



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

**Board of County Commissioners Meeting**

April 9, 2019  
9:30 A.M.  
Commission Chambers

Yinka Majekodunmi, CPA  
Commission Auditor  
Office of the Commission Auditor (OCA)  
111 N.W. First Street, Suite 1030  
Miami, FL 33128  
(305) 375-2524

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**BCC Meeting: April 9, 2019  
Research Notes**

**Item No. 5A  
File No. 190475**

**Researcher: LE Reviewer: TD**

RESOLUTION DECLARING SURPLUS TWO COUNTY-OWNED PROPERTIES LOCATED IN UNINCORPORATED MIAMI-DADE COUNTY, FLORIDA AND REVISING THE INVENTORY LIST OF REAL PROPERTIES, AFTER A PUBLIC HEARING, TO INCLUDE SUCH PROPERTIES IN ACCORDANCE WITH SECTION 125.379(1), FLORIDA STATUTES; AUTHORIZING CONVEYANCE, PURSUANT TO SECTION 125.379(2), FLORIDA STATUTES, OF SUCH COUNTY-OWNED PROPERTIES TO J.L. BROWN DEVELOPMENT CORPORATION, A FLORIDA FOR PROFIT CORPORATION, AT A PRICE OF \$10.00, FOR THE PURPOSE OF DEVELOPING SUCH PROPERTIES WITH AFFORDABLE HOUSING TO BE SOLD TO VERY LOW-, LOW- OR MODERATE-INCOME HOUSEHOLDS IN ACCORDANCE WITH MIAMI-DADE COUNTY'S INFILL HOUSING INITIATIVE PROGRAM; AUTHORIZING THE CHAIRWOMAN OR VICE-CHAIRWOMAN OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE A COUNTY DEED; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO ACCEPT A PROMISSORY NOTE IN THE AMOUNT OF \$5,000.00 FROM J.L. BROWN DEVELOPMENT CORPORATION FOR THE DEFERRED PAYMENT OF CERTAIN FEES ASSOCIATED WITH THE CONVEYANCE OF THE PROPERTIES; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO ENFORCE THE PROVISIONS SET FORTH IN SUCH COUNTY DEED, TO PROVIDE COPIES OF SUCH COUNTY DEED AND RESTRICTIVE COVENANTS CONTAINED THEREIN TO THE PROPERTY APPRAISER'S OFFICE AND TO ENSURE PLACEMENT OF APPROPRIATE SIGNAGE

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize conveyance of two County-owned properties to J.L. Brown Development Corporation for the purpose of developing the properties with affordable housing to be sold to very low, low, or moderate income households in accordance with Miami-Dade County's Infill Housing Initiative Program.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Daniella Levine Cava, District 8**

**Department/Requester: None**

This item was forwarded to the BCC with a favorable recommendation from the Housing, Social Services and Education Development Committee meeting on March 11, 2019,

**ANALYSIS**

The purpose of this item is to request Board authorization to convey two County-owned properties to J.L. Brown Development Corporation at a price of \$10.00 for the purpose of developing the properties into affordable housing for sale to very low, low, or moderate income households in accordance with Miami-Dade County's Infill Housing Initiative Program; declare the two properties as surplus; and authorize execution of a County Deed.

The proposed item has a positive impact of \$10.00 towards the County for the conveyance of two properties to J.L. Brown Development Corporation. The County will save approximately \$1,005 annually in property monitoring and lawn maintenance and the new homes will generate real estate taxes to the County of approximately \$1718.24 annually. The maximum sales price for infill homes cannot exceed \$205,000.00. Properties available to low-income families are subject to an affordable housing restrictive covenant for twenty (20) years.

J.L. Brown Housing and Development Initiative seeks to provide attainable housing options to those who would not normally qualify for home purchase. On October 30, 2018, J.L. Brown submitted an application to District 8 County Commissioner

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requesting that the County convey two County-owned vacant properties located in the district. J.L. Brown proposed utilizing the construct the affordable housing described.

The Miami-Dade County Infill Housing Initiative Program was created to provide more housing opportunities for low-income and working families. Applicants were evaluated based on the following criteria: 1) experience and past performance in developing homes pursuant to the Infill Housing Program; 2) development team, key personnel and functions; 3) approach to providing services to each homeowner; 4) building plans for single family home models; 5) financial capability and demonstrated ability to obtain financing; 6) approach to meeting time schedule and budgets; and 7) marketing skills and ability to reach eligible households.

J.L. Brown Development Corporation is recommended because their record in the design and construction of over 125 townhomes and single-family homes in south Miami-Dade County. J.L. Brown has also designed, constructed, and marketed over 100 homes to first time homebuyers through the County's Surtax program as well as designing affordable single-family homes and townhouses.


J.L. Brown Development Corporation has proposed to develop the two properties within the next 10 to 18 months from the conveyance date. The properties will be conveyed to J.L. Brown at the price of \$10.00 if they follow through with their proposal. Furthermore, Miami Dade County Housing will provide up to \$80,000.00 in grant funds to purchase a home and the Housing Financing Authority will provide up to \$15,000.00 for down payment and close cost assistance.


J.L. Brown requested that the County defer the required payment of certain fees associated with property conveyance and agreed to execute a promissory note in the amount of \$5,000.

This item recommends the Board to revise the Affordable Housing Inventory List to include the aforementioned properties as they are considered appropriate for affordable housing use. If J.L. Brown fails to comply with the deed restrictions, then the Properties will be subject to reverter. The properties revert to County control if not developed within two years of the signing of the deed and effective date of the conveyance of the Properties, unless time is extended at the discretion of the Board.

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The image below showcases the property located at 14980 Leisure Dr (Folio Number #30-7904-005-2050). The current market value for this property is \$49,969.00.

**SEARCH:**  

**PROPERTY INFORMATION** 

**Folio:** 30-7904-005-2050

**Sub-Division:**  
LEISURE CITY SEC 2

**Property Address**  
14980 LEISURE DR

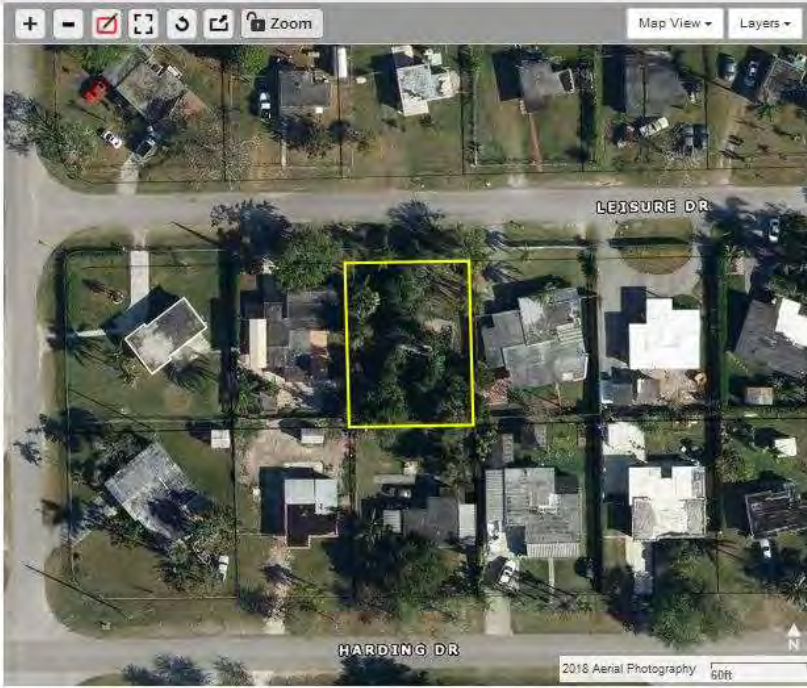
**Owner**  
MIAMI DADE COUNTY  
ISD RE MGMT

**Mailing Address**  
111 NW 1 ST STE 2480  
MIAMI, FL 33128

**PA Primary Zone**  
0100 SINGLE FAMILY - GENERAL

**Primary Land Use**  
8066 VACANT GOVERNMENTAL : EXTRA FEA OTHER THAN  
PARKING

<b>Beds / Baths / Half</b>	0 / 0 / 0
<b>Floors</b>	0
<b>Living Units</b>	0
<b>Actual Area</b>	0
<b>Living Area</b>	0
<b>Adjusted Area</b>	0
<b>Lot Size</b>	7,875 Sq Ft
<b>Year Built</b>	1953



Map View Layers

2018 Aerial Photography 60ft



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The image below showcases the property located at 29120 Alabama Rd (Folio Number #30-7904-004-0140). The current market value for this property is \$22,680.00.

SEARCH: 30-7904-004-0140

**PROPERTY INFORMATION**

Folio: 30-7904-004-0140

Sub-Division:  
LEISURE CITY SEC 1

Property Address  
29120 ALABAMA RD

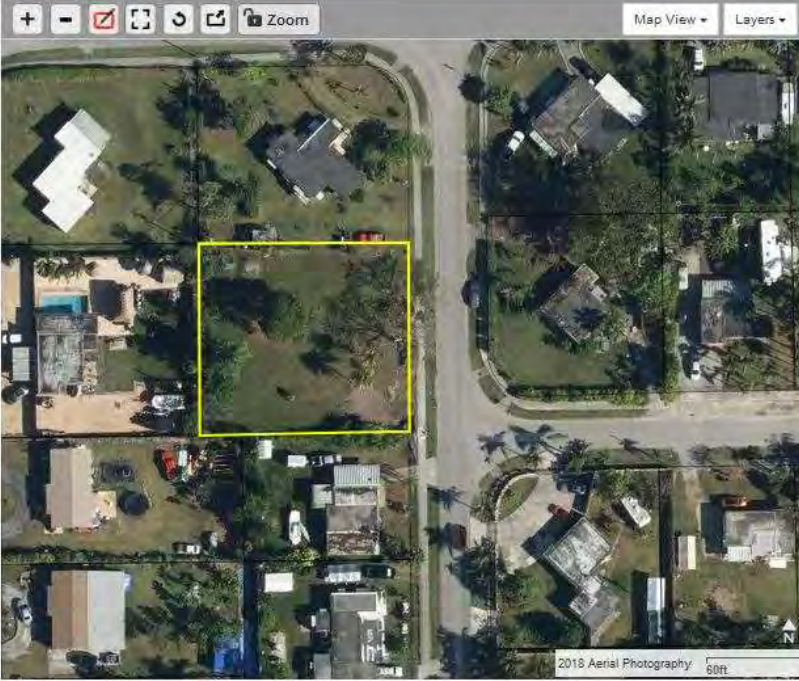
Owner  
MIAMI DADE COUNTY  
ISD DEPT

Mailing Address  
111 NW 1 ST STE 2480  
MIAMI, FL 33128

PA Primary Zone  
0100 SINGLE FAMILY - GENERAL

Primary Land Use  
8080 VACANT GOVERNMENTAL : VACANT LAND -  
GOVERNMENTAL

Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0
Living Area	0
Adjusted Area	0
Lot Size	15,180 Sq.Ft
Year Built	0



2018 Aerial Photography 60ft

### ADDITIONAL INFORMATION

The Miami-Dade County's Infill Housing Initiative Program's main goal is to increase the availability of affordable homes for very low, low, and moderate income families. Their additional goals include maintaining a stock of affordable housing, redeveloping urban neighborhoods by eliminating blight on properties, generate payment of ad valorem taxes, and equitable distributing homeownership opportunities.

<http://www.miamidade.gov/housing/infill-housing-developers.asp>

### APPLICABLE LEGISLATION/POLICY

**Section 125.379 of the Florida Statutes** requires that each county prepare an inventory list of all real property within its jurisdiction to which the county holds fee simple title that is appropriate for use as affordable housing, and adopt a resolution that includes an inventory list of such property following a public hearing. The properties identified may be offered for sale and the proceeds used to purchase land for the development of affordable housing may be sold with restrictions or donated to a nonprofit housing organizing.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=Section+125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=Section+125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Administrative Order 8-4** provides that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property,

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unless expressly excluded in the policy, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification, if applicable.

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

**Resolution No. R-376-11**, adopted May 3, 2011, authorizes the rehabilitation, improvement, or conveyance of County-owned real property appropriate for or to be used as affordable housing.

<http://intra/gia/matter.asp?matter=110684&file=true&yearFolder=Y2011>

**Resolution No. R-333-15**, adopted April 21, 2015, entitled “Resolution establishing County policy to require disclosure of market value of market rental in legislative items authorizing the conveyance or lease of County-owned property to promote disclosure and fiscal responsibility”.

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

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

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

**Resolution No. R-979-17**, adopted November 7, 2017, declares various County-owned properties surplus and revises the inventory list of real property and authorizes inclusion of said properties in the Miami-Dade Infill Housing Initiative program.

<http://intra/gia/matter.asp?matter=171574&file=true&yearFolder=Y2017>

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Research Notes**

**Item No. 5C  
File No. 190528**

**Researcher: LE Reviewer: TD**

RESOLUTION DECLARING SURPLUS ONE COUNTY-OWNED PROPERTY LOCATED AT 10120 W HIBISCUS STREET, MIAMI, FLORIDA, AND REVISING THE INVENTORY LIST OF REAL PROPERTIES, AFTER A PUBLIC HEARING, TO INCLUDE SUCH PROPERTY AND ONE ADDITIONAL PREVIOUSLY SURPLUS PROPERTY IN ACCORDANCE WITH SECTION 125.379(1), FLORIDA STATUTES; AUTHORIZING CONVEYANCE, PURSUANT TO SECTION 125.379(2), FLORIDA STATUTES, OF A TOTAL OF FOUR COUNTY-OWNED PROPERTIES TO THEODORE ROOSEVELT GIBSON MEMORIAL FUND, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, AT A PRICE OF \$10.00, FOR THE PURPOSE OF DEVELOPING SUCH PROPERTIES WITH AFFORDABLE HOUSING TO BE SOLD TO VERY LOW-, LOW- OR MODERATE INCOME HOUSEHOLDS IN ACCORDANCE WITH MIAMI-DADE COUNTY'S INFILL HOUSING INITIATIVE PROGRAM; AUTHORIZING THE CHAIRWOMAN OR VICE-CHAIRWOMAN OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE A COUNTY DEED; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO ENFORCE THE PROVISIONS SET FORTH IN SUCH COUNTY DEED, TO PROVIDE COPIES OF THE COUNTY DEED AND THE RESTRICTIVE COVENANTS REQUIRED THEREIN TO THE PROPERTY APPRAISER'S OFFICE, AND TO ENSURE PLACEMENT OF APPROPRIATE SIGNAGE

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize conveyance of four County-owned properties to Theodore Roosevelt Gibson Memorial Fund, Inc. (TRGMF) to develop them with affordable housing for sale to very low, low, or moderate income households in accordance with Miami-Dade County's Infill Housing Initiative Program,

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Dennis C. Moss, District 9**

**Department/Requester: None**

This item was forwarded to the BCC with a favorable recommendation from the Housing, Social Services and Education Development committee on March 11, 2019.

**ANALYSIS**

The purpose of this item is to request Board authorization to convey four County-owned properties to Theodore Roosevelt Gibson Memorial Fund, Inc. (TRGMF) at a price of \$10.00 for the purpose of developing the properties into affordable housing for sale to very low, low, or moderate income households in accordance with Miami-Dade County's Infill Housing Initiative Program; declare one property as surplus; and authorize execution of a County Deed.

The proposed item has a positive fiscal impact of \$10.00 towards the County for the conveyance of four properties to TRGMF. The County will save approximately \$1718.24 annually in property maintenance and the new homes will generate real estate taxes to the County of approximately \$3,453.89 annually. The maximum sales price for infill homes cannot exceed \$205,000.00. Properties available to low-income families are subject to an affordable housing restrictive covenant for twenty (20) years.

TRGMF seeks to provide attainable housing options to those who would not normally qualify to purchase a home. On February 4, 2019, TRGMF submitted an application to the District 9 County Commissioner requesting the conveyance of four County-owned vacant properties located in the district.

This item also recommends the Board to revise the Affordable Housing Inventory List to include the properties (Folio Number #30-5032-004-0360 and Folio Number #30-5032-004-0350) as they are considered appropriate for affordable housing use, and declare those properties surplus.



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The Miami-Dade County Infill Housing Initiative Program was created to provide more housing opportunities for low-income and working families. Applicants were evaluated based on the following criteria: 1) experience and past performance in developing homes pursuant to the Infill Housing Program; 2) development team, key personnel and functions; 3) approach to providing services to each homeowner; 4) building plans for single family home models; 5) financial capability and demonstrated ability to obtain financing; 6) approach to meeting time schedule and budgets; and 7) marketing skills and ability to reach eligible households.

TRGMF is recommended because of their record serving South Florida through various programs over the last 36 years in addition to working in areas of healthcare, education, housing development, and affordable housing. Their most recent project was the development of the Gibson Plaza in Coconut Grove where they provided 56 affordable units to residents. TRGMF will be partnering with Ambassador Investment & Realty, LLC to develop the County properties into affordable housing. If TRGMF fails to comply with the deed restrictions, then the Properties will be subject to reverter. If the properties are not developed within two years of the signing of the deed and effective date of the conveyance of the Properties, unless time is extended by the discretion of the Board.

The image below showcases the property located at 10100 W Hibiscus Street, Miami, FL 33157 (Folio Number #30-5032-004-0350) and 10120 W Hibiscus Street, Miami, FL 33157 (Folio Number #30-5032-004-0360). The current market value for this property is \$38,000.00 and \$34,200.00 respectively.

**SEARCH:** 30-5032-004-0350

**PROPERTY INFORMATION**

Folio: 30-5032-004-0350

Sub-Division:  
MAP OF PERRINE

Property Address  
10100 W HIBISCUS ST

Owner:  
MIAMI DADE COUNTY  
ISD RE MGMT

Mailing Address  
111 NW 1 ST STE 2400  
MIAMI, FL 33128

PA Primary Zone  
3050 UC EDGE - RESIDENTIAL (R) 2 MAX HT

Primary Land Use  
3080 VACANT GOVERNMENTAL - VACANT LAND -  
GOVERNMENTAL

Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0
Living Area	0
Adjusted Area	0
Lot Size	4,750 Sq.Ft
Year Built	0

2015 Aerial Photography 60ft

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The image below showcases the property located at 10251 SW 175<sup>th</sup> Street, Miami, FL 33157 (Folio Number #30-5032-010-1310). The current market value for this property is \$51,250.00.

Address
Owner Name
Subdivision Name
Folio

SEARCH:

30-5032-010-1310

a

**PROPERTY INFORMATION**

**Folio:** 30-5032-010-1310

**Sub-Division:**  
DIXIE HGTS GDNS

**Property Address**  
10251 SW 175 ST

**Owner**  
MIAMI DADE COUNTY  
JSD RE MGMT

**Mailing Address**  
111 NW 1 ST STE 2480  
MIAMI, FL 33128


**PA Primary Zone**  
3050 UC EDGE - RESIDENTIAL (R) 2 MAX HT

**Primary Land Use**  
8055 VACANT GOVERNMENTAL : EXTRA FEA OTHER THAN PARKING

<b>Beds / Baths / Half</b>	0 / 0 / 0
<b>Floors</b>	0
<b>Living Units</b>	0
<b>Actual Area</b>	0
<b>Living Area</b>	0
<b>Adjusted Area</b>	0
<b>Lot Size</b>	5,550 Sq.Ft
<b>Year Built</b>	0

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Map View Layers



2018 Aerial Photography
50R



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The image below showcases the property located at 512 SW 6<sup>th</sup> Terrace, Homestead, FL 33030 (Folio Number #10-7813-036-0760). The current market value for this property is \$36,992.00.

SEARCH: 10-7813-036-0760

**PROPERTY INFORMATION**

Folio: 10-7813-036-0760

Sub-Division:  
LINCOLN PARK ADDN

Property Address  
512 SW 6 TER

Owner  
MIAMI DADE COUNTY  
ISD RE MGMT

Mailing Address  
111 NW 1 ST STE 2460  
MIAMI, FL 33128

PA Primary Zone  
1900 RESIDENTIAL - PLANNED UNI

Primary Land Use  
8080 VACANT GOVERNMENTAL - VACANT LAND -  
GOVERNMENTAL

Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0
Living Area	0
Adjusted Area	0
Lot Size	9,797 Sq. Ft.
Year Built	0

2018 Aerial Photography 50ft

### ADDITIONAL INFORMATION

The Miami-Dade County's Infill Housing Initiative Program's main goal is to increase the availability of affordable homes for very low, low, and moderate income families. Their additional goals include maintaining a stock of affordable housing, redeveloping urban neighborhoods by eliminating blight on properties, generate payment of ad valorem taxes, and equitable distributing homeownership opportunities.

<http://www.miamidade.gov/housing/infill-housing-developers.asp>

### APPLICABLE LEGISLATION/POLICY

**Section 125.379 of the Florida Statutes** requires that each county prepare an inventory list of all real property within its jurisdiction to which the county holds fee simple title that is appropriate for use as affordable housing, and adopt a resolution that includes an inventory list of such property following a public hearing. The properties identified may be offered for sale and the proceeds used to purchase land for the development of affordable housing may be sold with restrictions or donated to a nonprofit housing organizing.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=Section+125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=Section+125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Administrative Order 8-4** provides that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded in the policy, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification, if applicable.

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

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**Resolution No. R-376-11**, adopted May 3, 2011, authorizes the rehabilitation, improvement, or conveyance of County-owned real property appropriate for or to be used as affordable housing.

<http://intra/gia/matter.asp?matter=110684&file=true&yearFolder=Y2011>

**Resolution No. R-333-15**, adopted April 21, 2015, entitled “Resolution establishing County policy to require disclosure of market value of market rental in legislative items authorizing the conveyance or lease of County-owned property to promote disclosure and fiscal responsibility”.

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

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

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

**Resolution No. R-979-17**, adopted November 7, 2017, declares various County-owned properties surplus and revises the inventory list of real property and authorizes inclusion of said properties in the Miami-Dade Infill Housing Initiative program.

<http://intra/gia/matter.asp?matter=171574&file=true&yearFolder=Y2017>

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Research Notes**

**Item No. 5F  
File No. 190464**

**Researcher: PGE    Reviewer: TD**

RESOLUTION AMENDING RESOLUTION NO. R-64-14 TO AUTHORIZE THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO SUBMIT TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AN AMENDMENT TO MIAMI-DADE COUNTY'S APPLICATION FOR THE DISPOSITION OF 11 COUNTY-OWNED PROPERTIES, WHICH ARE LOCATED WITHIN THE OPA-LOCKA BISCAYNE PLAZA PUBLIC HOUSING DEVELOPMENT (FL005074) AND IN THE MAGNOLIA NORTH AREA OF THE CITY OF OPA-LOCKA; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE AMENDMENTS TO ANNUAL CONTRIBUTIONS CONTRACTS, IF REQUIRED; TO EXECUTE ANY AGREEMENTS, RELEASES FROM DECLARATION(S) OF TRUST, AND ANY OTHER DOCUMENTS ON BEHALF OF THE COUNTY THAT MAY BE REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND TO EXERCISE AMENDMENTS, MODIFICATIONS, CANCELLATION, AND TERMINATION CLAUSES CONTAINED THEREIN; DECLARING SURPLUS A TOTAL OF 18 COUNTY-OWNED PROPERTIES, AND REVISING THE INVENTORY LIST OF REAL PROPERTIES, AFTER A PUBLIC HEARING, TO INCLUDE SUCH PROPERTIES IN ACCORDANCE WITH SECTION 125.379(1), FLORIDA STATUTES; AUTHORIZING CONVEYANCE, IN ACCORDANCE WITH SECTION 125.379(2) FLORIDA STATUTES, OF NINE COUNTY-OWNED PROPERTIES TO CAZO CONSTRUCTION CORPORATION, A FLORIDA FOR PROFIT CORPORATION, AND NINE COUNTY-OWNED PROPERTIES TO PALMETTO HOMES OF MIAMI, INC., A FLORIDA FOR PROFIT CORPORATION, AT A PRICE OF \$10.00 FOR THE PURPOSE OF DEVELOPING SUCH PROPERTIES WITH AFFORDABLE HOUSING TO BE SOLD OR RENTED TO VERY LOW-, LOW- OR MODERATE-INCOME HOUSEHOLDS IN ACCORDANCE WITH THE MIAMI-DADE INFILL HOUSING INITIATIVE AND/OR DOCUMENTARY STAMP SURTAX PROGRAMS; AUTHORIZING THE CHAIRWOMAN OR VICE-CHAIRWOMAN OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE COUNTY DEEDS; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO ENFORCE THE PROVISIONS SET FORTH IN SUCH COUNTY DEEDS AND TO ENSURE PLACEMENT OF APPROPRIATE SIGNAGE

**ISSUE/REQUESTED ACTION**

Whether the Board should approve: (1) amending Resolution No. R-64-14 to authorize the County Mayor to submit to the United States Department of Housing and Urban Development (HUD) a revision to the previously accepted disposition application for 11 County-owned vacant properties which were formerly the location of the Opa-Locka public housing development; (2) declaring seven vacant County-owned properties plus the 11 former Opa-Locka public housing development properties surplus and revising the County's inventory list of land designated for affordable housing to include these properties; and (3) conveying nine of the properties to Cazo Construction Corporation and nine of the properties to Palmetto Homes of Miami, Inc. for the purpose of developing the properties with affordable single family homes and/or multi-family units to be sold or rented in accord with the Infill Housing Initiative Program and the Documentary Stamp Surtax Program.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Barbara J. Jordan, District 1**

**Requester/Department: Public Housing and Community Development (PHCD)**

The item was considered at the Housing, Social Services and Economic Development Committee meeting on March 11, 2019 and forwarded to the Board with a favorable recommendation.

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**Research Notes**

**ANALYSIS**

The purpose of this item is to convey 18 County-owned parcels located in the Magnolia North area of the City of Opa-Locka in District 1, which is represented by Commissioner Barbara Jordan, for the development of affordable housing through the Infill Program and/or the Documentary Stamp Surtax Program. More specifically, PHCD is requesting that the Board approve the following:

1. Amend Resolution No. R-64-14 to authorize the County Mayor to submit to the United States Department of Housing and Urban Development (HUD) a revision to the previously accepted disposition application for 11 County-owned vacant properties which were formerly the location of the Opa-Locka public housing development;
2. Declare seven vacant County-owned properties plus the 11 former Opa-Locka public housing development properties surplus and revise the County's inventory list of land designated for affordable housing to include these properties; and
3. Authorize the conveyance of nine of the properties to Cazo Construction Corporation (Cazo) and nine of the properties to Palmetto Homes of Miami, Inc. (Palmetto Homes) for the purpose of developing the properties with affordable single family homes and/or multi-family units to be sold or rented in accord with the Infill Housing Initiative Program and the Documentary Stamp Surtax Program.

On January 22, 2014, pursuant to Resolution No. R-64-14, the Board approved amending Resolution No. R-81-09 relating to the County's application for the disposition and rehabilitation of the Opa-Locka Biscayne Plaza Public Housing Development, authorizing the County Mayor to: (1) submit an amendment to the application to HUD; (2) negotiate ground leases with developers competitively selected by the Housing Finance Authority (HFA) for development of certain properties in the City of Opa-Locka for veterans or other special needs persons; and (3) utilize veterans affairs supportive housing vouchers or any other subsidy to assist qualified applicants. Although HUD approved the County's amendment to the disposition application, HFA was not successful in its attempt to garner sufficient interest from developers and, thus, HFA was unable to move forward with the development of the properties.

To address the roadblock to the development of the properties, on September 5, 2018, pursuant to Resolution No. R-892-18, the Board approved funding recommendations for up to \$2,500,000 for the Fiscal Year 2017 Opa-Locka Magnolia North Documentary Stamp Surtax Request for Applications (RFA) and authorized the County Mayor's negotiation with Cazo Construction Corp. (Cazo) and Palmetto Homes of Miami, Inc. (Palmetto) for the award of the surtax funds to one or both of the applicants. It is important to note that four applicants (i.e., Cazo; Hala Fashions Properties LLC; Magnolia North Community Garden LLC; and Palmetto Homes) responded to the RFA. None of the applicants satisfied PHCD's threshold requirement of demonstrating a firm financing commitment. However, that requirement was waived, and the County Mayor received authorization to negotiate with the recommended applicants, Cazo and Palmetto Homes.

Following the adoption of Resolution No. R-892-18, PHCD successfully negotiated with Cazo and Palmetto Homes to develop the County properties. Accordingly, PHCD recommends that nine of the County properties be conveyed to Cazo, and that the remaining nine properties be conveyed to Palmetto Homes.

The County Deed memorializing the conveyances is subject to the following key restrictions:

- That the properties shall be developed with affordable multi-family rental housing or single family home in accordance with the Miami-Dade Infill Housing Initiative Program and/or the Documentary Surtax Program;
- That the properties shall be developed within two years of the recordation of the deed;
- That in the event single family homes are developed on the properties, such homes shall be sold to a qualified homebuyer, and under no circumstances shall the sales price of the home exceed \$205,000; and



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- That in the event the properties are developed with affordable multi-family rental housing such housing shall be rented to qualified households, and under no circumstances shall the rental price of such housing exceed the maximum monthly rent limits as determined for the County by the U.S. Department of Housing and Urban Development in its annual Income Limits and Rent Limits and as used by Florida Housing Finance Corporation for its multifamily rental programs.

Title to the subject properties reverts to the County where the developers fail to abide by the deed restrictions.

**ADDITIONAL INFORMATION**

A Default Final Judgment was entered against Palmetto Homes of Miami, Inc., ordering the company to pay to Miami-Dade Affordable Housing Foundation, Inc. the principal sum of \$307,224.15, prejudgment interest in the amount of \$33,154.25, court costs in the amount of \$500 and attorney's fees in the amount of \$2,250. The judgment stems from a Promissory Note that the president of Palmetto Homes of Miami, Inc. executed in favor of Miami-Dade Affordable Housing Foundation, Inc., agreeing to repay Miami-Dade Affordable Housing Foundation the principal sum of \$307,224.15 plus interest of three percent per annum on the unpaid balance until paid. No payments were made as required by the Promissory Note. (See *Miami-Dade Affordable Housing Foundation, Inc. v. Palmetto Homes of Miami, Inc.*, 2016-024319-CA-01; Eleventh Judicial Circuit of Florida.)

See a Miami New Times article dated June 25, 2013 regarding misuse of grant dollars by Palmetto Homes of Miami, Inc. relating to an affordable housing initiative.

<https://www.miaminewtimes.com/news/auditors-find-thousands-of-dollars-misused-by-youth-program-but-no-criminal-charges-filed-6527121>

The Public Housing and Community Development Department oversees the Infill Housing Initiative Program and has developed guidelines for the administration of the program. The guidelines summarize the infill development process and requirements to be followed by developers.

<http://www.miamidade.gov/housing/library/guidelines/infill/infill-housing.pdf>

Infill Housing Homebuyer Requirements can be found at the below link.

<http://www.miamidade.gov/housing/infill-housing-homebuyers.asp>

**APPLICABLE LEGISLATION/POLICY**

**Section 125.379 of the Florida Statutes** governs the disposition of county property for affordable housing and requires each county to prepare an inventory list of all real property within its jurisdiction to which the county holds fee simple title that is appropriate for use as affordable housing; properties identified as appropriate for use as affordable housing on the inventory list adopted by the county may be offered for sale and the proceeds used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable housing, or may be donated to a nonprofit housing organization for the construction of permanent affordable housing. [http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Section 125.411 of the Florida Statutes** provides the form to be used for deeds of conveyance of land.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.411&URL=0100-0199/0125/Sections/0125.411.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.411&URL=0100-0199/0125/Sections/0125.411.html)

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**Section 17-121 of the Miami-Dade County Code** relates to the Infill Housing Initiative Program, whose purpose is to increase the availability of affordable homes for very low, low and moderate income persons, maintain a stock of affordable housing, redevelop urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties, to equitably distribute homeownership opportunities within the Infill Target Areas, and generate payment of ad valorem taxes.

[https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH17HO\\_ARTVIIIHOIN\\_S17-121TIPU](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH17HO_ARTVIIIHOIN_S17-121TIPU)

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

[https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR)

**Implementing Order No. 3-44** establishes the process for the implementation and management of the Infill Housing Initiative Program for Miami-Dade County.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-44.pdf>

**Administrative Order No. 8-4** states that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded herein, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification, if applicable.

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

**Resolution No. R-376-11**, adopted on May 3, 2011, directs that any resolution authorizing the rehabilitation, improvement or conveyance of County-owned real property appropriate for or to be used as affordable housing shall include: (1) background information explaining how, when and why the County acquired the property; (2) an itemized accounting of the County's past and proposed future investment in the property, including acquisition, rehabilitation and maintenance costs; (3) the amount and an explanation of any mortgages, fines, liens or other costs paid by the County in acquiring the property; (4) the location of the property, including the commission district; (5) the assessed value of the property; (6) a summary of the terms, duties and responsibilities to be imposed upon the recipient of the property pursuant to any agreements; (7) a summary of remedies available to the County in the event that the proposed recipient does not fully comply with said agreements; and (8) a summary of future controls and transfer restrictions on the property or, in lieu of a summary, a copy of any restrictive covenant, restrictive deed or other controls to be placed upon the property by the County at the time of transfer or sale.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2011/R-376-11.pdf>

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

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2015/R-333-15.pdf>

**Resolution R-630-13**, adopted July 16, 2013, requires a detailed project budget, sources and uses statement, certifications as to past defaults on agreements with non-County funding sources and a due diligence check prior to the County Mayor recommending a commitment of County funds to social services, economic development, community development and affordable housing agencies and providers.

<http://intra/gia/matter.asp?matter=131512&file=false&yearFolder=Y2013>

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

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2009/R-974-09.pdf>

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**Resolution No. R-380-17**, adopted by the Board on April 4, 2017, established the policy requiring the County Mayor to provide written notification to the District Commissioner in which the County-owned property lies no less than four weeks prior to placing any item on the agenda requesting approval of the sale, lease or surplus of County-owned property.

<http://intra/gia/matter.asp?matter=170414&file=true&yearFolder=Y2017>

**Resolution No. R-81-09**, adopted by the Board on January 22, 2009, authorized the County Mayor to submit an amendment to the County's application for the disposition and rehabilitation of 26 public housing units located in the Opa-Locka public housing development to the United States Department of Housing and Urban Development in order to permit the County to convey said units to Habitat for Humanity of Greater Miami, Inc.

<http://intra/gia/matter.asp?matter=090720&file=false&yearFolder=Y2009>

**Resolution No. R-64-14**, adopted by the Board on January 22, 2014, amended Resolution No. R-81-09 relating to the County's application for the disposition and rehabilitation of the Opa-Locka Biscayne Plaza Public Housing Development, authorizing the County Mayor to: (1) submit an amendment to the application to the United States Department of Housing and Urban Development; (2) negotiate ground leases with developers competitively selected by the Housing Finance Authority for development of certain properties in the City of Opa-Locka for veterans or other special needs persons; and (3) utilize veterans affairs supportive housing vouchers or any other subsidy to assist qualified applicants.

<http://intra/gia/matter.asp?matter=140026&file=true&yearFolder=Y2014>

**Resolution No. R-892-18**, adopted by the Board on September 5, 2018, approved: (1) proposed funding recommendations for up to \$2,500,000 for the Fiscal Year 2017 Opa-Locka Magnolia North Documentary Stamp Surtax Request for Applications; (2) surtax funds for continued use in the Magnolia North area as those funds are repaid; (3) waiving certain requirements of the RFA; and (4) the County Mayor's negotiation with Cazo Construction Corp. and Palmetto Homes of Miami, Inc. for the award of the surtax funds to one or both of the applicants.

<http://intra/gia/matter.asp?matter=181664&file=true&yearFolder=Y2018>

**The Documentary Stamp Surtax Program** provides affordable housing assistance to thousands of low- and moderate-income Miami-Dade residents. Low-income families are those households with incomes of 80 percent or less of median area income. Moderate-income families have incomes greater than 80 percent but less than 140 percent of median area income. Under Sections 201.02 and 201.031 of the Florida Statutes, certain counties are authorized to levy a surtax on documents that transfer interest in Florida real property. Transfers of interest in single-family residences are exempt from this documentary surtax. In 1984, the County exercised this authority, established a Housing Assistance Loan Trust Fund and implemented the Documentary Surtax Program.

<http://www.miamidade.gov/housing/surtax.asp>

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**Item No. 5G  
File No. 190002**

**Researcher: JFP   Reviewer: TD**

ORDINANCE RELATING TO SPECIAL TAXING DISTRICTS; AMENDING SECTION 18-3.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO PROVIDE FOR ALTERNATIVE TRANSFER PROCEDURES TO MUNICIPALITIES WITHOUT ELECTION UNDER CERTAIN CIRCUMSTANCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**ISSUE/REQUESTED ACTION**

Whether the Board should amend Section 18-3.1 of the County Code to provide for alternative transfer procedures to municipalities without election, specifically waiving the requirement that a transfer of control of a special taxing district be approved by the electors residing within that district.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Barbara Jordan, District 1  
Department/Requester: Parks, Recreation and Open Spaces**

This item was forwarded to the BCC with a favorable recommendation by the Parks, Recreation and Cultural Affairs Committee at its March 14, 2019 meeting. Prior to passage, the following discussion transpired.

Commissioner Diaz asked Assistant County Attorney Jorge Martinez-Esteve to explain this item in further detail as it related to cost. He also inquired if the election process was required or if this change could occur through a vote of their Commission or entity.

Assistant County Attorney Jorge Martinez-Esteve explained that County Code currently requires a vote of registered voters living within the affected district to transfer a Special Taxing District to a municipality. He noted the proposed ordinance specifies that a two-thirds majority vote of the Board of County Commissioners and the relevant municipality's council or commission would waive the election requirement. Assistant County Attorney Martinez-Esteve clarified that this legislation would eliminate the election requirement under certain circumstances. He added that district residents would not incur the cost of an election, upon approval of this item.

Commissioner Higgins inquired if this item was related to commercial areas that lacked residents.

Assistant County Attorney Martinez-Esteve advised Committee members if there were registered voters in a commercial area, the voters would have to appear and vote to get their particular district transferred.

Ms. Lorena Guerra-Macias, Special Assessment District Chief, Miami-Dade Parks and Recreation Department, addressed Commissioner Higgins concerns, noting there were certain districts that were entirely commercial with no registered voters in and others with just a few registered voters.

