Auditor posed the following questions to the Public Health Trust Department and received the following answers:

- According to the memorandum to the Public Health Trust Board of Trustees, the Trust Board has encountered challenges identifying qualified volunteers. What important decisions have been impacted because of this shortcoming?

In the past, the Public Health Trust has had to forgo the consideration of viable candidates because of conflicts that were subject only to the heightened conflict of interest standard. In one example, a candidate served on an advisory board for a health insurance company and would not be able to apply for the PHT until having left that advisory board for two years. The standard as it is

BCC Meeting: February 20, 2019
Research Notes

currently does not allow for the PHT to attract candidates who are otherwise involved with similar boards leaving the Trust at a disadvantage when trying to attract knowledgeable candidates to fill Board positions.

- Currently, how many Board positions are unfilled and how long have they remained unfilled? What has been the impact to the board and its medical interests?

There are two current board vacancies which are coming before the Board of County Commissioners on January 23rd for consideration. The longest the vacancies have existed is one year. The nominating council met to decide on these vacancies in October of 2018. Vacancies on the Public Health Trust impacts voting on important matters concerning the hospital's operations and its capital program.

- How much money does the Public Health Trust Board of Trustees currently oversee?

The Public Health Trust's \$2 Billion Budget is prepared by administration, approved by the Public Health Trust Board, and ultimately approved by the Board of County Commissioners.

WAIVED ITEMS

BCC Meeting: February 20, 2019
Research Notes

Item No. 8K1
File No. 190167

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AGREEMENTS RELATED TO THE GRANT FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NO. 352 IN THE AMOUNT OF \$11,319,717.21 TO FLORIDA SICKLE, INCORPORATED; WAIVING PROVISIONS OF RESOLUTION NO. R-130-06; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE, SUBORDINATE, EXTEND, MODIFY, AND/OR AMEND THE AGREEMENTS, EXERCISE TERMINATION, WAIVER, ACCELERATION AND OTHER PROVISIONS SET FORTH THEREIN AND TO DO ALL THINGS DEEMED NECESSARY TO ACCOMPLISH THE PURPOSES SET FORTH IN THIS RESOLUTION

ISSUE/REQUESTED ACTION

Whether the Board should approve (1) the Building Better Communities General Obligation Grant Agreement (Grant Agreement) between the County and Florida Sickle, Inc. in the amount of \$11,319,717.21 for Liberty Square Phase Two; (2) the Rental Regulatory Agreement between the County, Florida Sickle, Inc. and Liberty Square Phase Two, LLC; and (3) waiver of the requirement that all contracts with third parties be executed and finalized prior to their placement on a committee agenda.

APPLICABLE LEGISLATION/POLICY

42 USC 12755 sets forth nationwide rules governing affordable housing tenant and participant protections relating to lease agreements, termination of tenancy, maintenance and replacement and tenant selection.

[http://uscode.house.gov/view.xhtml?req=\(title:42%20section:12755%20edition:prelim\)](http://uscode.house.gov/view.xhtml?req=(title:42%20section:12755%20edition:prelim))

Section 17-1 of the County Code sets forth minimum housing standards governing the condition, occupancy and maintenance of dwellings in order to protect the health, safety, morals and welfare of the public.

<https://library.municode.com/fl/miami> -

[dade county/codes/code of ordinances?nodeId=PTIICOOR_CH17HO_ARTIIMIDECOMIHOST](https://library.municode.com/fl/miami-dade-county/codes/code%20of%20ordinances?nodeId=PTIICOOR_CH17HO_ARTIIMIDECOMIHOST)

Ordinance No. 05-47, adopted by the Board on March 1, 2005, authorized the issuance of Miami-Dade County General Obligation Bonds in more than one series and from time to time in an aggregate principal amount not to exceed \$2,925,750,000 for Building Better Communities Bond Program and a special bond election held on November 2, 2004.

