



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

Board of County Commissioners Meeting

May 21, 2019
9:30 A.M.
Commission Chambers

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BCC Meeting: May 21, 2019
Research Notes

Item No. 7A

File No. 190916 (183003)

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 [SEE ORIGINAL ITEM UNDER FILE NO. 183003]

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. In addition, the following discussion occurred:

- Commissioner Bovo commented on the future design of the Miami International Airport (MIA) and traffic patterns around MIA based on technology. Mr. Sola, Aviation Director, noted that the ordinance would not apply to traffic patterns for ground transportation, but that it was related to land use, zoning permits around MIA proximities, and height restrictions. He added that once the reviewing process was completed and approved by this Committee, the proposals on construction projects and capital outlay programs relating to expansions would be presented to the full Board.
- Chairwoman Sosa recommended a round-table workshop with the TAPC and Aviation Department be held to exchange ideas and to clarify the planning process before the master plan was presented to the Board.

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- Commissioner Bovo stated the need to holistically look at MIA while making decisions on various components such as concessions and amenities. He noted although this Committee did not discuss the construction of properties, like the Soccer Stadium, he questioned the impact on future development in that area.
- Mr. Sola noted a minor adjustment was made concerning MGC to comply with the FAA restrictions and indicated the expectations on any development within the proximity of MIA had to be in full compliance to ensure safety.

The item was forwarded to the April 9, 2019 BCC with a favorable recommendation. During the BCC on April 9, 2019, the item was deferred to the May 21, 2019 BCC.

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.

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.

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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"> • Most critical safety zone located 200 ft. beyond each end of a runway. • No schools or buildings of public assemblage allowed in these zones. • Variances within the RPZ not permitted. • 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.
Outer Safety Zone	Outer Safety Zone (OSZ)	<ul style="list-style-type: none"> • Second most critical safety zone located beyond each runway protection zone. • No schools or buildings of public assemblage allowed in these zones. • For MIA, variances within the OSZ not permitted. • Will remain the same as the current code.
Additional Limitations (10,000 feet)	Critical Approach Zone (CAZ)	<ul style="list-style-type: none"> • Zone extends 10,200 feet from the end of each runway. • No new schools, hospitals, or similar facilities permitted. • No landfills, smoke/gas emitting uses, or uses that may create electrical and radio interference with airport operations allowed. • Will remain the same as the current code.
No School Zone (Critical Approach)	RPZ, OSZ, and CAZ	<ul style="list-style-type: none"> • No new educational facilities shall be permitted in the areas that comprise the RPZ, OSZ, and CAZ surrounding airports. • 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.
Inner Land Use Zone	75 DNL Zone	<ul style="list-style-type: none"> • Area inside the 75 decibel or greater noise contour. • No residential and schools allowed in this zone. • Mostly located within airport boundaries.

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		<ul style="list-style-type: none"> Proposed changes will reflect noise studies for Miami International Airport, Miami Executive Airport, and Miami-Opa Locka Executive Airport.
Outer Land Use Zone	65 to 74 DNL Zone	<ul style="list-style-type: none"> Area between the 65 and 74 decibel noise contours. Certain structures located within the zone must incorporate sound-proofing in design and construction. A noise study has not been conducted for Miami Homestead General Aviation Airport resulting in general Florida law requirements to apply to that facility.
	Airport property allowable uses	<ul style="list-style-type: none"> Ordinance will provide for the uses that are allowed at each County airport in accordance to the CDMP.
	Land use regulations	<ul style="list-style-type: none"> Regulates land use and noise compatibility restriction zones around each County airport in accordance with Florida law and FAA guidelines.
	Height/airspace regulations	<ul style="list-style-type: none"> Establishes airport height restriction zones around each airport and retains variance-eligible area for Miami International Airport.
	Nonconforming uses	<ul style="list-style-type: none"> Allows existing uses not in compliance with new regulations and retains provisions of existing code to allow continued use and expansion of educational facilities.
	Permit review procedures	<ul style="list-style-type: none"> MDAD and RER will be responsible in reviewing and enforcing in unincorporated areas.
	Variance procedures	<ul style="list-style-type: none"> Establishes procedures, requirements, and restrictions for variances from aforementioned airport regulations. Provides for variances to be decided by MDAD.
	Enforcement	<ul style="list-style-type: none"> Specifies manner and extent of enforcement allowed and delegates authority to MDAD and RER for appropriate legal action.