Commissioner Diaz further inquired regarding the circumstances requiring an election, the 2/3 vote waiver requirement, and other conditions requiring the County Mayor's discretion or recommendation.

Assistant County Attorney Martinez-Esteve stated the rule was broadly written to cover all areas to foresee where a waiver may be needed to present unfair voter situations to the Board.

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**ANALYSIS**

This purpose of this item is to amend Section 18-3.1 of the County Code. This ordinance proposes that, upon a recommendation from the Mayor and approval by a two-thirds vote of the members present of the boards of both the County and the municipality, the requirement that voters residing within a Special Taxing District must approve the transfer of control from the County to the respective municipality be waived.

Currently, registered voters residing in a Special Taxing District vote to create, transfer, amend, and abolish the Special Taxing District. Some districts lack residents, or have no residents at all, while others have a majority of commercial entities, making the current election requirement either impossible to fulfill or inequitable in result. The proposed ordinance seeks to remedy this with respect to transfer of control of a Special Taxing District by giving the Mayor discretion to submit a recommendation to the boards of both the County and municipality for approval of transfer of control by a two-thirds vote of the members present.

The proposed ordinance does not present a fiscal impact to the County.

The table below shows the original Section 18-3.1 of the County Code and the proposed changes. Words underlined constitute the amendment proposed.

Section 18-3.1 of the County Code	Proposed changes to Section 18-3.1 of the County Code
<p><b>Sec. 18-3.1 – Municipal Special Taxing Districts</b></p> <p>Pursuant to Section 1.01(A)(11) of the Miami-Dade County Home Rule Charter, the County and a municipality may, by joint resolutions of the Board and the governing body of the municipality: (1) designate the governing body of such municipality as the governing body of a new special taxing district created in accordance with the other provisions of this article and located wholly within the boundaries of such municipality; or (2) designate the governing body of a municipality as the governing body of any existing special taxing district located wholly within the boundaries of such municipality. Any resolution designating the governing body of a municipality as the governing body of an existing special taxing district shall not become effective prior to approval of the transfer of control of the special taxing district by a majority vote of the qualified electors residing in the special taxing district voting at an election to be called by the Board and noticed and conducted by mailed ballot or otherwise, as the Board shall by resolution determine and shall set forth a date for the transfer of control of the special taxing district and shall provide that the governing body of such municipality shall be responsible for all pre-existing and future liabilities of such taxing district, whether known or unknown, for the protection of any creditors of such special taxing district</p>	<p><b>Sec. 18-3.1 – Municipal Special Taxing Districts.</b></p> <p>Pursuant to Section 1.01(A)(11) of the Miami-Dade County Home Rule Charter, the County and a municipality may, by joint resolutions of the Board and the governing body of the municipality: (1) designate the governing body of such municipality as the governing body of a new special taxing district created in accordance with the other provisions of this article and located wholly within the boundaries of such municipality; or (2) designate the governing body of a municipality as the governing body of any existing special taxing district located wholly within the boundaries of such municipality. Any resolution designating the governing body of a municipality as the governing body of an existing special taxing district shall not become effective prior to approval of the transfer of control of the special taxing district by a majority vote of the qualified electors residing in the special taxing district voting at an election to be called by the Board and noticed and conducted by mailed ballot or otherwise, as the Board shall by resolution determine and shall set forth a date for the transfer of control of the special taxing district and shall provide that the governing body of such municipality shall be responsible for all pre-existing and future liabilities of such taxing district, whether known or unknown, for the protection of any creditors of such special taxing district</p>

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as of the date of the transfer of control of such special taxing district, and for encouraging any vendors of such special taxing district to pay the Living Wage required by Section 2-8.9 of the Code of Miami-Dade County, Florida to such vendors' employees working on contracts providing any of the Covered Services set forth in Section 2-8.9(F)(1) of the Code of Miami-County, Florida.

as of the date of the transfer of control of such special taxing district, and for encouraging any vendors of such special taxing district to pay the Living Wage required by Section 2-8.9 of the Code of Miami-Dade County, Florida to such vendors' employees working on contracts providing any of the Covered Services set forth in Section 2-8.9(F)(1) of the Code of Miami-County, Florida. No such election shall be required to approve the transfer of control of a special taxing district when the waiver of such election is recommended by the County Mayor or designee, and such waiver is approved by a two-thirds (2/3) vote of the members present of the boards of both the County and the municipality.

**APPLICABLE LEGISLATION/POLICY**

**Miami-Dade County Code Section 18-3.1** (Municipal Special Taxing Districts) provides that a resolution approving the transfer of a special taxing district shall take effect when approved by a majority vote of the qualified electors residing in the district voting at an election to be called by the Board and noticed and conducted in such a manner that the Board shall by resolution determine.

[https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH18IMSPRPDI\\_ARTISPTADI\\_S18-3.1MUSPTADI](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH18IMSPRPDI_ARTISPTADI_S18-3.1MUSPTADI)

**Section 1.01 of the County Home Rule Charter** provides that the governing body of a municipality may be the governing body of a special taxing district located entirely within the municipality if the municipality assumes any and all liabilities of the special taxing district.

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



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**Item No. 7C  
File No. 190916**

**Researcher: LE Reviewer: TD**

ORDINANCE RELATING TO AIRPORT ZONING REGULATIONS; CREATING ARTICLE XXXVII OF CHAPTER 33 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING AIRPORT ZONING REGULATIONS APPLICABLE TO LAND IN AND AROUND ALL MIAMI-DADE COUNTY AIRPORTS; DELETING IN THEIR ENTIRETY ARTICLES XXXVII, MIAMI INTERNATIONAL AIRPORT (WILCOX FIELD) ZONING; XXXVIII, OPA LOCKA AIRPORT ZONING; XXXIX, HOMESTEAD GENERAL AVIATION AIRPORT ZONING; AND XL, KENDALL TAMiami EXECUTIVE AIRPORT ZONING, OF CHAPTER 33; DELETING SECTION 33-303.2; AMENDING SUBSECTION 33-314; ADOPTING NEW AIRPORT ZONING REGULATIONS FOR DEVELOPMENT ON AIRPORT PROPERTY AND FOR DEVELOPMENT ON SURROUNDING PROPERTIES IN DESIGNATED LAND USE AND NOISE COMPATIBILITY RESTRICTION ZONES AND IN AIRPORT HEIGHT RESTRICTION AREAS; ADOPTING PROCEDURE FOR REVIEW OF APPLICATIONS FOR DEVELOPMENT PERMITS AND PERMITS FOR TEMPORARY STRUCTURES, CRANES, AND EVENTS WITHIN LAND USE AND NOISE COMPATIBILITY RESTRICTION ZONES AND AIRPORT HEIGHT RESTRICTION AREAS; ADOPTING PROCEDURE TO OBTAIN VARIANCES FROM CERTAIN AIRPORT ZONING REGULATIONS; PROVIDING LEGISLATIVE INTENT, FINDINGS, PURPOSE, AND APPLICABILITY IN THE INCORPORATED AND UNINCORPORATED AREAS; PROVIDING DEFINITIONS; PROVIDING AIRPORT LAND USE MAPS AND FIGURES; PROVIDING FOR ENFORCEMENT; DIRECTING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TERMINATE CERTAIN INTERLOCAL AGREEMENTS REGARDING MIAMI INTERNATIONAL AIRPORT (WILCOX FIELD) ZONING; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**ISSUE/REQUESTED ACTION**

Whether the Board should create Article XXXVII of Chapter 33 of the Code of Miami-Dade County to provide airport zoning regulations applicable to land in and around all Miami-Dade County airports.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Rebeca Sosa, District 6**

**Department/Requester: Regulatory and Economic Resources**

The proposed ordinance was adopted on first reading meeting during the January 23, 2019 BCC meeting and set for public hearing before the Tourism and the Ports Committee on March 13, 2019.

During the Tourism and the Ports Committee meeting, Assistant County Attorney, James Kirtley, distributed an amendment that would create a non-substantive change to Figure 3 on handwritten page 50, to remove some contour lines that would create confusion to the public.

The item was forwarded to the BCC with a favorable recommendation as amended.

**ANALYSIS**

The purpose of this item is to create article XXXVII of Chapter 33 of the Miami-Dade County Code to provide airport zoning regulations applicable to land in and around all County airports; delete in its entirety articles XXXVII, XXXVIII, XXXIX, and XL of Chapter 33; delete Section 33-303.2; amend subsection 33-314; adopt new airport zoning regulations for development on airport and surrounding properties, noise compatibility restriction zones, and airport height restriction areas; adopt procedure for review of certain applications; adopt procedure to obtain variances from certain airport zoning regulations; provide airport land use maps and figures; and terminate certain interlocal agreements regarding Miami International Airport (Wilcox Field) Zoning.

There is no fiscal impact. The proposed ordinance has a countywide scope and impact.

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The use of home-rule authority provides clarity and certainty in coordinating zoning regulations around the County's airports. The proposed ordinance uses the home-rule authority to require that municipalities meet the minimum standards instead of using interlocal agreements, as previously done with the existing regulations with certain municipalities. In addition, the following will be provided: 1) revised definitions; 2) revised land use regulations in accordance with Chapter 333 of the Florida Statutes, FAA's Airport Design Advocacy Circular and Interim Guidance on Land Uses Within a Runway Protection Zone, and other administrative interim guidance determinations; 3) revised height and airspace regulations; and 4) revised airport land use and height maps. The regulations will reflect the revised height contours for the Downtown Miami area while retaining the height variance eligible area that was established through Ordinance No. 18-40, particularly pertaining to Miami International Airport.

The ordinance would also apply to Miami-Dade County School Board facilities because of its accordance with 1) section 1013.33 of the Florida Statutes, requiring public educational facilities' location to be consistent with the County's CDMP and zoning regulations; 2) the interlocal agreement between the County and Miami-Dade County School Board for Public Schools Facility Planning.

Article XXXVII, Miami International Airport (Wilcox Field) Zoning; Article XXXVIII, Opa Locka Airport Zoning; Article XXXIX, Homestead General Aviation Airport Zoning; and Article XL Kendall Tamiami Executive Airport Zoning contain land use and height/airspace regulations for each airport. Since they have been deemed repetitive and duplicative of one another, the proposed ordinance consolidates the individual regulations into a single airport code in a similar manner of the County's Standard Urban Center District Regulations. The new regulations establish airport zoning regulations applicable to all Miami-Dade County airports and delete the individual articles.

Section 33-303.2 will be entirely deleted and Section 33-314 will be amended. The Airport Development Impact Committee (Airport DIC) will be deemed no longer necessary because MDAD will complete relevant reviews in consultation with the applicable zoning department while MDAD appeals will be heard before the Board.

The table below showcases the comparisons between current and proposed code relating to land use and noise compatibility restriction zones.

Current Code	Proposed Code	Description
Inner Safety Zone	Runway Protection Zone (RPZ)	<ul style="list-style-type: none"> <li>• Most critical safety zone located 200 ft. beyond each end of a runway.</li> <li>• No schools or buildings of public assemblage allowed in these zones.</li> <li>• Variances within the RPZ not permitted.</li> <li>• The code will remain essentially the same but will be renamed and subject to the recent FAA Interim (Land Use) Guidelines that will limit allowable uses, subject to review and approval by MDAD, following FAA review.</li> </ul>
Outer Safety Zone	Outer Safety Zone (OSZ)	<ul style="list-style-type: none"> <li>• Second most critical safety zone located beyond each runway protection zone.</li> <li>• No schools or buildings of public assemblage allowed in these zones.</li> <li>• For MIA, variances within the OSZ not permitted.</li> <li>• Will remain the same as the current code.</li> </ul>

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Additional Limitations (10,000 feet)	Critical Approach Zone (CAZ)	<ul style="list-style-type: none"> <li>• Zone extends 10,200 feet from the end of each runway.</li> <li>• No new schools, hospitals, or similar facilities permitted.</li> <li>• No landfills, smoke/gas emitting uses, or uses that may create electrical and radio interference with airport operations allowed.</li> <li>• Will remain the same as the current code.</li> </ul>
No School Zone (Critical Approach)	RPZ, OSZ, and CAZ	<ul style="list-style-type: none"> <li>• No new educational facilities shall be permitted in the areas that comprise the RPZ, OSZ, and CAZ surrounding airports.</li> <li>• Florida legislature removed the requirement for “no school” zones around airports in 2016 statutory revision, but proposed ordinance will retain the prohibition within the new land use and noise compatibility restriction zones.</li> </ul>
Inner Land Use Zone	75 DNL Zone	<ul style="list-style-type: none"> <li>• Area inside the 75 decibel or greater noise contour.</li> <li>• No residential and schools allowed in this zone.</li> <li>• Mostly located within airport boundaries.</li> <li>• Proposed changes will reflect noise studies for Miami International Airport, Miami Executive Airport, and Miami-Opa Locka Executive Airport.</li> </ul>
Outer Land Use Zone	65 to 74 DNL Zone	<ul style="list-style-type: none"> <li>• Area between the 65 and 74 decibel noise contours.</li> <li>• Certain structures located within the zone must incorporate sound-proofing in design and construction.</li> <li>• A noise study has not been conducted for Miami Homestead General Aviation Airport resulting in general Florida law requirements to apply to that facility.</li> </ul>
	Airport property allowable uses	<ul style="list-style-type: none"> <li>• Ordinance will provide for the uses that are allowed at each County airport in accordance to the CDMP.</li> </ul>
	Land use regulations	<ul style="list-style-type: none"> <li>• Regulates land use and noise compatibility restriction zones around each County airport in accordance with Florida law and FAA guidelines.</li> </ul>
	Height/airspace regulations	<ul style="list-style-type: none"> <li>• Establishes airport height restriction zones around each airport and retains variance-eligible area for Miami International Airport.</li> </ul>

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	Nonconforming uses	<ul style="list-style-type: none"> <li>Allows existing uses not in compliance with new regulations and retains provisions of existing code to allow continued use and expansion of educational facilities.</li> </ul>
	Permit review procedures	<ul style="list-style-type: none"> <li>MDAD and RER will be responsible in reviewing and enforcing in unincorporated areas.</li> </ul>
	Variance procedures	<ul style="list-style-type: none"> <li>Establishes procedures, requirements, and restrictions for variances from aforementioned airport regulations. Provides for variances to be decided by MDAD.</li> </ul>
	Enforcement	<ul style="list-style-type: none"> <li>Specifies manner and extent of enforcement allowed and delegates authority to MDAD and RER for appropriate legal action.</li> </ul>

The interlocal agreements between Miami-Dade County and City of Doral, and the County and the City of Miami regarding Miami International Airport (Wilcox Field) Zoning, will be terminated as those regulations will be addressed by the proposed ordinance.

**APPLICABLE LEGISLATION/POLICY**

**Resolution No. R-148-05**, adopted February 1, 2005, approved an interlocal agreement with the City of Doral to delegate certain zoning regulatory authority over schools in proximity to Miami International Airport.

<http://intra/gia/matter.asp?matter=050036&file=true&yearFolder=Y2005>

**Resolution No. R-146-05**, adopted February 1, 2005, approved an interlocal agreement with the City of Miami to delegate certain zoning regulatory authority over schools in proximity to Miami International Airport.

<http://intra/gia/matter.asp?matter=043093&file=true&yearFolder=Y2004>

**Resolution No. R-1204-07**, adopted November 6, 2007, approved an interlocal agreement between Miami-Dade County and the City of Miami related to the City's acceptance of building height restrictions and other provisions in the County's zoning code applicable to Miami International Airport.

<http://intra/gia/matter.asp?matter=072966&file=true&yearFolder=Y2007>

**Section 33-303.2 of the Miami-Dade County Code** establishes the Airport Developmental Impact Committee Executive Council. The Council reviews and makes recommendations to the board on all applications for exceptions, variances, and appeals of decisions on applications for site plan approval.

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH33ZO\\_ARTXXXVIZOPR\\_S33-303.2AIDEIMCO](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIZOPR_S33-303.2AIDEIMCO)

**Article XXXVII of Chapter 33 of the Miami Dade County Code** relates to the Miami International Airport (Wilcox Field) zoning.

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH33ZO\\_ARTXXXVIIMIINAIWIFIZO](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIIMIINAIWIFIZO)

**Ordinance No. 18-40**, adopted May 1, 2018, revised regulations for Miami International Airport (Wilcox Field) Zoning to provide an exception to the prohibition on applications for variances from height limitations where the proposed structure or use meets federal standards and has been approved by the Federal Aviation Administration (FAA).

<http://intra/gia/matter.asp?matter=180909&file=true&yearFolder=Y2018>

**BCC Meeting: April 9, 2019**  
**Research Notes**

**Section 333.03 of the Florida Statutes** delineates the requirement to adopt airport zoning regulations and for counties to coordinate airport zoning regulations with municipalities.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=section+333.03&URL=0300-0399/0333/Sections/0333.03.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=section+333.03&URL=0300-0399/0333/Sections/0333.03.html)

**BCC Meeting: April 9, 2019  
Research Notes**

**Item No. 8A1  
File No. 190429**

**Researcher: PGE Reviewer: TD**

RESOLUTION APPROVING TERMINAL BUILDING LEASE AGREEMENT BETWEEN AMERICAN AIRLINES, INC. AND MIAMI-DADE COUNTY FOR THE CONSTRUCTION, EXPANSION, AND LEASE OF VIP CLUB SPACE AT MIAMI INTERNATIONAL AIRPORT NORTH TERMINAL GATES D-15 AND D-30 FOR A TERM OF 10 YEARS AND AN ANNUAL RENTAL AMOUNT OF \$8,002,330.98 IN THE INITIAL YEAR AND ADJUSTED EACH YEAR THEREAFTER IN ACCORDANCE WITH RESOLUTION NO. R-1054-90, COMMENCING UPON THE COMPLETION OF CONSTRUCTION AND EXPANSION; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE ALL RIGHTS CONFERRED THEREIN, INCLUDING TERMINATION AND TO PERFORM ALL ACTS NECESSARY TO EFFECTUATE SAME; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE THE COUNTY PROPERTY APPRAISER A COPY OF SAID LEASE

**ISSUE/REQUESTED ACTION**

Whether the Board should approve a Terminal Lease Agreement between the County and American Airlines, Inc. for the lease of VIP Club space at Miami International Airport north terminal gates for a 10-year term at an annual rental amount of \$8,002,330.98 for the initial lease year and adjusted annually thereafter in accordance with Resolution No. R-1054-90.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Rebeca Sosa, District 6**

**Requester/Department: Internal Services**

This item was considered at the Tourism and Ports Committee on March 13, 2019 wherein it was forwarded to the Board with a favorable recommendation. The Administration has requested that the item be deferred to no date certain.

**ANALYSIS**

The purpose of this item is to authorize a Terminal Building Lease Agreement between the County and American Airlines, Inc. (AA) for Gate 15 and Gate 30 in Concourse D of the North Terminal of Miami International Airport (MIA) for continued use as a VIP Club for 10 years at an annual rental amount of \$8,002,330.98. The rental rate is subject to recalculation and adjustment on October 1 of each year per Resolution No. R-1054-90, which approved the utilization of new procedures for the computation of terminal building rentals at MIA. The proposed lease increases the square footage amount leased for each gate and allows the construction of improvements in order to modernize the AA VIP Clubs and address overcrowding issues.

The annual rental amount includes 18 percent of the monthly gross revenues generated from liquor sales and 10 percent of the monthly gross revenues generated from the sale of all other amenities not obtained through the Aviation Department's concessionaires or permittees. More specifically, the County may approve the sale of certain amenities within the premises upon written request by AA and payment of the required fees. Permitted amenities include: (1) VIP Club Conference room rentals; (2) food and beverage sales; (3) liquor sales; and (4) facsimile, e-mail, internet and wireless services. Additionally, a 35 percent opportunity fee will be charged to AA for non-member passengers who purchase a day pass to the VIP Club.

The mayoral memorandum indicates that the current lease agreement with AA was administratively approved pursuant to Resolution No. R-487-93 in 2011 for a five-year term with month-to-month extensions for an additional four years. The rental rate and associated fees structure under the current lease is not disclosed in the agenda item.

It is important to note that under the proposed lease agreement, AA is authorized to construct improvements to the premises, provided that all design and construction work is approved by the Aviation Department. AA shall use the premises as VIP Clubs on an exclusive basis for its passengers who are club members, their immediate family members and passengers of any other



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airlines with whom AA has entered into a code-sharing marketing agreement that includes the provisions of VIP Club services by AA to the other airline.

**ADDITIONAL INFORMATION**

OCA posed the following bulleted questions to the Aviation Department. The answers are italicized.

- Provide a timeline, from commencement to completion, for the VIP Club construction and renovation project *Currently awaiting the commencement date for both clubs from American Airlines Sr. Project Manager, Daniel Menendez. The D15 expansion was completed on October 1, 2016 and the D30 on August 8, 2018. At this time, American Airlines has not completed construction for a kitchen area in the D30.*
- Clarify whether Section 2-11.17 of the County Code, Residents First Training and Employment Program, applies to the construction element of the lease agreement. *Currently awaiting a response from Sergio Negrira of MDAD Facilities to advise if the aforementioned County Code is applicable.*
- Verify if all of the north terminal clubs and lounges will be under renovation once this lease is approved; if that's the case, how does MDAD intend to address that with north terminal passengers seeking club/lounge services. *North Terminal has three clubs. American Airlines leases two VIP Clubs, D15 and D30. American Express has a management agreement for the club at D14. The only clubs included in this agreement is American Airlines VIP Clubs at D15 and D30.*

**APPLICABLE LEGISLATION/POLICY**

**Section 125.35 of the Florida Statutes** (County authorized to sell real and personal property and to lease real property) provides that the board of county commissioners is expressly authorized to sell and convey any real or personal property, and to lease real property, belonging to the county, whenever the board determines that it is to the best interest of the county to do so, to the highest and best bidder for the particular use the board deems to be the highest and best, for such length of term and such conditions as the governing body may in its discretion determine.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0100-0199/0125/Sections/0125.35.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0125/Sections/0125.35.html)

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

[https://library.municode.com/fl/miami\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR)

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

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

**Resolution No. R-380-17**, adopted by the Board on April 4, 2017, establishes a Board policy relating to County-owned real property, requiring the County Mayor to provide written notification to the district commissioner in which the County-owned property lies no less than four weeks prior to placing any item on the Board agenda or any committee of the Board requesting approval of the sale, lease or surplus of the property.

<http://intra/gia/matter.asp?matter=170414&file=true&yearFolder=Y2017>

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

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

**BCC Meeting: April 9, 2019**  
**Research Notes**

**Resolution No. R-1054-90**, adopted by the Board on September 27, 1990, authorized the Aviation Department to recalculate, publish and implement annually the rental rates applicable to Terminal Building Class I through Class V rental properties and concourse use and related charges. (The resolution is attached to this research note as a link was not available on the Legislative Information System.)

**Resolution No. R-487-93**, adopted by the Board on April 27, 1993, authorized the County Mayor to execute certain standard form Aviation Department leases; and authorized the Aviation Director to execute certain administrative leases, issue default notices and implement termination provisions of Aviation Department leases. (The resolution is attached to this research note as a link was not available on the Legislative Information System.)

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

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

RESOLUTION NO. R-1054-90

RESOLUTION APPROVING NEW PROCEDURES FOR COMPUTATION OF TERMINAL BUILDING RENTALS, MIAMI INTERNATIONAL AIRPORT; ESTABLISHING CLASS I THROUGH CLASS VI TERMINAL BUILDING PROPERTIES; ESTABLISHING CLASS I THROUGH CLASS V RENTAL RATES; ESTABLISHING NEW CONCOURSE USE CHARGES; AUTHORIZING IMPLEMENTATION ON OCTOBER 1, 1990 AND AUTHORIZING ANNUAL ADJUSTMENTS BY AVIATION DEPARTMENT IN ACCORDANCE WITH APPROVED NEW PROCEDURES

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

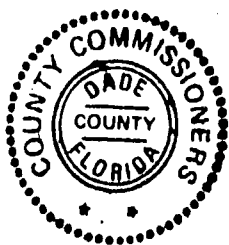
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board hereby approves the utilization of new procedures for the computation of Terminal Building rentals at Miami International Airport as set forth in the attached memorandum from the County Manager and the attachment thereto entitled "Procedures for the Calculation of Cost Based Terminal Rental Rates, Miami International Airport"; this Board hereby establishes Class I through Class VI Terminal Building property classifications and Class I through Class V rental rates, and new concourse use charges, all as more particularly shown in the said memorandum and attachment thereto, which said rental rates and concourse use charges are hereby determined to be fair, reasonable and nondiscriminatory for the use of the facilities described in the memorandum, to become

effective October 1, 1990; this Board authorizes the Aviation Department to implement the said rental rates and concourse use charges and to make annual adjustments thereto in accordance with the new procedures for calculation of cost-based Terminal Building rentals as set out in the Procedures report.

The foregoing resolution was offered by Commissioner Harvey Ruvin, who moved its adoption. The motion was seconded by Commissioner Stephen P. Clark (Mayor), and upon being put to a vote, the vote was as follows:

Barbara M. Carey	aye
Charles Dusseau	aye
Joseph M. Gersten	aye
Larry Hawkins	absent
Harvey Ruvin	aye
Barry D. Schreiber	aye
Jorge E. Valdes	absent
Sherman S. Winn	aye
Stephen P. Clark	aye

The Mayor thereupon declared the resolution duly passed and adopted this 27th day of September, 1990.



DADE COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS

TONY COTARELO, CLERK

By: **RAYMOND REED**

Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency. AP

# MEMORANDUM

enda Item No. 5(d)(6)

TO: Honorable Mayor and Members  
Board of County Commissioners

DATE: September 27, 1990  
--September-25, 1990--

SUBJECT: Approval of  
Procedure for  
Calculation of  
Terminal Rentals,  
Miami International  
Airport R-1054-90

FROM: *José G. Aviño*  
Joaquín G. Aviño, P.E., P.L.S.  
County Manager

## RECOMMENDATION

It is recommended that the Board approve the attached document, entitled "Procedures for the Calculation of Cost Based Terminal Rental Rates, Miami International Airport" and authorize the Aviation Department to recalculate, publish and implement annually the rental rates applicable to Terminal Building Class I through Class V rental properties and the Concourse Use and related charges, in accordance with said document.

## BACKGROUND

Commencing almost two years ago, the Aviation Department, with the assistance of the John F. Brown Co., Inc., the Traffic Engineers under the 1954 Trust Agreement, as amended, in cooperation with a subcommittee of the Majority-In-Interest Airlines, began an intensive effort to develop a systematic approach to the development of rental rates and related use fees and charges in the Terminal Building based on costs. A secondary objective of this effort was to try to simplify the Airport's fees and charges structure, by eliminating separate charges for the use of equipment and services, wherever reasonably possible.

As a result of 14 separate meetings over the two year period and extensive research and give and take, Department staff and the airlines agreed to a cost based approach to Terminal Building rental rate setting as described in the attached document. The described methodology results in a full compensatory rental rate, reflecting a recovery of all applicable costs, direct and indirect, including the allocation of all applicable debt service.

The recommended system classifies all Terminal space into six classes, each with different value weightings and with Class III representing the base line value of 1.0. Classes I through V are those applicable to airline usages. Class VI, which will be subject to annual review and adjustment with County Commission approval, is applicable to concession space and other non-airline uses and, per the agreements with the airlines, must, on average, yield at least as much as Class III space.



This system, in addition to resulting in the automatic, annual recalculation of the Terminal rental rates, also generates the annual Concourse Use Charges for arriving and departing domestic and international aircraft operations. However, separate non-formula charges, requiring annual Board approval, will be continued only for curbside baggage conveyors. A number of separate fees and charges, applicable to airline leases and uses, such as public address system and baggage claim area usage, baggage scales and ticket counter conveyor rentals, and the like, are being eliminated.

For the first year of this process, effective October 1, 1990, the following summarizes the applicable rental rates and use charges:

- Class I (2.0 weighting factor) - Special service facilities such as ticket counters - \$62.80/sq. ft./yr.
- Class II (1.5 weighting factor) - Terminal offices, VIP rooms, baggage service offices - \$47.10/sq. ft./yr.
- Class III (1.0 weighting factor) - Holdrooms, concourse offices, baggage claim areas - \$31.40/sq. ft./yr.
- Class IV (0.5 weighting factor) - Non-air-conditioned, enclosed or semi-enclosed space - \$15.70/sq. ft./yr.
- Class V (0.25 weighting factor) - Open space created by the Terminal shadow - \$7.85/sq. ft./yr.

Concourse Use Charges are based on a charge per seat for the various types of aircraft, based on standard configurations. The following are the new and current rates per seat:

Domestic arrival - \$1.15 new; \$1.05 current

International arrival - \$2.46 new; \$1.71 current

All departures - \$0.92 new; \$0.96 current

Inasmuch as the annual adjustment of these rates fees and charges is based upon a fixed procedure and is subject to review by the airlines, it is recommended that the Aviation Department be authorized to annually recalculate, publish, for the benefit of the users, and administratively implement them. More frequent review and adjustment of these rates, fees and charges would only occur if required pursuant to the rate covenants of the 1954 Trust Agreement and/or the ADF Bond Resolution, with Board approval.

Attachment

**PROCEDURES FOR CALCULATION**  
**OF**  
**COST BASED TERMINAL RENTAL RATES**  
**MIAMI INTERNATIONAL AIRPORT**

The following summarizes agreements reached by the airline committee, Dade County Aviation Department ("DCAD") staff and representatives from the John F. Brown Co., Inc., Traffic Engineers under the 1954 Trust Agreement, as amended, relative to philosophies, policies and procedures for the establishment and calculation of cost based Terminal rental rates at Miami International Airport:

**GENERAL APPROACH:**

As an approach to this joint effort, it was agreed that the initial focus would be on basic concepts, philosophies and approaches rather than on detailed numbers and computations, it being understood that once agreement was reached on the broad issues, the detailed work resulting in final rental rates should generally require little discussion. The primary goal of the study is to develop a rational, simplified system of Terminal rental rates, based on the costs of developing, operating and maintaining the facilities, which ultimately will be applicable to all leases and uses of the Terminal Building at Miami International Airport. As part of the simplification effort, it was also agreed that separate usage charges would be eliminated wherever reasonably possible.

**IMPLEMENTATION:**

It was agreed that efforts would be made to implement this program as of October 1, 1990 and that the Aviation Department would not do a Terminal Building rental rate review and adjustment as of March 1, 1990. This was subsequently approved by the Dade County Board of Commissioners. It was also agreed that the principles of Terminal Building cost based rate setting, at least as they apply to the Terminal Building, will be included in subsequent discussions with the airlines relating to a possible new Airport Use Agreement.

#### DEFINITION OF TERMINAL BUILDING:

The Terminal Building shall be defined as everything from the outer walls, including the exterior surfaces thereof, inward and shall specifically include the following:

- The upper drive canopy.
- The upper drive sidewalk/curb.
- Conveyor housings on the upper drive.
- For space without exterior walls, the shadow line of the floor above, specifically excluding the sidewalk on the lower drive.
- The air-conditioned portions of the SkyRide system, including the doors.
- The four floors of the International Satellite, the STS guideway, Central Chiller West, Central Chiller East and the facilities connecting it to the Terminal Building, the "D" Satellite, the Interim J Terminal and connecting walkway, and the office tower, including the seventh floor Executive Conference Center.

Specifically excluded are the third through the seventh and the new eighth floors of the Hotel.

In determining whether an individual facility is terminal or non-terminal, it is not material whether it is a Port Authority Property ("PAP") or Non-Port Authority Property ("NPAP").

#### MAINTENANCE AND OPERATION ("M&O") EXPENSES:

Based on comparisons with a number of other selected airports, recognizing the problems with such comparisons, it has been agreed that the Terminal M&O costs at MIA - \$13.60 per sq. ft. for FY '89 - are reasonable.

Based on the reasonableness determination above, it has been agreed that the methodology used for determining direct M&O costs and allocating indirect General and Administrative ("G&A") costs, as shown in the April 11, 1989 package distributed by the John F. Brown Company, will be accepted as the interim approach until implementation of a cost accounting system. The interim method for calculating and distributing direct M&O costs between terminal and non-terminal was based on interviews conducted by the consultants with the various managers of organizations, services and facilities which constitute direct M&O (Police, Fire, Maintenance, Operations, Utilities, etc.). Indirect G&A costs are allocated based on the ratio of the collectively allocated direct M&O costs to the two cost pools. Pending the completion of an acceptable cost accounting system, which will accurately establish the actual distribution of M&O costs amongst the various cost centers, the M&O costs distribution developed in 1988 will be re-examined in FY '91 for the FY '92 rates, and every three to five years thereafter.

In calculating the rental rates for subsequent fiscal years, the current year's M&O cost projections, consisting of partial year actuals and estimates for the balance, adjusted for any substantial budgetary changes projected for the subsequent year, shall be used.

#### CAPITAL COSTS DEFINED:

All capital costs paid from bonds, including Series A and B, shall be included in the capital pot for purposes of calculating capital cost allocations to the cost pools. In addition, costs paid from non-debt sources of funds, including rental credit property costs, should be included at amortization and interest rates based on that specified in the agreement or matching Department debt placed at approximately the same time. Interest on internally and externally generated funds used for Terminal Building capital shall be at a rate matching that on Department debt placed at approximately the same time (a year or so) or as estimated, as appropriate for the time, by the Department's Financial Advisors.

Reserve Maintenance Fund expenditures shall not be included. As to coverage, only the incremental annual amount shall be included.

#### CAPITAL COSTS ALLOCATIONS:

Capital costs shall, to the maximum extent possible, be allocated to the cost pools, for the purpose of determining the ratios to be used in distributing debt service, based on the actual use of funds. For so called below the line, non distributed costs, as reflected on the reports from the Consulting Engineers, Howard, Needles, Tammen & Bergendoff ("HNTB"), items referred to as "Land Acquisitions", "Buses", and "Utility Relocations" will be moved above the line as non-terminal costs; "Participation" and "Contingencies" will be ignored as not representing real costs; "A/E Fees" and "Miscellaneous" will be distributed based on the ratio of direct use of capital funds.

#### DEBT SERVICE DISTRIBUTION:

Current and future debt shall be distributed to the cost pools based on the percentage of historical use of capital costs in the cost pool determined in the same manner as is used for Capital Costs Allocations, above. Annually, prior to the annual review and adjustment of rental rates at Miami International Airport, the Department shall recalculate the historical percentage attributable to each pool based on projects completed in the prior year. Project completion shall be determined not based on occupancy or use, but when a project is transferred to Fixed Assets, for accounting purposes.

#### TERMINAL SPACE CLASSIFICATIONS:

All space in the Terminal Building will be classified into one of six separate classes, as follows:

- Class I      All airline regular and special passenger service facilities, including, but not necessarily limited to, ticket counter space, interline counters, passenger service centers, advance ticketing facilities and the like.
- Class II     Airline club rooms, where alcoholic beverages are dispensed, and all air-conditioned office space in the main Terminal Building, including the office tower, baggage service rooms, and excluding the concourses out board of security screening.
- Class III    All other air-conditioned operating space, including, but not necessarily limited to, baggage claim areas, hold rooms, group rooms, employee canteens, concourse office space, and the like.
- Class IV     All enclosed or semi-enclosed, non-air-conditioned operating space, including, but not necessarily limited to, baggage make-up rooms, equipment and parts storage, and the like.
- Class V      Leased space created as part of the building shadow-line, included in the Terminal pursuant to the definition of Terminal Building herein.
- Class VI     This class includes all other classes of space and includes all other leasable revenue producing and concession space. It shall specifically include space leased by airlines for concession-type activities. A single rental rate for this class will not be established, provided that the overall revenues produced for this class shall average per square foot at least the rate established for Class III space.

#### SPACE CLASSIFICATIONS WEIGHTINGS:

-	Class I	2.00
-	Class II	1.50
-	Class III	1.00
-	Class IV	0.50
-	Class V	0.25
-	Class VI	Variable, not to average less than Class III space on a Terminal wide basis

The square footage attributable to each class of space shall be multiplied by the appropriate weighting factor in order to develop a weighted calculation of total revenue producing square footage divisor, necessary for the establishment of the Class III rental rate.

#### EQUIPMENT TYPES AND TREATMENT:

- Ticket Counter Conveyor: No separate charge.
- Curbside Conveyor: This will continue as a separate charge, based on linear feet of leased counter. The charge should be reasonable, and not necessarily based on cost.
- Curbside Check-in Counter: Per position charge shall be based on an average footprint of 100 square feet at the Class II rate.
- Scales: No separate charge.
- Baggage Claim Devices: Separate cost based use charge, per seat, based on aircraft size.
- Flight Information Display Systems: No separate charge.
- Baggage Information Display Systems: No separate charge.
- Chilled Water Supplied to Non-Air-conditioned Space: Continue separate charge based on cost.
- Laser Sort Baggage Makeup Systems: For the time being, individual negotiated arrangements, with charges based on costs, going interest rates and a ten year amortization.



RESOLUTION NO. R-487-93

RESOLUTION AUTHORIZING COUNTY MANAGER TO  
EXECUTE CERTAIN STANDARD FORM AVIATION  
DEPARTMENT LEASES; AUTHORIZING AVIATION  
DIRECTOR TO EXECUTE CERTAIN ADMINISTRATIVE  
LEASES; AUTHORIZING AVIATION DIRECTOR TO  
ISSUE DEFAULT NOTICES AND TO IMPLEMENT  
TERMINATION PROVISIONS OF AVIATION DEPARTMENT  
LEASES

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA, that this Board hereby authorizes the County Manager or his designee to execute standard Aviation Department leases for the use and occupancy of real property at the County Airport System facilities for aviation and aviation related purposes, at rental rates established by this Board, and for such term(s) as may be appropriate, with use and occupancy not to extend beyond five years under the authority of this Resolution, as set forth in the accompanying memorandum from the County Manager; and further, this Board authorizes the Aviation Director or his designee to execute administrative leases for the use and occupancy of real property at the County Airport System facilities for aviation and aviation related purposes, at rental rates established by this Board for term(s) of month-to-month, with use and occupancy not to extend beyond six months under the authority of this Resolution, as set forth in the said memorandum; and further, this Board authorizes the

years, it is being recommended that the Aviation Director be authorized to issue, when necessary, default termination letters under all Aviation Department leases and to institute appropriate termination/eviction actions for tenants which fail to correct their defaults on a timely basis following required notice.