<http://intra/gia/matter.asp?matter=050765&file=false&yearFolder=Y2005>

Resolution No. R-130-06, adopted by the Board on January 24, 2006, requires 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.

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

Resolution No. R-197-15, adopted by the Board on March 3, 2015, approves deletion of Building Better Communities General Obligation Bond program Project Nos. 242.1 (New Family Units at Victory Homes), 244.1 (New Elderly Units at Elizabeth Virrick II) and 247 (New Family Units at Lincoln Gardens) and addition of Project No. 352 (New Family Units at Liberty Square and Lincoln Gardens) with an allocation of \$32,243,000 of surplus funds from Project Nos. 242.1, 244.1 and 247.

<http://intra/gia/matter.asp?matter=150253&file=true&yearFolder=Y2015>

Resolution No. R-852-15, adopted by the Board on October 6, 2015, approves an amendment to Resolution No. R-197-15 in order to correct total amount of Building Better Communities General Obligation Bond Program surplus funds allocated to new Project No. 352 – “New Family Units at Liberty Square and Lincoln Gardens” from \$32,243,000 to \$32,300,000.

<http://intra/gia/matter.asp?matter=151883&file=true&yearFolder=Y2015>

BCC Meeting: February 20, 2019
Research Notes

Resolution No. R-1048-17, adopted by the Board on November 7, 2017, approved agreements related to the grant from Building Better Communities General Obligation Bond Program Project No. 352 (New Family Units at Liberty Square and Lincoln Gardens) in the amount of \$15,000,000 to BAC Funding Corporation and Related Urban Development Group, LLC and approved use of replacement housing factor funds in the amount of \$1,517,381 for Liberty Square Phase One and Hope VI funds in the amount of \$4,063,472 for Lincoln Gardens.

<http://intra/gia/matter.asp?matter=172172&file=true&yearFolder=Y2017>

Resolution No. R-974-09, adopted by the Board on July 21, 2009, requires any resolution authorizing the execution of instruments creating a County interest in real property 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>

Resolution No. R-636-16, adopted by the Board on July 6, 2016, approved award to RUDG, LLC as the developer of Liberty Square and Lincoln Gardens in response to Request for Application No. 2015-01 to be funded with Building Better Communities General Obligation Bond Funding and approved execution of associated ground leases and a Master Development Agreement.

<http://intra/gia/legistarfiles/MinMatters/Y2016/161778min.pdf>

Implementing Order No. 3-47 sets forth the County's process for allocation of surplus and other funds from the Building Better Communities General Obligation Bond Program.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-47.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Audrey M. Edmonson, District 3

Department/Requester: Public Housing and Community Development

The item was considered at the February 11, 2019 Housing, Social Services and Economic Development Committee (HSSSED) and forwarded to the Board with a favorable recommendation. The Administration requested waiver of the item to the February 20, 2019 Board meeting.

ANALYSIS

This item is requesting that the Board approve: (1) the grant agreement between the County and Florida Sickle, Inc., a Florida nonprofit corporation, in the amount of \$11,319,717.21 for Liberty Square Phase Two; (2) the rental regulatory agreement between the County, Florida Sickle, Inc. and Liberty Square Phase Two, LLC for 204 Phase Two units; and (3) waiver of the requirement that contracts with third parties be executed and finalized prior to being placed on a committee or Board agenda. The project is located at 6514 NW 13 Avenue, Miami, Florida, in Commission District 3.

Pursuant to Resolution No. R-197-15, adopted by the Board on March 3, 2015, as amended by Resolution No. R-852-15 adopted on October 6, 2015, the Board approved a countywide allocation of \$32,300,000 from Building Better Communities General Obligation Bond (BBC GOB) Project No. 352 (New Family Units at Liberty Square and Lincoln Gardens) for the development of public housing and affordable housing units at Liberty Square and Lincoln Gardens as part of a mixed-use project popularly referred to as Liberty Square Rising.