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.

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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>

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)

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**Item No. 11A7
File No. 191205**

Researcher: JFP Reviewer: TD

RESOLUTION RESCINDING GRANT AWARDS FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NO. 223 – "NOT-FOR-PROFIT COMMUNITY ORGANIZATION CAPITAL FUND" IN THE AMOUNTS OF \$238,772.00 TO HOPE CENTER, INC., \$6,726.00 TO CENTER FOR HAITIAN STUDIES, INC., \$57,644.00 TO COMMUNITY AIDS RESOURCE, INC., AND \$9,647.00 TO GOLD COAST RAILROAD MUSEUM, INC.; ALLOCATING \$295,224.00 OF SUCH FUNDS TO ASSISTANCE TO THE ELDERLY, INC., A FLORIDA NON-PROFIT CORPORATION, AND AUTHORIZING COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE STANDARD GRANT AGREEMENT AND THE RECORDATION OF A DECLARATION OF RESTRICTIVE COVENANTS IN FAVOR OF THE COUNTY

ISSUE/REQUESTED ACTION

Whether the Board should rescind grant awards from the Building Better Communities General Obligation Bond Program Not-for-Profit Community Organization Capital Fund – Project No. 223 to Hope Center, Inc. (\$238,772), the Center for Haitian Studies, Inc. (\$6,726), Community AIDS Resource, Inc. (\$57,644), and Gold Coast Railroad Museum (\$9,647), and allocate \$295,224 of these funds to the non-profit corporation, Assistance to the Elderly.

PROCEDURAL HISTORY

Prime Sponsor: Vice Chairwoman, Rebeca Sosa, District 6

Department/Requester: None

This item has no procedural history.

ANALYSIS

The purpose of this item is to rescind and reallocate funds from the Building Better Communities General Obligation Bond (GOB) Program Not-for Profit Community Organization Capital Fund – Project No. 223. The Board approved allocations to 37 not-for-profit entities in the amount of \$30 million from GOB Project No. 223 in July 2007 after a competitive request for proposals process. Among the awardees were the Hope Center, Inc., the Center for Haitian Studies, Inc., Community AIDS Resource, Inc., and the Gold Coast Railroad Museum—grantees for which awards are now being fully or partially rescinded pursuant to the proposed resolution.

The below table delineates the awarded not-for-profit entity, the original award amount, purpose for which the original award was granted, the amount being rescinded, and justification for such action.

Not-for-Profit Entity	Grant Purpose	Original Award Amount	Amount to be Rescinded	Justification
Hope Center, Inc.	Renovations to its facility at 666 SW 4 th Street (District 9)	\$238,772	\$238,772	The Hope Center, Inc. has merged with another not-for-profit organization and demolished and sold the facility at 666 SW 4 th Street
Center for Haitian Studies, Inc.	Design, renovation and expansion of its	\$330,000		Able to complete the project for less than

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	facility located at 8260 NE 2 nd Avenue (District 3)		\$6,726	the awarded grant amount
	Additional allocation to satisfy the mortgage on its facility	\$238,772		
Community AIDS Resource, Inc.	Construction of a dental care clinic at 3510 Biscayne Blvd. (District 3) in order to provide quality HIV oral care services	\$178,000	\$57,644	Able to complete the project for less than the awarded grant amount
Gold Coast Railroad Museum	Extension of its tracks and addition of associated equipment at 12450 SW 152 nd Street (District 9)	\$489,132	\$9,647	Able to complete the project for less than the awarded grant amount

