

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

Tourism & Ports (TAPS) Committee Meeting

May 15, 2019 9:30 A.M. Commission Chambers

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Item No. 1G1 File No. 190966

Researcher: JFP Reviewer: TD

ORDINANCE RELATING TO SOLICITATION OF TIPS AT MIAMI INTERNATIONAL AIRPORT; AMENDING SECTION 25-3.8 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING FOOD AND BEVERAGE CONCESSIONS TO SOLICIT TIPS AT MIAMI INTERNATIONAL AIRPORT, PROVIDED THAT CONCESSIONAIRES PROVIDE CONSPICUOUS NOTICE TO CUSTOMERS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 25-3.8 of the County Code authorizing food and beverage concessions to solicit tips at Miami International Airport (MIA), provided concessionaires provide conspicuous notice to customers.

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Jose "Pepe" Diaz, District 12 Department/Requester: None

The proposed ordinance was adopted on first reading at the April 9, 2019 BCC meeting and set for public hearing before the Tourism and the Ports Committee on May 15, 2019.

ANALYSIS

The purpose of this item is to allow MIA concessionaires operating a table service food and beverage concessions to include a suggested, not mandatory, tip or gratuity of up to 18 percent of the total food and beverage sale in a bill provided to a customer. Pursuant to the proposed changes, such solicitation can only occur if concessionaires provide written notice of the suggested gratuity on both the menu and the bill.

The proposed ordinance codifies a practice already common at MIA, although currently unauthorized by the Code, as some concessions at MIA include a suggested gratuity with their bills. This ordinance regulates this practice with the requirement of notice that the suggested gratuity will be included in the bill. Options are to be provided to remove or alter the gratuities at the customer's discretion.

Numerous employees (servers and waitstaff) at MIA rely on tips to supplement their hourly wage. This is because Federal law prescribes that employers may pay tipped employees less than the minimum wage, as long as employees earn enough through tips to compensate the difference. Effective January 1, 2019, the minimum wage in the State of Florida is \$8.46 per hour. The tip credit allows employers of tipped employees to offer as little as \$5.44 per hour with the difference expected to be made up in tips. The ability to include a suggested tip amount will increase the likelihood that these service employees have their hourly wage properly supplemented.

This ordinance will have no fiscal impact to the County as the requirements prescribed will be the responsibility of the MIA concessionaire. Compliance monitoring will be absorbed by the Department.

The below table depicts Section 25-3.8 of the County Code as it currently reads and contrasts it with the proposed changes, with underlined words denoting the amendment proposed and words stricken through specifying deletions.

| Section 25-5 of the County Code |
|--|
| Sec. 25-3 Commercial activity. |
| *** 25-3.8 <i>Tipping</i> . Except as authorized herein, no person authorized to accept tips for services performed at the Airport shall solicit a tip, or a specific amount of tip, nor harass, insult or display any form of rudeness to the person for whom the service is being performed. <u>A</u> concessionaire operating a table service food and beverage concession may include a suggested tip or gratuity of up to 18 percent of the total food and beverage sale in a bill presented to a customer, provided that such concessionaire provides written notice of such suggested gratuity on both the menu and the bill presented to the customer, both in a conspicuous typeface. The notice on the menu and the bill shall specify the percentage of the gratuity, and shall inform the customer as to how such gratuity can be removed or altered at the customer's discretion. A point of sale device used by a concessionaire at which a customer swipes or inserts a credit card may display options for suggested gratuity, so long as the customer retains the ability to raise, lower, or omit the gratuity at the customer's discretion prior to completion of the sale. Nothing herein shall allow the concessionaire to impose a mandatory gratuity, and the concessionaire shall allow a customer at all times the ability to raise, lower, or omit |
| Nothing herein shall allow the concessionaire to impose a mandatory gratuity, and the concessionaire shall allow |
| |

APPLICABLE LEGISLATION/POLICY

Section 25-3.8 of the County Code (Commercial Activity – Tipping) specifies that no person authorized to accept tips for services performed at the Airport shall solicit a tip, or a specific amount of tip, nor harass, insult or display any form of rudeness to the person for whom the service is being performed.

