



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

**Transportation and Finance (TAF) Committee Meeting**

October 24, 2019  
2:30 P.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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**TAF Committee Meeting:  
October 24, 2019  
Research Notes**

**Item No. 3B  
File No. 192303**

**Researcher: IL   Reviewer: PGE**

RESOLUTION APPROVING SELECTION OF J.P. MORGAN CHASE BANK, N.A. TO PROVIDE CAPITAL IN AN AMOUNT NOT TO EXCEED \$70,000,000.00 FOR LEASE/PURCHASE OF VEHICLES AND/OR EQUIPMENT TO BE UTILIZED BY THE TRANSIT DEPARTMENT AND TO PAY FINANCING COSTS; AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR SUCH PURPOSES, WHICH ARE IN THE ORIGINAL PEOPLE'S TRANSPORTATION PLAN; APPROVING TERMS OF RELATED COMMITMENT LETTER; WAIVING PROVISIONS OF RESOLUTION NO. R-130-06, AS AMENDED; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO CONSUMMATE THE LEASE/PURCHASE, INCLUDING ENTERING INTO RELATED AGREEMENTS AND DOCUMENTS WITH TERMS CONSISTENT WITH THOSE SET FORTH IN THE COMMITMENT LETTER

**ISSUE/REQUESTED ACTION**

Whether the Board should authorize: (1) the selection of J.P. Morgan Chase, N.A. (JP Morgan) to provide capital in an amount not to exceed \$70,000,000 over a one-year period for the lease/purchase and the payment of related financing costs of Compressed Natural Gas (CNG) buses and optional components for the Transportation and Public Works Department; (2) approval of the terms of the JP Morgan commitment letter; (3) waiver of Resolution No. R-130-06, which requires that any contracts of the County with third parties be executed and finalized prior to their placement on an agenda for Board consideration; and (4) use of Charter County Transportation Surtax funds to make lease payments and financing costs.

**PROCEDURAL HISTORY**

**Prime Sponsor: N/A**

**Department/Requester: Finance Department**

There is no procedural history for this item.

**ANALYSIS**

The purpose of this item is for the County to establish a fixed-rate, fully amortizing, privately placed tax-exempt lease-purchase agreement with JP Morgan to finance the acquisition of 120 CNG buses, including associated optional components. Under the agreement, JP Morgan shall provide capital in an amount not to exceed \$70,000,000 over a one-year period for the lease/purchase and the payment of related financing costs for the CNG buses. The associated commitment letter sets forth that funding will occur over a one-year period at an indicative interest rate of 1.94 percent for a 12-year term. The financing shall be repaid solely from the County's transit system sales surtax revenues, which the County will contractually covenant to budget and appropriate on an annual basis for lease payments. It is important to note that the legal title to the buses will vest with the County during the term of the agreement.

The interest rate and payments are based on current market rates as indicated by the 7 Year Interest Rate Swap, which was 1.369 percent as of September 6, 2019. For every change in the Index Rate, an adjustment will be made to the interest rate and payment in order to maintain JP Morgan's economics. Under the agreement, lease payments will occur on January 1 and July 1 each year of the financing term, with the first payment beginning on July 1, 2020.

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This item is also requesting waiver of Resolution No. R-130-06, which requires that any contracts of the County with third parties be executed and finalized prior to their placement on an agenda for Board consideration, as JP Morgan has not signed the commitment letter and financing documents.

On August 28, 2019, PFM Financial Advisors, LLC (PFM), the County's financial advisor, requested proposals from financing firms for a tax-exempt annual appropriation master bus lease purchase financing for the County's transit system. The RFP indicated that DTPW anticipates issuing up to \$70 million in total under the Master Bus Lease with an initial draw to purchase buses for the County's transit system, with additional tranches issued for a period of one year after the closing date. The solicitation noted the initial draw at closing is expected to be issued in an estimated amount of \$8.6 million. The solicitation required that respondents provide proposed interest rates/formulas for 12 and 15 year terms. DTPW shall use the proceeds from the Master Bus lease to finance buses for the County's transit system. The request for the Master Bus Lease was circulated to over 50 firms, composed primarily of financial institutions and vehicle lease providers.