Assistance to the Elderly, Inc., a 501 (c)(3), Florida not-for-profit corporation, active and registered to do business in Florida, has requested that it be granted County funds in order to pay for a new generator for its building located at 5617 NW 7th Street (District 6). This building in a residential plaza at Blue Lagoon acts as an assisted living community and is where Assistance to the Elderly, Inc. operates a memory care program that specializes in seniors with Alzheimer's disease and dementia-related disorders. The proposed resolution grants \$295,224 in recaptured Bond Program Project No. 223 funds to Assistance to the Elderly, Inc. for this project. A restrictive covenant will be recorded on the property, pursuant to Resolution No. R-697-13, which would provide the County with a right of reverter or other restriction on the future use of the property to be exercised should the property not be improved as indicated.

The remaining \$17,565 in Bond Program Project No. 223 recaptured funds went towards administrative costs associated with advertising and issuing the competitive solicitation to the not-for-profits.

ADDITIONAL INFORMATION

Assistance to the Elderly, Inc.

<https://atteinc.org/>

Building Better Communities General Obligation Bond (GOB) Program

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

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

LEGISLATION/POLICY

Resolution No. R-884-07, adopted July 24, 2007, authorizes the approval of thirty-seven (37) grants from the Building Better Communities General Obligation Bond Program Not-for-Profit Community Organization Capital Fund – Project Number 223 with a total allocation of \$30 million.

<http://intra/gia/matter.asp?matter=071836&file=true&yearFolder=Y2007>

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Resolution No. R-697-13, adopted September 4, 2013, established a policy specifying that any allocations of Housing and Community Development funds and Building Better Communities General Obligation Bond Program funds for the purpose of acquiring or improving real property or for paying off secured debts on real property in excess of \$25,000 shall be in the form of a secured loan or grant with restriction on future use of the property.

<http://intra/gia/matter.asp?matter=131250&file=true&yearFolder=Y2013>

Resolution No. R-1206-17, adopted December 5, 2017, approved an additional allocation from Bond Program Project No. 223 to the Center for Haitian Studies, Inc. in the amount of \$893,388 to satisfy the mortgage on its facility.

<http://intra/gia/matter.asp?matter=172532&file=true&yearFolder=Y2017>

WAIVED ITEMS

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**Item No. TBD
File No. 191110**

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING THE INTERLOCAL AGREEMENT FOR SCHOOL YEAR 2019-20 WITH THE MIAMI-DADE COUNTY PUBLIC SCHOOLS' LINDSEY HOPKINS TECHNICAL COLLEGE FOR THE PROVISION OF ACADEMIC AND CAREER-TECHNICAL EDUCATION FOR INMATES IN THE AMOUNT NOT TO EXCEED \$400,000.00 AND TO BE PAID FROM THE INMATE WELFARE ACCOUNT AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE AMENDMENTS, TERMINATION AND OTHER PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the Interlocal Agreement with the Miami-Dade County Public Schools' Lindsey Hopkins Technical College in the amount of up to \$400,000 for academic and career-technical education to inmates during the 2019-2020 school year.

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Joe A. Martinez, District 11

Department/Requester: Corrections & Rehabilitation Department (MDCR)

This item was not considered at the May 14, 2019 Public Safety and Rehabilitation Committee meeting due to lack of quorum. Chairman Martinez requested that this item be waived to the May 21, 2019 BCC meeting.

ANALYSIS

The purpose of this item is to continue a longstanding agreement, renewed annually, with Lindsey Hopkins Technical College (Lindsey Hopkins) for the provision of educational, vocational and programming services to inmates in an effort to ease reentry into society and reduce recidivism. MDCR partners with Lindsey Hopkins to provide both educational programs—the General Equivalent Diploma (GED), English for Speakers of Other Languages (ESOL), and Adult Basic Education (ABE)—and vocational programs, such as carpentry, environmental services, and cosmetology.