Pursuant to Resolution No. R-636-16, adopted by the Board on July 6, 2016, the County Mayor executed a ground lease between the County and Liberty Square Phase Two, LLC (aka Related Urban Development Group) as well as an associated Master Development Agreement for the construction of the project. All aspects of the project shall be completed within 30 months of the proposed grant agreement's effective date. Note that the first phase of the Liberty Square redevelopment is expected to be completed in the spring of 2019 and also consists of a total of 204 units.

BCC Meeting: February 20, 2019
Research Notes

Pursuant to Resolution No. R-1048-17, adopted by the Board on November 7, 2017, the County approved a grant of \$15,000,000 of the allocated BBC GOB funds to the project. The County has agreed it will fund \$11,319,717.21 of the allocated funds for Phase Two in Fiscal Year 2018-19 for reimbursable capital expenditures. Florida Sickle, Inc., the grantee, in accord with the proposed grant agreement, shall lend the Phase Two funding to Liberty Square Phase Two Lenders, LLC, who in turn shall lend that funding to the developer, Related Urban Development Group.

The total cost for the development of Liberty Square Phase Two is estimated to be \$48,169,859. That sum is broken down as follows: tax credit equity totaling \$3,648,701; bonds totaling \$27,500,000; RHF totaling \$391,401; County GOB totaling \$11,319,717; and a deferred developer fee totaling \$5,310,040.

The proposed Rental Regulatory Agreement between the County, Florida Sickle, Inc. and Liberty Square Phase Two, LLC sets forth terms and conditions for the administration of lease agreements with eligible tenants. The project shall consist of 204 units in garden-style buildings. There will be 24 one-bedroom, 144 two-bedroom, 30 three-bedroom and six four-bedroom units. Eligible tenants are persons or families with a total annual household income that does not exceed 60 percent and 80 percent of the area median income for Miami-Dade County adjusted for family size as determined by the United States Department of Housing and Urban Development. The development is expected to begin preleasing in October 2019 with completion of construction in June 2020, indicating an absorption of 12 units per month.

Under the Rental Regulatory Agreement, the grantee and developer agree to maintain rents at certain prescribed rates as follows:

Number of Units	Type	Set Aside	Gross Rent	Utility	Net Rent
17	One bedroom	30%	\$442.00	\$67.00	\$375.00
28	Two bedroom	30%	\$531.00	\$87.00	\$444.00
22	Three bedroom	30%	\$613.00	\$111.00	\$502.00
6	Four bedroom	30%	\$684.00	\$137.00	\$547.00
22	Two bedroom	60%	\$1,062.00	\$87.00	\$975.00
7	One bedroom	80%	\$1,180.00	\$67.00	\$1,113.00
94	Two bedroom	80%	\$1,416.00	\$87.00	\$1,329.00
8	Three bedroom	80%	\$1,637.00	\$111.00	\$1,526.00

At the County's discretion, up to 20 percent of the rental units may be designated for Housing Choice Voucher (Section 8) subsidy, either project-based or tenant-based.

Lastly, waiver of Resolution No. R-130-06, which requires that all contracts be executed by the non-County party prior to being placed on a committee or Board agenda, is being requested as the grantee, Florida Sickle, Inc., has not yet signed the grant agreement.

**BCC Meeting: February 20, 2019
Research Notes**

ADDITIONAL INFORMATION

See link below to a Miami Herald article titled “New Liberty Square Apartments almost Ready but Federal Shutdown could Delay Phase 2”.

<https://www.miamiherald.com/news/local/community/miami-dade/article225405155.html>

INPUT FROM PUBLIC HOUSING AND COMMUNITY DEVELOPMENT

On February 14, 2019, the Office of the Commissioner Auditor (OCA) requested the following information from PHCD. The responses are below in italics.