These matters are being brought forward for Board consideration at this time to keep the Board apprised of current Airport leasing practices and because of the number of newly elected Commissioners now on the Board.

Aviation Director to issue default notices and to implement the termination provisions contained in all Aviation Department leases; and further, all prior resolutions of this Board granting or delegating authority to the County Manager or the Aviation Director to execute leases for the use and occupancy of real property at County Airport System facilities inconsistent with the grants of authority contained herein are superseded hereby.

The foregoing resolution was offered by Commissioner Alexander Penelas , who moved its adoption. The motion was seconded by Commissioner Larry Hawkins , and upon being put to a vote, the vote was as follows:

James Burke	aye	Miguel Diaz de la Portilla	aye
Betty T. Ferguson	aye	Maurice A. Ferre	aye
Larry Hawkins	aye	Bruce Kaplan	aye
Natacha A. Millan	aye	Dennis C. Moss	aye
Alexander Penelas	aye	Pedro Reboredo	aye
Javier D. Souto	aye	Sherman S. Winn	absent
Arthur E. Teele, Jr.	aye		

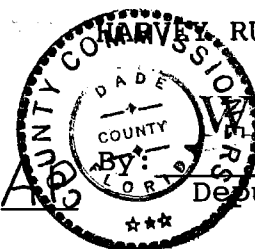
The Chairperson thereupon declared the resolution duly passed and adopted this 27th day of April, 1993.

DADE COUNTY, FLORIDA BY ITS  
BOARD OF COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

WILLIAM G. OLIVER

Approved by County Attorney as  
to form and legal sufficiency.



Deputy Clerk

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WITH PERCENTAGE OF GROSS REVENUES  
MIAMI INTERNATIONAL AIRPORT**

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# MEMORANDUM

Agenda Item No. 5(d)(3)

107.07-17A METRO/DADE/GSA-MAT. MGT.

TO: Honorable Members  
Board of County Commissioners

FROM: *Joaquin G. Avino*  
Joaquin G. Avino, P.E., P.L.S.  
County Manager

DATE: April 27, 1993

SUBJECT: Authority to Execute  
Certain Standard Form  
Aviation Department  
Leases and to Issue  
Certain Termination  
Notices

## RECOMMENDATION:

It is recommended that the Board re-authorize certain members of County staff, as described below, to execute certain standard form Aviation Department leases for the use of the County Airport System facilities for aviation and aviation related purposes only. It is further recommended that the Board authorize the Aviation Director to issue for cause default notices, in accordance with the terms of all Aviation Department leases, and to take necessary termination actions for failures to correct defaults on a timely basis.

## BACKGROUND:

Since the early 1970's the County's Aviation Director has been delegated the authority by the Board of County Commissioners to issue and execute month-to-month, not to exceed six months, Administrative Leases. This enables the Aviation Department to promptly obtain occupancy of facilities, benefitting both the tenant and the Department's revenue stream, while formal leases and other required documents are being prepared and processed.

Also since the 1970's, the County Manager, or a Board approved delegate staff member from the County Manager's Office, has been executing standard form Aviation Department leases for aviation and aviation related uses, with month-to-month, year-to-year, or fixed terms of five years or less. All leases, including month-to-month and year-to-year, where the term can be expected to exceed five years or which will involve the direct or indirect (such as through rental credits) expenditure of Department capital funds, are and will continue to be submitted to this Board for its consideration.

In all the instances described above, the forms of leases being used by the Aviation Department have been reviewed by the Assistant County Attorneys assigned to the Airport. Further, as to the individual lease agreements to be signed by the County Manager, and attested to by the Clerk of the Board, each one is individually reviewed and approved as to form and legal sufficiency by one of such Assistant County Attorneys, before being submitted to the County Manager.

If all such leases, excluding Administrative Leases, with terms not expected to exceed five years, had to be submitted to the Board of County Commissioners for approval, it can reasonably be expected that this would add over 150 items to the Board's already heavy Agenda workload. In the next couple of years, this amount will likely be somewhat higher, because of the new five year term leases being prepared for the tenants in the new air cargo facilities, the first of which will be ready for occupancy this summer.

Because of the variances between the different kinds of terms (month-to-month, year-to-year and fixed), the different operational constraints and requirements between the County's four airports with leased properties, the different areas of Miami International Airport (i.e., Terminal, MIAD cargo, N.W. 36th Street maintenance, etc.) ("MIA"), and the different aspects of the various aviation and aviation related businesses (i.e, airlines, Fixed Base Operators, cargo handlers, aircraft maintenance companies, etc.), the Aviation Department utilizes upwards of 20 different lease forms, some with only slight variations. Attached is a sample of one of these forms, which would apply to an aircraft maintenance operator leasing space at MIA, on a month-to-month basis, and paying the County a percentage of revenues.

It is also not considered practical to request the Board to separately approve each form of lease because of the number of them that are used. Further, it is not uncommon for the boiler plate language in some or all of the forms to be changed many times during a year. This can occur for a number of reasons such as new laws or ordinances (i.e., the County's Drug-Free Workplace Ordinance, the Federal Americans with Disabilities Act, etc.). Some changes in the boilerplate result from negotiations with a tenant, which identifies a need to make similar changes in the standard form leases. Others occur because of changes in operational circumstances.

As to the rental rates used in these standard leases for all rental properties, except for the Terminal Building, annually, the Board of County Commissioners receives recommendations as to adjustments which should be made so that the rates reflect a fair market value. These recommendations are based on a detailed report prepared for the Aviation Department by a State certified real estate appraiser under contract to the County. Adjustments at MIA are effective as of each October 1, while the general aviation airports rates are revised as of each April 1. The Terminal Building rental rates are recalculated annually based on a compensatory cost recovery formula previously approved by the Board and agreed to by the airlines Airport Affairs Committee.

Since all of the Aviation Department leases contain limited termination conditions, primarily related to defaults in lessee performance, in the interest of efficiency and speed of action, and in accordance with what has been a standard practice over the



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Lease No. \_\_\_\_\_  
Cust. No. \_\_\_\_\_  
Doc.Name \_\_\_\_\_ .MFL

LEASE AGREEMENT BETWEEN DADE COUNTY,  
FLORIDA, AS LESSOR, AND \_\_\_\_\_, AS  
LESSEE, MIAMI INTERNATIONAL AIRPORT

THIS LEASE AGREEMENT ("Agreement"), made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 199\_, by and between DADE COUNTY, a political subdivision of the State of Florida ("County"), and \_\_\_\_\_, (a Florida corporation) (a \_\_\_\_\_ corporation, authorized to do business in the State of Florida) (a foreign air carrier) ("Lessee").

W I T N E S S E T H:

FOR, and in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1  
Term and Premises

1.01 Term: The County hereby leases to the Lessee, and the Lessee hereby leases from the County, for a term of month-to-month, commencing on the \_\_\_\_\_ day of \_\_\_\_\_, 199\_, cancellable by either party at any time upon 30 days advance written notice to the other party, the premises described in Article 1.02 (Premises) hereof, for the purposes and uses set forth in Article 2 (Use of Premises) hereof. This Agreement is a tenancy at will, pursuant to the provisions of Sections 83.02 and 83.03, Florida Statutes.

1.02 Premises: The premises leased herein are located in the \_\_\_\_\_ Area of Miami International Airport ("Airport"), and are more particularly described as follows and as shown on Exhibit A, dated \_\_\_\_\_, 19\_\_, attached hereto and made a part hereof ("Premises"):

Building \_\_\_\_\_:

Hangar Space	_____	square feet
Air Conditioned Office Space	_____	square feet
Land	_____	square feet
Aircraft Pavement	_____	square feet
Vehicular Pavement	_____	square feet

1.03 Suitability of Premises: The Lessee acknowledges that the Premises are suitable for the Lessee's proposed use and that, except as specifically set forth in an exhibit to this Agreement,

the County has no obligation to perform or cause to be performed any maintenance, repairs, clean-ups, painting, or the like; provided, however, that if an exhibit provides that the County shall perform any such tasks, the County's performance and completion thereof are not a condition precedent to the Lessee's obligations hereunder, and in no event shall the County be liable for any damages, direct or indirect, arising out of the County's failure to commence or to complete such tasks. The Lessee's obligation under this Agreement, such as in Article 6.01(C) (permits and Licenses), to obtain all operating permits required of the Lessee, shall not require the County to take any action or perform any tasks within the Premises to enable the Lessee to obtain such permits, including, but not limited to, certificates of occupancy, which shall remain the Lessee's exclusive obligation to perform in order to obtain such permits.

1.04 Relocation of Premises: The Premises are subject to relocation, modification or deletion, at the sole discretion of the Aviation Department of the County ("Department") and this Agreement may be administratively revised to reflect such relocation, modification, or deletion upon 30 days written notice to the Lessee by the Department. Relocated space may not be similar in size, configuration or location to the Premises leased herein.

## ARTICLE 2 Use of Premises

The Lessee shall use the Premises for the following purposes only:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Aircraft in non-flyable condition shall not be parked or stored on the leased Premises for a period in excess of 90 days without the prior written approval of the Department.

## ARTICLE 3 Rentals and Payments

3.01 Monthly Rental: As monthly rental for the lease of the Premises, the Lessee shall pay to the County, commencing on \_\_\_\_\_, 19\_\_, the sum of \$ \_\_\_\_\_, in U.S. funds, on the first day of each and every month in advance and without billing, at the offices of the Department as set forth in Article 3.06 (Address for Payments). Said rental is computed as follows:

<u>DESCRIPTION</u>	<u>SQ. FT.</u>	<u>RATE</u>	<u>ANNUAL</u>	<u>MONTHLY</u>
<u>Building</u> :				
Hangar Space		\$	\$	\$
A/C Office Space				
Land				
Aircraft Pavement				
Vehicular Pavement				
<b>TOTAL:</b>		\$	\$	\$

plus applicable State sales taxes, as required by law.

**3.02 Opportunity Fee:** The Lessee shall pay to the County the amount by which    % of the monthly Gross Revenues, as defined in Article 3.10 (Gross Revenues), generated from its activities under this Agreement, exceeds the monthly rentals, as adjusted from time to time, under Article 3.01 (Monthly Rental). The Lessee shall pay such amount to the County by the tenth day of the month following the month in which the Gross Revenues were received or accrued. The percentage fees payable on any unreported Gross Revenues, determined by the annual audit required pursuant to Article 3.13 (Annual Report Required) are considered, for the purposes of Article 3.08 (Late Payment Charge), as having been due on the tenth day of the month following the month during which such unreported Gross Revenues were received or accrued.

**3.03 Advance Rental:** Prior to occupancy of the Premises, the Lessee shall pay to the County an amount equal to two times the required total monthly rental as determined pursuant to Article 3.01 (Monthly Rental) above, plus applicable State sales tax thereon, as payment of rent in advance for the last two months of this Agreement. Said payment shall be in addition to any rental payments required hereunder, and the Department shall be entitled to apply such payment to any debt of the Lessee to the Department that may then exist, as permitted by law, including but not limited to the rentals required hereunder. In lieu of the advance rental payment being made in cash, the Department, in its sole discretion, may authorize the Lessee to provide an irrevocable Letter of Credit, in a form provided by the Department, in like amount. The amount of the advance rental payment is subject to adjustment by the Department at anytime there is a change in the monthly rentals pursuant to the terms of this Agreement; provided further, that the Department shall have the right to demand up to an additional four months advance rental payments to provide the Department with adequate assurance of the Lessee's payment of its obligations, which assurance is required because of the Lessee's defaults in the timely payment of rents and charges due hereunder, or because the Department has reason to believe, based on published reports, that the Lessee's future ability to pay such rentals, fees and charges, on a timely basis, is in jeopardy.

3.04 Rental Rate Review: In the event the Lessee is in possession of the Premises by virtue of this Agreement on October 1, 19\_\_ (or any annual anniversary thereafter), the rental rates stated in Article 3.01 (Monthly Rental) above shall be subject to review and adjustment as set forth hereafter. When such rental rate adjustments are approved by the Board of County Commissioners, and new or revised rental rates applicable in whole or in part to the Premises are established by said Board, the Department shall notify the Lessee in writing of such rates and this Agreement shall be considered and deemed to have been administratively amended to incorporate the revised rental rates effective as of such October 1 date. Payments for any retroactive rental adjustments shall be due upon billing by the Department and payable within ten calendar days of same.

3.05 Double Rental: In the event that the Lessee remains in possession of the Premises beyond the expiration or termination of this Agreement, the Lessee shall be bound by all of the terms and conditions of this Agreement to the same extent as if this Agreement were in full force and effect during the time beyond the expiration date of this Agreement. However, during any such possession of the Premises as a holdover tenant after the County has demanded the return of the Premises, the Lessee shall be liable for double rentals for so long as the Lessee remains in possession after such demand, such rentals to be based upon the rental rates applicable from time to time in whole or in part to the Premises.

3.06 Address for Payments: The Lessee shall pay, by mail, all rentals, fees and charges required by this Agreement to the following:

Dade County Aviation Department  
Accounting Division  
P. O. Box 592616  
Miami, Florida 33159

Payments may be made by hand-delivery to the offices of the Department during normal working hours.

3.07 Late Payment Charge: In the event the Lessee fails to make any payments, as required to be paid under the provisions of this Agreement, within ten days after same shall become due, interest at the rates established from time to time by the Board of County Commissioners of Dade County, Florida (currently set at 1½% per month), shall accrue against the delinquent payment(s) from the original due date until the Department actually receives payment. The right of the County to require payment of such interest and the obligation of the Lessee to pay same shall be in addition to and not in lieu of the rights of the County to enforce other provisions herein, including termination of this Agreement, and to pursue other remedies provided by law.



3.08 Dishonored Check or Draft: In the event that the Lessee delivers a dishonored check or draft to the County in payment of any obligation arising under this Agreement, the Lessee shall incur and pay a service charge of TEN DOLLARS or FIVE PERCENT of the face amount of such check, whichever is greater. Further, in such event, the Department may require that future payments required pursuant to this Agreement be made by cashier's check or other means acceptable to the Department.

3.09 Utilities: Unless the Premises are separately metered and billed directly by the power company, the Lessee hereby agrees to pay monthly, upon billing by the Department, for electric consumption in the Premises. This monthly charge will be based on a survey conducted by the Department of the electric consumption by the Lessee and current nondiscriminatory rates charged others at the Airport. This monthly charge may also be adjusted and billed retroactively, from time to time, based on changes in consumption and rates. Lessee shall pay for all other utilities used by it. In the event the Premises are metered and billed to the Department, the Lessee shall pay for electric consumption based on the metered charge. The County shall have no obligation to provide utilities to the Premises other than those existing as of the effective date of this Agreement.

3.10 Gross Revenues: The term "Gross Revenues", as used in this Agreement means all moneys paid or payable to, or considerations of determinable value received by, the Lessee for aircraft parking, repair, maintenance and/or ground handling of aircraft at the Airport, other than those owned or leased and operated by the Lessee as a scheduled or non-scheduled airline, and from the subleasing of office space or other portions of the Premises, regardless of when or where the order therefor is received, whether paid or unpaid, whether on a cash or credit basis or in consideration of any other thing of value; provided, however, that any taxes imposed by law which are separately stated to and actually paid by a customer and directly payable by the Lessee to a taxing authority and sales refunds shall be excluded therefrom.

3.11 Records and Reports: The Lessee shall keep in Dade County, during the term of this Agreement, all books of account, records and reports used in its operation necessary to report Gross Revenues and to calculate the percentage opportunity fees payable hereunder and as may, from time to time, be required by the Department to document its activities pursuant to this Agreement. All Gross Revenues hereunder shall be accounted for in accordance with generally accepted accounting principles. The form of all such books of account, records and reports shall be subject to the approval of the Department and/or the auditors of the County (one or more of the following: the designated external auditing firm or other certified public accounting firm selected by the Department, the County's Department of Audit and Management Services or auditors of the State of Florida). Recommendations for changes, additions or deletions to such books

of account, records and reports by the auditors of the County shall be complied with by the Lessee when requested by the Department. The auditors of the County shall be permitted, during normal working hours, to audit and examine all books of account, records and reports relating to the operations of the Lessee hereunder, including, but not limited to, balance sheets, profit and loss statements, deposit receipts, Florida State Sales Tax Reports and such other documents as may be determined by the Department to be necessary and appropriate; provided, however, that the Lessee shall not be required to retain such records in Dade County, Florida, for more than three years following termination of this Agreement.

3.12 Monthly Report of Gross Revenues: On or before the tenth day following the end of each calendar month throughout the term of this Agreement, the Lessee shall furnish to the Department a statement of monthly Gross Revenues for the preceding calendar month and certify as to the accuracy of such Gross Revenues in the form prescribed by the Department. In the event there are no Gross Revenues a monthly report will be submitted stating such.

3.13 Annual Audit Required: Within sixty days of each anniversary of the commencement date of this Agreement and within sixty days following termination of this Agreement, the Lessee shall, at its sole cost and expense, provide to the Department on an annual (or portion thereof) basis an audit report of monthly Gross Revenues, containing an unqualified opinion, prepared and attested to by an independent certified public accounting firm, licensed in the State of Florida. Said accounting firm shall be approved in writing by the Department prior to being engaged. The report shall include a schedule of Gross Revenues and percentage opportunity fees paid to the County under this Agreement, prepared in accordance with the comprehensive basis of accounting defined under terms of this Agreement and reported in the format as subsequently prescribed by the Department. The audit shall be conducted in accordance with generally accepted auditing standards and include issuance of a management letter, which will contain the findings discovered during the course of the examination, such as recommendations to improve internal controls and other significant matters related to this Agreement. In addition, the audit shall include comprehensive compliance procedures to determine whether the books of account, records and reports were kept in accordance with the terms of this Agreement for the period of examination. The auditor shall report such procedures and findings in a separate letter report to the Department. The last such report shall include the last day(s) of operations. All reports and letters required pursuant to this Article 3.13 (Annual Report Required) shall be submitted to and discussed with the Department in draft form, before being issued in final form. There shall be no changes in the scope of the reports and letters required hereunder without the specific prior written approval of the Department.

3.14 Right to Inspect: The Department and the auditors of the County shall have the right, without limitation, to enter upon the Premises at anytime during normal operating hours of the Lessee to: (1) inspect, review, verify and check all or any portion(s) of the Lessee's procedures for recording or compiling Gross Revenue information by day or month; and (2) audit, check, inspect and review all books of account, records, financial reports, financial statements, operating statements, inventory records, copies of Federal income and State sales tax returns, and work papers relating to the operation of the Lessee, and other pertinent information as may be determined to be needed or desirable by the Department.

3.15 Other Fees and Charges: The Lessee acknowledges that the Board of County Commissioners has or will establish or direct the establishment, from time to time, of various fees and charges for the use of various facilities, equipment and services provided by the County and not leased to or specifically provided to the Lessee hereunder, and procedures relating to the payment of same. The Lessee shall pay, upon billing, for its use of such facilities, equipment and services those fees and charges which are billed monthly. For other fees and charges which are based on usage, the Lessee shall, unless otherwise directed by the Department in writing, report its uses of applicable facilities, equipment and services and pay the applicable fees and charges at such frequency and in such manner as may be prescribed by the Department.

#### ARTICLE 4

##### Maintenance And Repair by Lessee

4.01 Cleaning: The Lessee shall, at its sole cost and expense, perform or cause to be performed, services which will at all times keep the Premises clean, neat, orderly, sanitary and presentable.

4.02 Removal of Trash: The Lessee shall, at its sole cost and expense, remove from the Premises all trash and refuse which might accumulate and arise from its use of the Premises and the business operations of the Lessee under this Agreement. Such trash and refuse shall be stored temporarily and disposed of in a manner approved by the Department.

4.03 Maintenance and Repairs: The Lessee shall repair, except for those items for which the County is responsible pursuant to Article 5 (Maintenance by County), and maintain in good condition the Premises and all improvements or alterations thereto. Such repair and maintenance shall include, but not be limited to, painting, hangar & personnel doors, windows, pavement, equipment, protection bumpers attached to building, furnishings, skylights, fixtures, appurtenances, replacement of light bulbs, ballasts and tubes and the replacement of all broken glass, and shall at all times be based on a standard of care

reflecting prudent property management. Maintenance and repairs shall be in quality and class equal to or better than the original work to preserve the Premises in good order and condition. The Lessee shall repair all damage caused by the Lessee and its employees, agents, independent contractors, patrons, servants or invitees. Prior to or at termination of this Agreement, injury done by the installation or removal of furniture and personal property of the Lessee shall be repaired so as to restore the Premises to their original state, and to quit and surrender up the Premises in the same good order and condition as it was at the commencement of this Agreement, reasonable wear and tear excepted.

4.04 Excavation of Land: No excavation of any of the land shall be made, no soil or earth shall be removed from the Premises, and no well of any nature shall be dug, constructed or drilled on the Premises, except as may be required for environmental monitoring purposes, pursuant to Article 6.02 (Environmental Protection).

4.05 Water and Sewerage System: The Lessee shall, at its sole cost and expense, operate and maintain all the components of the existing water, sanitary sewerage and storm drainage facilities within the boundaries of the Premises. The Lessee shall not make any alterations or modifications to such facilities without the advance written approval of the Department.

4.06 Industrial Waste Facilities: The Lessee shall be fully responsible for all industrial wastes exiting the Premises and in response thereto shall provide, operate and maintain adequate facilities on the Premises for separating, neutralizing and treating industrial waste and foreign materials and the proper disposal thereof, in accordance with applicable laws, rules and regulations.

4.07 Modifications or Access to Roof: The Lessee covenants that it shall not install, attach, suspend or in any manner modify the roof, its members or structures nor shall it permit any person to walk on the roof or its members without the prior written consent of the Department. In the event Lessee violates this covenant, the duty of the County to pay for maintaining, repairing or replacing the roof or any portion thereof shall be null and void, and any expense for such maintenance, repair or replacement shall be the sole and exclusive obligation of the Lessee.

4.08 Grassed Areas and Shrubbery: The Lessee shall cause grassed areas and shrubbery on the leased Premises to be mowed and trimmed regularly so as to maintain the Premises in a neat, orderly and attractive condition. Any land areas not grassed or paved shall be stabilized by the Lessee and the Premises shall be so utilized that use of the same will not cause dust, debris or waste to be blown about or raised so as to be ingested by

aircraft or otherwise interfere with or disturb the use or enjoyment of others of their premises. All landscaping maintenance required hereunder shall be performed in accordance with landscape maintenance standards, as published from time to time by the Department.

4.09 Loading Dock/Platform: If the Premises include a loading dock/platform, the Lessee shall keep such loading dock/platform adjacent to the Premises clean and clear at all times and shall not use the loading dock/platform for the storage of cargo, equipment or other materials.

4.10 Inspections: The Department and/or its designated representatives shall have the right, during normal working hours, to inspect the Premises to identify those items of maintenance, repair, replacement, modification and refurbishment required of the Lessee or the County, pursuant to Article 5, to keep the Premises in good order and condition. The Lessee shall perform all corrective work required of it, identified in such inspection(s) within 30 days of receipt of written notice from the Department. Trash and debris problems shall be corrected within 24 hours following receipt of such notice.

4.11 Failure to Maintain: If it is determined by the Department that the Lessee has failed to properly clean, remove trash and refuse, maintain, repair, replace and refurbish the Premises as required by this Article 4 (Maintenance and Repair by Lessee), the Department shall provide to the Lessee a list of deficiencies, reflecting the amount of time to be reasonably allowed for the Lessee to correct same. If the Lessee fails to correct such deficiencies within the time allowed and has not registered an objection as to its obligation to do so, the Department, following 10 days further notice to the Lessee, may enter upon the Premises and perform all work, which, in the judgment of the Department, may be necessary and the County shall add the cost of such work, plus 25% for administrative costs, to the rent due hereunder on the first day of the month following the date of such work, and such cost shall be and constitute a part of the rent. Subsequent to receipt of the further notice of intent to perform repairs or cleanup from the Department, the Lessee shall not undertake performance of such repairs or cleanup without specific prior written authorization from the Department.

## ARTICLE 5 Maintenance by County

5.01 County Maintenance: The County shall operate and maintain in good condition all components of the existing water, sanitary sewerage and storm water drainage facilities that lie outside the boundaries of the Premises. The County shall maintain the roof, its structural supports and exterior walls of the building. If any of such facilities are damaged or destroyed by the operations of the Lessee, the Department shall make the

necessary repairs or replacements and shall bill the Lessee for the costs of same, plus 25% for administrative costs, in the manner specified in Article 4.11 (Failure to Maintain) hereof. The County shall not maintain any doors, including personnel, overhead and hangar doors, or any windows.

5.02 County Maintenance Subject to Certain Conditions:  
Such maintenance by the County may be subject to interruption caused by repairs, strikes, lockouts, labor controversies, inability to obtain, fuel, power or parts, accidents, breakdowns, catastrophes, national or local emergencies, acts of God, and other conditions beyond the control of the County. Upon any such happening, the Lessee shall have no claim for damages or abatement of rent for failure to furnish or to furnish in a timely manner any such maintenance. The County shall exercise reasonable diligence to remedy and/or cure any such interruptions, to the extent such interruptions are within the County's control.

## ARTICLE 6 Regulations, Licenses and Permits

### 6.01 Rules and Regulations - General:

- (A) The Lessee shall comply with all Ordinances of the County, including the Rules and Regulations of the Department, Chapter 25, Code of Metropolitan Dade County, Florida, as the same may be amended from time to time, Operational Directives issued thereunder, all additional laws, statutes, ordinances, regulations and rules of the Federal, State and County Governments, and any and all plans and programs developed in compliance therewith, which may be applicable to its operations or activities under this Agreement, specifically including, without limiting the generality hereof, Federal air and safety laws and regulations and Federal, State and County environmental laws.
- (B) The Lessee agrees to permit the entry, at all reasonable times, of inspectors of the Department, the County's Department of Environmental Resources Management ("DERM"), or any Federal, State or County agency having jurisdiction over any law or requirement referenced in Article 6.01(A) (Rules and Regulations - General) above, to make inspections of the Premises to determine the Lessee's compliance therewith.
- (C) Permits and Licenses:
  - (1) The Lessee, at its sole cost and expense, shall be liable and responsible for obtaining, paying for, maintaining on a current basis, and fully complying with, any and all permits, licenses and

other governmental authorizations, however designated, as may be required, at any time throughout the entire term of this Agreement, by any Federal, State, or County governmental entity or any judicial body having jurisdiction over the Lessee or the Lessee's operations and activities, for any activity of the Lessee conducted on the Premises and for any and all operations conducted by the Lessee, including insuring that all legal requirements, permits and licenses necessary for or resulting, directly or indirectly, from the Lessee's operations and activities on the Premises have been obtained and are being fully complied with.

- (2) Such permits and licenses shall include, but not be limited to, a Certificate of Use and Occupancy and any required Industrial Waste or Operating Permits from DERM. Prior to occupancy of the Premises and commencement of operations under this Agreement, the Lessee shall provide to the Department evidence that it has obtained the Certificate of Use and Occupancy and, as applicable, the appropriate operating Waste Permit(s). Upon written request of the Department, the Lessee shall provide to the Department copies of any permits and licenses, and applications therefor, which the Department may request.
- (D) Violations of Rules and Regulations: Subject to the provisions of Article 6.02(D(1)), the Lessee agrees to pay on behalf of the County any penalty, assessment or fine issued against the County, or to defend in the name of the County any claim, assessment or civil action, which may be presented or initiated by any agency or officer of the Federal, State or County governments, based in whole or substantial part upon a claim or allegation that the Lessee, its agents, employees, invitees, or trespassers have violated any law, ordinance, regulation, rule or directive described in Article 6.01 (Rules and Regulations - General) above or any plan or program developed in compliance therewith. The Lessee further agrees that the substance of this Article 6.01 (Rules and Regulations - General) above shall be included in every sublease, contract and other agreement, which the Lessee may enter into related to its operations and activities under this Agreement and that any such sublease, contract and other agreement shall specifically provide that "Dade County, Florida is a third party beneficiary of this and related provisions." This provision shall not constitute a waiver of any other conditions of this



Agreement prohibiting or limiting assignments, subletting or subcontracting.

6.02 Environmental Protection:

- (A) Lessee's Obligations: At all times during the term of this Agreement, the Lessee shall comply with the following:
- (1) Disposal of Wastes: The Lessee shall dispose all industrial, domestic, hazardous, and solid wastes in accordance with applicable Federal, State and County laws, rules and regulations, it being the responsibility of the Lessee to determine the approved method of disposal of its wastes and take action accordingly.
  - (2) Aircraft Washing and Stripping: If permitted under Article 2 (Use of Premises), the Lessee shall perform aircraft washing and stripping only in those facilities holding valid permits for such activity issued by DERM.
  - (3) Records: The Lessee shall maintain such records as are reasonably necessary to adequately assess environmental compliance in accordance with Federal, State and County laws, rules and regulations.
  - (4) Monitoring Equipment: The Lessee agrees at its expense, to the extent required by applicable environmental law, rule, regulations, or permits, the Department, or DERM, to install monitoring equipment in a number and type sufficient to monitor the Lessee's activities in its use of the Premises, and to assign appropriate personnel to monitor such equipment and provide periodic reports to the Department and DERM.
- (B) Lessee's Failure to Comply with Environmental Laws: The Lessee acknowledges that non-compliance with its obligations under Article 6.02 (Environmental Protection) constitute material breaches of this Agreement, and that illegal discharges and violations of Chapter 24, Code of Metropolitan Dade County, Dade County, may result in penalties, issuance of civil violation notices and penalty orders, which are also subject to Article 6.01(D) (Violations of Rules and Regulations) above, and termination of this Agreement, pursuant to Article 12.03 (Other Defaults) hereof.

(C) County Responsibility for Pre-Occupancy Environmental Events:

- (1) Responsibility: The County shall be responsible for any illegal discharge or other violations of said Chapter 24 or any other violation of law, regulation or ordinance (a) which results from any environmental condition which existed prior to the commencement date of this Agreement, and (b) which is caused by any environmental condition which has its origins outside of the leased premises and, in the case of (a) or (b), was not caused by any action or inaction of the Lessee.
- (2) Remediation: The County, through the Department, agrees that it will take appropriate steps to cause the remediation required by law of all pre-occupancy events on or beneath the Premises which is not caused by the Lessee, its agents, employees, contractors, invitees or trespassers.
- (3) Lessee's Obligations during Pre-Occupancy Remediation Efforts by County: The Lessee agrees to cooperate with the County in such remediation steps by: (a) assigning appropriate personnel of Lessee to coordinate the remediation steps with the party or parties actually performing the remediation, provided the foregoing shall not entail any additional expense to the Lessee except as to such personnel; and (b) permitting the County personnel and personnel of such party or parties performing the remediation access to and use of the portion of the Premises involved in such remediation steps.
- (4) No Liability to Lessee: The Lessee acknowledges that remediation steps taken to correct any environmental contamination may extend over a number of years and may cause inconvenience and business interruption to the Lessee. The County shall not be liable to the Lessee in any manner for such inconveniences and disruption, but will exercise reasonable efforts to minimize them to the extent reasonably possible.

(D) Environmental Indemnities:

- (1) The County agrees that the Lessee shall have no liability for, and provided the Lessee demonstrates that an event was a pre-occupancy event for which Lessee is not liable hereunder, that the County will indemnify and hold the Lessee harmless from, all costs and expenses (including, without limitation, all attorneys' fees and costs)

associated with any environmental contamination of the premises arising out of a pre-occupancy event which was not caused by the Lessee.

- (2) Notwithstanding the foregoing, such environmental indemnity shall not extend to, and the Lessee shall be solely responsible for all such costs and expenses which arise out of environmental contamination for which County may be held liable caused by the Lessee, the Lessee's agents, employees, contractors, invitees, or trespassers, including, but not limited to, any environmental contamination committed by the Lessee, its agents, employees, contractors, invitees or trespassers during any prior or current tenancy or occupancy of the Premises or any portion thereof.
- (3) The parties' responsibilities, obligations and liabilities pursuant to this Article 6.02(D) (Environmental Indemnities) shall survive the expiration or early termination of this Agreement.
- (E) No waiver by County: Nothing in this Agreement or otherwise shall be deemed to be a waiver of the County's right to take action against responsible parties for remediation of or payment for environmental deficiencies on the Premises, nor be deemed to be an assumption by the County of the responsibility for such remediation or payment, except as may be imposed on the County as a matter of law.

6.03 Aircraft Noise Abatement Regulations Compliance: The Lessee hereby specifically acknowledges its awareness that the noise generated by aircraft, while on the ground and in flight, may cause annoyance to residential areas in proximity to the Airport and/or under or near flight corridors serving the Airport and that the County, as proprietor of the Airport, may, therefore, from time to time adopt certain lawful policies, procedures and/or regulations, not inconsistent with aircraft safety, intended to abate the effects of aircraft noise. Said policies, procedures and/or regulations may deal with, but are not necessarily limited to, nighttime engine run-ups, preferential runway usage, aircraft arrival and departure patterns, use of displaced runway thresholds, and the like. The Lessee specifically understands and agrees that a violation of such noise abatement policies, procedures and/or regulations may result in the arrest or citation of the offending party, with the imposition of fines, and that a violation of same shall constitute a material breach hereunder and may result in termination of this Agreement pursuant to the provisions hereof.

ARTICLE 7  
Alteration of Premises and Erection of Signs

7.01 Alteration: The Lessee shall not alter the Premises in any manner whatsoever without the prior written approval of the Department. In the event the Lessee is given approval to make alterations to the Premises, the Lessee shall comply with the terms and conditions of such approval, as contained in the Department's approval letter, and a failure to do so shall constitute a default pursuant to Article 12.03 (Other Defaults) hereof.

7.02 Signage: The Lessee shall not erect, maintain or display any identifying signs or any advertising matter, of any type or kind which is visible to the public, without prior written approval of the Department. In the event the Department changes the graphics system for the identification of lessees at the Airport, the Lessee agrees, if required by the Department, to change, at its sole cost, any of its identification signs necessary to comply with such graphics system.

ARTICLE 8  
Assignment and Subletting

The Lessee shall not assign, transfer, pledge or otherwise encumber this Agreement, nor sublet all or any portion of the Premises, nor allow others to use the Premises for any commercial purpose.

ARTICLE 9  
Indemnification and Hold Harmless

Subject only to the limitations contained in Article 6.02(D) (Environmental Indemnities), the Lessee shall protect, defend, using attorneys reasonably acceptable to the County, and hold the County and its officers, agents and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any person or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees, through all levels of trial and appellate proceedings), of any nature whatsoever arising out of or incident to this Agreement and/or the use or occupancy of the leased Premises or the acts or omissions of officers, agents, employees, contractors, subcontractors, licensees, or invitees of the Lessee regardless of where the injury, death, or damage may occur, unless such injury, death or damage is caused by the sole active negligence of the County. The County shall give to Lessee reasonable notice of any such claims or actions. The provisions of this section

shall survive the expiration or early termination of this Agreement.

ARTICLE 10  
Insurance

10.01 Insurance Required: In addition to such insurance as may be required by law, the Lessee shall maintain, without lapse or material change, for so long as it occupies the Premises, the following insurance:

- (A) Public Liability Insurance on a comprehensive basis, including Contractual Liability, to cover the Lessee's Premises and operations, in an amount not less than \$5,000,000 combined single limit per occurrence for bodily injury and property damage. The County must be shown as an additional insured with respect to this coverage.

Coverages shall be for each occurrence, with either no aggregate or an annual policy aggregate of no less than twice the amount of coverage required for each occurrence. In the event that the Lessee's available coverage falls below the per occurrence amount shown above, the Lessee shall secure a new certificate of insurance evidencing the required coverage. The County reserves the right to not accept policies with aggregate limits or substantial deductibles.

- (B) Automobile Liability Insurance covering all owned, non-owned and hired vehicles (including ground or mobile equipment) used by the Lessee in connection with its operations under this Agreement in an amount not less than:

- (1) \$5,000,000 combined single limit per occurrence for bodily injury and property damage covering all vehicles and ground and mobile equipment used by the Lessee on the Air Operations Area of the Airport ("AOA");
- (2) \$300,000 combined single limit per occurrence for bodily injury and property damage covering such vehicles and ground and mobile equipment when being used by the Lessee off of the AOA.

The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Lessee under this Agreement. All insurance policies required pursuant to the terms of this Agreement shall be issued in companies approved to do business under the laws of the State of Florida. Such companies must be rated no less than "B" as to management,

and no less than "VIII" as to strength in accordance with the latest edition of "Best's Insurance Guide", published by A.M. Best Company, Inc., or its equivalent, subject to approval of the County Risk Management Division.

10.02 Insurance Certificates Required: Prior to the commencement of operations hereunder and annually thereafter, the Lessee shall furnish or cause to be furnished certificates of insurance to the Department which certificates shall clearly indicate that:

- (A) The Lessee has obtained insurance in the types, amounts and classifications as required for strict compliance with this Article;
- (B) The policy cancellation notification provisions specify at least 30 days advance written notice of cancellation to the County; and
- (C) The County is named as an additional insured with respect to the Lessee's public liability policies.

On said insurance certificates, unless specifically shown to be excluded thereon, comprehensive public liability coverage shall include contractual liability, and notification of cancellation shall include notification of material changes in the policies.

The County reserves the right to require the Lessee to provide such reasonably amended insurance coverage as it deems necessary or desirable, upon issuance of notice in writing to the Lessee, which notice shall automatically amend this Agreement effective 30 days after such notice.

10.03 Compliance: Compliance with the requirements of this Article 10 (Insurance) shall not relieve the Lessee of its liability under any other portion of this Agreement or any other agreement between the County and the Lessee.

10.04 Right to Examine: The Department reserves the right, upon reasonable notice, to examine the original or true copies of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. The Lessee agrees to permit such inspection at the offices of the Department.

10.05 Personal Property: Any personal property of the Lessee or of others placed in the Premises and Airport shall be at the sole risk of the Lessee or the owners thereof, and the County shall not be liable for any loss or damage, except to the extent such loss or damage was caused by the sole active negligence of the County, as limited by Section 768.28, Florida Statutes.