Through an Affiliating Agreement authorized by Resolution No. R-393-18, educational services for juvenile inmates in grades 6 through 12, under the age of 18, and special education to students between the ages of 18-22 are provided by MDCPS and reimbursed by the State of Florida. The tuition payment for the education services covering the remainder of the inmate population is based on the Miami-Dade County Public Schools' rate, not exceeding \$400,000 per school year. This amount has been set aside in the Inmate Welfare Fund budget for the 2019-20 school year. The program is funded through the Inmate Welfare Fund, which receives revenues from the Inmate Commissary Program.

In the jail environment, the inmate population is transient with 90% of the inmates being unsentenced and the average length of stay being 14 days. As such, MDCR concentrates its vocational services to the sentenced inmate population which constitutes approximately 10% of the inmate population, while educational services are offered to all inmates. In Fiscal year 2017, 1,286 inmates enrolled in the ABE, 168 in the GED, 54 in ESOL, and 120 in carpentry, 359 in environmental services and 213 in cosmetology programs.

According to the Fiscal Impact Statement, Lindsey Hopkins' cost for vocational courses is lower than that offered in the private sector. This, in addition to the benefit of service continuity, substantiates Lindsey Hopkins providing both the career/technical and academic education programming services.

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Researcher: JFP Reviewer: TD

LEGISLATION/POLICY

Florida Statutes, Section 1009.22 prescribes workforce education postsecondary student fees and authorizes a set tuition fee, stating in part “[f]or adult general education programs, a block tuition of \$45 per half year of \$30 per term shall be assessed ... All funds received from the block tuition shall be used for adult general education programs.”

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=1009.22&URL=1000-1099/1009/Sections/1009.22.html

Florida Statutes, Section 945.215 governs the Inmate Welfare and Employee Benefit Trust Fund. Sub-paragraph (1)(b)(4) provides that funds in the trust fund may be used “[t]o provide literacy programs, vocational training programs, and educational programs that comply with standards of the Department of Education, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs ...”

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0900-0999/0945/Sections/0945.215.html

Resolution No. R-383-18, adopted May 1, 2018 authorizes affiliating agreements with Miami-Dade County Public Schools (MDCPS) for the provision of educational classes for juveniles and special education classes for young adults in the custody of the Miami-Dade Corrections and Rehabilitation Department, as MDCPS has done since 1983.

<http://intra/gia/matter.asp?matter=180830&file=true&yearFolder=Y2018>

Resolution No. R-867-18, adopted September 5, 2018, approved the Interlocal Agreement with the Miami-Dade County Public Schools’ Lindsey Hopkins Technical College for the provision of academic and career-technical education for inmates in the amount not to exceed \$400,000 for school year 2018-19.

<http://intra/gia/matter.asp?matter=181662&file=true&yearFolder=Y2018>

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Item No. TBD
File No. 191148

Researcher: IL Reviewer: TD

RESOLUTION APPROVING REJECTION OF ALL PROPOSALS RECEIVED IN RESPONSE TO REQUEST FOR PROPOSALS NO. RFP-00085 FOR THE PURCHASE OF THE COMPRESSED NATURAL GAS PROGRAM FOR VARIOUS DEPARTMENTS

ISSUE/REQUESTED ACTION

Whether the Board should approve the rejection of all bids received in response to Proposals No. RFP-00085 for the purchase of the compressed natural gas program for various departments.

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

This item was brought before the Health Care and County Operations Committee on May 16, 2019.

- According to representatives (Miguel De Grande) from Nopetro (the winning firm) multiple jurisdictions as well as private waste management sectors have gone towards CNG due to cost and environmental benefits.
- Commissioner Bovo motioned to have a discussion on this item at the May 21 BCC meeting and defer this item until the discussion takes place.
- Commissioner Suarez: Made a motion to recommend that the County approve the bid before them. There is no issue with fueling stations because the County already has fueling stations available.
- Commissioner Souto: Miami-Dade County is the capital of the Americas, and we are looked to by these countries to see how we conduct business. If CNG is the technology to go with, then leaders in Latin America appreciate that the County is on pace with contemporary technology.