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Item No. 3A File No. 191050

Researcher: LE Reviewer: TD

RESOLUTION AUTHORIZING WAIVER OF FORMAL BID PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHAPTER, SECTION 2-8.1 OF THE MIAMI-DADE COUNTY CODE, AND IMPLEMENTING ORDER 3-38 BY A TWO-THIRDS VOTE OF THE BOARD MEMBERS PRESENT; APPROVING THE 2019 MARKETING AND COMMUNICATIONS CONFERENCE HOST AGREEMENT BETWEEN MIAMI-DADE COUNTY AND AIRPORTS COUNCIL INTERNATIONAL - NORTH AMERICA AUTHORIZING THE MIAMI-DADE AVIATION DEPARTMENT TO SPONSOR THE 2019 MARKETING AND COMMUNICATIONS CONFERENCE TO BE HELD IN DOWNTOWN MIAMI FROM NOVEMBER 6-8, 2019, IN AN AMOUNT NOT TO EXCEED \$75,000.00 IN AVIATION DEPARTMENT PROMOTIONAL FUNDS AND THE PROVISION OF IN-KIND SERVICES; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE ALL PROVISIONS THEREIN, AND TO EXECUTE AND EXERCISE THE PROVISIONS WITHIN ANY RELATED AGREEMENTS ARISING FROM THE MIAMI-DADE AVIATION DEPARTMENT'S SPONSORSHIP AND HOST OBLIGATIONS AT THE 2019 MARKETING AND COMMUNICATIONS CONFERENCE

ISSUE/REQUESTED ACTION

Whether the Board should approve the 2019 Marketing and Communications Conference Host Agreement authorizing Miami-Dade Aviation Department (MDAD) to sponsor the Conference.

PROCEDURAL HISTORY

Prime Sponsor: None Department/Requester: Aviation Department

This item has no procedural history.

ANALYSIS

The purpose of this item is to request the Board to waive the competitive bidding requirements of Section 2-8.1 of the County Code, Section 5.03 of the Home Rule Charter, and Implementing Order 3-38; approve the 2019 Marketing and Communications Conference Host Agreement between the County and Airports Council International – North America (ACI-NA); and authorize the Miami-Dade Aviation Department (MDAD) to sponsor the 2019 Marketing and Communications Conference in an amount not to exceed \$75,000.

MDAD will authorize up to \$75,000 to sponsor ACI-NA and additionally use operating revenues to provide in-kind services such as staff time. It is estimated that there will be a \$300,000 economic impact resulting from this event.

ACI-NA is the oldest international airport owners' and operators' organization in the world and represents local, regional, and state governing bodies that own and operate commercial airports in the U.S. and Canada. MDAD has been a founding member along with many other prominent cities such as Chicago, Los Angeles, New York, Philadelphia, and Washington. ACI-NA's annual conference is one of the largest airport events in North America, with 2019 attendance expected to exceed 300 registered attendees and exhibitors.

MDAD and ACI-NA entered into a host agreement in April 2019. Through this agreement the County has the opportunity to showcase Miami International Airport while MDAD staff will be able to meet potential airport partners and leaders that may create new marketing opportunities to produce more revenue and attract more visitors. The 2019 Conference will be hosted by MDAD on November 6-8, 2019 at the Hilton Miami Downtown Hotel.

In the agreement, MDAD is responsible for marketing, assisting in identifying a keynote speaker, programming, securing a local media personality to host the gala dinner, provide a host airport gift to all conference attendees, host an evening event at the end of the first day of the conference, securing a location and venue for the event, providing transportation to all conference

attendees to the event, and providing food and beverage, entertainment during the event. MDAD will receive marketing and recognition through their logo and materials during the conference.

APPLICABLE LEGISLATION/POLICY

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

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Section 5.03 of the Home Rule Charter provides the responsibilities of the financial administration and outlines the procedures for contracts.