On August 9, 2019, five proposals were received in response to the solicitation from the following firms:

- Banc of America Public Capital Corp
- JP Morgan Chase
- PNC Equipment Finance LLC
- Raymond James Capital Funding, Inc.
- SunTrust Equipment Finance & Leasing Corp.

Proposers all provided for a master lease structure, where the lending institution would fund and control the County's immediate needs at the outset and distribute the balance of the funding upon requisition from the County and delivery of the equipment. JP Morgan provided the most favorable rates, terms and conditions on the master bus lease for the 12-15 year terms, i.e., 1.94 interest rate for 12 years and 1.98 interest rate for 15 years. PFM recommended that the County engage JP Morgan for the master bus lease program. Note that the recommended awardee's proposal assumes that the Lessee will issue more than \$10 million in tax-exempt obligations this calendar year and that the Lessee will not designate the lease as a qualified tax-exempt obligation.

Under the agreement, JP Morgan's suggested escrow agent is Deutsche Bank. Moreover, JP Morgan will assign the transaction to its affiliate, DNT Asset Trust, and lessor will remain as the servicing agent. An October 21, 2019, search of registered County vendors on the Bid Tracking System (BTS) reflected that DNT Asset Trust is a registered vendor.

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The table below captures the due diligence review conducted by OCA on October 21, 2019 for this item.

<b>Awarded Firms</b>	<b>Corporate Registration</b>	<b>Tax Collectors Offices</b>	<b>Florida DBPR</b>	<b>Westlaw</b>
J.P. Morgan Chase, N.A.	Designation of Agent JP Morgan Chase Bank, N.A.  Active Principal Address: 1111 Polaris Pkwy Columbus, OH  Filed: April 3, 2017	Nothing found	One account on file Certified Residential Appraiser  Current/Active	Nothing found
DNT Asset Trust	Statutory Trust Active  Principal Address 1209 Orange Street, Wilmington, DE  Filed: April 17, 1998	Nothing found	Nothing found	Nothing found

**ADDITIONAL INFORMATION**

Prior Board approval of a similar resolution:

**Resolution No. R-872-18**, adopted September 5, 2018, approving selection of J.P. Morgan Chase, N.A. to provide capital in an amount not to exceed \$155,000,000.00 for lease/purchase of vehicles and/or equipment to be utilized by the transit department and to pay financing costs.

<http://www.miamidade.gov/govaction/matter.asp?matter=181668&file=true&fileAnalysis=true&yearFolder=Y2018>

**APPLICABLE LEGISLATION/POLICY**

**Florida Statutes Section 517.061(7)** states that the offer or sale of securities to a bank, trust company, savings institution, insurance company, dealer, investment company as defined by the Investment Company Act of 1940, pension or profit-sharing trust, or qualified institutional buyer as defined by rule of the commission in accordance with Securities and Exchange Commission Rule 144A (17 C.F.R. s. 230.144(A)(a)), whether any of such entities is acting in its individual or fiduciary capacity, provided that such offer or sale of securities is not for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of this chapter.

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0500-0599/0517/Sections/0517.061.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0500-0599/0517/Sections/0517.061.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

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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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dade county/codes/code of ordinances?nodeId=PTIICOOR CH2AD ARTIINGE S2-8.1COPUGE](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Section 29-124(f) of the County Code** sets forth the role of the Citizens' Independent Transportation Trust and provides that 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 S29-124SPFUCRUSSUPPROCIINTRTR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH29TA_ARTXVIONHAONPECHCOTRSYSASUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPPROCIINTRTR)

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

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

**Resolution No. R-35-17**, adopted January 24, 2017, approved award of a Master Developer Agreement for a CNG Program to Trillium Transportation Fuels, LLC in a total amount of up to \$428,773,000 for an initial 10-year term with an option to renew of 10 years.