ANALYSIS

This item proposes that the Board approve the rejection of all bids received in response to Bid No. RFP-00085 due to the demand for these services being moot as a result of an analysis conducted by TriEnergy Solutions, LLC (TriEnergy). TriEnergy performed a natural gas consulting services contract concluding that while natural gas is competitively priced with diesel, the costs to implement the CNG Program far exceed the potential savings. The County's costs could be over \$3,000,000 the first year, increasing significantly each year thereafter. This is due to the cost of the CNG fueling stations, needed investment in the maintenance facility, upcharge to purchase CNG vehicles, and number of vehicles contemplated in the rolling fleet replacement plan.

The useful life of a garbage truck is less than other types of trucks, requiring more frequent turnover, and CNG garbage trucks have a higher cost than diesel trucks adding to the cost of the program. The County does not realize enough mileage on the heavy fleet to reap the benefits of the lower natural gas prices in order pay for the costs to implement a CNG Program.

There is no fiscal impact to the County as a result of the rejection of the bids. However, the cost of alternative high efficiency vehicles is unknown.

Request for Proposal was issued on May 23, 2014 under full and open competition. Three (3) bids were received along with four no bids on January 18, 2014. The Competitive Selection Committee (CSC) evaluated the bids and Nopetro-OHL MDC was recommended for negotiations as a result of a local preference application. The negotiations were not

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Researcher: IL Reviewer: TD

successful as a result of the analysis conducted by Tri Energy due to the cost benefit analysis stated in the Mayoral memo. At this time, the solicitation will not be advertised.

“The project was intended to consist of:

- finance, develop, and construct County CNG fueling stations at fleet shop sites
- operate and maintain the installed equipment for the fueling stations
- convert existing or build new maintenance facilities to accommodate CNG vehicles
- supply the natural gas and resulting CNG fuel for vehicles
- lease County property for public access fast fill CNG fueling stations

ADDITIONAL INFORMATION:

Today, over 17,000 natural gas refuse and recycling trucks operate across the country, and about 60 percent of new collection trucks on order are powered by natural gas. Waste Management operates more than 6,000 heavy-duty natural gas trucks. To power these vehicles, Waste Management has constructed more than 100 natural gas stations, many of which are publically accessible.

<https://www.ngvamerica.org/vehicles/refuse/>

Below is an image of a CNG Garbage Truck working for the City of Seattle, Washington.



DEPARTMENTAL INPUT:

The following questions were asked to the Internal Services Department (ISD) on May 16, 2019. On May 17, 2019 a follow-up call was made to ISD. As of the date of publication of this note, ISD had not responded to the questions below.

- Can CNG fueling stations for busses be used also for garbage trucks?
- Why are we declining this proposal which is a cost saving and environmentally supportive measure? What measure replaces it?
- Why are we refusing these bids based on a need that exceeds the RFP?
- When did the department know that the RFP was not suffice the County’s needs?
- Could you provide a copy of the analysis conducted by TriEnergy Solutions, LLC?

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APPLICABLE LEGISLATION/POLICY

Section 2-1 of the Code of Miami-Dade County, (Rules of Procedure), Provides the Rules of Procedures for the Board of County Commissioners; provides that items approved at committee meetings recommending the award or rejection of contracts for public improvements and purchases of supplies, materials, and services (including professional services) shall not be subject to the four-day rule; establishes that approvals to exercise OTR terms do not require committee review.

https://library.municode.com/fl/miami_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-1RUPRCOCO

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.

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-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-419-14, adopted April 1, 2014, authorizing the County Mayor to advertise a Request for Proposals (RFP) for a compressed natural gas (CNG) program.

<http://www.miamidade.gov/govaction/matter.asp?matter=140812&file=true&fileAnalysis=false&yearFolder=Y2014>

Resolution No. R-9919, adopted January 23, 2019, approved Purchase Order No. POMT 1900555 with Gillig LLC in the amount of \$69,210,520.00 for the purchase of 120 Low-Floor 40-foot compressed Natural Gas (CNG) buses through the Central Florida Regional Transportation authority D/B/A/ Lynx Contract No. 14-C09.