ARTICLE 11  
Use of Public Facilities

The County grants to the Lessee, in common with all others desiring to use the Airport, and only to the extent necessary or reasonably desirable, so long as such use does not conflict with the County's operation of the Airport, to carry out the rights granted the Lessee hereunder, the nonexclusive privilege to use the runways, taxiways, roads of egress and ingress, service roads and such other facilities and improvements as may be now in existence or hereafter constructed for the use of persons lawfully using the Airport; provided, however, that such usage shall be subject to the payment of nondiscriminatory fees and other charges established by the County. Nothing herein contained shall grant to the Lessee the right to use any leasable space or area improved or unimproved which is leased to a third party, or which the County has not leased herein.

ARTICLE 12  
Termination

12.01 Payment Defaults: Failure of the Lessee to make all payments of rentals, fees and charges required to be paid herein when due shall constitute a default, and the County may, at its option terminate this Agreement after five calendar days notice in writing to the Lessee unless the default be cured within the notice period.

12.02 Insurance Defaults: The County shall have the right, upon 5 calendar days written notice to the Lessee, to terminate this Agreement if the Lessee fails to provide evidence of insurance coverage in strict compliance with Article 10 hereof prior to commencement of operations, or fails to provide a renewal of said evidence upon its expiration; provided, however, that such termination shall not be effective if the Lessee provides the required evidence of insurance coverage within the notice period.

12.03 Other Defaults: The County shall have the right, upon 30 calendar days written notice to the Lessee, to terminate this Agreement upon the occurrence of any one or more of the following, unless the same shall have been corrected within such period, or, if correction cannot reasonably be completed within such 30-day period, in the sole discretion of the Department, the Lessee has commenced substantial corrective steps within such 30-day period and diligently pursues same to completion:

- (A) Failure of the Lessee to comply with any covenants of this Agreement, other than the covenants to pay rentals, fees and charges when due, and the covenants to provide required evidence of insurance coverage.

- (B) The conduct of any business, the performance of any service, or the merchandising of any product or service not specifically authorized herein, by the Lessee.

12.04 Habitual Default: Notwithstanding the foregoing, in the event that the Lessee has frequently, regularly or repetitively defaulted in the performance of or breached any of the terms, covenants and conditions required herein to be kept and performed by the Lessee, in the sole opinion of the County and regardless of whether the Lessee has cured each individual condition of breach or default as provided in Articles 12.01 (Payment Defaults), 12.02 (Insurance Defaults) and 12.03 (Other Defaults) hereinabove, the Lessee shall be determined by the Director to be an "habitual violator." At the time that such determination is made, the Department shall issue to the Lessee a written notice advising of such determination and citing the circumstances therefor. Such notice shall also advise the Lessee that there shall be no further notice or grace periods to correct any subsequent breach(es) or default(s) and that any subsequent breach(es) or default(s), of whatever nature, taken with all previous breaches and defaults, shall be considered cumulative and, collectively, shall constitute a condition of noncurable default and grounds for immediate termination of this Agreement. In the event of any such subsequent breach or default, the County may cancel this Agreement upon the giving of written notice of termination to the Lessee, such termination to be effective upon the tenth day following the date of receipt thereof and all payments due hereunder shall be payable to said date, and the Lessee shall have no further rights hereunder.

12.05 Termination for Abandonment: This Agreement shall be automatically terminated upon the abandonment by the Lessee of the Premises or the voluntary discontinuance of operations at the Airport for any period of time exceeding 15 consecutive calendar days, unless such abandonment or discontinuance has been caused by casualty or governmental order that prevents the Lessee's use of the Premises for the purposes authorized in Article 2 (Use of Premises) above.

12.06 Actions at Termination: The Lessee shall vacate, quit, surrender up and deliver the Premises to the County on or before the termination date of this Agreement, whether by lapse of time or otherwise. The Lessee shall surrender the Premises in the condition required under Article 4.03 (Maintenance and Repairs) herein. All repairs for which the Lessee is responsible shall be completed prior to surrender. The Lessee shall deliver to the Department all keys to the Premises upon surrender. On or before the termination date of this Agreement, except in the instance of termination pursuant to Article 12.05 (Termination for Abandonment), in which event the Lessee shall be allowed up to five calendar days from date of termination, and provided that the Lessee is not in default in the payment of any rentals, fees or charges required to be paid herein, the Lessee shall remove all of its personal property from the Premises. Any personal



property of the Lessee not removed in accordance with this Article may be removed by the Department for storage at the cost of the Lessee. Failure on the part of the Lessee to reclaim its personal property within 30 days from the date of termination shall constitute a gratuitous transfer of title thereof to the County for whatever disposition is deemed to be in the best interest of the County.

The Lessee shall, at its expense, take all actions required by Federal, State and local laws, regulations or codes to remove from the Premises any hazardous substance or environmental contaminant, whether stored in drums, or found in vats, containers, distribution pipe lines, or the like. All such substances and contaminants shall be removed by the Lessee in a manner approved and authorized by such Federal, State or local laws, regulations or codes.

If the County advises the Lessee that it has reason to believe that any hazardous substance or environmental contaminant has been released within the Premises or into the ground under the Premises, during the term of this Agreement or during the terms of any prior leases between the Lessee and the County for the same or substantially the same Premises, then the Lessee at its sole cost and expense shall retain an approved environmental consultant to perform whatever environmental assessment may be required to determine the extent of such release. The Lessee shall comply with the recommendations and conclusions, contingent upon County approval, of such consultant regarding environmental clean up efforts that may be required, and shall comply with any other clean up requirements imposed on the Lessee by Federal, State or local law, regulations or codes.

Notwithstanding any other provisions of this Agreement, the Lessee shall have no liability to the Aviation Department for any violation of environmental law which is attributable to the acts or omissions of any person other than the Lessee, its agents, employees, invitees, contractors or trespassers (nor shall such violations constitute a default or breach of this Agreement). Nothing in this Article or Agreement shall affect the Lessee's liability for environmental violations as separately provided for in any Federal, State, or local law.

12.07 Lien Upon Personal Property: In the event of termination for default or upon termination of this Agreement by its term, the County shall have a lien upon all personal property of the Lessee to secure the payment of any unpaid rentals, fees and charges accruing under the terms of this Agreement.

12.08 Right to Show Premises: At any time after the Lessee has been given notice of termination or default, pursuant to Article 12 (Termination) hereof, the County shall have the right to enter on the Premises for the purpose of showing the Premises to prospective tenants or users.

ARTICLE 13  
Special Conditions

13.01 Quality of Services: The Lessee shall furnish the services required and authorized, pursuant to Article 2 (Use of Premises) hereof, on a good, prompt and efficient basis and on a fair, equal and not unjustly discriminatory basis to all users thereof.

13.02 Nondiscriminatory Prices: The Lessee shall charge fair, reasonable, customary and not unjustly discriminatory prices for each unit of sale or service; provided, however, that the Lessee may make reasonable, customary and nondiscriminatory discounts, rebates or similar types of price reductions to volume purchasers of the Lessee's services.

13.03 County's Obligations: The Lessee, in recognition of the County's obligation, pursuant to Section 22 of Part V of the Federal Aviation Administration's standard grant assurances, to enforce the provisions of Articles 13.01 (Quality of Services) and 13.02 (Nondiscriminatory Prices) above, agrees that the Department may, from time to time, promulgate standards, methods and procedures for and monitor and test the provision of services hereunder and may require the Lessee to provide copies of schedules of service charges and the bases for discounts, rebates and similar types of price reductions. Should the Department determine that the Lessee is not in compliance with the provisions of Articles 13.01 (Quality of Services) and 13.02 (Nondiscriminatory Prices) above, the first such occurrence shall be considered a curable default, pursuant to Article 12.03 (Other Defaults) hereof, and subsequent occurrence(s) shall be considered a material breach of this Agreement, entitling the County to the remedies provided in this Agreement or by law.

ARTICLE 14  
Nondiscrimination

14.01 Employment Discrimination: The Lessee shall not discriminate against any employee or applicant for employment to be employed in the performance of this Agreement with respect to hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of age, sex, race, color, religion, national origin, ancestry or disability. The Lessee shall comply with applicable provisions of the Americans with Disabilities Act, including, but not limited to, provisions pertaining to employment.

14.02 Nondiscriminatory Access to Premises and Services: The Lessee, for itself, its personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, sex,

national origin or ancestry shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises; (2) that in the construction of any improvements on, over, or under such land and the furnishings of services thereon, no person on the grounds of race, color, sex, national origin or ancestry shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the improvements; and (3) that the Lessee shall use the Premises in compliance with all other requirements imposed by or pursuant to then enforceable regulations of the Department of Transportation, as amended from time to time.

**14.03 Breach of Nondiscrimination Covenants:** In the event it has been determined that the Lessee has breached any enforceable nondiscrimination covenants contained in Articles 14.01 (Employment Discrimination) and 14.02 (Nondiscriminatory Access to Premises and Services) above, pursuant to the complaint procedures contained in the applicable Federal Regulations, and the Lessee fails to comply with the sanctions and/or remedies which have been prescribed, the County shall have the right to terminate this Agreement pursuant to Article 12.03 (Other Defaults) hereof.

**14.04 Affirmative Action and Disadvantaged Business Enterprise Programs:** The Lessee agrees that in the event the provisions of 49 CFR Part 23, Disadvantaged Business Enterprises (DBE) and 14 CFR Part 152, Affirmative Action Employment Programs, are applicable to the Lessee under this Agreement, it shall comply with all requirements of the Department, the Federal Aviation Administration and the U. S. Department of Transportation. These requirements may include, but be not limited to, the compliance with DBE and/or Employment Affirmative Action participation goals, keeping of certain records of good faith compliance efforts, and the submission of various reports, including, if directed by the Department, the contracting of specified percentages of goods and services contracts to Disadvantaged Business Enterprises. Failure to comply with these requirements shall constitute a default hereunder and be grounds for termination of this Agreement. In the event it has been determined, in accordance with applicable regulations, that the Lessee has defaulted in the requirement to comply with this section, and the Lessee thereafter fails to comply with the sanctions and/or remedies then prescribed, the County shall have the right, upon written notice to the Lessee to terminate this Agreement pursuant to Article 12.03 (Other Defaults) hereof.

## ARTICLE 15 Security and Special Provisions

**15.01 Security:** The Lessee acknowledges and accepts full responsibility for the security and protection of the Premises, any improvements thereon, its equipment and property on the

Airport and control of access to the Air Operations Area ("AOA") through the Premises by persons and vehicles. The Lessee fully understands and acknowledges that any security measures deemed necessary by the Lessee for the protection of said Premises, equipment and property and access to the AOA through the Premises shall be the sole responsibility of the Lessee and shall involve no cost to the County. All such security measures by the Lessee shall be in accordance with FAR 107 and the Airport Security Plan.

15.02 Security Identification Display Areas Access - Identification Badges: The Lessee shall be responsible for requesting the Department to issue identification badges to all employees who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, designated in the Airport's security program and shall be further responsible for the return of the identification badges of all personnel transferred from Airport assignment or terminated from the employ of the Lessee or upon termination of this Agreement, including the payment of fees for lost badges. The Department shall have the right to require the Lessee to conduct background investigations and to furnish certain data on such employees before the issuance of such identification badges, which data may include the fingerprinting of employee applicants for such badges.

15.03 AOA - Driver Training: Before the Lessee shall permit any employee to operate a motor vehicle of any kind or type on the AOA, the Lessee shall require such employee to attend and successfully complete the AOA Driver Training Course conducted from time to time by the Department. The privilege of a person to operate a motor vehicle on the AOA may be withdrawn by the Department for any violation of AOA driving rules. Notwithstanding the above, the Lessee shall be responsible for ensuring that all such vehicle operators possess current, valid, appropriate Florida driver's licenses.

15.04 Alcohol and Drug Testing: The Lessee acknowledges that the County, as a public agency sponsor under the provisions of the Airport and Airway Improvement Act of 1982, as amended, has the obligation to establish a drug free workplace and to establish policies and programs to ensure airport safety and security. The Lessee acknowledges that the Department, on behalf of the County, has the right to require users of the Airport (Lessees, Permittees, Licensees, etc.) to establish reasonable programs to further the achievement of the objectives described herein. Accordingly, the Lessee shall establish programs for pre-employment alcohol and drug screening for all candidates for employment at the Airport and for the same or similar screening based upon a reasonable suspicion that an employee, while on duty at the Airport, may be under the influence of alcohol or drugs. Further, to the extent permitted by law and/or contract, the Lessee shall establish a program for the random alcohol and drug screening of all its employees who are authorized, pursuant to

other provisions of this Agreement, to operate any type or kind of motor vehicle on the AOA. The Lessee shall make reasonable good faith efforts to try to negotiate amendments to any existing contract(s) which may serve as a bar to the Lessee's implementation of its obligations hereunder. Notwithstanding the above, the Lessee specifically acknowledges that the County, acting through the Department, has the right and obligation to deny access to the AOA and to withdraw AOA driving privileges from any person who it has a reasonable suspicion to believe is under the influence of alcohol or drugs.

15.05 Drug-Free Workplace Certification: Notwithstanding the provisions of Article 15.04 (Alcohol and Drug Testing) above and in addition thereto, the Lessee, in its execution of this Agreement, hereby certifies and agrees, pursuant to County Ordinance No. 92-15, adopted on March 17, 1992, as such may be amended from time to time, that it will provide drug-free workplace(s) for all its employees. In providing such drug-free workplace(s), as a minimum, the Lessee shall do the following:

- (A) Provide each employee with a written statement notifying the employee that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, as defined in Section 893.02(4), Florida Statutes in the Lessee's workplace(s) is prohibited and specifying the actions the Lessee will take against employees for violation of such prohibition. Such written statement shall also inform the employee about the following:
  - (1) The dangers of alcohol and drug abuse in the workplace.
  - (2) The Lessee's policy of maintaining a drug-free environment at all its workplaces, including, but not limited to, all locations where employees perform any task relating to its operations under this Agreement.
  - (3) Any available alcohol and drug counseling, rehabilitation and employee assistance programs available to employees with an alcohol or drug problem.
  - (4) The penalties that may be imposed by the Lessee on employees for alcohol or drug abuse violations.
- (B) Require each employee to sign a copy of the written statement required pursuant to Section (A) above to acknowledge the employee's receipt of same and advice as to the specifics of such policy. The Lessee shall maintain copies of the statements signed by its employees. The Lessee shall also post in prominent places at all of its workplaces a written statement of

its drug-free workplace policy containing at least all of the elements contained in Paragraphs (1) through (4) of Section (A) above.

- (C) Notify each employee, in the written statement required pursuant to Section (A) above, that as a condition of employment, the employee will (i) abide by the Lessee's drug-free workplace policy contained in the written statement; and (ii) notify the Lessee of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- (D) Notify the Department within ten days after receiving notice under Section (C) above from such employee or otherwise receiving actual notice of such conviction.
- (E) Impose appropriate personnel action, up to and including termination, for any employee convicted for violation of a criminal drug statute; or, require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program, approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.
- (F) Make a good faith effort to continue to maintain a drug-free workplace through implementation of Sections (A) through (E) above.

Annually, as of the annual anniversary date of the effective date of this Agreement, the Lessee shall provide a certification, in a form to be prescribed by the County, that it will continue to provide for drug-free workplace(s) in the same manner as described herein.

This Agreement shall be terminated, upon fifteen days written notice to the Lessee, and without liability to the County, if the Department or the County Manager determines any of the following:

- (G) That the Lessee has made a false certification in its execution of this Agreement or in accordance with the annual re-certification required above;
- (H) That the Lessee has violated its original or renewal certification by failing to carry out any of the requirements contained in Sections (A), (B), (C), (D), (E) or (F); or
- (I) That such a number of employees of the Lessee have been convicted of violations in workplace (s), as to indicate that the Lessee has failed to make a good faith effort to provide a drug-free workplace as required herein.

15.06 Special Programs: The Lessee shall ensure that all employees so required participate in such safety, security and other training and instructional programs, as the Department or appropriate Federal agencies may from time to time require.

15.07 Vehicle Permit and Company Identification: Motor vehicles and equipment of the Lessee operating on the AOA must have an official motor vehicle identification permit issued pursuant to Operational Directives of the Department. In addition, company identification must be conspicuously displayed thereon.

15.08 Federal Agencies Right to Consent: The Lessee understands and agrees that all persons entering and working in or around arriving international aircraft and facilities used by the various Federal Inspection Services agencies may be subject to the consent and approval of such agencies. Persons not approved or consented to by the Federal Inspection Services agencies shall not be employed by the Lessee in areas under the jurisdiction or control of such federal inspection agencies.

15.09 AOA - Right to Search: The Lessee agrees that its vehicles, cargo, goods and other personal property are subject to being searched when attempting to enter or leave and while on the AOA. The Lessee further agrees that it shall not authorize any employee or agent to enter the AOA unless and until such employee or agent has executed a written consent-to-search form acceptable to the Department. Persons not executing such consent-to-search form shall not be employed by the Lessee at the Airport.

It is further agreed that the Department has the right to prohibit an individual, agent or employee of the Lessee from entering the AOA based upon facts which would lead a person of reasonable prudence to believe that such individual might be inclined to engage in theft, cargo tampering, aircraft sabotage or other unlawful activities. Any person denied access to the AOA or whose prior authorization has been revoked or suspended on such grounds shall be entitled to a hearing before the Director of the Department or his authorized designee within a reasonable time. Prior to such hearing, the person denied access to the AOA shall be advised, in writing, of the reasons for such denial.

The Lessee acknowledges and understands that these provisions are for the protection of all users of the AOA and are intended to reduce the incidence of thefts, cargo tampering, aircraft sabotage and other unlawful activities at the Airport.

15.10 Right of Flight: There is hereby reserved to the County, its successors and assigns, for the use and benefit of the County and the public, a right of flight for the passage of aircraft in the air space above the surface of the premises herein leased, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air,

using said air space or landing at, taking off from or operating on Miami International Airport.

15.11 Height Restrictions: The Lessee expressly agrees for itself, its successors and assigns, to restrict the height of structures, objects of natural growth and other obstructions on the leased premises to such a height so as to comply with Federal Aviation Regulations, Part 77 and with the Code of Metropolitan Dade County, whichever is more restrictive.

#### ARTICLE 16 Control of Employees

The Lessee shall properly control the actions of its employees at all times that said employees are working on the Airport, ensuring that they present a neat appearance and discharge their duties in a courteous and efficient manner and that they maintain a high standard of service to the public.

#### ARTICLE 17 Civil Actions

17.01 Governing Law; Venue: This Agreement shall be governed and construed in accordance with the laws of the State of Florida. The venue of any action on this Agreement shall be laid in Dade County, Florida, and any action to determine the rights or obligations of the parties hereto shall be brought in the courts of the State of Florida.

17.02 Notice of Commencement of Civil Action: In the event that the County or the Lessee commence a civil action where such action is based in whole or in part on an alleged breach of this Agreement, the County and the Lessee agree to waive the procedure for initial service of process. The County and the Lessee agree to submit themselves to the jurisdiction of the court in which the action has been filed whenever service has been made in the following manner:

- (A) Upon the County: by Certified Mail, Return Receipt Requested, sent to (i) the party indicated in Article 19.07 (Notices) on behalf of the County and (ii) with a copy to the County Attorney, Aviation Division, P.O. Box 592075, Miami, FL 33159.
- (B) Upon the Lessee: by personal service or by Certified Mail, Return Receipt Requested, upon the party indicated in Article 19.07 (Notices) on behalf of the Lessee, with a copy to whatever attorney the Lessee has designated in writing, if any.

In the event that the County and/or the Lessee raise an objection to service of initial pleadings as provided for herein,



and the trial court overrules such objection, the objecting party shall pay liquidated damages (attorney's fees) in the amount of \$250.00 to plaintiff in such action, prior to answering the complaint.

17.03 Registered Office/Agent; Jurisdiction:

Notwithstanding the provisions of Article 17.02 (Notice of Commencement of Civil Action), and in addition thereto, the Lessee, if a corporation, shall designate a registered office and a registered agent, as required by Section 48.091, Florida Statutes, such designations to be filed with the Florida Department of State in accordance with Section 607.034, Florida Statutes. If the Lessee is a natural person, he and his personal representative hereby submit themselves to the jurisdiction of the Courts of this State for any cause of action based in whole or in part on an alleged breach of this Agreement.

ARTICLE 18

Trust Agreement and Bond Resolution

18.01 Incorporation of Trust Agreement and Bond Resolution by Reference: Notwithstanding any of the terms, provisions and conditions of this Agreement, it is understood and agreed by the parties hereto that the provisions of the Trust Agreement dated as of the 1st day of October, 1954, as amended, by and between the County and the Chase Manhattan Bank (now the Chase Manhattan Bank, National Association) as trustee and the First National Bank of Miami (now First Union National Bank of Florida) as co-trustee, (the "Trust Agreement") and Resolution No. R-1654-84 adopted by the County on December 4, 1984, securing Dade County Aviation Facilities Revenue Bonds (the "Bond Resolution"), which Trust Agreement and Bond Resolution are incorporated herein by reference thereto, shall prevail and govern in the event of any conflict or inconsistency with or ambiguity relating to the terms and conditions of this Agreement, including the rents, fees or charges required herein, and their modification or adjustment. Copies of the Trust Agreement and Bond Resolution are available for inspection in the offices of the Department during normal working hours.

18.02 Adjustment of Terms and Conditions: If, at any time during the term of this Agreement, a court of competent jurisdiction shall determine that any of the terms and conditions of this Agreement, including the rentals, fees and charges required to be paid hereunder to the County by the Lessee or by other Lessees under other Agreements of the County for the lease or use of facilities used for similar purposes, are unjustly discriminatory, the County shall have the right to modify such terms and conditions and to increase or otherwise adjust the rentals, fees and charges required to be paid under this Agreement in such a manner as the County shall determine is necessary and reasonable so that the rentals, fees and charges payable by the Lessee and others shall not thereafter be unjustly

discriminatory to any user of like facilities and shall not result in any violation of the Trust Agreement and/or bond resolution or in any deficiency in revenues necessary to comply with the covenants of the Trust Agreement and/or bond resolution. In the event the County has modified the terms and conditions of this Agreement, including any adjustment of the rentals, fees and charges required to be paid to the County pursuant to this provision, this Agreement shall be amended to incorporate such modification of the terms and conditions including the adjustment of rentals, fees and charges upon the issuance of written notice from the Department to the Lessee.

#### ARTICLE 19 Other Provisions

19.01 No Representation: The County makes no representation, warranty, guarantee, or averment of any nature whatsoever concerning the physical condition of the Premises, and it is agreed that County will not be responsible for any loss, damage or costs which may be incurred by the Lessee by reason of any such physical condition.

19.02 Headings: Any headings preceding the text of any articles, paragraphs or sections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

19.03 Interference: The Lessee further expressly agrees to prevent any use of the Premises which would interfere with or adversely affect the operation or maintenance of the Airport or otherwise constitute an airport hazard.

19.04 Authorized Uses Only: The Lessee shall not use or permit the use of the Airport for any illegal or unauthorized purpose or for any purpose which would increase the premium rates paid by the County on, or invalidate, any insurance policies of the County or any policies of insurance written on behalf of the Lessee under this Agreement.

19.05 Binding Effect: The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

19.06 Federal Subordination: This Agreement shall be subordinate to the provisions of any existing or future agreements between the County and the United States of America relative to the operation and maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of Federal funds for the development of the Airport. All provisions of this Agreement shall be

subordinate to the right of the United States of America to lease or otherwise assume control over the Airport, or any part thereof, during time of war or national emergency for military or naval use and any provisions of this Agreement inconsistent with the provisions of such lease to, or assumption of control by, the United States of America shall be suspended.

19.07 Notices: All notices required or permitted to be given under the terms and provisions of this Agreement by either party to the other shall be in writing and shall be hand delivered or sent by registered or certified mail, return receipt requested, to the parties as follows:

As to the County or Aviation Department:

Director  
Dade County Aviation Department  
Post office Box 592075  
Miami, Florida 33159

As to the Lessee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other address as may hereafter be provided by the parties in writing. Notices by registered or certified mail shall be deemed received on the delivery date indicated by the U.S. Postal Service on the return receipt. Hand delivered notices shall be deemed received by the Lessee when presented to the local management representative of the Lessee.

19.08 Rights Reserved: Rights not specifically granted the Lessee by this Agreement are reserved to the County.

19.09 Rights of County at Airport: The County shall have the absolute right, without limitation, to make any repairs, alterations and additions to any structures and facilities at the Airport. The County shall, in the exercise of such right, be free from any and all liability to the Lessee for business damages occasioned during the making of such repairs, alterations and additions, except those occasioned by the sole active negligence of the County, its employees, or agents.

19.10 Rights to be Exercised by Department: Wherever in this Agreement rights are reserved to the County, such rights may be exercised by the Department.

19.11 No Waiver: There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by either party, unless such waiver is explicitly made in writing by

the other party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence of any subsequent breach, default or non-performance hereof by the other party.

19.12 Right to Regulate: Nothing in this Agreement shall be construed to waive or limit the governmental authority of the County, as a political subdivision of the State of Florida, to regulate the Lessee or its operations.

19.13 Severability: If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement are severable.

19.14 Inspections: The authorized employees and representatives of the County and of any applicable Federal or State agency having jurisdiction hereof shall have the right of access to the Premises at all reasonable times for the purposes of inspection and testing to determine compliance with the provisions of this Agreement. This right of inspection and testing shall impose no duty on the County to inspect and shall impart no liability upon the County should it not make any such inspections.

19.15 Payment of Taxes: The Lessee shall pay all taxes and other costs lawfully assessed against its leasehold interests in the Premises, its improvements and its operations under this Agreement; provided, however, the Lessee shall not be deemed to be in default of its obligations hereunder for failure to pay such taxes pending the outcome of any legal proceedings instituted to determine the validity of such taxes. Failure to pay the taxes upon the adverse ultimate conclusion of such legal proceedings against the Lessee shall constitute a default.

19.16 Quiet Enjoyment of Others: The Lessee shall control the actions of its employees, agents, invitees and those doing business with it, so as to not annoy, disturb or be offensive to others and to provide the service hereunder so as to not unreasonably create a nuisance or thing which may disturb the quiet enjoyment of any other users of the Airport.

19.17 Radon Disclosure: In accordance with Section 404.056, Florida Statutes, the following disclosure is hereby made:

"Radon Gas: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have

been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit."

19.18 Quiet Enjoyment: Subject to the terms of this Agreement, specifically including but not limited to the environmental remediation steps to be taken under Article 6, the County's right and obligation to make certain repairs, alterations, and additions under Articles 5 (Maintenance by County) and 19.09 (Rights of County at Airport), which, for purposes of this clause includes any and all demolition, in whole or in part, of buildings and runways, and roadway systems on or off the Airport, and the reservation of easement rights to the airspace under Article 15.10 (Right of Flight), all of which provisions and others in the Agreement the Lessee acknowledges may cause disruption and disturbance to the Lessee, and upon the observance by the Lessee of all the terms, provisions, covenants and conditions imposed upon the Lessee hereunder, the Lessee shall peaceably and quietly hold and enjoy the Premises for the term of this Agreement; provided, however, that the County shall not be liable for any violation of this clause or for any disturbance or disruption in or to the Lessee's business, for acts or omissions of tenants, users of the Airport, third parties, or when any department or agency of the County is acting in its governmental capacity, or by Acts of God.

19.19 Interpretation of Agreement: This Agreement is the result of negotiation between the parties hereto and has been typed/printed by one party for the convenience of both parties, and the parties covenant that this Agreement shall not be construed in favor of or against any of the parties hereto.

19.20 Entirety of Agreement: The parties hereto agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials as of the date first above written.

BOARD OF COUNTY COMMISSIONERS  
OF DADE COUNTY, FLORIDA

By: \_\_\_\_\_  
County Manager

ATTEST: Harvey Ruvin, Clerk

By: \_\_\_\_\_  
Deputy Clerk

(SEAL)

LESSEE: \_\_\_\_\_

By: \_\_\_\_\_  
President

\_\_\_\_\_  
Print Name

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Print Name

(CORP. SEAL)

**BCC Meeting: April 9, 2019  
Research Notes**

**Item No. 8C1  
File No. 190460**

**Researcher: LE Reviewer: TD**

RESOLUTION APPROVING THE FUNDING OF THIRTY-TWO GRANTS FOR A TOTAL OF \$367,550.00 FROM THE FISCAL YEAR 2018-2019 SECOND QUARTER OF THE TOURIST DEVELOPMENT COUNCIL GRANTS PROGRAM ROOM TAX PLAN AND SURTAX CATEGORY TO PROMOTE MIAMI-DADE COUNTY TOURISM; WAIVING RESOLUTION NO. R-130-06, AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE GRANT AGREEMENTS WITH VARIOUS ENTITIES AND TO EXERCISE ALL PROVISIONS, INCLUDING CANCELLATION PROVISIONS CONTAINED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should approve funding 32 grants for a total of \$367,550 from the Fiscal Year 2018-2019 Second Quarter of the Tourist Development Council Grants Program Room Tax Plan and Surtax Category to promote County tourism.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Requester/Department: Department of Cultural Affairs**

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

**ANALYSIS**

The proposed resolution seeks to approve grant funding of up to \$367,550 for 32 grants for the Fiscal Year 2018-2019 Second Quarter Tourist Development Council (TDC) Grants Program. The agenda item is also requesting to waive Resolution No. R-130-06, requiring contracts with non-governmental entities to be signed by all parties before being placed on any agenda.

The impact of the proposed resolution is countywide. Two percent from the Tourist Development Room Tax Revenue and Hotel/Motel Food and Beverage Surtax revenues fund the TDC Grants Program. The Greater Miami Convention and Visitors Bureau provides \$25,000 to the TDC through a multi-year agreement and a remaining balance of \$425,272 from FY 2017-18 was carried over and is being used in the FY 2018-19 program. Ordinance No. 18-102 specifies that \$1.275 million was allocated to the TDC for FY 2018-19. Resolution No. R-130-06 is requested to be waived to expedite the funding allocation for time sensitive, tourism-oriented, and community events occurring in the County.

The table below shows the recommended award amounts to each organization/project, district location(s) for project activity, their Sunbiz registration and classification for the 2<sup>nd</sup> Quarter:

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**Research Notes**

<u>Organization</u>	<u>District Location(s) for Project Activity</u>	<u>FY 2018-2019 TDC Recommendation</u>	<u>Sunbiz Registration Status</u>
1. Artists in Residence in Everglades, Inc.	3, 9	\$8,750	Active
2. Bas Fisher Invitational, Inc.	5	\$4,000	Active
3. Center for the Advancement of Jewish Education, Inc.	3, 5	\$10,000	Active
4. Centro Cultural Espanol de Cooperacion Iberoamericana, Inc.	3	\$5,000	Active
5. Chopin Foundation of the United States, Inc.	4, 7	\$6,000	Active
6. City of Miami Gardens	1	\$25,000	N/A
7. Coconut Grove Arts & Historical Association, Inc.	7	\$25,000	Active
8. Dr. Martin Luther King Jr. Parade & Festivities Committee Inc.	2, 3	\$6,000	Active
9. El Ingenio, Inc.	3, 5, 6	\$2,500	Active
10. Finger Lakes GrassRoots Festival Organization, Inc.	7	\$3,500	Active
11. Florida International University Board of Trustees for the benefit of School of Music	11	\$5,000	N/A
12. Florida International University Board of Trustees for the benefit School of Hospitality Management SoBch Wine	3	\$17,500	N/A
13. France Florida Foundation for the Arts	3, 5	\$2,500	Active
14. Global Arts Project, Inc.	5	\$2,500	Active
15. Homestead Rodeo Association, Inc.	8	\$15,000	Active
16. Junior Orange Bowl Committee, Inc.	6, 7	\$13,500	Active
17. MDGLCC Foundation, Inc.	5	\$20,000	Active
18. Miami Beach Chamber of Commerce	5	\$20,000	Active
19. Miami Children's Museum, Inc.	5	\$20,000	Active
20. Miami City Ballet, Inc.	3, 5	\$12,000	Active
21. Miami Dade College – Miami Film Festival	5	\$20,000	N/A
22. Miami International Ballet Competition, Inc.	4	\$6,300	Active



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23. Miami International Jazz Fest, Inc.	5	\$15,000	Active
24. Miami Light Project, Inc.	3, 4	\$15,000	Active
25. National Foundation for Advancement in the Arts, Inc.	3	\$15,000	N/A
26. National LGBTQ Task Force	5	\$10,000	Active
27. Orchestra Miami, Inc.	4, 7	\$10,000	Active
28. Performing Arts Center Trust, Inc. dba Adrienne Arsht Center for the Performing Arts of Miami-Dade County	3	\$17,500	Active
29. Rotary Foundation of South Miami, Inc.	7	\$5,000	Active
30. South Florida PBS, Inc.	2, 3	\$15,000	Active
31. South Florida Symphony Orchestra, Inc.	5	\$6,000	Active
32. The Deering Estate Foundation, Inc.	8	\$9,000	Active
<b>Total Grant Amount: \$367,550</b>			

The organizations/projects receiving funding are located in Districts 1, 2, 3, 5, 6, 7, 8, 9, and 11. TDC provides funding to a diverse range of organizations and projects aimed to promote tourism in Miami-Dade County. The projects listed above showcase a representative assortment of activities in varying locations across the County.

Organizations/events selected must promote Miami-Dade County's appeal as a tourist destination by sponsoring tourist-orientated events including sports, cultural, visual and performing arts, and television origination projects. Other eligibility criteria includes being evaluated by TDC based on the following: 1) tourism impact/marketing plan; 2) quality and track record of the organization and its event; 3) event coordination and management; 4) fiscal feasibility and accountability; and 5) efforts to comply and incorporate the America with Disabilities Act (ADA) in their projects.

Grant funds are released on a reimbursement basis to ensure that County funds are being used appropriately and strictly for the activities proposed in the memorandum and grant agreements. The grant recommendations are being submitted to the Board for expedited approval because of their thorough evaluation with TDC and would save one to two months of time in providing funding support.

**ADDITIONAL INFORMATION**

The Tourist Development Council (TDC) Grants Program reviews grant requests on a quarterly basis to organizations/events that promote Miami-Dade County's appeal as a tourist destination by sponsoring tourist-orientated events including sports, cultural, visual and performing arts, and television origination projects. The TDC advisory board is comprised of nine volunteer members who meet to review and make funding recommendations to the Miami-Dade County Mayor and Board of County Commissioners.  
<http://www.miamidadearts.org/tourist-development-council-tdc-grants-program>

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**APPLICABLE LEGISLATION/POLICY**

**Resolution No. R-130-06**, adopted January 24, 2006, clarifies that proposed agenda items seeking approval of a contract or conveyance and authority to execute, require contracts or conveyances with non-governmental entities to be completely negotiated in final form, signed, and executed by all non-County parties in order to be placed on any committee or commission agenda.

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

**Ordinance No. 18-102**, adopted September 20, 2018, approves, adopts, and ratifies proprietary budgets, special assessment district budgets, and other Miami-Dade County budgets for FY 2018-19; incorporates FY 2018-19 proposed budget; appropriates all budgeted revenues and expenditures; and allocated \$1.275 million to TDC for FY 2018-19.

<http://intra/gia/matter.asp?matter=182454&file=false&yearFolder=Y2018>

**Florida Statutes Section 125.0104** delineates that any county in Florida may impose a tourist development tax and it shall be levied, imposed, and set by the governing board of the county, and collections shall be placed in the respective county tourist development trust fund.

[http://www.leg.state.fl.us/statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=125.0104&URL=0100-0199/0125/Sections/0125.0104.html](http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=125.0104&URL=0100-0199/0125/Sections/0125.0104.html)

**Miami-Dade County Code Article 27** sets forth the creation of the tourism council, its purpose, powers, and the Board's responsibility to levy and impose a tourist development tax in the County.

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTXXVIIMIDECOTODECO](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTXXVIIMIDECOTODECO)

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Research Notes**

**Item No. 8F1  
File No. 190462**

**Researcher: LE   Reviewer: TD**

RESOLUTION APPROVING A CONTRACT FOR SALE AND PURCHASE BETWEEN NORTHSIDE PROPERTIES, INC., A DISSOLVED FLORIDA CORPORATION, AS SELLER, AND MIAMI-DADE COUNTY, AS BUYER, FOR APPROXIMATELY 3,500 SQUARE FEET OF VACANT COMMERCIAL LAND LOCATED AT THE SOUTHEAST CORNER OF NW 83 STREET AND NW 30 AVENUE, UNINCORPORATED MIAMI-DADE COUNTY, IN THE AMOUNT OF \$44,275.00 AND AUTHORIZING THE ADDITIONAL EXPENDITURE OF UP TO \$3,000.00 FOR CLOSING COSTS, TO BE FUNDED BY GENERAL OBLIGATION BOND PROJECT NO. 17 “COUNTYWIDE WATER AND SEWER SYSTEM ENHANCEMENTS”; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE THE CONTRACT FOR SALE AND PURCHASE, EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN, TAKE ALL OTHER ACTIONS NECESSARY TO EFFECTUATE SAID PURCHASE, AND ACCEPT CONVEYANCE OF PROPERTY BY GENERAL WARRANTY DEED; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO RECORD SUCH DEED

**ISSUE/REQUESTED ACTION**

Whether the Board should approve a contract for sale and purchase between Northside Properties, Inc., as seller, and Miami-Dade County, as buyer, for a property located at the southeast corner of NW 83 Street and NW 30 Avenue in the amount of \$44,275.00 and authorize an additional expenditures for closing costs up to \$3,000.00.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Jean Monestime, District 2  
Department/Requester: Internal Services**

This item was forwarded to the BCC with a favorable recommendation at the Infrastructure and Capital Improvement meeting on March 12, 2019.

**ANALYSIS**

The purpose of this item is to request Board approval for a Contract of Sale and Purchase between Miami-Dade County, as buyer, and Northside Properties, Inc., a dissolved Florida corporation, as seller, for approximately 3,500 square feet of vacant commercial land located at the southeast corner of NW 83 Street and NW 30 Avenue, to construct Commercial Corridors Project Pump Station S-2. This item also authorizes the Contract for Sale and Purchase for \$44,275 and additional expenditures up to \$3,000 for closing costs.

The fiscal impact is \$47,275 which includes the acquisition of the vacant property and additional closing costs. The funding source is the General Obligation Bonds (GOB) Project No. 17 “Countywide Water and Sewer System Enhancements” Fund. An independent property appraisal was conducted in October 2018 with the property estimated \$52,500 at market value. The original property is 64,734 square feet and acquiring the 3,500 square feet for the pump would remain 61,234 square feet.