- **Summarize the relationship between Florida Sickle, Inc., RUDG, LLC and PHCD relevant to the administration of the grant and regulatory agreements and whether such relationship differs materially from the project’s first phase.** The relationship between the parties is addressed in the grant agreement which is an attachment to the resolution. Florida Sickle Cell was not the not-for-profit entity in the grant agreement for Phase 1.
- **Provide a list of prior PHCD projects that Florida Sickle, Inc. has participated in over the last 10 years and include the associated performance history.** Florida Sickle Cell, Inc. has not participated in previous public housing redevelopment projects.
- **Provide the status of Liberty Square Phase One, including the completion date and the number of executed tenant lease agreements.** Phase 1 is expected to be completed in April 2019 with residents to be relocated in June 2019.
- **Explain in what way, if any, the federal shutdown has impacted both project phases.** Phase 2 was originally scheduled for closing in February 2019 and is now scheduled for March 2019.
- **Clarify what accounts for Florida Sickle, Inc.’s delay in signing the agreements.** According to information received, the counsel for Sickle Cell was out of town during December and had been unable to review the grant agreement.

**BCC Meeting: February 20, 2019
Research Notes**

**Item No. 14A2
File No. 190155**

Researcher: MF Reviewer: TD

RESOLUTION RELATING TO MIAMI-OPA LOCKA EXECUTIVE AIRPORT APPROVING THE FIRST AMENDMENT TO THE LEASE BETWEEN MIAMI-DADE COUNTY AND DAVID N. SCHAECTER, PROVIDING FOR A TERM OF FIFTEEN YEARS, AND FOR INCLUSION OF AN ADDITIONAL 12,049 SQUARE FEET OF PAVEMENT, AND FOR PAYMENT OF FAIR MARKET RENT DURING THE EXTENDED TERM; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE PROVISIONS CONTAINED THEREIN; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE A COPY OF THE LEASE AMENDMENT TO THE PROPERTY APPRAISER

ISSUE/REQUESTED ACTION

Whether the Board should approve the First Amendment to the lease at Miami-Opa Locka Executive Airport between Miami-Dade County and David N. Schaecter, providing for a term of fifteen years, and for inclusion of an additional 12,049 square feet of pavement, and for payment of fair market rent during the extended term.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-160-00, adopted by the Board on February 24, 2000, awarded four advertised non-aviation leases for vehicular parking at Opa-Locka Airport to the sole bidders for such leases: Miami Lakes Office Center; David and Marvis Schaecter; Corporate Courts at Miami Lakes; and A-1 Master Auto Care, for terms of five years each with options to renew for five additional terms of one year each.

(The resolution is not in Legistar. A copy of the resolution can be consulted at the Clerk of the Board Division.)

Resolution No. R-885-13, adopted by the Board on November 5, 2013 approved a Lease Agreement with David N. Schaecter for 1.02 acres of land at Miami-Opa Locka Executive Airport for a ten year term in the annual rental amount of \$20,506.34.

<http://intra/gia/matter.asp?matter=132054&file=true&yearFolder=Y2013>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Barbara J. Jordan, District 1

Department/Requester: Aviation

The proposed resolution was considered at the Tourism and the Ports Committee meeting on February 13, 2019. It was forwarded to the BCC with a favorable recommendation.

Pursuant to Commissioner Jordan's request, Chairwoman Sosa noted she would submit the appropriate memorandum to the BCC Chairwoman requesting her to allow the proposed resolution to be waived to the February 20, 2019 BCC meeting.

ANALYSIS

The proposed resolution seeks the Board's approval of the First Amendment to the lease at Miami-Opa Locka Executive Airport between Miami-Dade County and David N. Schaecter, providing for a term of fifteen years, and for inclusion of an additional 12,049 square feet of pavement, and for payment of fair market rent during the extended term.