<http://www.miamidade.gov/govaction/matter.asp?matter=190042&file=true&fileAnalysis=false&yearFolder=Y2019>

Implementing Order No. 3-38 provides 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

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File No. 190861

Researcher: PGE Reviewer: TD

RESOLUTION AUTHORIZING EXECUTION OF SUPPLEMENTAL AGREEMENT NO. 1 WITH GLOBAL TEL*LINK CORPORATION FOR CONTRACT NO. RFP847, PAY PHONES, PAY PHONE SERVICES, PAY PHONE SUBSCRIPTION SERVICES, INMATE TELEPHONE SERVICES, AND JAIL MANAGEMENT SYSTEM FOR THE MIAMI-DADE CORRECTIONS AND REHABILITATION DEPARTMENT, INFORMATION TECHNOLOGY DEPARTMENT, AND THE OFFICE OF MANAGEMENT AND BUDGET FOR A JAIL MANAGEMENT SYSTEM SOLUTION, EXERCISE ALL REMAINING OPTION TO RENEW PERIODS AND TO APPROVE THE OFFENDER 360 SYSTEM TO PROVIDE THE COUNTY WITH A JAIL MANAGEMENT SYSTEM, AS SET FORTH IN THE CONTRACT; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38 [SEE ORIGINAL ITEM UNDER FILE NO. 190164]

ISSUE/REQUESTED ACTION

Whether the Board should approve a contract modification to *Contract No. RFP847, Pay Phones, Pay Phone Services, Pay Phone Subscription Services, Inmate Telephone Services and Jail Management System*, to (1) extend the term through all of the remaining option to renew periods, (2) accept the contractor's proposal for the Offender 360 jailhouse management solution in lieu of what was originally agreed to, (3) approve liquidated damages in case the contractor is unable to deliver an acceptable solution, and (4) receipt of additional maintenance and support at no cost to the County for two years following contract expiration.

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

The original item (File No. 190164) was placed on the Public Safety and Rehabilitation Committee agenda on February 12, 2019 and deferred, at the request of the Administration, to no date certain. Relating to the deferral, Commissioner Heyman requested that when the item returns to committee that there be an explanation as to why Resolution No. R-391-17, which requires competitive selections instead of expanding the term or services under existing contracts, was not adhered to. She also requested an explanation as to the rationale for allowing a vendor that has defaulted to select its successor and be granted a five-year option to renew.

Note that this substitute item differs from the original version in that: (1) the Mayor's memorandum has been updated to reflect the modification to the agreement previously approved by the Board on July 11, 2014; and (2) the resolution accompanying the Mayor's memorandum has been updated to reflect the authority to exercise the remaining option to renew periods, approve the Offender 360 System and remove previous language extending the contract term by up to five years and modifying the liquidated damages provision.

The substitute item was considered at the May 14, 2019 Public Safety and Rehabilitation Committee meeting wherein it was forwarded to the Board with a favorable recommendation. At the meeting, the Administration requested waiving the item to the May 21, 2019 Board meeting. The following is a summary of the discussion that transpired at the committee meeting.

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- Commissioner Sosa requested clarification relating to when the County learned of the contract breach and why the ordinance requiring the Administration to readily inform the County Commission of such breach was ignored; the Commissioner also questioned whether the County would be refunded for the vendor's failure to deliver the jail management system; the Corrections and Rehabilitation Department Director responded that in calendar year 2017, the department discovered that the vendor did not provide any phase of the required jail management solution; Deputy Mayor Kemp further explained that the vendor has subcontracted with a company that the County selected to deliver the system at no cost to the County. Finally, the County Attorney added that there is a liquidated damages provision to protect the County in the event that the vendor fails to perform.

ANALYSIS

This item is requesting Board authorization of Supplemental Agreement No. 1 to the County's contract with Global Tel*Link (GTL) for pay phones, pay phone services, pay phone subscription services, inmate telephone services and a jail management system. On July 1, 2014, pursuant to Resolution No. R-598-14, the Board authorized execution of a revenue-generating agreement with GTL for the acquisition of pay phones, pay phone services, pay phone subscription services, inmate telephone services and a jail management system for the Corrections and Rehabilitation, Information Technology and Management and Budget departments for an initial five-year term plus three, one-year options to renew.