<http://intra/gia/matter.asp?matter=162416&file=true&yearFolder=Y2016>

**Resolution No. R-1262-18**, adopted December 4, 2018, directs the County Mayor to (1) issue a purchase order pursuant to the terms and conditions of the Central Florida Regional Transportation Authority d/b/a Lynx contract no: 14-C09 for the purchase of Compressed Natural Gas buses to replace Metrobuses that have reached their useful life span of 12 years and/or 500,000 miles of service in a number up to the maximum amount of available funds budgeted for this purpose in the fiscal year 2018-2019 budget and programmed for fiscal year 2019-2020 as set forth in the fiscal year 2018-2019 multi-year capital plan, subject to this resolution becoming effective prior to the contract expiration date; (2) submit, to the extent required, the subject purchase order to the Citizens' Independent Transportation Trust for its review and recommendation and to this board for subsequent approval; (3) examine the availability of additional contracts that could be accessed for the purchase of additional compressed natural gas buses in order to replace Metrobuses that have reached their useful life span of 12 years and/or 500,000 miles of service; and (4) to provide status reports.

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<http://www.miamidade.gov/govaction/matter.asp?matter=182875&file=false&fileAnalysis=false&yearFolder=Y2018>

**Resolution No. R-99-19**, adopted January 23, 2019, approving purchase order no. pomt1900555 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; and authorizing the use of charter county surtax funds for such purposes

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

**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>

**Municipal Securities Rulemaking Board (MSRB) No. G-34** Establishes requirements relating to CUSIP numbers for dealers and, in competitive offerings, municipal advisors; requires underwriter participation in the New Issue Information Dissemination Service (NIIDS); and requires submission of certain information and documents related to auction rate securities and variable rate demand obligations to the SHORT system.

<http://www.msrb.org/Rules-and-Interpretations/MSRB-Rules/General/Rule-G-34.aspx>

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**Item No. 3C  
File No. 191402**

**Researcher: PGE Reviewer: TD**

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-01098 FOR THE BUS PASSENGER BENCH PROGRAM FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS TO SIGNAL OUTDOOR ADVERTISING, LLC FOR A TEN-YEAR TERM, WITH AN ESTIMATED TOTAL REVENUE TO BE GENERATED OF UP TO \$5,625,000.00; 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

**ISSUE/REQUESTED ACTION**

Whether the Board should approve award of *Contract No. FB-01098, Bus Passenger Bench Program*, to Signal Outdoor Advertising, LLC for a 10-year term with an estimated revenue for the County in the amount of \$5,625,000 for the Department of Transportation and Public Works (DTPW).

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

**Department/Requester: Internal Services Department**

The item was previously placed on the June 12, 2019 agenda of the Transportation and Finance (TAF) Committee and was removed prior to deliberations as it was not properly before the committee. Subsequently, the item was deferred twice: at the July 15, 2019 and the September 17, 2019 TAF Committee meetings. At the July 15, 2019 meeting, the following discussion transpired:

- A representative of Fuel Media stated that it was the highest bidder, proposing the highest revenue to the County yet was not selected. The representative said that Fuel Media could deliver better service with greater revenue, explaining that the County has been underpaid and underserved by the incumbent vendor;
- The County Attorney stated that there was a bid protest filed and later withdrawn for this recommended contract award;
- ISD's Chief Procurement Officer (CPO) affirmed that Fuel Media offered the highest revenue; however, the CPO explained that the Administration met with Fuel Media on April 3rd to determine if the company understood the scope of work and would be able to perform the solicited services. In the meeting, Fuel Media admitted that it had not performed a contract of this magnitude and scope and did not provide contracts of comparable size as required by the solicitation. Fuel Media could not prove ability to perform the required trash collection and maintenance services. The CPO stated that based on that information, the Administration concluded that Fuel Media did not have the capacity to perform the services and thus could not recommend the award to Fuel Media;
- Commissioner Moss voiced that the current vendor was underpaying the County, which was discovered in an audit. He then questioned how the incumbent vendor, Signal Outdoor Advertising, who only provided revenue totaling \$1.9 million over 10 years would be able to provide \$5.6 million over the next 10 years. DTPW answered that it receives the MAG annually and on time from Signal, and the department is unclear



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why the vendor was shortchanging the County initially. DTPW said that the additional projected revenue is attributed to the extra 300 benches to be installed under the new contract;

- Commissioner Moss voiced his dissatisfaction with DTPW's response and suggested that the item travel to the Board without recommendation;
- Commissioner Jordan raised the concern that requirements under the replacement contract could have been selected to benefit a specific vendor and requested information from the Administration relating to the qualifications under the prior solicitation as compared to the replacement solicitation; DTPW said it would provide the committee that information; Commissioner Jordan then stated that the requested information will help the committee determine if the procurement process was fair, particularly because the recommended award means that the County is giving up additional revenue; Jordan concluded by moving that the item be deferred;
- Commissioner Bovo seconded the deferral; and
- Deputy Mayor Moon added that the current contract has no additional OTRs and expires on August 31, 2019 and thus requested a designated purchase be presented at the Board's July 23rd meeting to extend the current contract for up to six months. The committee accepted this request.