The parcel at issue is not developable, as it is located in the runway protection zone, and has limited access except through an adjacent parcel owned by Mr. Schaecter. Because of these restrictions, when the County solicited bids in 2000 for this parcel, only Mr. Schaecter responded. Pursuant to this bid, the County and Mr. Schaecter entered into a Lease Agreement through Resolution No. R-160-00 beginning on March 1, 2000 for 56,628 square feet of land and pavement to be used for an automobile parking lot

BCC Meeting: February 20, 2019
Research Notes

west of the airport's North Runway for a five-year term with five one-year options to renew. On February 1, 2009, the parties entered into a First Amendment to decrease the square footage of the premises to 44,579 square feet.

On November 5, 2013, the Board adopted Resolution No. R-885-13, which approved a Lease Agreement with David N. Schaecter for 1.02 acres of land at Miami-Opa Locka Executive Airport for a ten-year term in the annual rental amount of \$20,506.34. This Lease Agreement expires on August 31, 2023.

Mr. Schaecter owns an office building south of the vehicular parking area and plans on making substantial improvements to the building to increase the existing office space and to expand the parking lot area for new tenants. The Amended Lease Agreement adds 15 years to the current lease and provides the additional parking space required by leasing an additional 12,049 square feet of land and pavement.

The proposed resolution would have a positive fiscal impact for the County. According to the Fiscal Impact Statement, with the addition of 12,049 feet of land and pavement, Mr. Schaecter will pay annual land rent in the amount of \$30,239.35, which includes the yearly lease rate of \$6,385.97 for the additional square footage of land and pavement.

The land rent rates for the remaining years of the current 10 year-lease will increase yearly by three percent. The land rent rates for the proposed time expansion of 15 years (years 11-25 of the lease term) will be evaluated on an annual basis by an appraiser under contract with the Miami-Dade Aviation Department. If there is a change in the market rates for those years, the rental rate will be adjusted accordingly.

ADDITIONAL INFORMATION

Miami-Opa Locka Executive Airport (OPF) is located 10 minutes from the Hard Rock Stadium (home of the Miami Dolphins) and 35 minutes from Marlins Park (home of the Florida Marlins), 35 minutes from Downtown Miami, 30 minutes from Miami Beach and only 20 minutes from Miami International Airport. Designated as a reliever to Miami International Airport, Miami-Opa Locka Executive Airport features no landing fees and quick access. The airport offers full fixed-based operators (FBO) service, a wide range of aircraft repair and maintenance services, including airframe, power plant and avionics repair, and US Custom Service on the airfield. The airport is also home to the busiest U.S Coast Guard Air/Sea Rescue Station.

<http://www.miami-airport.com/opalocka.asp>

**BCC Meeting: February 20, 2019
Research Notes**

**Item No. 14A3
File No. 190224**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AN AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE MIAMI RIVER COMMISSION WHEREBY MIAMI-DADE COUNTY PROVIDES UP TO \$140,000.00 TO THE MIAMI RIVER COMMISSION FOR LITTER AND DEBRIS REMOVAL AND DISPOSAL FROM THE WATERS OF THE MIAMI RIVER IN UNINCORPORATED MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE ALL RIGHTS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the grant agreement between the County and the Miami River Commission whereby the County provides up to \$140,000 to the Miami River Commission to conduct litter and debris removal and disposal from the waters of the Miami River within unincorporated Miami-Dade County, specifically from NW 27 Avenue to NW 36 Street along the Miami River.

APPLICABLE LEGISLATION/POLICY

Florida Statutes Chapter 163.06 established the Miami River Commission as the official coordinating clearinghouse for all public policy and projects related to the Miami River to unite all governmental agencies, businesses, and residents in the area to speak with one voice on river issues; to develop coordinated plans, priorities, programs, projects and budgets that might substantially improve the river area; and to act as the principal advocate and watchdog to ensure that river projects are funded and implemented in a proper and timely manner.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0163/Sections/0163.06.html

Resolution No. R-421-09, adopted by the Board on April 21, 2009, authorized the County Mayor to execute an agreement with the Miami River Fund, Inc. for the County to provide \$100,000 for the specific purpose of litter and debris removal and disposal from the navigable waters of the Miami River in Fiscal Year 2008-09.