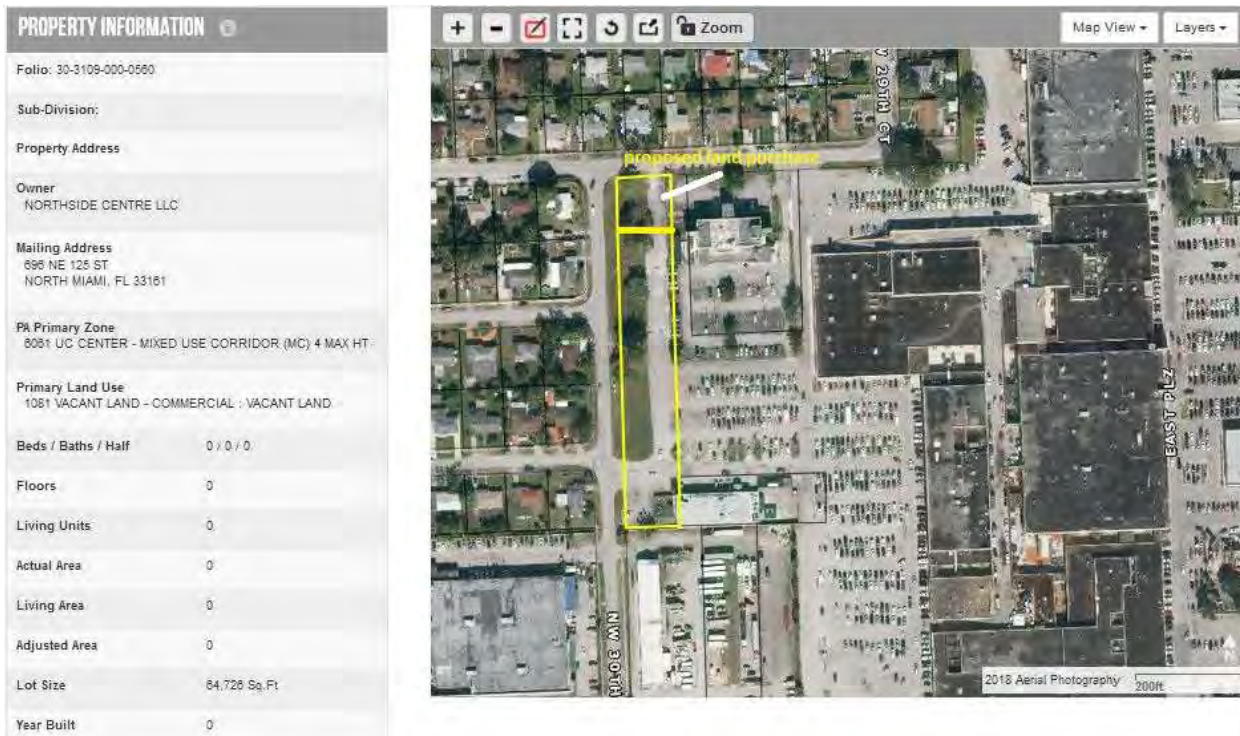
The purpose is to construct a Water and Sewer Department’s (WASD) Commercial Corridor Project Pump Station S-2. The pumps will provide sanitary sewer infrastructure as provided by Resolution No. R-537-14. Once the property is acquired, WASD’s Planning Division will work with Capital Program Management staff on the design, permitting, and construction of the pump station facility.

Northside Properties, Inc. is an inactive Florida corporation due to its voluntary dissolution in 1977. William Allen Morris, the sole surviving member of the Northside Properties, Inc. Board of Trustees, served as the signatory on the deed on September 18, 2018. In December 2018, a title commitment was issued by Old Republic National Title Insurance Company to protect the County’s

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interest in acquiring the property. Additionally, on the Contract, the printed purchase price was \$38,500.00, but was replaced with \$44,257.00 to reflect the new price.

The image below depict the property located at the southeast corner of NW 83 Street and NW 30 Avenue, Folio Number 30-3109-000-0560:



### APPLICABLE LEGISLATION/POLICY

**Section 125.355 of the Florida Statutes** states that in the case that a county seeks to purchase real property for a public purpose, appraisals, offers, and counteroffers must be provided. At least one appraisal must be obtained if the property being purchased is less than \$500,000 and at least two appraisals must be approved if the purchase is in excess of \$500,000.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=section+125.355&URL=0100-0199/0125/Sections/0125.355.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=section+125.355&URL=0100-0199/0125/Sections/0125.355.html)

**Resolution No. R-537-14**, adopted June 3, 2014, approves allocation of \$126,000,000.00 from the Building Better Communities General Obligation Bond program Project No. 17, "Countywide Water and Sewer System Enhancements", to fund the extension of the sewer system to developed commercial and industrial corridors of the County.

<http://intra/gia/matter.asp?matter=140987&file=true&yearFolder=Y2014>

**Section 125.39 of the Florida Statutes** expresses the non-applicability to county lands acquired for specific purposes such as to cover the sale or disposition of any land conveyed to any county for a specific purpose and containing a reversionary clause where the land shall revert to the grantor upon failure to use such property for such purpose.

[http://www.leg.state.fl.us/STATUTES/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0100-0199/0125/Sections/0125.39.html](http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0125/Sections/0125.39.html)

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**Administrative Order 8-4** provides that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded in the policy, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification, if applicable.

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

**Resolution No. R-333-15**, adopted April 21, 2015, entitled “Resolution establishing County policy to require disclosure of market value of market rental in legislative items authorizing the conveyance or lease of County-owned property to promote disclosure and fiscal responsibility”.

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

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

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

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**Item No. 8F4  
File No. 190442**

**Researcher: PGE    Reviewer: TD**

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-01100 IN A TOTAL AMOUNT UP TO \$3,165,000.00 FOR THE PURCHASE OF TRANSPORTATION SERVICES FOR VARIOUS DEPARTMENTS FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize the establishment of Prequalification Pool *RTQ-01100* for the purchase of transportation services for various County departments in an amount of up to \$3,165,000 for a five-year term.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

The item was considered at the Transportation and Finance Committee meeting on March 13, 2019 and forwarded to the Board with a favorable recommendation.

**ANALYSIS**

The purpose of this item is to establish Prequalification Pool *RTQ-01100*, *Transportation Services*, for use by multiple County departments for a five-year term in an amount of up to \$3,165,000. The pool includes three groups: (1) Limousines, Sedans and SUVs; (2) Coach Charter Buses and School Buses; and (3) Minibuses and Vans, including handicap accessible. To prequalify for all groups, the vendor must satisfy the following criteria:

- Maintain a minimum fleet of two vehicles;
- Be regularly engaged in the business of providing for-hire transportation services as evidenced by two reference letters;
- Maintain a valid Vehicle Operating Permit issued by the County; and
- Submit the contact information of a designated representative to provide the County with support and information concerning orders placed and to receive spot market solicitations.

Additionally, for Group 3 services, the vendor must have a valid Passenger Motor Carrier Certificate of Transportation issued by the County as required for buses and vans with seating capacity between nine and 28 passengers. The biggest user departments are Parks, Recreation and Open Spaces, which is requesting \$1,075,000, and PortMiami, which is requesting \$1,671,000.

The solicitation was advertised on December 13, 2018, and 14 vendors responded, of which eight are being recommended for inclusion in the pool. It is important to note that all of the recommended vendors have a local address. Of the eight recommended vendors, five are incumbents – Academy Bus, LLC; Air B School Bus; J.G.T. Transportation, Inc.; Safeguard America, Inc.; and Unique Charters, Inc. A set-aside applies to this solicitation for spot market competition up to \$100,000 where there are three or more certified firms available.

The Market Research performed for this solicitation reveals that Groups 1 and 2 of the current contract were awarded to the lowest bidder, and Group 3 is a pool. As Groups 1 and 2 were under-utilized due to capacity and scheduling restraints, the user



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departments primarily relied on Group 3 for needed transportation services as the group offered additional vendors and flexibility. Accordingly, the replacement solicitation is solely a pool and includes additional vehicle types.

The current contract (#9749-0/18) is valued at \$4,400,800 for a term of five years and five months, expiring on May 31, 2019. The expiration date reflects an administrative extension of five months, from the original expiration date of December 31, 2018. The annual allocation under the replacement pool is lower than that of the current contract due to departmental estimated usage for the replacement term.

The Commodity Code for the solicitation is 97514 (Automobiles and Other Passenger Vehicles, Including Emergency Type Rental or Lease). An April 4, 2019 search for registered local certified small business enterprises on the Business Management Workforce System under that code yielded one vendor – Unique Charters, Inc. The vendor is recommended for inclusion in the pool for Group 2 services.

**ADDITIONAL INFORMATION**

Academy Bus, LLC, one of the prequalified vendors, is being sued in the Eleventh Judicial Circuit of Florida on a vicarious liability theory for its employee's negligent operation of one of its buses which resulted in injury to Plaintiff, Edie Wilburn. See *Edie Wilburn v. Academy Bus, LLC*, 2017-011658-CA-01.

**APPLICABLE LEGISLATION/POLICY**

**Section 2-8.1 of the County Code** requires formal sealed bids for all contracts and purchases when the transaction involves the expenditure of \$250,000 or more, except that the Board of County Commissioners, upon written recommendation of the Mayor or Mayor's designee, may, by resolution adopted by two-thirds vote of the members present, waive competitive bidding when it finds this is to be in the best interest of the County.

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Resolution No. R-477-18**, adopted by the Board on May 1, 2018, directed 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-187-12**, adopted by the Board on February 21 2012, directed the County Mayor to include due diligence information in memoranda recommending certain contract awards.

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

**Resolution No. R-716-12**, adopted by the Board on September 4, 2012, requires identification of small business enterprise firms in any procurement item submitted for Board approval.

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

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

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

**Resolution No. R-979-13**, adopted by the Board on December 3, 2013, authorized award of a contract for transportation services, including motor coach and school bus rentals, for various County departments in an amount of \$4,061,000 for five years.

<http://intra/gia/matter.asp?matter=132510&file=false&yearFolder=Y2013>

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**Implementing Order 3-38** sets forth the County's policy and procedures for the procurement of goods and services. The I.O. references the obligations and responsibilities of the Internal Services Department; the authority to award; 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>



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**Item No. 8F5  
File No. 190443**

**Researcher: PGE   Reviewer: TD**

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-00933 FOR GROUPS A AND B IN A TOTAL AMOUNT UP TO \$5,057,000.00 FOR THE PURCHASE AND/OR RENTAL AND INSTALLATION OF OFFICE TRAILERS FOR VARIOUS DEPARTMENTS FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize the establishment of *Prequalification Pool RTQ-00933* for the purchase and/or rental and installation of office trailers for multiple County departments in an amount of up to \$5,057,000 for a term of five years.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

The item was considered at the Health Care and County Operations Committee meeting on March 14, 2019 and forwarded to the Board with a favorable recommendation.

**ANALYSIS**

The purpose of this item is to establish *Prequalification Pool RTQ-00933* for the purchase and/or rental and installation of office trailers for multiple County departments for a five-year term with an allocation of up to \$5,057,000. This replacement pool consolidates two existing pools: *Prequalification Pool No. 8772-0/13* for rental of office trailers and *Prequalification Pool No. 9013-1/19* for purchase of office trailers. The mayoral memorandum suggests that consolidation facilitates administrative efficiencies for user departments and reduces duplication of efforts by vendors.

The proposed replacement pool includes two groups: (A) Purchase and Installation of Office Trailers and (B) Rental and Installation of Office Trailers. To qualify for both groups, the vendor shall meet the following criteria:

- Assign a company representative as the contact for receipt of quotations; and
- Hold a General Contractor License or Building Contractor License.

Additionally, to qualify for Group A, the vendor shall demonstrate its experience relating to sale of office trailers, including installation services. To qualify for Group B, the vendor shall demonstrate its experience relating to rental of office trailers, including installation services. Departments use trailers as field offices, classrooms and temporary storage facilities. The Water and Sewer Department is the largest user, requesting \$1,023,000, and Fire Rescue is the second biggest user, requesting \$920,000.

The Internal Services Department conducted market research for this solicitation, which concluded that there are many firms in Florida capable of providing office trailers, such as Modspace (located in Miami); Mobile Modular Management Corporation (located in Miami); Pac-Van (located in Miami); and Mobile Mini Solutions (located in Miami). The market research also explained that the installation of office trailers requires building permits and must meet accessibility requirements, necessitating a contractor's license.

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The solicitation was advertised on June 13, 2018, and four vendors responded. Two of the respondents are being recommended for inclusion in the pool – Advanced Modular Structures, Inc. and McGrath Rent Corp. The recommended vendors do not have a local business address. Moreover, McGrath Rent Corp. is an incumbent under *Prequalification Pool No. 8772-0/13* and *Prequalification Pool No. 9013-1/19*. Advanced Modular Structures, Inc. is an incumbent under *Prequalification Pool No. 9013-1/19*.

The fiscal impact for the proposed replacement pool for the five-year term is \$5,057,000. *Prequalification Pool No. 9013-1/19*, the current pool used for the purchase of office trailers, is valued at \$9,623,982 for a term of 10 years, expiring on June 30, 2019. *Prequalification Pool No. 8772-0/13*, the current pool used for the rental of office trailers, is valued at \$7,041,000 for a term of 10 years and two months, expiring on May 31, 2019. The annual allocation under the replacement pool is \$1,011,400, which is higher than the annual allocation under the current pools, i.e., approximately \$962,398 under *9013-1/19* and \$692,557 under *8772-0/13*.

An April 4, 2019 Business Management Workforce System search for the solicitation's commodity codes – 07072, Trailers, House; 15550, Office Buildings, Modular and Portable; and 97584, Trailer Rental or Lease – yielded one certified local small business enterprise vendor, Total Connection, Inc. The vendor responded to the replacement solicitation but did not submit the required documentation to satisfy the prequalification criteria. Upon submission of the required documents, Total Connection may be added to the pool.

#### **APPLICABLE LEGISLATION/POLICY**

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

[https://library.municode.com/fl/miami\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Resolution No. R-477-18**, adopted by the Board on May 1, 2018, directed 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-187-12**, adopted by the Board on February 21 2012, directed the County Mayor to include due diligence information in memoranda recommending certain contract awards.

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

**Resolution No. R-716-12**, adopted by the Board on September 4, 2012, requires identification of small business enterprise firms in any procurement item submitted for Board approval.

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

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

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

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**Resolution No. R-193-09**, adopted by the Board on March 3, 2009, authorized establishment of *Prequalification Pool No. 8772-0/13* for the rental of office trailers for a five-year term in an amount of \$4,161,000.

<http://intra/gia/matter.asp?matter=090001&file=true&yearFolder=Y2009>

**Resolution No. R-944-13**, adopted by the Board on November 19, 2013, approved an extension of *Prequalification Pool No. 8772-0/13* for the rental of office trailers for five years with an allocation of \$2,780,000.

<http://intra/gia/matter.asp?matter=131844&file=true&yearFolder=Y2013>

**Implementing Order 3-38** sets forth the County's policy and procedures for the procurement of goods and services. The I.O. references the obligations and responsibilities of the Internal Services Department; the authority to award; 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>

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Research Notes**

**Item No. 8F7  
File No. 190414**

**Researcher: IL   Reviewer: TD**

RESOLUTION APPROVING \$120,000.00 INCREASE IN EXPENDITURE AUTHORITY FOR A TOTAL MODIFIED CONTRACT AWARD OF \$1,390,000.00 FOR CONTRACT NO. FB-00151 FOR THE PURCHASE OF T-SHIRTS FOR VARIOUS DEPARTMENTS

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize additional expenditure authority of up to \$1,139,000 to Contract No. FB-00151 for the purchase of T-shirts for various County departments.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

This item was forwarded with a favorable recommendation from the Health Care and County Operations Committee on March 14, 2019

**ANALYSIS**

The purpose of this item is to request Board authorization for an increased spending amount of \$120,000.00 totaling \$1,390,000.00 for Contract No. FB-00151 for the purchase of t-shirts for various departments.

The County awarded this formal bid contract on August 1, 2015 for a term of five years in the amount of \$1,058,000.00. The contract expires on July 31, 2020. Since award, the contract has been modified, administratively, in an amount of \$211,000.00, resulting in the current cumulative allocation of \$1,269,000.00. County departments use this contract for the purchase of t-shirts in conjunction with the County's needs. There are 5 awarded vendors in the pool of which 4 have an active status and 1 (IGWT Partners Inc. FEIN No. 45-5219961) does not have an active status on the Florida Division of Corporations website.

The fiscal impact of this item is countywide, and the increased amount is \$120,000.00, if approved, would result in a modified cumulative allocation of \$1,390,000.00, i.e., \$1,269,000.00 plus \$120,000.

The chart below illustrates the distribution by department. The data was pulled from Bid Tracking System (BTS) on March 22, 2019.

<b>Department</b>	<b>Allocation Amount</b>	<b>Released Amount</b>	<b>Balance</b>
Community Action and Human Services	\$ 57,000.00	\$10,960.43	<b>\$46,039.57</b>
Communications Department	\$120,000.00	\$62,626.93	<b>\$57,373.07</b>
Miami-Dade Public Housing	\$ 40,000.00	\$19,000.00	<b>\$21,000.00</b>
Department of Transportation and Public Works	\$ 75,465.02	\$31,768.25	<b>\$43,849.48</b>

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Miami-Dade Police Department	\$ 75,000.00	\$69,903.72	<b>\$5,096.28</b>
Regulatory and Economic Resources	\$ 75,000.00	\$ 57,329.64	<b>\$37,670.36</b>
Miami-Dade Parks and Recreation (PROS)	\$564,818.47	\$382,757.83	<b>\$182,060.64</b>
Seaport Department	\$ 75,000.00	\$ 22,627.70	<b>\$ 52,372.30</b>
Solid Waste	\$51,563.79	\$ 47,803.93	<b>\$ 3,759.86</b>
Miami-Dade Water and Sewer	\$115,000.00	\$113,859.76	<b>\$1,140.24</b>
<b>Total :</b>	<b>\$1,268,999.99</b>	<b>\$818,638.19</b>	<b>\$450,361.80</b>

The requesting departments will apply the additional expenditure authority as follows:

1. Miami-Dade Police Department almost exhausted its original allocation of \$75,000.00 and is requesting an additional \$40,000.00 to continue purchasing t-shirts for officers assigned to the following specialized units: Mobile Field Force, Canine, and Special Response Team and for technicians and mechanics assigned to the Facilities Maintenance, Special Patrol Bureau Aviation, and Marine Patrol units.
2. Water and Sewer (WASD) almost exhausted its original allocation of \$115,000.00 and is requesting an additional \$80,000.00 to continue purchasing t-shirts for employees, as part of their standard uniform.

**APPLICABLE LEGISLATION/POLICY**

Section 2-8.1 of the Code of Miami-Dade County (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 \$250,000.00; (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 Implementing Order (I.O.) and approved by the Board.

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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-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-565-15, adopted June 30, 2015, approving award of Contract No. FB-00151 for purchase of t-shirts for various county departments in a total amount not to exceed \$1,058,000.00 for a term of five years

<http://www.miamidade.gov/govaction/matter.asp?matter=151667&file=false&fileAnalysis=false&yearFolder=Y2015>

Resolution No. R-391-17, adopted April 4, 2017, Directs the Mayor to conduct competitive selections whenever feasible instead of expanding the term or services under existing contracts, to include in any recommendation to the Board for the expansion of term or services under existing contracts a written justification of why a competitive process is not feasible, to include to the maximum extent possible in any proposed expansion of term or services any requirements of Ordinance or Resolutions adopted by the Board subsequent to the initial contract and to report to the Board in the recommendation which requirements were adopted and rejected.

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

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Resolution No. R-716-12, adopted September 6, 2012, Directs the Mayor to identify certified SBE, CBE-AVE, CSBE, DBE, and ACDBE firms in any procurement item submitted for Board approval.

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

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 (ISD); 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>

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Research Notes**

**Item No. 8F8  
File No. 190734**

**Researcher: IL   Reviewer: TD**

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-01074 FOR GROUPS A, B AND C IN A TOTAL AMOUNT UP TO \$4,695,000.00 FOR THE MAINTENANCE, REPAIR OR PURCHASE OF AIR COMPRESSORS FOR VARIOUS DEPARTMENTS FOR A FIVE-YEAR TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

This item was forwarded with a favorable recommendation from the Health Care and County Operations Committee on March 14, 2019.

**ANALYSIS**

The purpose of this item is to request Board approval for the establishment of Prequalification Pool RTQ-01074, divided into three groups (A, B, and C) for the maintenance, repair or purchase of air compressors for various County departments in a total amount of up to \$4,695,000.00 for a five year term.

Air compressors and related equipment are utilized at various shop facilities and in carrying out on-going operations in many County departments. This pool will have three groups: Group A, Purchase of Air Compressors, Parts and Accessories; Group B, Purchase and Removal/Installation of Air Compressors, Parts and Accessories; and Group C, Shop, Field Services and Preventive Maintenance.

The requisition for this solicitation was posted on November 14, 2018, and the solicitation end date was November 28, 2018. Four vendors responded to the solicitation, of which three vendors are being recommended for inclusion in the Pool. All three are local businesses of which one is a certified Small Business Enterprise (SBE) firm. Jobbers' Equipment Warehouse, Inc., and Quincy Compressor, LLC are incumbents under the current pool contracts.

Below is the list of vendors, the groups they are qualified for and their respective address information:

<b>Vendor</b>	<b>Sunbiz Principal Address</b>	<b>Miami-Tax Collector</b>	<b>Group(s) Prequalified</b>
Jobbers' Equipment Warehouse, Inc.	5440 NW 78 Avenue Miami, FL	No profile on the Tax Collector's office	A, B, C
The Tool Place Corp. (SBE)	9383 NW 13 Street Miami, FL	Same	A
Quincy Compressor, LLC	701 N Dobson Avenue Bay Minette, AL	1572 NW 165 Street Miami Gardens, FL	A, B, C

The fiscal impact for the five-year term is \$4,695,000. The current pool, 7636-5/19, is valued at \$11,138,000 for a nine-year and six-month term and expires on June 30, 2019. The allocation under the replacement pool is \$939,000.00 per year while in the current pool, the annual allocation was \$1,172,421 a difference of \$233,421 lower on the replacement pool.

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Below is the allocation breakdown by department:

Department	Allocation	Funding Source
Aviation	\$500,000	Proprietary Funds
Corrections and Rehabilitation	\$140,000	General Fund
Fire Rescue	\$120,000	Fire District
Internal Services	\$900,000	Internal Service Funds
PortMiami	\$35,000	Proprietary Funds
Transportation and Public Works	\$500,000	DTPW Operating
Water and Sewer	\$2,500,000	Proprietary Funds
<b>Total:</b>	<b>\$4,695,000</b>	

OCA conducted a review of the following commodity codes: 02543 (Compressors, High Pressure, All Sizes and Models) and 07059 (Trailers, Custom: Personnel, Food Service, Equipment, Refrigerated, etc.), in the Business Management Workforce System on March 22, 2019. Two SBE Firms were identified under the aforementioned commodity codes.

<b>Commodity Code 02543</b>		
Vendor	Location	Certification
Generating Systems, Inc.	Miami, FL	SBE-G&S
The Tool Place Corp.	Miami, FL	SBE-G&S
<b>Commodity Code 07059</b>		
Vendor	Location	Certification
None		

**APPLICABLE LEGISLATION/POLICY**

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

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

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



**BCC Meeting: April 9, 2019**  
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**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-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>

**Resolution No. R-140-15**, adopted February 3, 2015, directs the County Mayor to conduct a full review, prior to re-procurement of replacement contracts for goods or services of the scopes of services or goods requested to ensure such contracts reflect the current needs of the County, to include information in recommendations to the board, and to consult with the Small Business Development division regarding solicitation and contract language.

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

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

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

**Resolution No. R-1367-09**, adopted December 1, 2009, Air Compressors, Parts, Accessories, Field and Shop Repairs, Installations and Preventative Maintenance (Pre-qualification) is to award this contract to purchase air compressors, parts, accessories, field and shop repairs, installation, and preventative maintenance for various County departments in amount of \$6,386,000 (including an option-to-renew) and five year term with one five year option-to-renew.

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2009/093011.pdf>

**BCC Meeting: April 9, 2019  
Research Notes**

**Item No. 8F9  
File No. 190754**

**Researcher: PGE   Reviewer: TD**

RESOLUTION AUTHORIZING AWARD OF A LEGACY CONTRACT FOR INTEGRATED SECURITY CONTROL SYSTEM SUPPORT FOR THE MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT, CONTRACT NO. L769, TO BLACK CREEK INTEGRATED SYSTEMS CORP. FOR A THREE-YEAR TERM WITH ONE, TWO-YEAR OPTION TO RENEW IN A TOTAL AMOUNT NOT TO EXCEED \$760,000.00 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 [SEE ORIGINAL ITEM UNDER FILE NO. 190395]

**ISSUE/REQUESTED ACTION**

Whether the Board should approve the award of *Legacy Contract No. L769, Integrated Control System Support*, to Black Creek Integrated Systems Corp. for \$760,000 for a three-year term plus one, two-year option to renew for the Corrections and Rehabilitation Department.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

The item was considered at the Public Safety and Rehabilitation Committee on March 12, 2019 wherein it was forwarded to the Board with a favorable recommendation. During the committee meeting, the following discussion transpired:

- Commissioner Sosa asked if this was a legacy contract because the vendor is the sole source provider in the marketplace. The Division Director from ISD Procurement Management Services explained it is a legacy contract because the vendor is currently supporting the existing security system. The County Attorney further explained that the justification provided in the mayoral memorandum for the legacy purchase is that although there is competition in the market, it would be cost prohibitive to replace the system as the recommended vendor is the only business authorized to support and maintain the system installed in the County's correctional facilities.
- Commissioner Heyman questioned the reasonableness of the proposed five-year term and suggested the term be reduced to a three-year term with a two-year option to renew. Heyman directed the Administration to survey the market for competing products during the contract term and to only exercise the option term where a competitive replacement is not feasible. The Director of the Corrections and Rehabilitation Department responded that the security system controls the intrusion alarm, closed circuit television, and the main security infrastructure in all of the correctional facilities. He noted that the department is not having issues with the system. The County Attorney advised that the contract's term could be changed from a five-year term to a three-year term with a two-year option to renew. He further advised that the only caveat before the item travels to the Board is to obtain the vendor's consent to the change to the contractual term.
- Commissioner Sosa agreed to the proposed amendment and added that the Board must approve the exercise of the option to renew.

**ANALYSIS**

This item is requesting that the Board award a legacy contract to Black Creek Integrated Systems Corp. (Black Creek) for up to \$760,000 for a five-year term for maintenance and support of the existing security system at the Metro West Detention Center, Turner Guilford Knight Correctional Center and Pre-Trial Detention Center.

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The existing system was implemented by Black Creek pursuant to Resolution No. R-966-11, which on November 15, 2011 awarded Black Creek a contract (*RFP769*) for \$1,500,000 to implement a turnkey security control system for the Corrections and Rehabilitation Department for an initial term of three years plus two, two-year options to renew. That contract award was the result of a competitive procurement wherein Stanley Security, Norment Security Group, Pinnacle Integrated Systems, Inc., and SimplexGrinnell submitted proposals.

The current contract (*RFP769*) is valued at \$3,848,667.33 for a term of seven years and six months, expiring May 31, 2019. The expiration date reflects a four-month administration extension, from the original expiration date of January 31, 2019 to May 31, 2019. The proposed contract is valued at \$760,000 for a term of three years plus one, two-year option to renew. The annual allocation under the replacement contract is significantly lower than the current contract as the replacement award covers only maintenance and support services while the current contract included the cost of system implementation.

The mayoral memorandum indicates that due to the proprietary nature of the existing Black Creek integrated security control system, Black Creek is the only vendor capable of performing the required system maintenance and support services. Alternatively, the County could compete these services which would necessitate transitioning to a new system. Such a transition would be more expensive than the recommended legacy contact.

The Black Creek security system provides centralized control of the following Corrections and Rehabilitation Department sub-systems:

- Security alarm;
- Closed Circuit Television;
- Intercom and Paging;
- Duress;
- Door Control; and
- Watch Tour/Shift Log.

Under the proposed legacy contract, Black Creek shall provide non-emergency and emergency support for the security system. More specifically, Black Creek shall provide: unlimited non-emergency telephone support; emergency telephone support; response time to all inquiries within an hour; parts depart service; discounts on labor; documents maintenance surcharge waiver; and warranty. These services constitute the Level One Service Plan. Black Creek shall also deliver services under the Watch Tour and Shift Log Support Plan, which entails unlimited non-emergency telephone support; response time to all inquiries within an hour; software updates; email notification; remote software support; and emergency telephone support. The contract requires the County to deliver broadband internet connection and designate a primary service contact.

The commodity code for this procurement is 92045 (Software Maintenance and Support Services). An April 3, 2019 search for registered certified local small business enterprises under that code on the Business Management Workforce System, yielded the following seven vendors:

- Amiritech Group, LLC
- Computer Based Associates, Inc.
- Insinet Group, LLC
- Meridian Partners, LLC
- The Ashvins Group, Inc.
- Trust Technology Solutions, Inc.
- Visual Data Solutions, Inc.

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**ADDITIONAL INFORMATION**

The Bloomberg company overview of Black Creek Integrated Systems Corp. states that the company offers design and installation services for security control systems. The company provides touch screen based security control systems and security management software. Black Creek Integrated Systems Corp. was incorporated in 2001 and is based in Irondale, Alabama.

<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapid=111950153>

An article dated December 21, 2016 in the Courier suggests that the security system installed by Black Creek Integrated Systems Corp. for Black Hawk County Jail in Waterloo, Iowa is failing. OCA contacted Black Hawk County to discuss the article. Black Hawk County shared that the decision to transition to a new vendor was not due to performance issues encountered with the Black Creek system, rather the County determined that since the Black Creek system was 21 years old and thus had outlived its useful life, it was in the County's best interest to compete a replacement system. Black Creek submitted a bid for the replacement system. However, that bid did not meet the County's specifications. The replacement contract was awarded to Stanley Security.

[https://wfcourier.com/news/local/govt-and-politics/new-jail-security-system-bids-still-over-budget/article\\_e7035155-ec4d-517b-acfc-a40167df8b62.html](https://wfcourier.com/news/local/govt-and-politics/new-jail-security-system-bids-still-over-budget/article_e7035155-ec4d-517b-acfc-a40167df8b62.html)

**APPLICABLE LEGISLATION/POLICY**

**Section 2-8.1(b)(2) of the County Code** applies to legacy awards and provides that a legacy purchase shall mean the 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. The County Mayor shall include, in any legacy purchase award recommendation, 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. Legacy purchases may be awarded by the Board of County Commissioners upon a majority vote of the Board members present.

[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)

**Resolution No. R-477-18**, adopted by the Board on May 1, 2018, directed 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-187-12**, adopted by the Board on February 21 2012, directed the County Mayor to include due diligence information in memoranda recommending certain contract awards.

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

**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-966-11**, adopted by the Board on November 15, 2011, authorized execution of an agreement in the amount of \$1,500,000 for a term of three years plus two, two-year options to renew to Black Creek Integrated Systems to obtain a turnkey integrated security control system for the Corrections and Rehabilitation Department to replace the existing legacy security system currently in use at the Turner Guilford Knight Correctional Center.

<http://intra/gia/matter.asp?matter=112044&file=true&yearFolder=Y2011>

**Implementing Order 3-38** sets forth the County's policy and procedures for the procurement of goods and services. The I.O. references the obligations and responsibilities of the Internal Services Department; the authority to award; and the requirements

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for access contracts, emergency purchases, bid waivers, confirmation purchases and sole sources. An emergency purchase is an unforeseen or unanticipated urgent and immediate need for goods or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using any of the other purchasing methods described in the Implementing Order.

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

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**Item No. 8F10  
File No. 190449**

**Researcher: IL   Reviewer: TD**

RESOLUTION AUTHORIZING ACCESS OF NATIONAL JOINT POWERS ALLIANCE CONTRACT NO. 121416-WWG, PUBLIC SAFETY AND EMERGENCY MANAGEMENT RELATED EQUIPMENT, SUPPLIES, AND SERVICES WITH W.W. GRAINGER, INC. FOR VARIOUS COUNTY DEPARTMENTS IN A TOTAL AMOUNT NOT TO EXCEED \$8,986,200.00 FOR AN INITIAL TERM EXPIRING FEBRUARY 1, 2021 AND ONE ONE-YEAR OPTION TO RENEW TERM AND U.S. COMMUNITIES GOVERNMENT PURCHASING ALLIANCE CONTRACT NO. 4400008468 PUBLIC SAFETY AND EMERGENCY PREPAREDNESS EQUIPMENT AND RELATED SERVICES WITH SAFEWARE, INC. FOR VARIOUS COUNTY DEPARTMENTS IN A TOTAL AMOUNT NOT TO EXCEED \$12,300,000.00 EXPIRING ON SEPTEMBER 30, 2023; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE DOCUMENTS NECESSARY TO ACCESS SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize access of the National Joint Powers Alliance (NJPA) Contract No. 121416-WWG through February 1, 2022 (including a one-year option to renew) in a total amount of \$8,986,200 and W.W. Grainger (Grainger) Contract No.4400008468 through September 30, 2023 in a total amount of \$12,300,000 for a grand total of \$21,286,200 including \$600,000 unallocated reserve for emergencies and unforeseen events for the purchase of public safety and emergency preparedness equipment and related services to Safeware, Inc. (Safeware) for Various County Departments.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

This item was brought before the Public Safety and Rehabilitation Committee on March 12, 2019, the item was forwarded with a favorable recommendation.

**ANALYSIS**

The purpose of this item is to request Board authorization to access the National Joint Powers Alliance Contract, Contract No. 121416-WWG through February 1, 2022 (including a one-year option to renew) in a total amount of \$8,986,200 to WW. Grainger Inc., and Contract No.4400008468 through September 30, 2023 in a total amount of \$12,300,000 for a grand total of \$21,286,200 including \$600,000 unallocated reserve for emergencies and unforeseen events for the purchase of public safety and emergency preparedness equipment and related services such as hurricanes and combating the Zika virus. These contracts allow for readiness of the items, ease of ordering, 24/7 availability, and emergency delivery programs to Safeware, Inc. (Safeware) for Various County Departments.

The fiscal impact for Contract No. 121416-WWG is \$5,990,800 through February 1, 2021. Should NJPA elect to exercise the one-year option to renew term, and should the County choose to exercise the same, the estimated cumulative value would be \$8,986,200 and the contract would expire on February 1, 2022. The fiscal impact for Contract No. 4400008468 is \$12,300,000, through September 30, 2023.

The previous contract for facilities maintenance, repair and operating supplies was 091214-WWG and expired on October 21, 2018. It had a value of \$913,000 according to the Bid Tracking System (BTS). The allocation for the proposed contract is \$8,986,200.00, the released amount is \$4,607,448.12 and the remaining balance is \$1,447,174.88 according to the Bid Tracking System as of January 10, 2019.

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County departments will use *Contract No. 121416-WWG*, awarded to Grainger, who operates a local location within Miami-Dade County, whenever possible. However, there are specific products and needs that Grainger cannot meet, and for which use of *Contract No. 4400008468* will be necessary. These include mosquito control products, as well as specialized goods and associated maintenance for law enforcement and first responders. Additionally, *Contract No. 4400008468* will provide an alternative source of supply outside the impacted area in the event that an emergency occurs which affects the South Florida region, and the local vendor is unable to provide the supplies and services needed.

According to the mayoral memo the reason we are attaching to the NJPA and Grainger contracts is because accessing these contracts offers the County favorable pricing for supplies and services, allows the County to consolidate purchases, and reduces administrative costs. These contracts will provide the County with a readily available, vast inventory of supplies and services supported by Grainger and Safeware, two nation-wide suppliers.

Supplies and services purchased under these contracts include, but are not limited to the following:

- Safety glasses
- Voltage detectors
- First aid equipment
- Gas masks and accessories
- Heavy-duty & mechanical gloves
- Respirators, safety goggles
- Laboratory supplies
- Crime Lab supplies
- Chemicals to combat mosquitos
- Safety vests
- Heavy duty and mechanical gloves
- Oil only sorbent pads
- Other medical and safety items

ISD conducted a market study and found that only the NJPA Contract provided the breadth of products and services required by Miami-Dade. Additionally, Miami-Dade Police, Miami-Dade Fire Rescue, Miami-Dade Water and Sewer and the Department of Solid Waste indicated that specific public safety and emergency preparedness equipment products and related services needed to fulfill their operational needs are only available under the NJPA contract. Accessing this contract provides the County a substantial 41% discount off the manufacturer pricing, eCommerce rebates and other rebates on orders exceeding certain thresholds. This contract will also allow for negotiation of lower rates/pricing for services.

OCA performed a search for commodity code 345: (First Aid and Safety Equipment and Supplies) on the Business Management Workforce System's Certified Vendor Directory on March 22, 2019. Twelve (12) local SBE-G&S certified firms were found on the Business Management Workforce System under the aforementioned code they are listed below:

The Table below is a list of SBE Certified vendors under commodity code 345.

<b>SBE Vendor</b>	<b>Location</b>	<b>Certification</b>
A&B Hardware, Inc., DBA A & B Hardware - Lumber, Inc.	Miami, FL	SBE-G&S
Carily of Miami Uniforms Inc	Miami, FL	SBE-G&S
Dan enterprises team LLC	Miami, FL	SBE-G&S
District Healthcare & Janitorial Supply, Incorporated, DBA District Healthcare	Medley, MD	SBE-G&S



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Genard & Associates, LLC	Miami, FL	SBE-G&S
Green-Energy-Products.Com, LLC	Pinecrest, FL	SBE-G&S
Miami Partners, LLC.	Miami Shores, FL	SBE-G&S
Palmetto Uniforms INC	Miami, FL	SBE-G&S
Pancar Industrial Supply Corp.	Miami, FL	SBE-G&S
Safety Source International, INC.	Hialeah, FL	SBE-G&S
The Tool Place Corp.	Miami, FL	SBE-G&S
The Tools Man, Inc., DBA The Tools Man Industry Supply	Miami, FL	SBE-G&S

**ADDITIONAL INFORMATION:**

The Division of Policy and Legislation conducted research and found that another jurisdiction also contracted with W.W. Inc for industrial & Commercial Supplies and Equipment

<http://finance.brevardschools.org/purchase-warehouse/Documents/SC-18-SC-043-SH%20-%20Grainger%20web%20packet.pdf>

The Division of Policy and Legislation conducted research and found that another jurisdiction also contracted with Safeware, Inc. for Public Safety and Emergency Preparedness Equipment and Related Services (page 7)

<https://www.coralgables.com/media/Procurement/Awarded%20Contracts/Piggyback%20Active%20Contracts%20%20List.pdf>

**DEPARTMENTAL INPUT:**

The following question was posed to the department on March 11, 2019, the response is below in bold print.