At the September 17, 2019 meeting, the following transpired:

- Commissioner Bovo deferred the item to the next committee meeting; he stated that if the committee approves the item, that he will request that it be waived to the next Board meeting.

**ANALYSIS**

The purpose of this item is to establish a long-term replacement contract for DTPW for its bus passenger bench program. The awardee, Signal Outdoor Advertising, LLC, is the incumbent vendor and the revenue to be generated for the proposed 10-year term is \$5,625,000. The Market Research conducted by the Administration states that a 10-year term is being recommended to allow sufficient time for the awardee to recover its significant capital investment costs and realize a fair and reasonable profit.

The current contract (*RFP540*) had a term of 10 years and nine months, from December 1, 2008 to August 31, 2019 and, per the mayoral memorandum, generated revenue totaling \$1,870,000. The current contract is in its fifth and final option period, which had an original expiration date of February 28, 2019. The current August 31, 2019 expiration date reflects a six-month administrative extension. The increase in the estimated revenue under the replacement contract is attributable to the expanded scope of services. Moreover, the projected revenue is higher due to the awardee's guaranteed payment of 20 percent of the revenue collected for any calendar year.

Pursuant to Resolution No. R-843-19, adopted July 23, 2019, the Board authorized a designated purchase for a six-month extension of the current contract to ensure continuity of services until the replacement contract is awarded. With the designated purchase, the contract has a modified cumulative revenue of \$2,095,000 (i.e., \$1,870,000 for the 10 year and nine-month term plus \$225,000 for the additional six months) and expires on February 28, 2020. The current contract's cumulative term is 11 years and three months.

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The solicitation was advertised on March 22, 2019. Five vendors responded to the solicitation, of which two were “No Bids.” The method of award was to the responsive and responsible bidder who submitted the highest offer for the total payment to the County. The three respondents are: (1) Creative Outdoor Advertising of America, offering \$4,500,000; (2) Fuel Media Holdings, LLC, offering \$7,807,992; and (3) Signal Outdoor Advertising, LLC, offering \$5,625,000.

Although Fuel Media Holdings proposed the highest sum, a Responsibility Review was held by the Administration on April 26, 2019 in which it was determined that Fuel Media Holdings was non-responsible because the vendor lacked the experience and proof of ability to perform the solicited services. The solicitation requires as a consideration of award that “the bidder shall have performed similar services under no less than a minimum of three contracts performed within the continental United States, commensurate to the size and scope of work described herein.” This contrasts with the previous solicitation, which only required the bidder to have three or more years of experience in competently and effectively providing services similar in scope and complexity.

To satisfy the new requirement, Fuel Media provided three contracts and the associated references. However, upon review, it was determined that the contracts were neither comparable nor commensurate in terms of the size and scope of services. Moreover, after evaluating Fuel Media’s proposed staff and equipment to perform the solicited services, the Administration concluded that the vendor does not have the capacity to perform the scope of work. According to the Responsibility Review memorandum, although Fuel Media’s proposed revenue was appreciably more than that of the other bidders, the vendor did not appropriately factor all costs associated to forecast a realistic projected revenue. Hence, Signal Outdoor Advertising, who offered the second highest sum, is the recommended awardee.

The solicitation sets forth an Annual Guaranteed Payment to the County under the contract, payable in quarterly installments. Although the mayoral memorandum suggests that Living Wage does not apply, the solicitation includes a Living Wage requirement. The scope of work for this contract encompasses the following:

- Engage in activities related to selling advertisement on existing bus benches and new bus benches installed by the awardee;
- Furnish and install full-size and slim-size model benches;
- Clean, maintain and repair the existing County-owned bus passenger benches and trash receptacles located in unincorporated Miami-Dade County;
- Expand the program by manufacturing, installing and maintaining new bus passenger benches and trash receptacles; and
- Be responsible for all costs required to perform the solicited services.