<http://intra/gia/matter.asp?matter=090749&file=true&yearFolder=Y2009>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Regulatory and Economic Resources

The item was considered at the Infrastructure and Capital Improvements Committee on February 12, 2019 and forwarded to the Board with a favorable recommendation. The item has been waived to the February 20, 2019 Board meeting.

ANALYSIS

This item is requesting that the Board approve the grant agreement between the County and the Miami River Commission to fund litter and debris removal and disposal from the waters of the Miami River within unincorporated Miami-Dade County. Under the grant, the County will provide the Miami River Fund, Inc., the Florida nonprofit affiliated with the Miami River Commission, \$140,000 for the project. All work contemplated under the grant shall be completed within 12 months of the date of execution of the agreement.

In the Fiscal Year 2018-19 Budget, the County allocated \$140,000 from the countywide General Fund for the Miami River Commission to provide debris removal and water purification services. Under the grant, the services to be provided shall consist of project management and the collection and disposal of litter and debris in the Miami River within unincorporated Miami-Dade

BCC Meeting: February 20, 2019
Research Notes

County, from NW 27 Avenue to NW 36 Street. Litter and debris consist of any nonhazardous material floating within the first two feet of water and includes aluminum cans, plastic bags, toys, vegetation, animal debris, wood, leaves and other similar debris.

The County shall reimburse the Miami River Commission for costs incurred for the management and collection and disposal of litter and debris along the Miami River. Of the \$140,000 in grant funds, up to \$15,000 shall be spent for project management, administration and invoicing, and up to \$125,000 shall be spent for scavenger boat contractual services.

It is important to note that the Miami River Commission, through contractors, performs maintenance and cleaning operations that include the collection and removal of litter and debris on the navigable waters of the Miami River east of NW 27 Avenue within the City of Miami.

BCC Meeting: February 20, 2019
Research Notes

Item No. 14A5
File No. 190225

Researcher: PGE Reviewer: TD

RESOLUTION AUTHORIZING AWARD OF A DESIGNATED PURCHASE FOR ADA COMPLIANT VOTING SYSTEM FOR THE MIAMI-DADE ELECTIONS DEPARTMENT, CONTRACT NO. L8488—2/29, TO ELECTION SYSTEMS & SOFTWARE, LLC. PURSUANT TO SECTION 2-8.1(B)(3) OF THE COUNTY CODE BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT FOR AN INITIAL FIVE-YEAR TERM PLUS TWO, THREE-YEAR OPTION TO RENEW TERMS IN A TOTAL AMOUNT NOT TO EXCEED \$21,591,000.00 AND APPROVING TERMS OF AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT AND 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 a designated purchase pursuant to Section 2-8.1(b)(3) of the County Code by a two-thirds vote of the members present to enable the Elections Department to acquire ADA compliant voting system equipment from Election Systems & Software, LLC under *Contract No. L8488-2/29* for an initial five-year term plus two, three-year option to renew terms in an amount of up to \$21,591,000.

APPLICABLE LEGISLATION/POLICY

Americans with Disabilities Act of 1990 (ADA) sets forth a national mandate for the elimination of discrimination against individuals with disabilities, guaranteeing those with disabilities an equal opportunity to enjoy employment, purchase goods and services and participate in State and local government programs and services. To be protected by the ADA, one must have a disability, which is defined as a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such an impairment.

<https://www.ada.gov/pubs/adastatute08.htm>

Title II Regulations set forth the U.S. Department of Justice regulations providing nondiscrimination on the basis of disability in State and local government services.

https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm

Help America Vote Act of 2002 (HAVA) was passed by the U.S. Congress to make sweeping reforms to the nation's voting process to address improvements to voting systems and voter access identified following the 2000 election. HAVA creates new mandatory minimum standards for states to follow in key areas of election administration. HAVA requires voting systems to be accessible for individuals with disabilities in a manner that provides the same opportunity for access and participation as for other voters.