- Has there been a contract in place for these services from October 2018 through the present date? **No, we do not. When the County accesses another entity's contract, we have to wait until the entity extends/renews its contract before we can proceed to extend/renew or establish a new access thereof.**

**APPLICABLE LEGISLATION/POLICY**

**Section 2-8.1of the Code of Miami-Dade County** (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 \$250,000.00; (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 Implementing Order (I.O.) and approved by the Board.

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

[dade county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Section 2-8.2.6(3)(a)(v) of the County Code** (unsolicited proposals) governs the procedure on unsolicited proposals, if the County Mayor elects to evaluate an unsolicited proposal that has been submitted with the application fee and all of the information and materials required pursuant to this section, the County Mayor shall have 90 days to evaluate the unsolicited proposal. In the event that 90 days is insufficient to complete an evaluation, the County Mayor may request an extension of this time from the Board.

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

[dade county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.2.6PUIVPAUNPR](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.2.6PUIVPAUNPR)

**Resolution No. R-477-18**, adopted May 1, 2018, directs the County Mayor to disclose to the Board the reasons why 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>



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**Resolution No. R-1011-15**, adopted November 3, 2015, Directs the 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, and directs the Mayor to include such information in the memorandum to Board pertaining to vendor being recommended for contract award.

<http://www.miamidade.gov/govaction/matter.asp?matter=152271&file=true&yearFolder=Y2015>

**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>

**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 (ISD); 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>

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**Item No. 8F11  
File No. 190391**

**Researcher: JFP   Reviewer: TD**

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-01004 FOR PURCHASE OF RAIL FLAT CARS FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS FOR A ONE-TIME PURCHASE OF \$854,000.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO GIVE NOTICE OF THIS AWARD, ISSUE THE APPROPRIATE PURCHASE ORDERS TO GIVE EFFECT TO SAME AND EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSES

**ISSUE/REQUESTED ACTION**

Whether the Board should approve award of *Contract No. FB-01004, Rail Flat Cars* for the Department of Transportation and Public Works' purchase of three Rail Flat Cars in the amount of \$854,000, and authorize the use of Charter County Transportation Surtax funds for this purpose.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

This item was forwarded to the BCC with a favorable recommendation by the Transportation and Finance Committee at its March 13, 2019 meeting.

**ANALYSIS**

The purpose of this item is to seek Board approval of a contract award in the amount of \$854,000 for the Department of Transportation and Public Works' purchase of three Rail Flat Cars to replace three aging Rail Flat Cars currently in use which no longer meet the needs of the department. The item also calls for authorization of the use of Charter County Transportation Surtax funds for this purchase.

Rail Flat Cars are used in the Metrorail System and Lehman Yard to transport equipment, materials, tools and staff to different locations on the Rail System to facilitate repairs, maintenance and other wayside related maintenance.

The vendor recommended for award, Geismar North America, Inc., is a non-local vendor, yet deemed to be the responsible bidder with the lowest priced responsive bid. Four vendors responded to the solicitation with the only local vendor, Begus Online, LLC, deemed non-responsive. Per the Mayoral Memorandum, SBD indicated that there were four SBE certified firms under the procurement's commodity code, yet all relayed that they were unable to meet the solicitation requirements.

OCA performed a commodity code search in the Business Management Workforce System (BMWS) for applicable commodity code 559: Mass Transportation – Rail Vehicle Parts and Accessories on April 3, 2019 and produced the following findings (8 SBEs):

- Affordable Metal, Inc.
- AmeTrade, Inc., dba AmePower
- B & R Electronics Supply, Inc.
- Eastern Rail Corp.
- Paramount Electric and Lighting, Inc.
- The Tool Place Corp.

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- Total Connection Inc.
- Trinity Electric Sales & Service Inc. dba Trinity Lighting Etc.

An April 3, 2019 search on Sunbiz.org, the official State of Florida Division of Corporations website, revealed that Geismar North America, Inc. is not listed as registered to do business in Florida. Geismar North America, Inc. established its North America headquarters and its first manufacturing facility in the U.S. in Beaufort, South Carolina in 2017.

**ADDITIONAL INFORMATION**

**Half Penny Charter County Sales Surtax/The People's Plan**

<https://www.miamidade.gov/publicworks/peoples-transportation.asp>

<http://www.miamidade.gov/citt/peoples-transportation-plan.asp>

**Geismar North America, Inc.**

Geismar North America is a manufacturer and distributor of railway maintenance equipment, with two facilities—one in Beaufort, South Carolina and the other in Canada.

<http://geismar-mtm.com/index.html>

**Geismar launching first U.S. manufacturing facility in Beaufort County (March 28, 2017)**

<https://www.scommerce.com/news/geismar-launching-first-us-manufacturing-facility-beaufort-county>

**APPLICABLE LEGISLATION/POLICY**

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

[https://library.municode.com/fl/miami\\_-](https://library.municode.com/fl/miami_-)

[\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Resolution No. R-716-12**, adopted 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 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 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>

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Research Notes**

**Item No. 8F12  
File No. 190740**

**Researcher: JFP   Reviewer: TD**

RESOLUTION APPROVING SETTLEMENT OF LITIGATION BETWEEN MIAMI-DADE COUNTY AND COURTHOUSE REALTY CORPORATION (COURTHOUSE REALTY CORP VS. MIAMI-DADE COUNTY, CASE NO -2018-035292-CA-01) AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE PAYMENT IN THE AMOUNT OF \$23,770.63 TO SETTLE CLAIMS MADE BY COURTHOUSE REALTY CORPORATION

**ISSUE/REQUESTED ACTION**

Whether the Board should approve settlement of litigation between the County and landlord, Courthouse Realty Corporation, settling claims made by Courthouse Realty Corporation with the County's payment of \$23,770.63.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Eileen Higgins, District 5  
Department/Requester: Internal Services Department**

This item has no procedural history.

**ANALYSIS**

The purpose of this item is to approve litigation settlement between the County and landlord, Courthouse Realty Corporation, in the amount of \$23,770.63, settling claims made by Courthouse Realty Corporation regarding a property located at 22 NW 1<sup>st</sup> Street, Miami, Florida. The property is located in District 5 and was leased for the purposes of providing office space for the Clerk of the Courts, Eleventh Judicial Circuit (Clerk of the Courts). The Clerk of the Courts has been leasing this property since April 1999, with Courthouse Realty Corporation as landlord since December 2015.

In January 2016, Courthouse Realty Corporation requested that the County pay the salaries and wages of the Courthouse Realty Corporation employees that maintained the property, rather than have a third-party provide such services at a higher cost. This arrangement, which was not detailed in the lease agreement between the County and Courthouse Realty Corporation, was approved by a County employee.

The maintenance services were rendered, but the County did not reimburse the expenses amounting to \$47,541.25 due to language in the lease agreement prohibiting reimbursement for such services. A lawsuit was filed by Courthouse Realty Corporation against the County for claims of both breach of contract and unjust enrichment, claiming \$47,541.25 as damages, and requesting payment of attorneys' fees.

The settlement of \$23,770.63 is half of the amount of reimbursement expected from the County for the salaries and wages of the Courthouse Realty Corporation maintenance employees. Pursuant to the County's Offer of Judgment to Plaintiff, the offer, and the plaintiff's acceptance of the offer, does not in any way act as an admission of liability or wrongdoing on the part of the County. The County contends that there was no malicious intent by the landlord or the County employee who approved the agreement to evade the provisions of the lease agreement.

**APPLICABLE LEGISLATION/POLICY**

**Resolution No. R-351-99**, adopted April 13, 1999, approves a Lease Agreement between Miami-Dade County and Salomon Turner for property located at 22 NW 1<sup>st</sup> Street, Miami, Florida, to be utilized by the Clerk of the Circuit and County Courts, County Recorder's Office.

<http://intra/gia/matter.asp?matter=990648&file=false&yearFolder=Y1999>

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**Resolution No. 1069-15**, adopted December 1, 2015, provides for the execution of a new lease agreement with the successor-in-interest to Salomon Turner, Courthouse Realty Corporation.

<http://intra/gia/matter.asp?matter=152549&file=true&yearFolder=Y2015>

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Research Notes**

**Item No. 8H2  
File No. 190479**

**Researcher: PGE   Reviewer: TD**

RESOLUTION WAIVING COMPETITIVE BIDDING BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT IN ACCORDANCE WITH SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 26-34 OF THE CODE OF MIAMI-DADE COUNTY TO APPROVE A PROGRAMMING PARTNERSHIP OPERATING AND DEVELOPMENT AGREEMENT AT GREYNOLDS PARK BETWEEN MIAMI-DADE COUNTY AND THE MUSEUM OF SCIENCE, INC., A NOT FOR PROFIT ENTITY, FOR THE OPERATION, MAINTENANCE, DEVELOPMENT AND CONSTRUCTION OF A RAPTOR REHABILITATION CENTER AS A NATURE CONSERVATION AND EDUCATION PARK FACILITY FOR AN INITIAL TEN-YEAR TERM, WITH GUARANTEED YEARLY FEES TO THE COUNTY OF \$1,006,500.00 DURING INITIAL TERM; WAIVING PROVISIONS OF ADMINISTRATIVE ORDER 3-36 WHICH REQUIRE AGREEMENT TO HAVE TERMINATION FOR CONVENIENCE CLAUSE; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL RIGHTS AND PROVISIONS IN THE AGREEMENT

**ISSUE/REQUESTED ACTION**

Whether the Board should waive formal bid procedures by a two-thirds vote of the Board members present in accord with Section 5.03(D) of the Home Rule Charter and Section 26-34 of the County Code to approve a programming partnership operating and development agreement at Greynolds Park between Miami-Dade County and the Museum of Science, Inc. for the operation, maintenance, development and construction of a Raptor Rehabilitation Center for an initial 10-year term plus two, five-year optional renewal terms with guaranteed yearly fees to the County totaling \$229,981.89 for the initial term.

**PROCEDURAL HISTORY**

**Prime Sponsor: Audrey M. Edmonson, District 3**

**Department/Requester: Parks, Recreation and Open Spaces Department**

The item was considered at the Parks, Recreation and Cultural Affairs Committee meeting on March 14, 2019 wherein it was forwarded to the Board with a favorable recommendation.

**ANALYSIS**

The purpose of this item is to approve a programming partnership operating and development agreement at Greynolds Park between Miami-Dade County and the Museum of Science, Inc. for the operation, maintenance, development and construction of a Raptor Rehabilitation Center. The term of the agreement is for 10 years plus two, five-year optional renewal terms. Under the agreement, there are guaranteed yearly fees to the County totaling \$229,981.89 for the initial term. See Appendix B of the agreement, setting forth the Guaranteed Yearly Park Programming Fees. The Center will be located at a former fire station building within Greynolds Park, which is within District 4, represented by Commission Sally A. Heyman.

The Museum of Science managed a Bird of Prey Center dedicated to the rehabilitation and release of injured native birds of prey on Vizcaya property pursuant to a lease agreement with the County that terminated on September 30, 2018. That lease agreement cannot be extended at that location per Vizcaya's master plan which called for the area where the center was located to be reconstructed and restored to its original uses. Accordingly, the former fire station building at Greynolds Park was identified as a suitable alternative site. The Museum of Science was awarded grant funding from the Batchelor Foundation and the State of Florida to convert the fire station to the Raptor Rehabilitation Center.

Given the Museum's significant capital and operational investment in the Center and the conditions of the state grant requiring that the Museum have the site secured for 10 years, it is recommended that the Board waive the requirements of Administrative Order No. 3-36 which requires a termination for convenience clause in programming partnership agreements. Also, waiver of

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competitive bidding for the selection of the Museum of Science is recommended by the Administration due to the Museum's specialized experience in delivering the required preservation and conservation services as well as its commitment to renovating the park facility at its own expense. Moreover, the Museum has a successful performance history relating to the management of a raptor rehabilitation center.

The key services to be delivered by the Museum of Science pursuant to the Programming Partnership Operating and Development Agreement are bulleted below:

- Provide the raptor rehabilitation center, including a surgery suite, holding area, food prep, recovery area, radiology room, necropsy room and general clinic;
- Provide educational programming focusing on environmental science;
- Expand the Frost Museum's camp experience from downtown by acting as a field trip site to introduce campers to the natural habitants at Greynolds Park;
- Partner with the County to develop cooperative environmental programming to County onsite campers during the winter, spring and summer camps;
- Implement citizen science activities such as species surveys or water quality testing; and
- Design, construct and maintain interpretive exhibits.

**APPLICABLE LEGISLATION/POLICY**

**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>

**Article 7 of the Home Rule Charter** sets forth the County's policies relating to parks, aquatic preserves and preservation lands.

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

**Section 26-34 of the County Code (Existing Partners)** provides that community-based not-for-profit organizations and programming partners currently providing or desiring to provide programming services at County Park and Recreation Facilities may be offered the opportunity to negotiate and/or renew a Programming Partnership Agreement with the Department based on the needs of the Department provided that no such term, extension or renewal shall extend beyond 10 years following the effective date of this ordinance. In the event that no agreement can be reached to the mutual satisfaction of the parties, and in any event following the expiration of any agreed upon term, extension or renewal an open competitive process will be initiated. The Board, upon written recommendation of the County Mayor or the County Mayor's designee, may by two-thirds vote of the members present waive competitive bidding when it finds this to be in the best interest of the County. Nothing in this section shall impair any validly existing contractual rights.

[https://library.municode.com/fl/miami\\_-](https://library.municode.com/fl/miami_-)

[\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH26PAREDERURE\\_ARTIIPRPAPR\\_S26-34EXPA](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH26PAREDERURE_ARTIIPRPAPR_S26-34EXPA)

**Article III of the County Code (Shannon Melendi Act)** provides that employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall secure a nationwide criminal background check of all existing child event workers, park vendors, employees, and volunteers whose duties require physical presence on park property owned or operated by Miami-Dade County. In addition, prior to employing or allowing to volunteer a person whose duties would require physical presence on park property owned or operated by Miami-Dade County, employers of child event workers, employers of park vendors, and Programming Partners and CBOs shall secure a nationwide criminal background check of all such prospective child event workers, park vendors, employees or volunteers.

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[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH26PAREDERURE\\_ARTIITHSHMEAC](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH26PAREDERURE_ARTIITHSHMEAC)

**Administrative Order No. 3-36** sets forth a standard process to recruit, select and evaluate programming partners to ensure the quality, diversity, equity and accountability of park and recreation programs as well as the stewardship of public park lands. Programming partnership agreements may be terminated for cause or convenience by either party upon 60 days written notice.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-36.pdf>



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**Item No. 8H4  
File No. 190450**

**Researcher: IL   Reviewer: TD**

RESOLUTION APPROVING A DECLARATION OF RESTRICTIVE COVENANTS AMONG MIAMI-DADE COUNTY, THE CITY OF CORAL GABLES AND MIAMI DEVELOPMENT FUND, LLC AT AN ESTIMATED UP FRONT COST OF \$400,000.00 AND ANNUAL MAINTENANCE COSTS OF \$ 15,000.00 FOR THE PROVISION OF EIGHTY (80) NON-EXCLUSIVE PARKING SPACES AT 7350 SW 24 STREET IN MIAMI-DADE COUNTY FOR USE BY THE COUNTY FOR PATRONS OF BROTHERS TO THE RESCUE MEMORIAL PARK; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE DECLARATION OF RESTRICTIVE COVENANTS AND EXERCISE ALL PROVISIONS CONTAINED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should approve a declaration of restrictive covenants between Miami-Dade County (County) and the City of Coral Gables (City) and Miami Development Fund, LLC for (90) non-exclusive parking spaces located at 7350 SW 24 Street for the Miami-Dade County Parks and Recreation and Open Spaces (PROS).

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner: Rebecca Sosa, District 6**

**Department/Requester: Parks, Recreation and Open Spaces**

This item was forwarded with a favorable recommendation from the Parks, Recreation and Cultural Affairs Committee on March 14, 2019,

**ANALYSIS**

The purpose of this item is to seek approval of a declaration for restrictive covenants between Miami-Dade County and the City of Coral Gables and Miami Development Fund, LLC. At an estimated up front cost of \$400,000.00 and annual maintenance costs of \$15,000 for eighty (90) non-exclusive parking spaces located at 7350 SW 24 Street for the Miami-Dade County Parks, Recreation and Open Spaces (PROS).

The fiscal impact for the construction cost, maintenance and repair is \$400,000.00 with the annual maintenance cost for the parking lot is \$15,000.00.

The City and County entered into an inter-local agreement in 2006 providing eighty parking spaces to the County for use by park patrons in perpetuity for so long as the County operated Brother's to the Rescue Memorial Park. On March 1, 2005 the BCC approved Resolution No. R-293-05 authorizing an inter-local agreement with the City for the consent of a sublease with the Coral Gables Police Benevolent Association for an 80-space parking lot on the PBA parcel adjacent to Brothers to the Rescue Park for vehicle parking for non-exclusive use by park patrons.

Companion Board Resolution No. R-294-05 authorized an agreement between the County and the PBA for the construction of the parking lot adjacent to Brothers to the Rescue Park. The Inter-local Agreement with the City obligated the County to improve the parking lot through the agreement with the PBA. The property was sold on December 2018 and prior to the sale the City contacted the County about modifying the inter-local agreement into declaration (covenant) that would run with the land requiring that the use and enjoyment of the parking lot would continue to be available. The term of the declaration is 30 years from the date of recordation with automatic extensions for ten-year periods.

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Key provisions of the agreement include:

- Operating time - Parking lot hours are from 7:00am – 11:00pm daily. (Time is extended until midnight during special events, i.e. tournaments)
- Improvements - County shall compensate the Owner or Owner's designee for costs associated with any improvements made by the owner to the parking lot, subject to the prior written approval of the County.
- Maintenance – County, at its sole cost and expense, shall maintain the Parking Lot in good order and condition, and make all necessary repairs.
- Covenant Running with the Land - This declaration on the part of the owner constitutes a covenant running with the land and shall be recorded, at Owner's expense, in the public records of Miami-Dade County, Florida. This covenant remains in full force and effect is binding on the owner and its heirs, successors and assigns until it is modified or released. These restrictions are for the benefit of the County and the public welfare.

*Illustration of the parking lot*



**DEPARTMENTAL INPUT:**

The following question was posed to the department on March 11, 2019, the response is below in bold print:

- Why was the parking lot not improved as mandated by the PBA agreement that was entered into in 2005?

**Over the years, the Parks, Recreation and Open Spaces Department had discussions with potential developers for a land-swap that would have expanded the parks acreage and provided the funding for a parking lot, however these negotiations were unsuccessful.**

**APPLICABLE LEGISLATION/POLICY**

**Section 2-9 of the Code of Miami-Dade County**, (Contracts with municipalities or governmental units for services-Authority of Manager), authorizes the County Manager/Mayor to enter into contracts in behalf of this County with municipalities and other governmental units for joint performance with the County or performance by any municipality or other governmental unit in behalf of the County or any function or service which the County is authorized or directed to perform under Section 11, Article VIII of the Florida Constitution, the Home Rule Charter, or any ordinance adopted by the Board.

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[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-9COMUGOUNSEUTMA](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-9COMUGOUNSEUTMA)

**Section 2-10 of the Code of Miami-Dade County**, (Same-Ratification of Board; duration; filing), all contracts authorized by Section 2-9 shall be entered into subject to ratification by the County Commission and no such contract shall extend for a period longer than one (1) year without the express authorization of the Commission. All such contracts shall be filed with the Clerk of the Commission and the Clerk of the other governmental unit involved and shall be open to public inspection.

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-10SAATBODUFI](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-10SAATBODUFI)

**Resolution No. R-293-05**, adopted March 3, 2005, authorized the County Mayor to execute an interlocal agreement with the City of Coral Gables providing terms and conditions for the County to use City owned land for parking adjacent to Brothers to the rescue park.

<http://www.miamidade.gov/govaction/matter.asp?matter=050401&file=true&fileAnalysis=false&yearFolder=Y2005>

**Resolution No. R-294-05**, adopted March 3, 2005, authorized the execution of an agreement with the Coral Gables Police Benevolent Association for the construction of a parking lot adjacent to Brothers to the rescue park, and waiver of formal bid and bid protest procedures.

<http://www.miamidade.gov/govaction/matter.asp?matter=050402&file=true&fileAnalysis=false&yearFolder=Y2005>

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**Item No. 8H5  
File No. 190469**

**Researcher: JFP   Reviewer: TD**

RESOLUTION AMENDING IMPLEMENTING ORDER 4-119 RELATED TO THE FEE SCHEDULE FOR THE MIAMI-DADE PARKS, RECREATION AND OPEN SPACES DEPARTMENT

**ISSUE/REQUESTED ACTION**

Whether the Board should amend Implementing Order 4-119 on behalf of the County's Parks, Recreation and Open Spaces Department to include a schedule of fees for the operation of Community Health and Fitness Centers.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Parks, Recreation and Open Spaces**

This item was forwarded to the BCC with a favorable recommendation by the Parks, Recreation and Cultural Affairs Committee at its March 14, 2019 meeting.

**ANALYSIS**

The purpose of this item is to amend the Fee Schedule for the Parks, Recreation and Open Spaces Department (PROS), Implementing Order 4-119, incorporating a schedule of fees for the operation of Community Health and Fitness Centers. The North Pointe Community Center in District 1 is the first facility anticipated to provide memberships and classes, beginning this Fiscal Year (2018-19), with the new fees expected to generate approximately \$229,000 in revenues in its first full year of operations.

The County began maintaining North Pointe Community Center in Fiscal Year 2018-2019 due to expiration of the County's agreement with the YMCA as a programming partner of PROS for this facility. Beginning in March 2019, PROS will begin to operate, maintain and provide programming at the Community Center as a health and fitness center, with the services and classes remaining the same as when operated by the YMCA. The amendments proposed in this item allow for the collection of fees from community center patrons, producing revenues that will partially offset the cost of operating the community center.

The proposed resolution could potentially affect multiple parks that choose to apply the North Pointe Community Center model in the future. The fee structure in the proposed resolution applies to all PROS facilities and would apply to future community centers.

The following is the proposed language for the newly created fee section related to the Community Health and Fitness Center. Deleted language is marked with strikethroughs and added language is underlined.

**Implementing Order No.: 4-119**

**Title: FEE SCHEDULE FOR THE MIAMI-DADE PARKS, RECREATION AND OPEN SPACES DEPARTMENT**

**Ordered: ~~9/20/18~~ 4/9/19**

**Effective: ~~10/1/18~~ 4/19/19**

\* \* \*

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<b><u>SPECIALTY OPERATIONS (VALUE ADDED SERVICES)</u></b>	<b><u>Adopted Range</u></b>	
<b><u>COMMUNITY HEALTH AND FITNESS CENTER</u></b>	<b><u>Minimum</u></b>	<b><u>Maximum</u></b>
<b><u>Classes</u></b>		
<u>Exercise Training Classes</u>	<u>\$10.00</u>	<u>\$100.00</u>
<b><u>Facility Use Pass</u></b>		
<u>Daily Pass</u>	<u>\$5.00</u>	<u>\$20.00</u>
<u>Monthly Pass</u>	<u>\$25.00</u>	<u>\$75.00</u>
<u>Registration Fee</u>	<u>\$40.00</u>	<u>\$60.00</u>

**ADDITIONAL INFORMATION**

Detailed below are the fees being implemented at the North Pointe Community Center, all within the ranges in the proposed resolution's fee schedule for the Miami-Dade Parks, Recreation and Open Spaces Department.

***North Pointe Community Center***

One time \$50 registration fee (waived for current YMCA members). Special discount for CCMCAN members.

**Monthly Membership Rates**

Young Adult (18-26 years of age) - \$38

Single (27-64 years of age) - \$47

Couple - \$63

Household (3 people) - \$69

Senior (65 and older) - \$36

Senior Couple - \$51

**Aquatics (day rate)**

Fitness and Pool - \$12

Pool Only - \$7

Fitness & Pool Couple - \$20

Pool Only Couple - \$12

<https://www.miamidade.gov/parks/north-pointe.asp>

**APPLICABLE LEGISLATION/POLICY**

**Chapter 26 of the Code of Miami-Dade County** details Park and Recreation Department rules and regulations.

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH26PAREDERURE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH26PAREDERURE)

**Section 1.01, The Home Rule Charter of Miami-Dade County** delineates the Board's powers, including the authority to provide parks, preserves, playgrounds, recreation areas, libraries, museums, and other recreational and cultural facilities and programs.

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

**Section 2.02A, The Home Rule Charter of Miami-Dade County** delineates the responsibilities of the Mayor, specifying that the Mayor shall be responsible for the management of all administrative departments of the County government and for carrying out policies adopted by the Commission.

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

**Implementing Order 4-119**, effective October 1, 2018, provides a schedule of fees for services, programs, and attractions provided or operation by the Parks, Recreation and Open Spaces Department.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO4-119.pdf>

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**Item No. 8J2  
File No. 190419**

**Researcher: IL   Reviewer: TD**

RESOLUTION APPROVING CONTRACT AWARD TO PAC COMM, INC. FOR CRUISE TERMINAL J SEAWALL REPAIRS, CONTRACT NO. 2015-051.03, IN AN AMOUNT NOT TO EXCEED \$8,151,960.00; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL RIGHTS CONTAINED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should award a construction contract between the County and Pac Comm, Inc., (PCI), for Cruise Terminal J Seawall repairs at Port Miami, in the amount of \$8,151,960.00 for a term of 365 days.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Port Miami**

This item was forwarded with a favorable recommendation from the Tourism and the Ports Committee on March 12, 2019,

**ANALYSIS**

The purpose of this item is to request the BCC award a construction contract between the County and Pac Comm, Inc., (PCI), for the Cruise Terminal J Seawall repairs at Port Miami, in the amount of \$8,151,960.00 for a term of 365 days.

The fiscal impact of this project is \$8,151,960.00 funded through budget code 646300-South Bulkhead – Rehabilitation Book page 144 (FEMA Reimbursement) and budget code 646300 – South Bulkhead – Rehabilitation Book page 144 (FEMA Reimbursement).

The project worksheets for this project indicated no small business enterprise measure appropriate for this contract due to the funding source. This project is funded by FEMA.

The work consists of construction work including:

- A. Traffic maintenance
- B. Temporary fencing, barriers and gates to define the work area; demolition, excavation, removal of existing bulkhead and extending down to 3.0 feet (mean low tide); backfilling and compacting excavated areas; installation of double-bitt deck fittings (marine bollards)
- C. Foam-filled fender system; extending the potable water and fire protection distribution system, providing fire hydrant and potable water stations, with concrete enclosures; and paving apron area providing pavement markings and signage.

The project was advertised on August 23, 2018 and nine proposals were received by October 11, 2018. The lowest bid received was by PCI in an amount of \$7,192,000. The original base estimate of \$8,683,711.16 included within the Request to Advertise, was revised downward to \$8,612,421.57 during the bidding process due to a quantity adjustment by Jacobs, Inc., the Engineer of Record (EOR). The revised base estimate, \$8,612,421.57 is .82 percent lower than the original base estimate.

OCA conducted a review of the following commodity codes; 968-42 (General Construction) 47, 237110 (Water and Sewer Line and related structures construction) 375, 237310 (Highway, Street, and Bridge Construction) 96, 238910 (Site preparation contractors) 375 on the Business Management Workforce System (BMWS) on March 22, 2019 and found approximately 893 SBE Firms under these commodity codes.



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Pac Comm, Inc., maintains an active status on Sunbiz.org, the official website of the Division of Corporations for the State of Florida, with a principal address of 2900 N.W. 39 Street, Miami, FL 33142. Additionally, Pac Comm, Inc., has an active account with the Miami-Dade County Tax Collector's office. Pac Comm, Inc., possesses a series of licenses in Construction, Certified General Contractor, and Constructional Financial Officer with no complaints listed on the Department of Business and Professional Regulation's website.

Pursuant to Resolution No. R-421-16, a Performance Record verification was conducted by OCA in the Capital Improvements Information System (CIIS) on March 22, 2019. There are 0 performance evaluations in the Capital Improvements Information Systems Database for Pac Comm, Inc.

**ADDITIONAL INFORMATION**

Pac Comm, Inc., was awarded a contract with the City of North Miami, for design-build services for the North Bayshore Park Fishing and Viewing Pier.

[http://www.northmiamifl.gov/Docs/AgendasMinutes/TABF04082014\\_1.pdf](http://www.northmiamifl.gov/Docs/AgendasMinutes/TABF04082014_1.pdf)

**APPLICABLE LEGISLATION/POLICY**

**Chapter 287 of the Florida Statutes**, Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties, will govern how each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0200-0299/0287/Sections/0287.055.html](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=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Section 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=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-10.4ACPRARENLAARLASUMASE](https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_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>

**Resolution No. R-1001-15**, adopted November 3, 2015, requires contracts with small business measures to 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>

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**Resolution No. R-525-17**, adopted May 2, 2017, amended Resolution No. R-1001-15 to except non-compensatory time extensions from the requirement that contracts with small business measures meet at least 85 percent of the small business goals applicable to the portion of the contract work performed to date before a change order or contract amendment be considered for Board or mayoral approval.

<http://intra/gia/matter.asp?matter=170595&file=true&yearFolder=Y2017>

**Resolution No. R-421-16**, adopted May 17, 2016, requires (1) the County Mayor 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; and (2) all County departments to complete contractor evaluations before closing out a contract and making final payment to a contractor.

<http://www.miamidade.gov/govaction/matter.asp?matter=160124&file=true&fileAnalysis=false&yearFolder=Y2016>

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

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

**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, be expended with CBE-A/E's certified under the CBE-A/E ordinance.

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



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**Item No. 8J3  
File No. 190421**

**Researcher: PGE    Reviewer: TD**

RESOLUTION APPROVING CONTRACT WITH JVA ENGINEERING CONTRACTOR, INC., FOR SEABOARD MARINE CARGO TERMINAL REDEVELOPMENT PHASE II (5 OF 5), CONTRACT NO. 2016-058.02, IN AN AMOUNT NOT TO EXCEED \$5,578,699.26; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL RIGHTS CONTAINED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should approve a contract award between the County and JVA Engineering Contractor, Inc. in an amount of up to \$5,578,699.26 for a project titled "Seaboard Marine Cargo Terminal Redevelopment Phase II (5 of 5)" for a term of 240 days for PortMiami.

**PROCEDURAL HISTORY**

**Prime Sponsor: N/A**

**Department/Requester: Transportation and Public Works**

This item was considered at the Tourism and Ports Committee on March 13, 2019 and forwarded to the Board with a favorable recommendation.

**ANALYSIS**

The purpose of this item is to establish a construction contract with JVA Engineering Contractor, Inc. for the redevelopment of the Seaboard Marine Cargo Terminal. The project scope encompasses improvements to seven acres, including mobilization/demobilization; demolition and removal of existing materials; furnishing and installing heavy duty asphalt pavement; new catch basins and related drainage system; and utility adjustments.

The contract has a value of \$5,578,699.26, which consist of the base contract amount of \$4,936,902, the contingency allowance of \$493,690.20 and permit fees of \$148,107.06. The contract period is for 240 days with a contingency period of 24 days. It is unclear from a review of the contract and the mayoral memorandum how payment will be distributed, e.g., lump sum or linked to milestones and deliverables. Additionally, the contract appears to be a standard form for such projects and does not include an attachment setting forth a detailed scope of work.

The project was advertised on June 21, 2018. On July 26, 2018, five bids were received in response to the solicitation. The recommended contractor – JVA Engineering – submitted the lowest bid (\$4,963,902). JVA Engineering's bid amount is 12.92 percent below the base estimate of \$5,669,463.82 that was included in the Request to Advertise. JVA has confirmed that it will deliver the solicited services for the price it proffered. On August 21, 2018, JVA Engineering signed the recommended construction contract.

The small business measures applicable to the contract are a SBE/GS of 0.63 percent (\$34,213) and a SBE/CON of 12.56 percent (\$682,082.38). There is also a CWP goal of 10 percent. It is unclear from the agenda item which firms JVA Engineering intends to utilize to satisfy the measures.

Based on information pulled on Sunbiz.org, the official State of Florida Division of Corporations website, on April 5, 2019, JVA Engineering is an active, Florida for-profit company located at 6600 NW 32 Avenue, Miami, Florida. As of April 5, 2019, the company's principal, Jose M. Alvarez, holds a Certified General Contractor and Certified Underground Utility and Excavation Contractor licenses per information found on the website of the Florida Department of Business & Professional Regulation.

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Pursuant to Resolution No. R-1181-18, PortMiami must (1) consider the safety records of prospective contractors and first-tier subcontractors for public construction projects; and (2) confirm that the safety records of recommended contractors and first-tier subcontractors were considered and report any instances where the safety record may adversely affect a finding of contractor responsibility in award memorandum to the Board. Information relating to the required safety record check for JVA Engineering is absent from the agenda item.

The mayoral memorandum indicates that JVA Engineering has 50 evaluations listed in the Capital Improvements Information System (CIIS) with an average score of 3.6 out of a possible 4.0 performance rating. Note that a review of the CIIS on April 5, 2019 found that JVA Engineering has an evaluation count of 53 with an average evaluation score of 3.6.

Finally, it is important to mention that OCA was unable to verify whether JVA Engineering is currently a CSBE as stated in the mayoral memorandum. The firm does not have a SBE certification per a April 5, 2019 search on the Business Management Workforce System.

**APPLICABLE LEGISLATION/POLICY**

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

[https://library.municode.com/fl/miami -  
\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Section 2-8.1(h) 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 -  
\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Section 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 -  
\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH2AD\\_ARTIINGE\\_S2-8.3MARE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH2AD_ARTIINGE_S2-8.3MARE)

**Section 10-34 of the County Code** provides that for construction contracts in which a bidder may use a subcontractor which involve the expenditure of \$100,000 or more, such contracts shall require the entity contracting with the County to list all first tier subcontractors who will perform any part of the contract and all suppliers who will supply materials for the contract work.

[https://library.municode.com/fl/miami -  
\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIIICOR\\_CH10CO\\_ARTIIBIPUPR\\_S10-34LISURE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH10CO_ARTIIBIPUPR_S10-34LISURE)

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**Section 2-11.16 of the County Code** governs payment to laborers under construction contracts.

[https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-11.16COCOCO](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.16COCOCO)

**Ordinance No. 14-79**, adopted by the Board on September 3, 2014, requires that all agenda items related to planning, design and construction of County infrastructure include a statement that the impact of sea level rise has been considered.

<http://intra/gia/matter.asp?matter=141211&file=true&yearFolder=Y2014>

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

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

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

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

**Resolution No. R-1203-10**, adopted by the Board on December 7, 2010, directed the County Mayor to standardize construction documents and practices across all County departments.

<http://intra/gia/matter.asp?matter=102577&file=true&yearFolder=Y2010>

**Resolution No. R-421-16**, adopted by the Board on May 17, 2016, requires (1) the County Mayor 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; and (2) all County departments to complete contractor evaluations before closing out a contract and making final payment to a contractor.

<http://www.miamidade.gov/govaction/matter.asp?matter=160124&file=true&fileAnalysis=false&yearFolder=Y2016>

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

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

**Resolution No. R-1181-18**, adopted by the Board on November 8, 2018, directs the County Mayor to: (1) consider safety records of prospective contractors and first-tier subcontractors for public construction projects; and (2) confirm that the safety records of recommended contractors and first-tier subcontractors were considered and report any instances where the safety record may adversely affect a finding of contractor responsibility in award memorandum to the Board.

<http://intra/gia/matter.asp?matter=182536&file=true&yearFolder=Y2018>

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**Item No. 8K2  
File No. 190820**

**Researcher: IL   Reviewer: TD**

RESOLUTION APPROVING THE PUBLIC HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT DIRECTOR'S RECOMMENDATIONS TO INCREASE THE MAXIMUM SALES PRICE FROM \$205,000.00 TO AN AMOUNT NOT TO EXCEED \$250,000.00 FOR SINGLE FAMILY HOMES DEVELOPED AND SOLD OR FINANCED THROUGH THE SECOND MORTGAGE PROGRAM ON COUNTY-OWNED PROPERTIES BY DEVELOPERS THROUGH THE MIAMI-DADE COUNTY INFILL HOUSING INITIATIVE PROGRAM AND SOLD BY SUCH DEVELOPERS TO QUALIFIED HOMEBUYERS, TO INCREASE THE MAXIMUM SALES PRICE FROM \$215,000.000 TO AN AMOUNT NOT TO EXCEED \$260,000.00 FOR SINGLE FAMILY HOMES DEVELOPED AND SOLD OR FINANCED THROUGH THE SECOND MORTGAGE PROGRAM ON PRIVATELY-OWNED PROPERTIES BY DEVELOPERS THROUGH THE MIAMI-DADE COUNTY INFILL HOUSING INITIATIVE PROGRAM AND SOLD TO QUALIFIED HOMEBUYERS, AND TO INCREASE THE MAXIMUM SALES PRICE FROM \$205,000.00 TO AN AMOUNT NOT TO EXCEED \$350,000.00, BASED ON A SLIDING SCALE, FOR HOMES PURCHASED BY QUALIFIED HOMEBUYERS THROUGH THE MIAMI-DADE COUNTY AFFORDABLE HOUSING DEVELOPMENT AND SECOND MORTGAGE PROGRAMS; AMENDING IMPLEMENTING ORDER NO. 3-44 RELATED TO THE MIAMI-DADE COUNTY INFILL HOUSING INITIATIVE PROGRAM AND THE AFFORDABLE HOUSING PROGRAM GUIDELINES TO REVISE THE MAXIMUM SALES PRICES CONTAINED THEREIN; AMENDING THE INFILL HOUSING INITIATIVE PROGRAM GUIDELINES TO ALLOW THE MIAMI-DADE PUBLIC HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT TO REQUIRE INFILL HOUSING PROGRAM DEVELOPERS TO PROVIDE CERTIFIED COSTS OF THEIR TOTAL DEVELOPMENT COSTS AT COMPLETION OF CONSTRUCTION; AND AMENDING THE MIAMI-DADE COUNTY INFILL HOUSING INITIATIVE PROGRAM GUIDELINES TO ALLOW MIAMI-DADE PUBLIC HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT TO NEGOTIATE PRIOR TO CONVEYANCE OR PRIVATE LOT APPROVAL, A LOWER MAXIMUM SALES PRICE FOR HOMES SMALLER THAN THE TYPICAL HOMES DEVELOPED AND SOLD THROUGH THE MIAMI-DADE COUNTY INFILL HOUSING INITIATIVE PROGRAM

**ISSUE/REQUESTED ACTION**

Whether the Board should approve the increase on the maximum sales price from \$205,000 to \$235,000 for a single family homes that are County owned, from \$215,000 to \$245,000 for single family homes that are privately owned and from \$205,000 to \$310,000, based on a sliding scale for homes purchased by qualified homebuyers and amend Implementing Order 3-44 which establishes the maximum sales price for the Infill Housing Program for the Miami-Dade Public Housing and Community Development department (PHCD).