The Commodity Codes for this solicitation found on the Small Business Development Project Worksheet are: 15576 (Shelters, Bus Waiting), 91504 (Advertising Services, Outdoor Billboard) and 91069 (Shelters, Carports, Portable Buildings). A search on October 22, 2019 on the Business Management Workforce System under those codes yielded the following local certified small business firms:

- Bilmor with Advertising Specialties, Inc. (91504);
- Design-Build Interamerican, Inc. (91069);
- Icon Group Engineers, LLC (91069);
- LCN Group, Inc. (91069);
- O.R. Dean Construction, Inc. (91069);

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- Paragon Construction Unlimited, Inc. (91069);
- Perpetual Advancement Enterprises, Inc. (91069);
- Lex Promotions & Marketing Group LLC (91504); and
- The M Network, Inc. (91504).

It is unclear from this search whether the local firms have the capacity to perform the solicited services.

Per a search on October 22, 2019 of Sunbiz.org, the official State of Florida website for the Department of State Division of Corporations, Signal Outdoor Advertising, LLC, is a foreign limited liability company with a principal address of 200 Mansell Court East, Suite 325, Roswell, Georgia. A local address was provided in the mayoral memorandum. The table below summarizes OCA's due diligence review of the recommended awardee.

Awarded Firm	Corporate Registration	Tax Collector's Office	Florida DBPR	Westlaw
Signal Outdoor Advertising, LLC	Active Foreign Limited Liability Company Principal Address: 200 Mansell Court East, Suite 325 Roswell, GA  Date Filed: July 3, 2001	Business address: 1835 NW 112 Avenue, Suite 161, Sweetwater, FL  Status: Paid and Current	Nothing found	No relevant cases found

**ADDITIONAL INFORMATION**

On April 2, 2014, OCA published the results of its audit on the Miami Dade Transit (MDT) Advertising Revenue Collection Program. The audit's scope included the Bus Passenger Bench Program from January 2009 through February 2013. The audit found the following regarding the Bus Passenger Bench Program which was awarded to Signal Outdoor Advertising, LLC:

- Internal controls over the custody and maintenance of contractually required Letters of Credit obtained from advertising contractors as performance bonds were inadequate. As of June 14, 2013, the original Letter of Credit for \$47,259 from Signal Outdoor could not be located by MDT or the Procurement Management Division of ISD, and there were no tracking records to trace the Letter of Credit to specific staff. Without the original Letter of Credit, the County may be unable to draw on the Letter of Credit whenever it becomes necessary, since the issuing bank specifically required the presentation of the original Letter of Credit before any payment request would be honored;
- There were inadequate internal controls to ensure that collections of advertising revenue from all advertising contractors were complete and accurate. The failure of MDT to collect the correct amounts of revenue due from Signal Outdoor Advertising and to prepare complete invoices for shelters advertising sales subjected the County to the potential loss of revenue of approximately \$178,200; and
- MDT did not maintain in-house inventory records of bus passenger benches. The lack of in-house inventory records of bus passenger benches could present operational challenges to MDT in absorbing ownership and maintenance of those benches at the end of the contract.

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**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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**Resolution No. R-477-18**, adopted 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 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 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 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-1011-15**, adopted 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-718-17**, adopted on July 6, 2017, directs the County Mayor to commence planning for re-procurement no later than 18 months prior to the expiration of contracts and prequalification pools for the purchase of goods and services.

<http://intra/gia/matter.asp?matter=171632&file=true&yearFolder=Y2017>

**Resolution No. R-841-06**, adopted on July 6, 2006, changed the deadline to seek approval for award of successor contracts or extension of existing contracts from 60 to 30 days prior to expiration.

<http://intra/gia/matter.asp?matter=061720&file=true&yearFolder=Y2006>

**Resolution No. R-843-19**, adopted July 23, 2019, authorized a designated purchase for a six-month extension of *Contract No. RFP540, Bus Passenger Bench Program*, to ensure continuity of services until the replacement contract

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is awarded. With the designated purchase, the contract has a modified cumulative revenue of \$2,095,000 and expires on February 28, 2020.