<https://www.eac.gov/assets/1/6/HAVA41.PDF>

Florida Statutes Section 101.56062 (Standards for Accessible Voting Systems) requires each voting system certified by the Department of State for use in local, state and federal elections to include the capability to install accessible voter interface devices in the system configuration.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0101/Sections/0101.56062.html

Florida Statutes Section 101.56075 requires that all voting shall be by marksense ballot utilizing a marking device for the purpose of designating ballot selections. Persons with disabilities may vote on a voter interface device that meets the voting system accessibility requirements for individuals with disabilities pursuant to State and federal law. By 2020, persons with disabilities

BCC Meeting: February 20, 2019
Research Notes

shall vote on a voter interface device that meets the voter accessibility requirements for individuals with disabilities under HAVA and State law.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0101/Sections/0101.56075.html

Florida Statutes Section 101.5607 (Department of State to maintain voting system information; prepare software) requires copies of the program codes and the user and operator manuals and copies of all software and any other information, specifications or documentation required by the Department of State relating to an approved electronic or electromechanical voting system and its equipment to be filed with the Department of State by the supervisor of elections at the time of purchase or implementation. Any such information or materials that are not on file with and approved by the Department of State, including any updated or modified materials, may not be used in an election.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0101/Sections/0101.5607.html

Section 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. The Board, upon written recommendation of the Mayor, may by resolution adopted by two-thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the county.

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

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 2-8.1(b)(3) of the County Code (Designated Purchase) sets forth the requirements for a purchase of goods or services where formal sealed bids would not be practicable. Such purchases include: (i) sole source purchases, (ii) services where no competition exists such as public utility services, (iii) where purchases or rates are fixed by law or ordinance, (iv) unique professional or artistic services not governed by the Consultants' Competitive Negotiations Act, section 287.055, Florida Statutes, (v) purchases of goods and services necessary to address an emergency, or where additional formal competition would not be practicable, and (vi) solicitations 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. A recommendation for award of a Designated Purchase shall not be subject to the protest procedures set forth in Section 2-8.4 of the Code.

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

BCC Meeting: February 20, 2019
Research Notes

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>

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-1011-15, adopted by the Board on November 3, 2015, directed 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-1232-07, adopted by the Board on November 6, 2007, authorized award of *Contract No. BW8488-5/17* to Election Systems & Software, Inc. to obtain voting equipment, licensing rights, technical and maintenance support for the Elections Department in an amount of up to \$16,232,020 for the initial five-year term. The contract included five, one-year options to renew.

<http://intra/gia/matter.asp?matter=073170&file=true&yearFolder=Y2007>

Resolution No. R-1170-17, adopted by the Board on December 5, 2017, authorized a designated purchase to award additional time of up to two years for *Contract No. BW8488-5/17-5* for the purchase of maintenance and support services for the County's voting systems in an amount not to exceed \$500,000 for the Elections Department.

<http://intra/gia/matter.asp?matter=172341&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>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

The item was considered at the February 14, 2019 Health Care and County Operations Committee (HCCO) and forwarded to the Board with a favorable recommendation. The item has been waived to the February 20, 2019 Board meeting. At the HCCO meeting, the Elections Department Director shared the following at the podium:

(1) The intent of the law is to ensure that all voting equipment, including equipment used by the disabled, provides a paper trail. By January 1, 2020, all voting equipment used in Florida must have a paper trail associated with individual voters. This item accomplishes that.

BCC Meeting: February 20, 2019
Research Notes

(2) There are only two vendors certified by the State of Florida to sell voting equipment – Dominion Voting Systems, Inc. and Election Systems and Software, LLC. Dominion Voting is no longer certified to sell voting equipment to large counties; thus, in essence, there is only one vendor the County is able to contract with.

(3) In terms of the equipment's \$21 million price tag, of that amount, \$6 million is the capital investment and the remaining cost is for supplies, maintenance and technical support over 12 years.