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

Implementing Order 3-38 governs the County's processes for the purchase of goods and services and establishes the roles and responsibilities of ISD, methods of purchasing goods and services, and the authority to award contracts. <u>http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-38.pdf</u>

Administrative Order 7-32 governs the use of Miami-Dade Aviation Department's promotional funds. <u>http://www.miamidade.gov/aopdf/oc/aopdf/pdffiles/AO7-32.pdf</u>

Item No. 3B File No. 191117

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING THE FUNDING OF TWENTY-SEVEN GRANTS FOR A TOTAL OF \$219,600.00 FROM THE FISCAL YEAR 2018-2019 THIRD 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 for 27 grants, totaling \$219,600.00, from the FY 2018-2019 Third Quarter of the Tourist Development Council Grants Program to promote Miami-Dade County tourism. The proposed resolution waives Resolution No. R-130-06 requiring contracts with non-governmental entities be signed by the other parties before being submitted to the Board for consideration.

PROCEDURAL HISTORY

Prime Sponsor: None Department/Requester: Department of Cultural Affairs

This item has no procedural history.

ANALYSIS

The purpose of this item is to authorize \$219,600 in grant funding from the FY 2018-2019 Tourism Development Council (TDC) Grants Program (Third Quarter) to fund 27 grants. The Tourist Development Council Grants Program sponsors tourist-oriented sports events, cultural and special events, and television origination projects that promote Miami-Dade County tourism. The TDC, a nine member volunteer advisory board established by Florida Statute, meets as a panel to review and make funding recommendations to the Miami-Dade County Mayor and Board of County Commissioners on a quarterly basis.

Of the 28 applications (requesting a total of \$409,500) reviewed by the Tourist Development Council, the below 27 were recommended for funding, with the grant amounts totaling \$219,600.

| Organization | District Location(s) for Project Activity | FY 2018-2019 Recommendation | Sunbiz Registration Status |
|--|---|--------------------------------|----------------------------------|
| Bascomb Memorial Broadcasting Foundation, Inc. | 3, 5 | \$6,000 | Active |
| Centro Cultura; Boliviano Masis Corp. | 10 | \$3,500 | Active |
| Community Arts and Culture, Inc. | 4 | \$5,000 | Active |
| Creation Art Center Corp. | 5 | \$5,000 | Active |
| Cuban Classical Ballet of Miami, Inc. | 5 | \$5,000 | Active |
| Double K Rodeo Production, Inc. | 10 | \$2,500 | Active |
| Edge Zones, Inc. | 2, 4 | \$5,250 | Active |
| Florida Grand Opera, Inc. | 3 | \$15,000 | Active |
| FUNDarte, Inc. | 5 | \$7,000 | Active |
| Gotma, Inc. | 6 | \$5,000 | Active |
| GroundUp Music Productions, LLC | 4, 5 | \$5,100 | Not Registered |
| The Miami Foundation, Inc. afa IKT Miami, Inc. | 3, 5 | \$10,000 | Active |
| Institute of Contemporary Art, Miami, Inc. | 3 | \$7,000 | Active |

| Kestar en rottes | | | |
|--|---------|-----------|--------|
| Jorge M. Perez Art Museum of Miami-Dade County, | 3 | \$20,000 | Active |
| Inc. | | | |
| Marti Productions | 5 | \$9,000 | Active |
| Miami Beach Arts Trust, Inc. | 5 | \$5,000 | Active |
| Miami Beach Gay Pride, Inc. | 5 | \$15,750 | Active |
| Miami Chamber Music Society, Inc. | 3,7 | \$6,000 | Active |
| Miami Gay and Lesbian Film Festival, Inc. | 5 | \$15,000 | Active |
| Miami River Fund, Inc. | 5 | \$9,000 | Active |
| Miami-Dade County Office of Community Advocacy | 9 | \$5,000 | N/A |
| Black Affairs Advisory Board | | | |
| Michael-Ann Russell Jewish Community Center, Inc. | 4 | \$5,000 | Active |
| New World Symphony, Inc. | 5 | \$7,500 | Active |
| Nu Deco Ensemble, Inc. | 3 | \$5,000 | Active |
| Testro Avante, Inc. | 3, 5, 7 | \$17,500 | Active |
| The Greater Miami Festivals & Events Association, Inc. | 13 | \$5,000 | Active |
| University of Wynwood, Inc. | 3, 5, 7 | \$13,500 | Active |
| | Total: | \$219,600 | |

The Tourism Development Council approved the grantees at their April 2, 2019 meeting. Each applicant organization was evaluated based on the following criteria:

- 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
- 5) Efforts to comply with and incorporate the American with Disabilities Act into projects.