The contract, which is in its initial term, expires on July 31, 2019. Under the contract, GTL shall deliver the following specific services: (a) the furnishing, installation, servicing and operation of payphones and local and long distance services for the installed base of payphone and instruments at current and potentially future County locations; (b) the inmate system and associated services at the Corrections and Rehabilitation Department; and (c) a jail management system, including software, installation, integration, data conversion, training and maintenance and technical support services.

As stated in the mayoral memorandum accompanying Resolution No. R-598-14, the negotiated projected revenue to the County over the initial five-year term is \$16,400,000. Per the contract, GTL agrees to pay the County an amount equal to 67 percent of monthly gross revenues within 10 days following the end of each month during the term. GTL shall pay the County \$2,500,000 as a Minimum Annual Guarantee during year 1. For all subsequent years, GTL guarantees an amount equal to 80 percent of the previous year's commission. Information pertaining to whether GTL has satisfied these financial obligations is absent from this agenda item.

The supplemental agreement is being proposed because GTL has not met its obligation to deliver a jailhouse management solution. In fact, on April 12, 2018, the County issued a notice to GTL with a demand to cure within 30 days. GTL failed to cure, and hence, on June 8, 2018 a letter of default was sent. Subsequently, GTL agreed to contract with a third-party vendor (DXC Technology) to provide the County the required solution. Under the supplemental agreement, the parties agree to the following:

- The County shall accept the proposal for a jailhouse management solution (i.e., Offender 360 System) provided on November 19, 2018 by the Contractor in lieu of the Contractor's obligation under the contract;
- The Contractor shall not be released of its contractual obligations until full acceptance of the proposed solution by the County; if the Contractor is unable to provide an acceptable solution, the Contractor shall pay the County liquidated damages in the amount of \$7,829,623;

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- All remaining option to renew periods are approved to the extent such options extend the term of the contract through July 31, 2022; and
- The Contractor agrees to provide maintenance and support for the solution at no cost to the County for a period of two years following contract expiration.

The provision of the jail management solution by DXC Technology shall be at GTL's sole expense. The solution shall have approximately 3,000 County users and shall include various functional areas, such as Offender, Booking (cases and charges), Facility Management, Housing, Incidents and Offender Requests. The solution will cost GTL \$7,829,623, i.e. \$1,563,600 for Software Licensing; \$2,171,377 for Phase One; \$2,187,350 for Phases Two and Three; and \$1,907,296 for Maintenance and Support Costs. Note that the Proposal Acceptance document provided in the agenda package has neither been signed by GTL nor DXC Technology.

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/codes/code%20of%20ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

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

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

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

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

Resolution No. R-598-14, adopted by the Board on July 1, 2014, authorized execution of an agreement with Global Tel*Link Corporation for the acquisition of pay phones, pay phone services, pay phone subscription services, inmate telephone services and a jail management system for the Corrections and Rehabilitation, Information Technology and Management and Budget departments for an initial five-year term plus three, one-year options to renew.

<http://intra/gia/matter.asp?matter=141307&file=true&yearFolder=Y2014>

Resolution No. R-749-09, adopted by the Board on June 2, 2009, directed the County Mayor to provide notice to the Board within five business days of when the administration either waives a material breach of a contract awarded by the Board or allows a vendor more than 30 days to cure a material breach of a contract awarded by the Board.

<http://intra/gia/matter.asp?matter=090488&file=true&yearFolder=Y2009>

Resolution No. R-391-17, adopted by the Board on April 4, 2017, directed the County Mayor to conduct competitive selections whenever feasible instead of expanding the term or services under existing contracts to include in any recommendation to this Board for the expansion of term or services under existing contracts a written justification of why a competitive process is not feasible as well as including to the maximum extent possible in any such proposed

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expansion of term or services any requirements of ordinances or resolutions adopted by the Board subsequent to the initial contract award.

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

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

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