(4) The Elections Department was recently informed by Florida's Division of Elections that the available equipment does not meet the technical definition of a marksense ballot. There are bills to amend Florida law to add a provision stating that "all voting must be by marksense ballot or a device that provides a verifiable voter output."

ANALYSIS

This item is requesting Board approval of a designated purchase pursuant to Section 2-8.1(b)(3) of the County Code by a two-thirds vote of the members present to enable the Elections Department to acquire ADA compliant voting system equipment from Election Systems & Software, LLC under *Contract No. L8488-2/29* for an initial five-year term plus two, three-year option to renew terms in an amount of up to \$21,591,000. In accord with Florida law, voting systems providers shall be certified by the Florida Department of State, Division of Elections. The website of the Florida Department of State Division of Elections lists two certified voting system vendors – Dominion Voting Systems, Inc. and Election Systems and Software, LLC. The voting equipment currently used by the County (Unity for the general public and iVotronic for the disabled) was purchased from Election Systems and Software, LLC.

Pursuant to Resolution No. R-1232-07, adopted on November 6, 2007, the Board authorized award of *Contract No. BW8488-5/17* to Election Systems & Software, Inc. to obtain voting equipment, licensing rights, technical and maintenance support for the Elections Department in an amount of up to \$16,232,020 for the initial five-year term. The contract included five, one-year options to renew. Pursuant to Resolution No. R-1170-17, adopted on December 5, 2017, the Board authorized a designated purchase to award additional time of up to two years to *Contract No. BW8488-5/17-5* for the purchase of maintenance and support services for the County's voting systems in an amount not to exceed \$500,000 for the Elections Department. The cumulative value of *Contract No. BW8488-5/17* is \$26,502,020 for a cumulative term of 12 years, expiring on January 13, 2020.

In 2007, the Florida Legislature mandated that all counties in the State transition to a paper-based marksense voting system. To comply, the County bought and has since used Election Systems & Software, Inc.'s optical scanners as its primary voting system. The system enables voters to mark their selections on a paper ballot, providing a paper trail. Additionally, per State of Florida requirements to ensure disabled citizens are afforded an equal opportunity to participate in elections, the County purchased iVotronic from Election Systems & Software, Inc. iVotronic is a touchscreen interface that records votes on an internal flash memory card; however, the system does not provide a paper trail.

In order to comply with the Help America Vote Act of 2002 (HAVA), the State of Florida is requiring that all voting in the State shall be by marksense ballot by 2020. That means the iVotronic equipment must be retired and replaced with an ADA accessible voting unit that provides a paper trail for voters with a disability. Through the proposed designated purchase, the County shall purchase ExpressVote Universal System equipment from Election Systems & Software, Inc. as the replacement unit for the iVotronic System. Such purchase will enable the County to comply with Florida law by 2020.

If the Elections Department selected Dominion Voting Systems, Inc. to purchase the needed replacement ADA compliant voting system equipment, it would require the County to completely replace the existing optical scanners, tabulation software and infrastructure, costing more than \$10,000,000. Through this designated purchase, the County can continue to use the existing optical scanners, avoiding additional hardware costs. With the current vendor, a software upgrade will facilitate integration to the new ADA units. Also, unlike the current vendor, Dominion Voting Systems, Inc. does not have a state-certified high-speed scanner to meet the County's Vote by Mail volume.

BCC Meeting: February 20, 2019
Research Notes

ADDITIONAL INFORMATION

See the Florida Department of State Division of Elections website for information relating to accessible voting for persons with disabilities.

<https://dos.myflorida.com/elections/for-voters/voting/accessible-voting-for-persons-with-disabilities/>

See the link below to the certified accessible voting systems for use by persons with disabilities. The systems meet at least 12 major categories of accessibility standards.

<https://dos.myflorida.com/media/695246/voting-systems-in-use-by-county.pdf>