Tourist Development Council grants are supported entirely through the two percent Tourist Development Room Tax funds and the two percent Hotel/Motel Food and Beverage Surtax revenues as well as the \$25,000 the Greater Miami Convention and Visitors Bureau provides to the TDC pursuant to a multi-year agreement. A total of \$1.275 million was allocated for FY 2018-19 TDC grants in the Fiscal Year 2018-19 County budget ordinance. A remaining balance of \$425,272 from FY2017-18 in unspent grant funds was carried over and is being appropriated as part of the FY-2018-19 program.

The requested waiver of Resolution No. R-130-06, requiring that contracts with non-governmental entities be signed by the other parties before being placed on the commission agenda, will expedite the execution of the grant agreements, saving one to two months' time in an already lengthy grant process.

ADDITIONAL INFORMATION

Tourism Development Council Grants Program

http://www.miamidadearts.org/tourist-development-council-tdc-grants-program

Item No. 3D File No. 191061 & 191165 Supplement

Researcher: IL Reviewer: TD

RESOLUTION APPROVING AWARD OF THE PROFESSIONAL SERVICES AGREEMENT TO M. C. HARRY AND ASSOCIATES, INC., FOR AIRPORT WAYFINDING/SIGNAGE DESIGN SERVICES FOR THE MIAMI-DADE AVIATION DEPARTMENT, PROJECT NO. A16-MDAD-04; IN AN AMOUNT NOT TO EXCEED \$2,205,500.00 FOR A TERM OF FIVE YEARS WITH TWO ONE-YEAR OPTIONS TO EXTEND; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT AND TO EXERCISE THE TERMINATION AND EXTENSION PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the award a Professional Services Agreement to M.C. Harry and Associates, Inc., in an amount not to exceed \$2,205,500.00 for a term of five years with two one-year options to extend for airport wayfinding/signage design.

PROCEDURAL HISTORY

Prime Sponsor: None Department/Requester: Transportation and Public Works Department

The item was brought before the Economic Development and Tourism Committee on January 17, 2019 and was withdrawn.

ANALYSIS

This item is requesting the Board award a Professional Services Agreement to M.C. Harry and Associates, Inc., in an amount not to exceed \$2,205,500.00 for a term of five years with two one-year options to extend for airport way finding/signage design under Project No. A16-MDAD-04. The project will impact various Commission Districts.

The fiscal impact of this project is an amount not to exceed \$2,205,500.00 to be funded through a Florida Department of Transportation Grant and MDAD operating fund.

The work consists of providing:

- A. Wayfinding/Signage Design Services, sign concept development, placement and location guidelines.
- B. Environmental graphic design, mock-up, prototype testing and final document development.

The intent is to have a consultant provide professional wayfinding/signage design services to respond to vital on-call wayfinding needs at MIA and the four other airports in Miami-Dade County in compliance with all federal, state, and county regulatory requirements.

The request to advertise (RTA) was advertised on February 24, 2017. Ten proposals were received in response to the solicitation from the following firms: TSAO Design Group, Incorporated; Rodriguez and Quiroga Architects Chartered; M.C. Harry and Associates, Inc.; Leo A. Daly Company; MGE Architects Inc.; Mobio Architecture, Inc.; Gresham, Smith and Partners; Bermello, Ajamil & Partners, Inc.; BEA Architects, Inc.; and Perez & Perez Architects Planners, Inc. on June 16, 2017.