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Requester/Department: Miami-Dade Public Housing and Community Development**

This item came before the Housing, Social Service and Economic Development Committee on March 11, 2019. The item passed with a favorable recommendation to the BCC. Prior to its passage Assistant County Attorney Terrence Smith advised that a written document reflecting the amended language to the item Program was distributed in today's (3/11) meeting with changes to Table 1 on handwritten page 5. The proposed recommended maximum sales cap for County-owned lots would be \$235,000, rather than \$250,000, and the privately-owned lots to be \$245,000, rather than \$310,000.

Mr. Liu indicated there was a lack of resources to conduct a thorough analysis of the properties before assigned to the Infill Program and a fair warning of this issue was advised to parties involved prior to entering into the program. He noted developers expressed a number of concerns regarding the cost in order to meet standard requirements of development, as well as time to obtain zoning

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permits, trade practices, and basic materials. Mr. Liu noted a copy of the amended proposal was distributed at the committee meeting.

Commissioner Monestime expressed concern that although the cost of homes was an issue, the majority of families could not afford them. He pointed out that multiple family members purchased a single family home to live together in order for it to be affordable.

Chairman Moss questioned whether this would add to gentrification once the sales price cap was raised and buyers could not afford the homes, which might attract outside investors. He noted the circumstances may vary based on the neighborhood. Mr. Liu opined that the Infill Program had long-term vacant properties and some were considered blighted, unpaid tax revenue, undeveloped, and incurred County expenses to maintain the property. In most cases the community wanted the property developed. He pointed out the current and adjusted Infill Program was based on the appraisal and when it was lower than the maximum sale price the property sold at the appraised sale price that was based on the market price in that neighborhood.

Mr. Liu further noted there was no guarantee the appraisal price would not attract outside buyers.

Commissioner Martinez emphasized the need to decide as policy makers how to balance increasing grant funding in order to help people qualify to purchase a home because it would impact taxpayers. He agreed there might be increased home sale prices which might reduce the amount of taxpayer funding.

Commissioner Higgins questioned who conducts Infill Program home appraisals. Mr. Liu noted that appraisals are conducted by a third party lender. The process is strictly regulated and violation of Federal regulations carried large penalties.

**ANALYSIS**

The purpose of this item is to seek five revisions: 1) approval of an increase on the maximum sales price from \$205,000.00 to maximum amount not to exceed \$235,000.00 for single family homes developed and sold or financed through the second mortgage program on County-owned properties by developers through the Miami-Dade County Infill Housing Initiative Program (MDCIHIP) and sold to qualified homebuyers, 2) Approve the increase on the maximum sales price from \$215,000.000 to an amount not to exceed \$245,000.00 for single family homes developed and sold or financed through the second mortgage program on privately-owned properties by developers through MDCIHIP and sold to qualified homebuyers, 3) approve the increase on the maximum sales price from \$205,000 to an amount not to exceed \$310,000, based on a sliding scale, for homes purchased by qualified homebuyers through the Miami-Dade County affordable housing development and second mortgage programs, 4) amend Implementing Order No. 3-44 related to MDCIHIP and the Affordable Housing Program Guidelines revising the maximum sales prices and amending the requirement to provide certified costs of their total development costs and 5) amend MDCIHIP guidelines allowing PHCD to negotiate prior to conveyance of private lot, a lower maximum sales price for homes smaller than the typical homes developed and sold through the MDCIHIP program.

There is no fiscal impact to the County's general fund as a result of increasing the maximum sales prices for the Infill Housing Program and Affordable Housing Program.

The intent of the Infill Housing Program is to increase the availability of affordable homes for very low, low and moderate income persons, while maintaining a stock of affordable housing, redeveloping urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties. Currently, Implementing Order 3-44 establishes the maximum sales price for the Infill Housing Program at \$205,000 for county owned properties and \$215,000 for privately-owned properties without regard to the maximum sales price set pursuant to R-1324-08 for the second mortgage program.

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The Mayoral Memo states that due to the significant changes to the housing market as well as the increase cost of construction, PHCD reviewed the infill housing program guidelines and met with the Affordable Housing Advisory Board (AHAB) and infill housing program developers to obtain their input and recommendations.

A market study was conducted regarding the maximum sale price for City of Miami's affordable housing and first-time homebuyer programs as well as a review of the property appraiser's records on sales information within the study area. The study participants unanimously concluded that the maximum sales of homes sold through Miami-Dade County Infill Housing Program price should be correspondingly increased. The comparison with the City of Miami revealed that the City of Miami also increased its maximum sales price for its affordable housing and first-time homebuyer programs to \$276,000 as of May 1, 2018.

The following table outlines the recommended sliding scale maximum sales price for the various income levels.

<b>Table 1 – Affordable Housing Programs</b>	
<b>Income Range</b>	<b>Maximum Sales Price</b>
50 percent AMI	Up to \$185,000
80 percent AMI	Up to \$250,000
100 percent AMI	Up to \$285,000
120 percent AMI	Up to \$325,000
140 percent AMI	Up to \$350,000

\*Area Median Income (AMI) is the midpoint of a region's income distribution where half of families in a region earn more than the median and half earn less than the median.

<b>Number of Properties Sold by Year - PHCD</b>					
<b>Fiscal Year</b>	<b>60k-90k</b>	<b>90k-110k</b>	<b>110k-150k</b>	<b>150k-205k</b>	<b>Total Number of Units Sold</b>
10/2018 - 2/2019	1	2	11	25	39
10/2017 - 9/2018	0	3	27	72	102
10/2016 - 9/2017	2	5	38	68	113
10/2015 - 9/2016	4	5	49	45	103
10/2014 - 9/2015	4	5	32	59	100
10/2013 - 9/2014	1	6	50	66	123
10/2012 - 9/2013	0	26	52	63	141
<b>Total</b>	<b>12</b>	<b>52</b>	<b>259</b>	<b>398</b>	<b>721</b>



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The Table below illustrates costs of comparable properties:

<b>MIAMI-DADE COUNTY PROPERTY APPRAISAL COMPARABLE SALES</b>						
<small>(Data Obtained on 10/12/2018)</small>						
<b>ADDRESS</b>	<b>PROPERTY USE</b>	<b>YEAR BUILT</b>	<b>BEDS</b>	<b>BATHS</b>	<b>SALE MONTH</b>	<b>SALE AMOUNT</b>
515 NW 48 STREET	SINGLE FAMILY	2007	3	2	Mar-18	\$380,000
4990 NW 5 AVENUE	SINGLE FAMILY	1964	3	2	Feb-18	\$346,000
530 NW 49 STREET	SINGLE FAMILY	1970	3	2	Jul-18	\$238,000
5027 NW 6 AVENUE	SINGLE FAMILY	2017	3	2	Jul-18	\$250,000
4780 NW 3 AVENUE	SINGLE FAMILY	1966	3	2	Jul-18	\$266,250
4500 NW 3 AVENUE	SINGLE FAMILY	1939	3	2	Jun-18	\$360,000
15215 NW 24 AVENUE	SINGLE FAMILY	1962	3	2	Feb-18	\$232,000
10754 SW 107 COURT	SINGLE FAMILY	1974	3	2	Jun-18	\$310,000
15215 NW 24 AVENUE	SINGLE FAMILY	1962	3	2	Feb-18	\$232,000
2000 NW 111 STREET	SINGLE FAMILY	1956	3	2	Mar-18	\$250,000
2222 NW 105 STREET	SINGLE FAMILY	1953	3	2	May-18	\$250,000
1725 NW 90 STREET	SINGLE FAMILY	1957	3	2	Jun-18	\$250,000
2245 NW 101 STREET	SINGLE FAMILY	1954	3	2	Jul-18	\$248,000
1810 NW 52 STREET	SINGLE FAMILY	1050	3	2	Jul-18	\$265,000
1045 NW 53 STREET	SINGLE FAMILY	1948	3	2	May-18	\$249,900
1775 NW 76 TERRACE	SINGLE FAMILY	2005	3	2	Mar-18	\$244,000
17802 SW 114 AVENUE	SINGLE FAMILY	2000	3	2	Dec-17	\$235,000
Sales with No Bankruptcy consideration						<b>Average \$270,950</b>
						<b>Max. \$380,000</b>
						<b>Min. \$232,000</b>

**ADDITIONAL INFORMATION**

When construction costs are higher than the maximum sales price, affordable housing developers get creative

<https://www.denverpost.com/2017/02/23/affordable-housing-colorado-construction-costs/>

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**DEPARTMENTAL INPUT:** The following questions were asked to the Public Housing and Community Development Department on March 8, 2019.

1. If we raise the sales price are we not making it less attainable for Miami-Dade residents that are classified very low, low and moderate income? **PHCD staff has revised the Maximum Sales Cap resolution. The prior recommended maximum sales cap of \$250,000 will be amended to \$235,000 for County-owned lots, and from \$260,000 to \$245,000 for privately-owned lots. Also, the prior sales cap of \$350,000 for the Affordable Housing and Second Mortgage programs will be amended up to \$310,000 - based on a sliding scale.**
2. In Item 190431 there is mention that the AHAB recommended that a price increase be adopted. Could PHCD provide the ruling or recommendation from AHAB in writing or is there place where we can review the minutes of said meeting. **In addition, the Amended and Restated Deeds item (Agenda No. 3-F) is contingent upon Agenda No. 3-E. The prior recommendation of \$250,000 will also be amended to \$235,000.**
3. Using the table below could PHCD determine how many properties were sold by the given year in the bracketed amount? **See the table below (Table also inserted at page 3 of the analysis)**

<b>Number of Properties Sold by Year - PHCD</b>					
<b>Fiscal Year</b>	<b>60k-90k</b>	<b>90k-110k</b>	<b>110k-150k</b>	<b>150k-205k</b>	<b>Total Number of Units Sold</b>
10/2018 - 2/2019	1	2	11	25	39
10/2017 - 9/2018	0	3	27	72	102
10/2016 - 9/2017	2	5	38	68	113
10/2015 - 9/2016	4	5	49	45	103
10/2014 - 9/2015	4	5	32	59	100
10/2013 - 9/2014	1	6	50	66	123
10/2012 - 9/2013	0	26	52	63	141
<b>Total</b>	<b>12</b>	<b>52</b>	<b>259</b>	<b>398</b>	<b>721</b>

**APPLICABLE LEGISLATION/POLICY**

**Section 125.379(1)** of the Florida Statutes, (Disposition of County property for affordable housing) requires each County to prepare an inventory list at least every three (3) years of all real County properties that are appropriate for use as affordable housing and further allows the governing body of the County to revise the inventory list upon conclusion of a public hearing held before the governing body.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Section 125.379(2)** of the Florida Statutes, (Disposition of County property for affordable housing) Properties identified as appropriate for use as affordable housing on the inventory list may be offered for sale and the proceeds used to purchase land for



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the development of affordable housing or to increase the local government fund earmarked for affordable housing.  
[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Section 125.411** of the Florida Statutes, (Conveyance of land by County) relates to deeds of conveyance of lands.  
[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.411&URL=0100-0199/0125/Sections/0125.411.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.411&URL=0100-0199/0125/Sections/0125.411.html)

**Section 2-8.6.5** of the Code of Miami-Dade County, governs the purchase, sale and lease of real property.  
[https://library.municode.com/fl/miami-dade-county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR)

**Section 17-121** of the Code of Miami-Dade County, relates to the Infill Program, whose purpose is to increase the availability of affordable homes for very low, low and moderate income persons, maintain a stock of affordable housing, redevelop urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties, to equitably distribute homeownership opportunities within the Infill Target Areas, and generate payment of ad valorem taxes.  
[https://library.municode.com/fl/miami-dade-county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH17HO\\_ARTVIINHAIN\\_S17-121TIPU](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH17HO_ARTVIINHAIN_S17-121TIPU)

**Implementing Order No. 3-44**, establishes the process for implementation and management of the Infill Program for Miami-Dade County, whereby the procedures are established to carry out the goals of the Infill Program.  
<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-44.pdf>

**Administrative Order No. 8-4**, states that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded, a recommendation will be requested from the Planning Advisory Board, to indicate whether the proposal is in the public interest and also recommending proper land use classification, if applicable.  
<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

**Resolution No. R-974-09**, adopted on July 21, 2009, directs that any resolution authorizing the execution of instruments creating a County interest in real property shall require such instruments to be recorded in the public records of Miami-Dade County.  
<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2009/R-974-09.pdf>

**Resolution No. R-376-11**, adopted on May 3, 2011, directs that any resolution authorizing the rehabilitation, improvement or conveyance of County-owned real property appropriate to be used as affordable housing shall include detailed information on the property and the County's investment and future control.  
<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2011/R-376-11.pdf>

**Resolution No. R-333-15**, adopted April 21, 2015, establishes County policy requiring disclosure of market value or market rental in legislative items authorizing the conveyance or lease of County-owned property to promote public disclosure and fiscal responsibility.  
<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2015/R-333-15.pdf>

**Resolution No. R-145-17**, adopted on February 2, 2017, amending Implementing Order No. 3-44 related to the administration of the Miami-Dade County infill housing initiative; revising definitions, establishing procedures, program fees and reporting requirements for the administration of the program. <http://intra/gia/matter.asp?matter=170776&file=false&yearFolder=Y2017>

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**Resolution No. R-380-17**, adopted on April 4, 2017, established the policy requiring the County Mayor to provide written notification to the District Commissioner in which the County-owned property lies no less than four (4) weeks prior to placing any item on the agenda requesting approval of the sale, lease or surplus of County-owned property.

<http://intra/gia/matter.asp?matter=170414&file=true&yearFolder=Y2017>

**Resolution No. R-1324-08**, adopted on December 2, 2008, established the maximum sales price for the homeownership second mortgage program and homeownership units developed under the infill and housing development programs.

<http://intra/gia/matter.asp?matter=090353&file=false&yearFolder=Y2009>

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Research Notes**

**Item No. 8K3  
File No. 190822**

**Researcher: IL   Reviewer: TD**

RESOLUTION AUTHORIZING THE CHAIRWOMAN OR VICE-CHAIRWOMAN OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE AMENDED AND RESTATED COUNTY DEEDS AND A COUNTY DEED FOR 16 DEVELOPERS, NAMELY: 34 WAYS FOUNDATION, AFFORDABLE HOUSING AND COMMUNITY DEVELOPMENT, INC., CAZO CONSTRUCTION CORP., COLLECTIVE DEVELOPERS, LLC, ECOTECH VISIONS FOUNDATION, INC., FLORIDA CITY COMMUNITY REDEVELOPMENT AGENCY, HOUSING PROGRAMS, INC., J. L. BROWN DEVELOPMENT CORPORATION, LHP INVESTMENT & DEVELOPMENT, LLC., LITTLE HAITI HOUSING ASSOCIATION, INC. D/B/A HAITIAN AMERICAN COMMUNITY DEVELOPMENT CORP., MIAMI-DADE AFFORDABLE HOUSING FOUNDATION, INC., NANA & CRC AFFORDABLE HOUSING, LLC, PALMETTO HOMES OF MIAMI, INC., SIMCAR DEV, LLC, SOARING TO ACHIEVE RESULTS SYSTEMATICALLY DEVELOPMENT CENTER, INC.; AND WOMEN IN NEED OF DESTINY, INC. TO INCREASE THE MAXIMUM SALES PRICE FROM \$205,000.00 TO \$235,000.00 FOR SINGLE-FAMILY HOMES CONSTRUCTED AND SOLD TO QUALIFIED HOUSEHOLDS THROUGH AND IN ACCORDANCE WITH THE MIAMI-DADE INFILL HOUSING INITIATIVE PROGRAM, AS AMENDED; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO ENFORCE THE PROVISIONS SET FORTH IN SUCH AMENDED AND RESTATED COUNTY DEEDS AND A COUNTY DEED, TO EXERCISE ALL RIGHTS CONTAINED THEREIN, AND TO GRANT FROM THE EFFECTIVE DATES OF THE AMENDED AND RESTATED COUNTY DEEDS ADDITIONAL TWO-YEAR EXTENSIONS TO CONSTRUCT, COMPLETE AND SELL SINGLE FAMILY HOMES TO QUALIFIED HOMEBUYERS THROUGH THE INFILL HOUSING PROGRAM

**ISSUE/REQUESTED ACTION**

Whether the Board should approve an increase on the sales prices of homes sold through the Miami-Dade County Infill Housing Initiative Program (MDCIHIP) from \$205,000 up to \$235,000 and amend the County deeds for single family homes developed and sold by 16 developers through MDCIHIP, for Public Housing and Community Development (PHCD).

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Public Housing and Community Development**

This item came before the Housing, Social Service and Economic Development Committee on March 11, 2019. The item passed with a favorable recommendation to the BCC.

Prior to passage, Assistant County Attorney Terrence Smith advised that a written document reflecting the amended language regarding the Infill Program was distributed in today's (3/11) meeting with changes to Table 1 on handwritten page 5. The proposed recommended maximum sales cap for County-owned lots would be \$235,000, rather than \$250,000, and the privately-owned lots to be \$245,000, rather than \$310,000.

**ANALYSIS:**

The purpose of this item is to increase the sales price of homes sold through Miami-Dade County's Infill Housing Initiative Program (MDCIHIP) from \$205,000 up to \$235,000 for single family homes developed and to be sold by 16 developers through MDCIHIP, grant an additional two-year extension from the effective dates of the amended and restated County Deeds, to construct, complete and sell single family homes to qualified homebuyers through MDCIHIP, and for which such extensions shall only be granted to those developers, who were conveyed properties through County Deeds that were previously executed and recorded.

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The development costs are borne by MDCIHIP developers rendering no fiscal impact to the County. However, should the properties revert back in the event that the MDCIHIP developers are unable to develop the land, this would result in a monitoring and maintenance cost estimated at \$42,411 annually. There Is a positive fiscal impact as these properties will generate property taxes for the County over the next 20 years.

There are approximately 149 properties impacted by the modification to the deeds. They are broken down by commission district in the table below:

<b>Commission District</b>	<b>Number of Properties</b>
District 1 Represented by Commissioner Barbara J. Jordan	13
District 2 Represented by Commissioner Jean Monestime	25
District 3 Represented by Chairwoman Audrey M. Edmonson	76
District 9 Represented by Commissioner Dennis C. Moss	35
<b>Total</b>	<b>149</b>

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Below is a table listing the infill program developers and the County deed status:

	<b>Infill Program Developer</b>	<b>Resolution Numbers</b>	<b>County Deed Recorded Date</b>	<b>Two Year Expiration Date</b>
1	34 Ways Foundation	R-141-18	6/11/2018	6/11/2020
2	Affordable Housing and Community Development, Inc.	R-475-17	12/20/2017	12/20/2019
	Affordable Housing and Community Development, Inc.	R-495-18	6/15/2018	6/15/2020
3	CAZO Construction Corp.	R-556-17	6/15/2017	6/15/2019
4	Collective Developers, LLC.	R-869-16 R-556-17	6/16/2017	6/16/2019
5	ECOTECH Visions Foundation, Inc.	R-139-18	4/12/2018	4/12/2020
6	Florida City Community Redevelopment Agency	R-1217-18	Pending closing	Pending closing
7	Housing Programs, Inc.	R-787-12 R-191-16 R-556-17	6/15/2017	6/15/2019
	Housing Programs, Inc.	R-1214-18	5/10/2018	5/10/2020
8	J. L. Brown Development Corporation	R-618-18	7/18/2018	7/18/2020
9	LHP Investment & Development, LLC	R-1190-18	12/12/2018	12/12/2020
10	Little Haiti Housing Association, Inc. d/b/a Haitian American Community Development Corp.	R-242-14 R-556-17	6/15/2017	6/15/2019
11	Miami-Dade Affordable Housing Foundation, Inc.	R-980-15 R-556-17	6/15/2017	6/15/2019
12	NANA & CRC Affordable Housing, LLC	R-958-16 R-556-17	5/9/2017	5/9/2019
13	Palmetto Homes of Miami, Inc.	R- 556-17	6/15/2017	6/15/2019
14	SIMCAR Dev, LLC	R-915-18	10/10/2018	10/10/2020
15	Soaring To Achieve Results Systematically Development Center, Inc.	R-538-14 R-556-17	6/15/2017	6/15/2019
16	Women In Need of Destiny, Inc.	R-1005-14 R-556-17	6/15/2017	6/15/2019

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**DEPARTMENTAL INPUT:**

The following question was asked to the department on March 8, 2019 by OCA:

- If we raise the sales price are we not making it less attainable for those eligible?  
**PHCD staff has revised the Maximum Sales Cap resolution. The prior recommended maximum sales cap of \$250,000 will be amended to \$235,000 for County-owned lots, and from \$260,000 to \$245,000 for privately-owned lots. Also, the prior sales cap of \$350,000 for the Affordable Housing and Second Mortgage programs will be amended up to \$310,000 - based on a sliding scale.**
- Using the table below PHCD determined how many properties were sold by the given year in the amount in bold. (See below)

<b>Number of Properties Sold by Year - PHCD</b>					
<b>Fiscal Year</b>	<b>60k-90k</b>	<b>90k-110k</b>	<b>110k-150k</b>	<b>150k-205k</b>	<b>Total Number of Units Sold</b>
10/2018 - 2/2019	1	2	11	25	39
10/2017 - 9/2018	0	3	27	72	102
10/2016 - 9/2017	2	5	38	68	113
10/2015 - 9/2016	4	5	49	45	103
10/2014 - 9/2015	4	5	32	59	100
10/2013 - 9/2014	1	6	50	66	123
10/2012 - 9/2013	0	26	52	63	141
<b>Total</b>	<b>12</b>	<b>52</b>	<b>259</b>	<b>398</b>	<b>721</b>

**APPLICABLE LEGISLATION/POLICY**

**Section 125.379(1) of the Florida Statutes**, (Disposition of County property for affordable housing) requires each County to prepare an inventory list at least every three (3) years of all real County properties that are appropriate for use as affordable housing and further allows the governing body of the County to revise the inventory list upon conclusion of a public hearing held before the governing body.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Section 125.379(2) of the Florida Statutes**, (Disposition of County property for affordable housing) Properties identified as appropriate for use as affordable housing on the inventory list may be offered for sale and the proceeds used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html)

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**Section 125.411 of the Florida Statutes**, (Conveyance of land by County) relates to deeds of conveyance of lands.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&Appmode=Display\\_Statute&Search\\_String=125.411&URL=0100-0199/0125/Sections/0125.411.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&Appmode=Display_Statute&Search_String=125.411&URL=0100-0199/0125/Sections/0125.411.html)

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

[https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTINGE\\_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTINGE_S2-8.6.5PUSALEREPR)

**Section 17-121 of the Code of Miami-Dade County**, relates to the Infill Program, whose purpose is to increase the availability of affordable homes for very low, low and moderate income persons, maintain a stock of affordable housing, redevelop urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties, to equitably distribute homeownership opportunities within the Infill Target Areas, and generate payment of ad valorem taxes.

[https://library.municode.com/fl/miami-dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH17HO\\_ARTVIINHAIN\\_S17-121TIPU](https://library.municode.com/fl/miami-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH17HO_ARTVIINHAIN_S17-121TIPU)

**Implementing Order No. 3-44**, establishes the process for implementation and management of the Infill Program for Miami-Dade County, where the procedures are established to carry out the goals of the Infill Program.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-44.pdf>

**Administrative Order No. 8-4**, states that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded, a recommendation will be requested from the Planning Advisory Board, to indicate whether the proposal is in the public interest and also recommending proper land use classification, if applicable.

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

**Resolution No. R-974-09**, adopted July 21, 2009, directs that any resolution authorizing the execution of instruments creating a County interest in real property requiring those instruments to be recorded in the public records of Miami-Dade County.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2009/R-974-09.pdf>

**Resolution No. R-376-11**, adopted May 3, 2011, directs that any resolution authorizing the rehabilitation, improvement or conveyance of County-owned real property appropriate to be used as affordable housing shall include detailed information on the property and the County's investment and future control.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2011/R-376-11.pdf>

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

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2015/R-333-15.pdf>

**Resolution No. R-145-17**, adopted February 2, 2017, amending Implementing Order No. 3-44 related to the administration of the Miami-Dade County infill housing initiative, revising definitions, establishing procedures, program fees and reporting requirements for the administration of the program.

<http://intra/gia/matter.asp?matter=170776&file=false&yearFolder=Y2017>



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**Resolution No. R-380-17**, adopted April 4, 2017, established the policy requiring the County Mayor to provide written notification to the District Commissioner in which the County-owned property lies no less than four (4) weeks prior to placing any item on the agenda requesting approval of the sale, lease or surplus of County-owned property.

<http://intra/gia/matter.asp?matter=170414&file=true&yearFolder=Y2017>

**Resolution No. R-1324-08**, adopted December 2, 2008, established the maximum sales price for the homeownership second mortgage program and homeownership units developed under the infill and housing development programs.

<http://intra/gia/matter.asp?matter=090353&file=false&yearFolder=Y2009>

**Resolution No. R-979-17**, (Resolution Declaring 226 County-Owned Properties Surplus) adopted November 7, 2017, declares various County-owned properties surplus and revises the inventory list of real property listing properties in accordance with section 125.379(1), Florida Statutes; authorizing the County Mayor to include the properties in the Infill Program, subject to the consultation with each County Commissioner in whose district the properties are located; and waiving the requirements of Resolution Nos. R-376-11 and R-333-15.

<http://intra/gia/matter.asp?matter=171574&file=true&yearFolder=Y2017>

**Resolution No. R-141-18**, adopted February 6, 2018, conveyed three County-owned properties to 34 Ways Foundation, A Louisiana Not-For-Profit Corporation, at a price of \$10.00 for the purpose of developing affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=180012&file=true&fileAnalysis=false&yearFolder=Y2018>

**Resolution No. R-495-18**, adopted May 15, 2018, conveyed three County-owned properties to Affordable Housing and Community Development, Inc., A Florida Not-For-Profit Corporation, at a price of \$10.00, for the purpose of developing such properties with affordable housing to be sold to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=180850&file=true&fileAnalysis=true&yearFolder=Y2018>

**Resolution No. R-556-17**, adopted May 16, 2017, authorized execution of amended deeds and restated County deeds for 10 qualified infill developers, namely: Cazo Construction Corp., Collective Developers LLC, Habitat For Humanity of Greater Miami, Inc., Housing Programs, Inc., Little Haiti Housing Association, Inc. D/B/A Haitian American Community Development Corp., Miami-Dade Affordable Housing Foundation, Inc., Nana & CRC Affordable Housing, LLC, Palmetto Homes Of Miami, Inc., Soaring To Achieve Results Systematically Development Center, Inc., And Women In Need Of Destiny, Inc.; Amending Resolution Nos. R-1401-07, R-869-16, R-1059-15, R-1081-15, R-190-16, R-603-16, R-787-12, R-191-16, R-242-14, R-980-15, R-538-14, R-1005-14, R-958-16 And R-869-16; Accepting Promissory Note In The Amount Of \$28,000.00 From Nana & CRC Affordable Housing, LLC, and authorizing the County Mayor to execute a security agreement with Nana & CRC Affordable Housing, LLC as consideration to defer payment to the County of certain fees associated with the conveyance of the properties.

<http://www.miamidade.gov/govaction/matter.asp?matter=171082&file=true&fileAnalysis=false&yearFolder=Y2017>

**Resolution No. R-869-16**, adopted October 5 2016, conveyed three County-owned properties to Collective Developers LLC, a Florida limited liability company and not-for-profit entity, at a price of \$10.00, for the purpose of developing the properties with affordable housing to be sold to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=161827&file=true&fileAnalysis=false&yearFolder=Y2016>



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**Resolution No. R-139-18**, adopted February 6, 2018, conveyed three County-owned properties to Ecotech Visions Foundation, Inc., a Florida not-for-profit corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=172890&file=true&fileAnalysis=false&yearFolder=Y2017>

**Resolution No. R-1217-18**, adopted December 4, 2018, conveyed one County-owned property to the Florida City Community Redevelopment Agency, at a price of \$10.00, to develop the property with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=182498&file=true&fileAnalysis=true&yearFolder=Y2018>

**Resolution No. R-787-12**, adopted October 2, 2012, conveyed eight County-owned properties to Housing Programs, Inc. a not-for-profit Florida corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=130078&file=false&fileAnalysis=false&yearFolder=Y2013>

**Resolution No. R-191-16**, adopted March 8, 2016, conveyed four County-owned properties to Housing Programs, Inc. A Not-For-Profit, Florida Corporation, at a price of \$10.00, for the purpose of developing such properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=160053&file=true&fileAnalysis=false&yearFolder=Y2016>

**Resolution No. R-1214-18**, adopted December 4, 2018, conveyed one County-owned property to Housing Programs, Inc. a not-for-profit, Florida corporation,, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=182775&file=true&fileAnalysis=true&yearFolder=Y2018>

**Resolution No. R-618-18**, adopted June 5, 2018, conveyed four County-owned property to J.L. Brown Development Corporation, A Florida Corporation, at a price of \$10.00, for the purpose of developing such properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=181076&file=true&fileAnalysis=true&yearFolder=Y2018>

**Resolution No. R-1190-18**, adopted November 8, 2018, conveyed four County-owned property to LHP Investment and Development LLC, a Florida for profit corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=182290&file=true&fileAnalysis=true&yearFolder=Y2018>

**Resolution No. R-242-14**, adopted March 4, 2014, conveyed three single family home sites to Little Haiti Housing Association, Inc. D/B/A Haitian American Community Development Corporation, a 501(C)(3) not-for-profit Florida corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=140323&file=true&fileAnalysis=false&yearFolder=Y2014>

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**Resolution No. R-980-15**, adopted November 3, 2015, granting Miami-Dade Affordable Housing Foundation Inc., a 501(c)(3) not-for-profit Florida corporation, twelve additional months to develop four previously conveyed properties with housing for sale to qualified homebuyers through the County's infill housing initiative program; authorizing the chairperson of the board to execute an amended and restated county deed.

<http://www.miamidade.gov/govaction/matter.asp?matter=151916&file=true&fileAnalysis=false&yearFolder=Y2015>

**Resolution No. R-958-16**, adopted November 1, 2016, conveyed thirty-five County-owned properties to Nana & CRC Affordable Housing LLC, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=162616&file=false&fileAnalysis=false&yearFolder=Y2016>

**Resolution No. R-915-18**, adopted September 5, 2018, conveyed one County-owned property to Simcar Dev, LLC., a Florida corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=181651&file=true&fileAnalysis=true&yearFolder=Y2018>

**Resolution No. R-538-14**, adopted June 3, 2014, conveyed five single family home sites to Soaring to Achieve Results Systematically Developmental Center, Inc., a Florida not-for-profit corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program.

<http://www.miamidade.gov/govaction/matter.asp?matter=141084&file=true&fileAnalysis=false&yearFolder=Y2014>

**Resolution No. R-1005-14**, adopted November 5, 2014, conveyed five single family home sites to Women In Need of Destiny, Inc., a 501(C)(3) not-for-profit Florida corporation, at a price of \$10.00, to develop the properties with affordable housing for sale to low and moderate income households in accordance with the Miami-Dade Infill Housing Initiative Program

<http://www.miamidade.gov/govaction/matter.asp?matter=142115&file=true&fileAnalysis=false&yearFolder=Y2014>

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Research Notes**

**Item No. 8L2  
File No. 190818**

**Researcher: JFP   Reviewer: TD**

RESOLUTION AUTHORIZING THE EXECUTION OF A SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND 3630 INVESTMENT CORPORATION AND 5TH STREET TERMINAL, INC.; AUTHORIZING PAYMENT OF \$650,000.00 TO 3630 INVESTMENT CORPORATION; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SETTLEMENT AGREEMENT AND TO EXERCISE ALL RIGHTS CONFERRED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize the execution of a Settlement Agreement between the County and 3630 Investment Corporation and 5<sup>th</sup> Street Terminal, Inc., as well as the County's payment of \$650,000 as part of the Agreement.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Jean Monestime, District 2  
Department/Requester: Regulatory and Economic Resources**

This item has no procedural history.

**ANALYSIS**

The purpose of this item is to authorize the County's payment of \$650,000 to 3630 Corporation (3630) and 5<sup>th</sup> Street Terminal, Inc. in furtherance of the County's proposed Settlement Agreement regarding an easement utilized by the County that allows it to discharge stormwater into the Miami River. The boat basin along the Miami River through which the stormwater is discharged is owned by 3630 Investment Corp., who leases the property to 5<sup>th</sup> Street Terminal, Inc.

3630 brought forth the following issues:

- Sediment has been flowing out of the stormwater pipe over the years and settling within its boat basin, resulting in the boat basin becoming so shallow it can no longer accommodate the loading or unloading of cargo ships.
- The County is responsible because it failed to adequately maintain the stormwater system and the sediment traveled through the County's stormwater system to get to the boat basin.

The County responded by taking action to reduce the sediment flowing into the stormwater system. Daddy Sand, a construction company operating across the street from 3630's boat basin, was identified as one of the possible sources of sediment. As a result, in January 2015, the County required Daddy sand to install a barrier wall to keep its construction materials out of the right of way, preventing it from traveling into the stormwater system. The County also installed a pollution control device which captures sediment before it can be discharged into the boat basin.

After an inspection revealed that the stormwater outfall pipe in 3630's boat basin was partially blocked with sediment, the County determined that it needed to dredge the portion of the boat basin between the outfall pipe and the Miami River in order to allow a free flow of stormwater from the outfall pipe. There were disagreements between the County and 3630 as to the depth to which the boat basin needed to be dredged.

3630 still sued the County, alleging the following:

- Inverse condemnation—the taking of property by a government agency which so greatly damages the use of a parcel of real property that it is the equivalent of condemnation of the entire property.

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- As a result of the County's inadequate dredging, last being dredged to an adequate depth in 1989, the boat basin has grown shallow to the point of no longer being able to be used to dock a vessel

3630 is claiming the following:

- Business losses (lost rent and lost income) of approximately \$2,888,000.
- Attorney's fees and litigation costs, which will be approximately \$305,260.
- The County must dredge the boat basin, which will cost between \$400,000 and \$500,000.
- Civil penalties for violations of the Clean Water Act in an unknown amount, but which could be as much as \$500,000 (payment of which would be to the federal government)

3630 has agreed to the County's proposed settlement of \$650,000 (2.4% of 3630's claimed business losses) in exchange for 3630 dredging the boat basin to an agreed upon depth, clearing the affected stormwater outfall pipe for the County's use. A portion of this settlement amount will be withheld pending completion of the dredging, and if 3630 is unable to complete the dredging because of permitting issues, etc., then the Settlement Agreement will become null and void.

**APPLICABLE LEGISLATION/POLICY**

N/A

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Research Notes**

**Item No. 8N2  
File No. 190422**

**Researcher: JFP   Reviewer: TD**

RESOLUTION ACCEPTING CONVEYANCES OF VARIOUS PROPERTY INTERESTS FOR ROAD PURPOSES TO MIAMI-DADE COUNTY, FLORIDA

**ISSUE/REQUESTED ACTION**

Whether the Board should accept conveyance of 14 properties to the County for road purposes.

**PROCEDURAL HISTORY**

**Prime Sponsor: Barbara J. Jordan, District 1**

**Department/Requester: Transportation and Public Works**

This item was forwarded to the BCC with a favorable recommendation by the Transportation and Finance Committee at its March 13, 2019 meeting.

**ANALYSIS**

The purpose of this item is to accept conveyance of various property interests to comply with zoning and land development requirements, facilitating roadway improvements within the public right-of-way. The subjects of the conveyances are 14 properties, all from different grantors and in varying districts, as detailed below. All the conveyances are by right-of-way deed.

<b>Location</b>	<b>Commission District</b>	<b>Grantor</b>	<b>Justification</b>
SW 90 Court & SW 69 Street	10	Jonson Gutierrez	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
SW 154 Avenue & SW 228 Street	8	Roberto Salazar and Natalia Montano	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
SW 280 Street	9	27742 South Federal Highway, LLC	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
SW 217 Street & SW 124 Avenue	9	Habitat for Humanity of Greater Miami, Inc.	This radius return is needed in order to satisfy a requirement that property lines at street intersections be rounded with a radius of 25 feet
West Dixie Highway north of NE 179 Street	4	West Dixie Holdings, LLC	This right-of-way is needed to satisfy a DTPW

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				condition for Road Closing Petition P-918
	SW 264 Street & SW 227 Avenue	8	Pablo Rodriguez	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
	NW 122 Avenue & NW 41 Street	12	Beacon Lakes Community Development District	This right-of-way is needed in order to satisfy a Beacon Lakes Development of Regional Impact requirement
	NW 122 Avenue from NW 25 Street to NW 41 Street	12	Florida Rock Industries	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
	SW 220 Street & SW 118 Court	9	Cazo Construction Corporation	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
	SW 344 Street & Factory Shops Boulevard	9	Radhasoami of Florida City, LLC	This right-of-way is needed in order to include the existing bus stop and sidewalk at this location in the public right-of-way
	Coral Way & SW 102 Avenue	10	CHA Associates, LLC	This radius return is needed in order to satisfy a requirement that property lines at street intersections be rounded with a radius of 25 feet
	SW 272 Street & SW 152 Avenue	8	Regional Properties, Inc.	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
	SW 120 Street & SW 89 Avenue	8	Leon Investment Group, LLC	This right-of-way is needed in order to satisfy a zoning requirement that all building sites abut a dedicated right-of-way
	NW 46 Street & NW 31 Court	3	JG 3145 Land Trust, Ivan Rabinovich Management, LLC as Trustee	This right-of-way is needed in order to satisfy a zoning requirement that all

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			building sites abut a dedicated right-of-way
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**APPLICABLE LEGISLATION/POLICY**

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

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

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**Item No. 8N12  
File No. 190461**

**Researcher: TD   Reviewer: YM**

RESOLUTION APPROVING CHANGE ORDER NO. 1 AND FINAL FOR THE PEOPLE'S TRANSPORTATION PLAN PROJECT ENTITLED ROADWAY IMPROVEMENTS ALONG NW 87 AVENUE, FROM NW 154 STREET TO NW 186 STREET, TO ACOSTA TRACTORS, INC. EXTENDING THE CONTRACT DURATION BY 448 CALENDAR DAYS AND NO ADDITIONAL FUNDS

**ISSUE/REQUESTED ACTION**

Whether the Board should approve the first and final change order for the contract with Acosta Tractors, Inc., extending the contract duration by 448 calendar days and requiring no additional funds, for the People's Transportation Plan project in District 13 entitled Roadway Improvements along NW 87 Avenue, from NW 154 Street to 186 Street.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Transportation and Public Works**

This item was forwarded to the BCC with a favorable recommendation by the Transportation and Finance Committee at its March 13, 2019 meeting.

**ANALYSIS**

The purpose of this item is to seek Board approval of the first and final change order for the contract with Acosta Tractors, Inc., extending the contract duration by 448 calendar days and requiring no additional funds. The focus of the contract is work related to the People's Transportation project located in District 13, specifically for improvements along NW 87 Avenue, from NW 154 Street to 186 Street. The project is listed as a PTP Board Requested Major Roadway Project that provides capacity for future traffic demands, improves traffic operations and safety, and installs water mains and appurtenances along the proposed road.

Given that the County paid the contractor \$790,211 for compensable delays funded from an available contract balance not utilized to complete the project, this Change Order does not increase the contract amount. The Change Order does add five pay items to address additional work needed for the project. However, these items were also paid with the contract's remaining funds. The five pay items totaling \$377,869.32 are as follows:

- Additional work requested by WASD to install 30" branch outlet for cannon flushing the existing 36" water main for \$259,186.96
- Repair existing 60" Diameter Pipe Culvert for \$10,296.58
- Color concrete sidewalk (10" thick) reinforced for 67,764.79
- F&I FP400 Filter Fabric formed concrete with Filter Fabric underlayment for \$28,918.40
- Mast Arm Modification for \$11,702.59

The need to extend the duration of the contract by a total of 448 calendar days (369 of which are compensable and 79 of which are non-compensable) is threefold (outlined below).



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<b>Calendar Days by which Contract is Extended</b>	<b>Justification</b>
289 (compensable)	Need to re-design certain project elements to address varying site conditions and conflicts with private property.
80 (compensable)	Presence of a Bald Eagle which nested within the project's limits forcing the contractor to suspend construction activities within a 300 feet radius from the nest location, as the Bald Eagle is a protected species under the Endangered Species Act.
79 (non-compensable)	Unforeseen conflicts with Florida Power and Light, Comcast, and WASD utilities, which caused delays to allow for relocation of or modification to the project

The original contract duration was 869 days which included 79 contingency days. With this Change Order, the contract duration will be 1,317 days.

**ADDITIONAL INFORMATION**

***The People's Transportation Plan***

<https://www.miamidade.gov/publicworks/peoples-transportation.asp>

<http://www.miamidade.gov/citt/peoples-transportation-plan.asp>

**APPLICABLE LEGISLATION/POLICY**

**Section 2-8.1 of the Miami-Dade 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\\_-](https://library.municode.com/fl/miami_-)

[\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Implementing Order No. 3-38** 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>

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**Item No. 8N13  
File No. 190428**

**Researcher: IL   Reviewer: TD**

RESOLUTION APPROVING CONTRACT AWARD TO ROADWAY CONSTRUCTION, LLC IN THE AMOUNT OF \$9,476,450.55, FOR THE PROJECT ENTITLED PEOPLE’S TRANSPORTATION PLAN (PTP) ROADWAY IMPROVEMENTS TO SW 216 STREET FROM SW 127 AVENUE TO SW 112 AVENUE; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSES

**ISSUE/REQUESTED ACTION**

Whether the Board should award a contract to Roadway Construction, LLC the County for the project entitled “People’s Transportation Plan (PTP) Roadway improvements to SW 216 Street from SW 127 Avenue to SW 112 Avenue in the amount of \$9,476,450.55 for a term of 790 Days for the Department of Transportation and Public Works (DTPW).

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Transportation and Public Works**

There is no procedural history for this item at this time.

**ANALYSIS**

Whether the Board should award a contract to Roadway Construction, LLC the County for the project entitled “People’s Transportation Plan (PTP) Roadway improvements to SW 216 Street from SW 127 Avenue to SW 112 Avenue in the amount of \$9,476,450.55 for a term of 790 Days for the Department of Transportation and Public Works (DTPW).

The fiscal impact of this project is \$9,476,450.55 52 (i.e., a base estimate of \$8,558,136.86, contingency allowance of \$855,813.69, Off-Duty Law Enforcement Officer \$30,000.00, Adjustment Allowance of \$25,500.00, Permit Allowance of \$2,000.00 and FPL connection allowance of \$5,000.00) to be funded through the People’s Transportation Plan (PTP) Bond program. Operations cost are forecasted to be approximately \$14,086.53 annually and will be funded through DTPW’s general fund allocation. Maintenance Cost are forecasted to be approximately \$24,811.33 annually and will also be funded through DTPW’s general fund allocation.

The project was advertised on August 9, 2018 and fourteen (14) bid proposals were received on September 28, 2018.

The three lowest bidders are referenced below in the table.

Vendor	Bid amount	County’s Cost Estimate
Roadway Construction, LLC	\$8,558,136.86	2% below the County’s Cost Estimate
Horizon Contractors, Inc.	\$8,682,031.80	1% below the County’s Cost Estimate
Acosta Tractor, Inc.	\$8,691,078.10	1% below the County’s Cost Estimate

The small business measure applicable to the contract is, SBE-Construction at 14.54%, SBE-Services at 1.23% and CWP at 10.00%.

DTPW is recommending Roadway Construction, LLC as the lowest responsive and responsible bidder.

The work consists of but not limited to include:

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- D. Labor, supervision, materials equipment, tools, and performing all necessary roadway improvements to SW 216 Street from SW 127 Avenue to SW 112 Avenue.
- E. Widening the existing roadway to a 2-lane divided highway with raised landscaped median, bike lanes, on street parking, a traffic circle, sidewalks, curb and gutter, new storm drainage system, signalization, pavement makings and signage.; and
- F. Decorative street lighting.

SBE/Construction firms authorized under the agreement are: S.S. L. Corp.; Road Runner Striping Technologies, Inc., and for SBE/Services the firm authorized under the agreement is Bannerman Landscaping, Inc.

Roadway Construction, LLC., has active status on Sunbiz.org, the official website of the Division of Corporations for the State of Florida, with a principal address of 12391 SW 130 Street, Miami, FL 33186. Additionally, Roadway Construction, LLC., has an active account with the Miami-Dade County Tax Collector's office and lastly, Roadway Construction, LLC., possesses a series of licenses such as: Certified General Contractor and Certified Underground Utility and Excavation Contractor with no complaints on the Department of Business and Professional Regulation's website.

OCA conducted a review of the following commodity codes: 238110 (Concrete pouring) 238320 (Painting and Wall Covering Contractors), 98852 (Landscaping, Including Design, Fertilizing, Planting, etc., Not Grounds Maintenance or Tree Trimming Services) in the Business Management Workforce System on March 11, 2019. Approximately 130 SBE Firms were identified under the aforementioned commodity codes.

Pursuant to Resolution No. R-421-16, a Performance Record verification was conducted by OCA in the Capital Improvements Information System (CIIS) on March 11, 2019. There are 29 performance evaluations with an average evaluation rating of 3.6 out of 4.0 in the CIIS database for Roadway Construction, LLC.

#### **ADDITIONAL INFORMATION**

Roadway Construction, LLC., was recently awarded a contract with the Florida Department of Transportation under contract no. 434674-1-52-01 .

<https://www.fdot.gov/contracts/lettings/2019/2019-posting/2019-btabs1-30.shtm>

#### **APPLICABLE LEGISLATION/POLICY**

**Chapter 287 of the Florida Statutes**, Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties, will govern how each agency shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project the basic construction cost of which is estimated by the agency to exceed the threshold amount provided in s. 287.017 for CATEGORY FIVE or for a planning or study activity when the fee for professional services exceeds the threshold amount provided in s. 287.017 for CATEGORY TWO, except in cases of valid public emergencies certified by the agency head. The public notice must include a general description of the project and must indicate how interested consultants may apply for consideration.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&URL=0200-0299/0287/Sections/0287.055.html](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](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

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**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](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 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>

**Resolution No. R-1001-15**, adopted November 3, 2015, requires contracts with small business measures to 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-525-17**, adopted May 2, 2017, amended Resolution No. R-1001-15 to except non-compensatory time extensions from the requirement that contracts with small business measures meet at least 85 percent of the small business goals applicable to the portion of the contract work performed to date before a change order or contract amendment be considered for Board or mayoral approval.

<http://intra/gia/matter.asp?matter=170595&file=true&yearFolder=Y2017>

**Resolution No. R-796-16**, adopted September 7, 2016, approved a contract in the amount of \$4,932,632.41 to H & R Paving, Inc. for the project entitled "Roadway Improvements along SW 152 Street from SW 157 Avenue to SW 147 Avenue."

<http://intra/gia/matter.asp?matter=161521&file=true&yearFolder=Y2016>

**Resolution No. R-421-16**, adopted May 17, 2016, requires (1) the County Mayor 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; and (2) all County departments to complete contractor evaluations before closing out a contract and making final payment to a contractor.

<http://www.miamidade.gov/govaction/matter.asp?matter=160124&file=true&fileAnalysis=false&yearFolder=Y2016>

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

<http://www.miamidade.gov/govaction/matter.asp?matter=093210&file=true&fileAnalysis=false&yearFolder=Y2009>

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

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

**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>

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**Item No. 8N14  
File No. 190425**

**Researcher: IL   Reviewer: TD**

RESOLUTION APPROVING AND AUTHORIZING THE USE OF UP TO \$1,740,113.52 IN CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR ROADWAY RESURFACING CONTRACT RPQ NO. 20170165 AWARDED UNDER THE MISCELLANEOUS CONSTRUCTION CONTRACT 7360 PLAN

**ISSUE/REQUESTED ACTION**

Whether the Board should approve award of Transportation Surtax Funds for roadway resurfacing Contract RPQ No. 20170165 to H&R Paving, Inc., in the amount of \$1,740,113.52 for a total contract period of 238 calendar days and authorizing the use of Charter County Transportation Surtax Funds for the Department of Transportation and Public Works (DTPW).

**PROCEDURAL HISTORY**

**Prime Sponsor:** N/A

**Department/Requester:** Transportation and Public Works

This the item was forwarded with a favorable recommendation from the Transportation and Finance Committee on March 13, 2019,

**ANALYSIS**

The purpose of this item is to seek BCC approval for an award of Transportation Surtax Funds for roadway resurfacing Contract RPQ No. 20170165 awarded under the miscellaneous construction contract 7360 plan, in the amount of \$1,740,113.52 for a total contract period of 238 calendar days and authorizing the use of Charter County Transportation Surtax Funds for the Department of Transportation and Public Works (DTPW).

The fiscal impact for the project is \$1,740,113.52 (i.e., a base estimate of \$1,461,267.83 and contingency allowance of \$146,126.78 and a dedicated allowance amount of \$132,718.91) for a total contract period of 238 days. Work orders funded by the Surtax will only be issued when written approval is received from a commission district office of the use of their PTP allocation pursuant to R-507-04. The improvements are forecasted to be throughout Miami-Dade County (various commission districts)

The Request Price Quotation (RPQ) for Roadway Resurfacing, utilizing the MCC 7360 Plan was advertised on June 15, 2017 to a list of 70 pre-qualified firms. Five firms responded and all five firms proffered a bid. On July 19, 2017 the bids were opened and H&R Paving, Inc., submitted the lowest responsive and responsible base bid of \$1,461,234.83, 9.3 percent below the County's cost estimate. The second lowest bidder was Weekly Asphalt, Inc., with a base bid of \$1,546,417.65 coming in at 2 percent above the County's cost estimate and the third lowest bidder was General Asphalt, Inc., with a base bid of \$1,558,439.50 coming in at 3 percent above the County's cost estimate.

DTPW recommended for award H&R Paving, Inc. for award on August 29, 2017. SBE measures are set aside for this project and the project carries a 10 percent Community Workforce Program component.

In accordance with Contract No.1, the scope of work under this contract includes:

- Supervision, Labor, Materials, Tools, Equipment, Pavement removal;
- Construction of asphaltic concrete road base and surface;
- Pavement milling, Pavement markings, Signage, Drainage, Sidewalks;
- Concrete curb and gutter; and traffic calming devices;
- Performing all operations necessary for intersection improvements; and

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- Performing all operations required to construct the work in accordance with contract documents

Pursuant to Resolution No. R-421-16, OCA conducted a performance record verification in the Capital Improvements Information System (CIIS) on March 22, 2019. There are 208 performance evaluations with an average evaluation rating of 3.2 out of 4.0 in CIIS for H&R Paving Inc.

**DEPARTMENTAL INPUT:**

The following questions were asked to the department on March 12, 2019 the department's response is below in bold:  
If the firm was recommended for award back on August 29, 2017, why did it take so long to get this item before the BCC?

**Workorders have already been issued under this contract. The reason why it is coming before the board now is because PTP language was added so that in the instance that a Commissioner wishes to use their portion of the PTP funding they may use this contract.**

**ADDITIONAL INFORMATION:**

H&R Paving has contracted with other jurisdictions in Florida including the City of Doral (available in PDF) and City of Miami-Lakes for resurfacing of roadways in 2017 and 2018.

[https://www.miamilakes-fl.gov/index.php?option=com\\_docman&view=download&alias=4616-resolution-18-1569&category\\_slug=2018-1&Itemid=272](https://www.miamilakes-fl.gov/index.php?option=com_docman&view=download&alias=4616-resolution-18-1569&category_slug=2018-1&Itemid=272)

**APPLICABLE LEGISLATION/POLICY**

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

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

[https://library.municode.com/fl/miami-dade-county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-8.2.7.01MICOCOPR](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.2.7.01MICOCOPR)

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

[https://library.municode.com/fl/miami-dade-county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH29TA\\_ARTXVIONHAONPECHCOTRSYSASUAUSE212.0551FLST2001\\_S29-124SPFUCRUSSUPRROCIINTRTR](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH29TA_ARTXVIONHAONPECHCOTRSYSASUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRTR)

**Miami-Dade County Code Section 2-8.1** (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



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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.

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

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

[https://library.municode.com/fl/miami\\_-\\_dade\\_county/codes/code\\_of\\_ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTINGE\\_S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTINGE_S2-8.1COPUGE)

**National Fire Protection Association (NFPA 13 Standard for the Installation of Sprinkler Systems)** sets forth the industry benchmark for design and installation of automatic fire sprinkler systems and component options to prevent fire deaths and property loss.

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

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

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

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

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

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

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

**Resolution No. R-507-04**, adopted April 27, 2004, approved the amendment to the neighborhood improvements section of the People's Transportation Plan (PTP) to include roadway signage, roadway lighting, pavement markings and traffic calming.

<http://www.miamidade.gov/govaction/matter.asp?matter=040989&file=true&fileAnalysis=false&yearFolder=Y2004>

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**Item No. 8N15  
File No. 190618**

**Researcher: PGE   Reviewer: TD**

RESOLUTION AWARDING A PROFESSIONAL SERVICES AGREEMENT BETWEEN MIAMI-DADE COUNTY AND WSP USA INC. FOR DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS' (DTPW) 2020 TO 2029 TRANSIT DEVELOPMENT PLAN (TDP) – MAJOR UPDATE, CONTRACT NO. OSP095-DTPW18-PL1, IN AN AMOUNT NOT TO EXCEED \$900,000.00, INCLUSIVE OF A CONTINGENCY ALLOWANCE OF \$81,818.00; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SAME AND TO EXERCISE THE RIGHTS CONTAINED THEREIN]

**ISSUE/REQUESTED ACTION**

Whether the Board should approve the Professional Services Agreement (PSA) between the County and WSP USA, Inc. for the Department of Transportation and Public Works' 2020 to 2029 Transit Development Plan Major Update in an amount not to exceed \$900,000 for a five-year term.

**PROCEDURAL HISTORY**

**Prime Sponsor: N/A**

**Department/Requester: Transportation and Public Works**

The item was considered at the March 13, 2019 meeting of the Transportation and Finance Committee and forwarded to the Board with a favorable recommendation. The item was then waived to the March 19, 2019 Board meeting wherein it was deferred.

**ANALYSIS**

The purpose of the PSA with WSP USA, Inc. is for the County to acquire professional planning services to prepare a five-year transit development plan that is required under Florida law for the County to remain eligible for State Block Grant funds. The total contract amount for the five-year term is \$900,000, which consist of a base estimate of \$818,182 and a contingency allowance of \$81,818. The funding source is operating revenue. Note that there is an hourly rate of \$230 for the principal engaged in this project.

The Notice to Professional Consultants was issued on March 21, 2018, and only one proposal was received by the May 10, 2018 submittal deadline. The sole respondent – WSP USA, Inc. – is the recommended awardee. According to an April 5, 2019 search on sunbiz.org, the official State of Florida Division of Corporations website, WSP USA is a foreign for-profit corporation with a principal address of One Penn Plaza, New York, NY. The company principal listed in the mayoral memorandum, Ronald Colas, is an active licensed professional engineer per information found on April 5, 2019 on the website of the Florida Department of Business & Professional Regulation.

The contract includes a 25 percent (\$225,000) SBE-A/E goal. It is unclear from the mayoral memorandum which firm(s) WSP USA intends to utilize to satisfy the goal.

Pursuant to Resolution No. R-421-16, a performance record verification was conducted in the Capital Improvements Information System on April 5, 2019, finding that WSP USA, Inc. has an evaluation count of 64 with an average evaluation rating of 3.7 out of a possible 4.0. This information is consistent with what is presented in the mayoral memorandum.

Under the PSA, WSP USA, Inc. shall coordinate major transportation plan updates that include public involvement and outreach, working cooperatively with local transportation boards and organizations to evaluate the quality of existing services, and the development of a 10-year program designed to implement transportation strategies that are based on the results of multiple analyses and tests performed. WSP USA shall maintain an adequate staff of qualified personnel available at all times to ensure timely



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completion of the applicable work order. The consultant shall also develop an effective Quality Assurance Plan and Quality Control Guidelines. The County shall furnish WSP USA with any plans and any other data available pertaining to the work to be performed. The County will also ensure that WSP USA has access to project sites during scheduled work time.

**ADDITIONAL INFORMATION**

WSP USA provides engineering and professional services worldwide. It designs solutions in the areas of building, transportation, energy, water, and environment sectors. WSP USA was formerly known as WSP | Parsons Brinckerhoff, Inc. and changed its name to WSP USA in August 2017. The company was founded in 1885 and is based in New York, New York with additional offices in the United States and internationally. As of October 31, 2014, WSP USA operates as a subsidiary of WSP Global Inc.

<https://www.bloomberg.com/research/stocks/private/snapshot.asp?privcapId=902453>

In 2001, the Washington State Department of Transportation (WSDOT) hired WSP to evaluate the repair or replacement of the Alaskan Way Viaduct, a highway project in Seattle. Among other things, WSP agreed to develop an environmental impact statement and to perform associated design work for the viaduct project. WSP subcontracted with an engineering and land surveying company, Shannon & Wilson (S&W), to conduct extensive geotechnical and hydrogeological exploration, tests, and studies in the viaduct project area.

In 2002, S&W, through its subcontractor, Holt Drilling, drilled and installed several water wells along the Alaskan Way Viaduct, including Test Well # 2, which had an 8-inch diameter steel well casing. WSP and S&W then prepared several geotechnical reports associated with the viaduct project. Some of those reports were included in Washington's Request for Proposal package, in which the State sought a contractor to design, engineer, and construct a new bored tunnel to replace the Alaska Way Viaduct. But the reports failed to identify the 8-inch diameter steel well casing at Test Well #2 and incorrectly described Test Well #2 as having a 2-inch diameter PVC casing.

In 2011, WSDOT contracted with Seattle Tunnel Partners (STP) for design, engineering, and construction services on the new bored tunnel project. STP purchased a tunnel boring machine and began tunneling work in 2013. STP alleges that the machine struck the steel casing of Test Well # 2, which caused the damage to the machine.

STP sued WSP in Washington state court for professional negligence, negligent misrepresentation, and indemnification, to recover for the damage to its machine. In its professional negligence count, STP alleges that WSP (1) failed to properly indicate the existence and nature of Test Well #2 in its geotechnical documents; (2) inadequately memorialized the nature and type of installation involved in Test Well #2; and (3) failed to remove or otherwise properly decommission the test well following its abandonment or disuse. STP's negligent misrepresentation count alleges that WSP did not act with reasonable care or competence in preparing its geotechnical baseline report, and that STP relied on inaccurate information in that report. The indemnification count alleges that WSP breached a special duty to STP by failing to provide information concerning Test Well #2 in the geotechnical baseline report.

<https://www.leagle.com/decision/infeco20180628e75>

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

**Section 341.052 of the Florida Statutes** governs the administration of the public transit block grant program.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0300-0399/0341/Sections/0341.052.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0341/Sections/0341.052.html)

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**Rule 14-73.001 of the Florida Administrative Code** relates to public transit and sets forth requirements for the recipients of the Florida Department of Transportation's public transit grant funds.

<https://www.flrules.org/gateway/ruleno.asp?id=14-73.001&Section=0>

**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\\_-\\_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\\_-\\_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\\_-\\_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\\_-\\_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)

**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** sets forth 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>

**Resolution No. R-187-12**, adopted by the Board on February 21, 2012, directed 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>

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**Resolution No. R-421-16**, adopted by the Board on 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>

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**Item No. 801  
File No. 190440**

**Researcher: JFP   Reviewer: TD**

RESOLUTION APPROVING INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI SPRINGS FOR THE REHABILITATION, REPLACEMENT AND/OR PLUGGING AND ABANDONMENT OF TWENTY-THREE (23) BISCAYNE AQUIFER PRODUCTION WELLS THROUGHOUT THE LOWER AND UPPER MIAMI SPRINGS WELLFIELDS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should approve an Interlocal Agreement with the City of Miami Springs for the rehabilitation/replacement of 23 Biscayne aquifer production wells throughout Miami Springs Wellfields.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Water & Sewer Department (WASD)**

This item was forwarded to the BCC with a favorable recommendation by the Infrastructure & Capital Improvements Committee at its March 12, 2019 meeting.

**ANALYSIS**

The purpose of this item is to approve an Interlocal Agreement with the City of Miami Springs for the Wellfield Rehabilitation Project—the rehabilitation and/or replacement of 23 Biscayne Aquifer production wells throughout Miami Springs Wellfields, located at 650 Curtiss Parkway, Miami Springs, Florida 33166 in District 6.

WASD's Hialeah and John E. Preston water treatment plants rely on the Miami Springs Wellfields as a source of raw groundwater prior to treatment. The Interlocal Agreement allows WASD access to the City of Miami Springs' property in order to address 20 aging production wells wholly within the City's jurisdiction for the Wellfield Rehabilitation Project. Three of the production wells to be rehabilitated as part of this project are located at the County's Hialeah water treatment plant.

The Interlocal Agreement has no fiscal impact to the County. Any costs incurred by the County as a result of construction on City property will be funded by the approved and budgeted project—Project #9654061 within WASD's FY 18-19 Adopted Budget and Multi-Year Capital Plan.

The Wellfield Rehabilitation Project is a three-step project, the first of which is anticipated to begin in 2019 and conclude by 2021. This project will consist of the following:

**Step 1**

- Site preparation, including construction of a suitable drilling pad and support, mobilization, demobilization and cleanup, construction of 12, 14-inch diameter and four 30-inch diameter Biscayne aquifer production wells with a total depth of approximately 115 feet
- Well rehabilitation of two 14-inch diameter production wells with a total depth of approximately 115 feet.
- Well rehabilitation of two 30-inch diameter production wells with a total depth of approximately 115 feet.
- Plug and abandonment of eighteen 14-inch diameter Biscayne Aquifer production wells to a depth of 115 feet.
- Well development, plumb and alignment, water production and quality testing, disinfection and bacteriological clearance of the 20 newly constructed and rehabilitated production wells.

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- The project also consists of plug and abandonment of one pre-existing assumed to be improperly plugged and abandoned 14-inch production well at the Miami Springs Well No.14 site. This well is to be plugged and abandoned prior to the rehabilitation efforts associated with the 3D-inch diameter production well. The existing 16-inch pipe that is located above the entry point well will be removed to be plugged and abandoned.
- Fluid management for water discharges.
- Obtain all necessary permits.

**Step 2**

- Site preparation including support, mobilization, demobilization, site restoration, and cleanup, for the replacement of four production well houses within the Miami Springs Upper Wellfield.
- Well house demolishing of the existing production well houses No. 10, 14, 15 and 17 within the Miami Springs Upper Wellfield.
- Construct new well houses No.10, 14, 15 and 17.
- Landscaping and tree removal.
- Installation of partial feeder loop and switches for the Upper Wellfield.
- Manage fluid of water discharges in accordance with all applicable federal, local and state agency requirements.

**Step 3**

- Site preparation including support, mobilization, site restoration, demobilization and cleanup, for the rehabilitation, replacement and abandonment of 19 production well houses within the Miami Springs Wellfield.
- Well house demolishing of the existing production well houses MS No. 01, 03, 04, 05, 07, 08, 09, 13, 16, 18, 19, 20, 21, 22, and 23 within the Miami Springs Wellfield. Several well sites coincide with well abandonments and therefore, razing the wellsite.
- Well house rehabilitation of existing production well houses MS No. 02, 06, 11, and 12.
- Well house construction/rebuilding and mechanical/electrical for the following: production wells MS NO. 01, 02, 03, 04, 05, 06, 07, 08, 11, 12, 13, 16, 18, 19, 20, and 22 within the Miami Springs Wellfield along with Preston Well No. 3.
- Construction of a new generator facility and electrical feeder loop cabling replacement.
- Landscaping and tree removal.
- Manage fluid of water discharges in accordance with all applicable federal, local and state agency requirements.

**APPLICABLE LEGISLATION/POLICY**

N/A

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**Item No. 11A4  
File No. 190566**

**Researcher: LE   Reviewer: TD**

RESOLUTION AUTHORIZING MUTUAL TERMINATION OF LEASE AGREEMENT WITH YWCA OF GREATER MIAMI-DADE, INC. ("YWCA") FOR PROPERTY LEASED TO YWCA PURSUANT TO RESOLUTION NO. R-1075-04; AUTHORIZING CONVEYANCE, PURSUANT TO FLORIDA STATUTES SECTION 125.38, OF APPROXIMATELY 113 SQUARE FEET OF LAND WITHIN A PARCEL LOCATED AT 335 NW 5TH STREET TO THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR ROADWAY AND SIDEWALK IMPROVEMENTS FOR \$10.00; AUTHORIZING CONVEYANCE, PURSUANT TO FLORIDA STATUTES SECTION 125.39, OF THREE PARCELS OF COUNTY-OWNED REAL PROPERTY LOCATED AT 351 NW 5TH STREET, 519 NW 4TH AVENUE, AND THE REMAINING PORTION OF 335 NW 5TH STREET ("PRIOR CITY LAND"); AUTHORIZING CONVEYANCE, PURSUANT TO FLORIDA STATUTES SECTION 125.38 OF TWO PARCELS OF COUNTY-OWNED LAND LOCATED AT 529 NW 4TH AVENUE AND 533 NW 4TH AVENUE TO YWCA FOR \$20.00, SAID CONVEYANCE BEING APPROVED BY A TWO-THIRDS VOTE OF BOARD MEMBERS PRESENT AS REQUIRED BY SECTION 2-8.6.5 OF THE COUNTY CODE; APPROVING DECLARATION OF RESTRICTIVE COVENANTS IN FAVOR OF THE CITY OF MIAMI ON PRIOR CITY LAND; AUTHORIZING THE CHAIRPERSON OR VICE-CHAIRPERSON OF THE BOARD TO EXECUTE ALL DEEDS AND THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE RESTRICTIVE COVENANTS AND TAKE ALL ACTIONS NECESSARY TO ACCOMPLISH THE PURPOSES SET FORTH IN THIS RESOLUTION

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize mutual termination of a lease agreement with YWCA of Greater Miami-Dade, Inc. (YWCA) for property leased to YWCA; authorize conveyance of approximately 113 square feet of land within a parcel located at 335 NW 5<sup>th</sup> Street to the Florida Department of Transportation (FDOT), authorize conveyance of a total of five County-owned real property parcels to YWCA, and finally approve declaration of restrictive covenants in favor of the City of Miami on Prior City Land.

**PROCEDURAL HISTORY**

**Prime Sponsor: Commissioner Audrey M. Edmonson, District 3  
Department/Requester: None**

During the Housing, Social Services, and Economic Committee meeting on March 11, 2019, Commissioner Moss inquired whether the County was required to take ownership of the projects in regards to the Safe Neighborhood Parks Program (SNP) funding. The Assistant County Attorney, Monica Rizo, confirmed the requirement and stated that the funding was to be used for parks, recreation, and conservation purposes and non-profits and municipalities could apply for funds.

Attorney Rizo also clarified that the County acquired the property using SNP funds and leased the property to YWCA. YWCA wanted to purchase the property, which complied with the SNP Program deed use restrictions for parks. Additionally, there was a scrivener's error on handwritten page 6, which was corrected.

The item was forwarded to the BCC with a favorable recommendation.

**ANALYSIS**

The purpose of this item requests Board authorization providing mutual termination of a lease agreement with YWCA of Greater Miami-Dade, Inc. for property leased to YWCA; convey a small portion of land within a parcel to FDOT for \$10.00 for roadway and sidewalk improvements; convey an additional three County-owned parcels to YWCA. Of those three parcels, two will be conveyed to YWCA for \$20.00.

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The proposed item has a positive impact of \$20.00 towards the County for the conveyance of the Prior City Land and Park Parcels properties to YWCA and \$10.00 for the conveyance of approximately 113 square feet of land within Prior City Land to FDOT for roadway and sidewalk improvements. According to the Miami-Dade County Property Appraisers, the market value for the Prior City Land parcels is \$3,526,519.00 and the Park Parcels is \$292,171.00.

On March 15, 1991, the City of Miami (City) conveyed a lease for three parcels of property 351 NW 5<sup>th</sup> Street, 519 NW 4<sup>th</sup> Avenue, and 335 NW 5<sup>th</sup> Street ("Prior City Land") to the YWCA of Greater Miami-Dade, Inc. As a result, YWCA built the Martha Sutton Weeks Women's Center. In 2002, the County acquired two parcels of land located at 529 NW 4<sup>th</sup> Avenue and 533 NW 4<sup>th</sup> Avenue ("Park Parcels") using County's Safe Neighborhood Bond Program (SNP) funds. Pursuant to Resolution No. R-1075-04, the County leased the Park Parcels to the YWCA to support the Women's Center and a neighborhood playground.

YWCA expressed that they would like the Park Parcels and Prior City Land to continue the programs and uses that are currently operating on the properties. YWCA would also like to own the Park Parcels as they are an inseparable part of the Women's Center and essential to their plan to rehabilitate and revitalize the surrounding neighborhood. Additionally, YWCA has requested that the County and City release the deed restrictions in order to convey Prior City Land to YWCA, with approximately 113 square feet conveyed to FDOT for roadway and sidewalk improvements.

On November 29, 2018, the City approved the release of deed restrictions allowing the County to convey the Prior City Land to YWCA and record a declaration of restrictive covenants to requiring the property to be used for YWCA's intended purposes. The County will also mutually terminate the existing lease agreement on the Prior City Land and Park Parcels to convey the properties to YWCA with the exception of the approximately 113 square feet of land within Prior City Land for conveyance to FDOT.

The properties and rights will automatically revert to the City if the Prior City Land and Park parcels are not used by the YWCA for the stated intended purposes.



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The images below depict the Women's Center Parcels:

**SEARCH:** 01-0106-070-2010

**PROPERTY INFORMATION**

Folio: 01-0106-070-2010

Sub-Division:  
CITY OF MIAMI NORTH BLK 87 PB B-41

Property Address  
351 NW 5 ST  
Miami, FL 33128-1615

Owner  
MIAMI-DADE COUNTY  
GSA R/E MGMT

Mailing Address  
111 NW 1 ST STE 2400  
MIAMI, FL 33128-1929

PA Primary Zone  
6100 COMMERCIAL - NEIGHBORHOOD

Primary Land Use  
7758 BENEVOLENT - EXEMPT.: YMCA - YWCA

Beds / Baths / Half      0 / 5 / 0

Floors                      2

Living Units                0

Actual Area

Living Area

Adjusted Area            27,424 Sq. Ft.

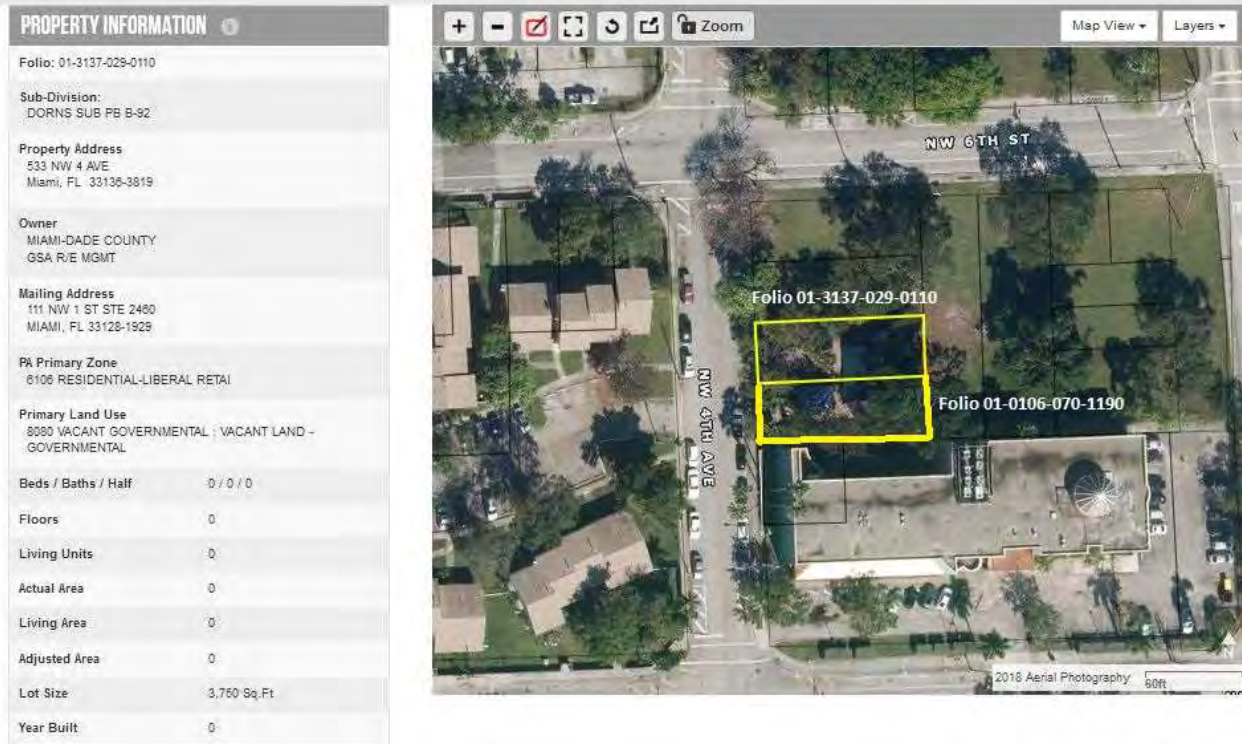
Lot Size                    32,000 Sq. Ft.

Year Built                 1993



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The images below depict the Park Parcels:



### ADDITIONAL INFORMATION

YWCA of Greater Miami-Dade, Inc. was established in 1919 to eliminate racism and empower women through a series of programs, resources, and initiatives.

<https://www.ywca-miami.org/>

### APPLICABLE LEGISLATION/POLICY

**Section 125.39 of the Florida Statutes** expresses the non-applicability to county lands acquired for specific purposes such as to cover the sale or disposition of any land conveyed to any county for a specific purpose and containing a reversionary clause where the land shall revert to the grantor upon failure to use such property for such purpose.

[http://www.leg.state.fl.us/STATUTES/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0100-0199/0125/Sections/0125.39.html](http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0125/Sections/0125.39.html)

**Section 125.379 of the Florida Statutes** requires that each county prepare an inventory list of all real property within its jurisdiction that the county holds fee simple title that is appropriate for use as affordable housing, and adopt a resolution that includes an inventory list of such property following a public hearing. The properties identified may be offered for sale and the proceeds used to purchase land for the development of affordable housing may be sold with restrictions or donated to a nonprofit housing organizing.

[http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App\\_mode=Display\\_Statute&Search\\_String=Section+125.379&URL=0100-0199/0125/Sections/0125.379.html](http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=Section+125.379&URL=0100-0199/0125/Sections/0125.379.html)

**Administrative Order 8-4** provides that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property,

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unless expressly excluded in the policy, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification, if applicable.

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

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

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

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

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

**Resolution No. R-1075-04**, adopted September 9, 2004, authorizes the execution of an amendment to lease agreement at 351 NW 5<sup>th</sup> Street with YWCA for the premises to be used as a public playground.

<http://intra/gia/matter.asp?matter=041922&file=true&yearFolder=Y2004>