The First Tier meeting was held on December 1, 2017, below are the rankings by the competitive selection committee (CSC) of the 9 firms.

| Firm | Qualitative Points | Final Rank |
|---------------------------------|--------------------|------------|
| Bermello, Ajamil & Partners . | 421 | 1 |
| Gresham, Smith and Partners | 431 | 2 |
| M.C. Harry and Assocaites, Inc | 405 | 3 |
| TSAO Design Group, Incorporated | 387 | 4 |

| Rodriguez and Quiroga Architects | 400 | 5 |
|-----------------------------------|-----|----|
| Chartered | | |
| Perez & Perez Architects Planners | 392 | 6 |
| Inc. | | |
| Leo A. Daly Company | 382 | 7 |
| MGE Architects, Inc. | 379 | 8 |
| Mobio Architecture, Inc. | 363 | 9 |
| BEA Architects, Inc. | 336 | 10 |

The CSC advanced the three highest-ranked proposers to advance to the second tier.

The Second tier meeting was held on January 9, 2018, below are the rankings of the CSC for the 3 firms.

| Firm | Qualitative Points | Final Rank |
|-----------------------------------|--------------------|------------|
| M.C. Harry and Associates, Inc. | 442 | 1 |
| Bermello, Ajamil & Partners, Inc. | 446 | 2 |
| Gresham, Smith and Partners | 465 | 3 |

The CSC found M.C. Harry and Associates (the top-ranked firm) to have met the qualifications requirement and approved the firm to move forward with the negotiation process.

The small business measure applicable to the contract is a SBE A/E goal of 30 percent (\$660,000) and SBE G/S goal 1 percent (\$22,000).

SBE/A&E firms authorized under the agreement are: M.C. Harry and Associates, Inc. (SBE A/E 20% -\$440,000), Bliss & Nyitray, Inc. (SBE A/E 5% -\$110,000), SDM Consulting Engineers, Inc. (SBE A/E 5% -\$110,000), Go Green Documents Solutions, Inc., (SBE G/S .50% - \$11,000) and Building Center No.3, LLC (SBE G/S .50% - \$11,000).

OCA was not able to conduct a review of the technical certifications associated with this project on the Business Management Workforce System (BMWS) as they were not referenced in the mayoral memo. OCA will request this information from the department. M.C. Harry and Associates, Inc., was cross referenced on Sunbiz.org, the office website of the Division of Corporations for the State of Florida. M.C. Harry and Associates, Inc., has a principal address of 2780 S.W. Douglas Road, Suite 302, Miami, FL 33133. The Tax Collector's website was cross referenced and no accounts were identified on it for this firm. M.C. Harry and Associates, Inc., possesses an Architect Business license with the Department of Business and Professional Regulation (License Number AAC000986) and has an active status until February 28, 2021.

Pursuant to Resolution No. R-421-16, a PERFORMANCE RECORD verification conducted by OCA in the Capital Improvements Information System (CIIS) on May 13, 2019: There are 4 performance evaluations in the Capital Improvements Information Systems Database for M.C. Harry and Associates, Inc., yielding an average evaluation rating of 4.0 out of 4.0. The Firm history report on this firm shows that for the period from September 1 2015 through September 06, 2018 this firm has received 1 contract in the amount of \$3,420,550.00 from the Parks Open Spaces and Recreation department.

APPLICABLE LEGISLATION/POLICY

Section 287.055 of the Florida Statutes sets forth the Consultants' Competitive Negotiation Act, governing the processes for the acquisition of professional architectural, engineering, landscape architectural or surveying and mapping services. http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0287/0287.html

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

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

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Section 2-8.1(h) of the County Code sets forth that any contract for the construction of public improvements and any professional service agreement involving the expenditure of more than \$500,000, an item shall be added to the advertisement recommendation memorandum presented by the County Manager to the Board of County Commissioners identifying (1) each proposed 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 proposed dedicated allowance and additional services allowance in relation to the estimated contract price. https://library.municode.com/fl/miami -

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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.

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Resolution No. R-187-12, adopted 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

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

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

Implementing Order No. 8-8 establishes the policy to incorporate sustainable development building measures into the design, construction, renovation and maintenance of County-owned, County-financed, and County-operated buildings. <u>http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO8-8.pdf</u>

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