<http://intra/gia/matter.asp?matter=191938&file=false&yearFolder=Y2019>

**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. 3D  
File No. 192278**

**Researcher: JFP Reviewer: PGE**

RESOLUTION AWARDING CONSTRUCTION SERVICES FOR THE STATE ROAD 836 EXPRESS BUS SERVICES – PARK AND RIDE/BUS TERMINAL (TAMIAMI STATION), CONTRACT NO. CIP097-DTPW18-CT1; BETWEEN MIAMI-DADE COUNTY AND JVA ENGINEERING CONTRACTOR, INC. IN AN AMOUNT OF \$10,914,740.76, INCLUSIVE OF CONTINGENCY ALLOWANCE ACCOUNT FOR \$517,391.23; FOR A TERM OF 570 DAYS; AUTHORIZING THE USE OF PEOPLE’S TRANSPORTATION PLAN BOND PROGRAM FUNDS FOR SUCH PURPOSES; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR’S DESIGNEE TO EXECUTE SAME AND TO EXERCISE THE RIGHTS CONTAINED THEREIN

**ISSUE/REQUESTED ACTION**

Whether the Board should award *Contract No. CIP097-DTPW18-CT1* to JVA Engineering Contractor, Inc. in the amount of \$10,914,741 for construction services for the State Road (SR) 836 Express Bus Service Park and Ride/Bus Terminal Project (Tamiami Station) for a term of 570 days and authorize the use of People’s Transportation Plan Bond Program funds for this purpose.

**PROCEDURAL HISTORY**

**Prime Sponsor: None**

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

This item has no procedural history.

**ANALYSIS**

The purpose of this item is to award a contract to JVA Engineering Contractor, Inc. (JVA) for the construction of Tamiami Station, a new Park and Ride/Bus Terminal facility along the SR 836 express bus service route located in unincorporated Miami-Dade County in District 11, represented by Commissioner Martinez, at the southwest quadrant of SW 8th Street and SW 147th Avenue. The contract is valued at \$10,914,741 for a term of 570 days. The item authorizes the use of People’s Transportation Plan Bond Program funds to support the construction of the station.

The project scope of work is to construct a Park and Ride lot with over 450 parking spaces, a bus terminal with eight bays and associated roadway improvements including lane widening along SW 8th Street and SW 147th Avenue. The scope also encompasses a continuous canopy over the passenger walking area, a pedestrian canopy leading to the parking lot and an Operator Relief Lounge. The awardee will be required to furnish all supervision, labor, materials, equipment, tools, services and incidentals necessary for the construction of the Tamiami Station. The completed project will provide express bus service from the new station towards the Miami Intermodal Center via SW/NW 107th Avenue and SR 836, as well as provide a terminal for several bus routes serving western portions of the County.

The proposed Tamiami Station is included in the Transportation Planning Organization's 2040 Long Range Transportation Plan and 2017 Transportation Improvement Plan, and the Florida Department of Transportation 2017 State Transportation Improvement Program. The contract award is in the amount of \$10,914,741, including a 5% contingency allowance of \$517,391 and a Dedicated Allowance Account for Art in Public Places for \$49,525, for a term of 570 calendar days, with a contingency period of 57 calendar days.

The \$10,914,740.76 total value of the contract will be paid with the following funding sources: Florida Department of Transportation (\$3,397,640), Federal Transit Administration Section 5307/5309 Formula Grant (\$1,180,744), and

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People's Transportation Plan Bond Program (\$6,336,356.76), thus necessitating CITT approval, which is currently pending. An 18% Disadvantaged Business Enterprise (DBE) goal has been assessed to the overall project.

Pursuant to 33-303 of the County Code, the Board approved Tamiami Station as a Government Facility on March 20, 2018 via Resolution R-272-18, authorizing the use, construction, and operation of the facility after its identification as a priority need for Miami-Dade County to help mitigate traffic congestion and provide the public with transit alternatives. The County currently owns the Tamiami Station property, which has a covenant to ensure that hazardous materials are not disposed of, discharged, or stored on a portion of the subject property.

The Tamiami Station consists of approximately eight acres and will provide the following amenities:

- Elevated platform for passenger loading and unloading to ensure it can accommodate the Autonomous Rail Rapid Transit (ART) bus;
- Accessible and convenient parking including long-term, short-term, drop-off/pick-up areas and designated parking for ADA, strollers, and electric vehicles, totaling approximately 493 spaces;
- Bus bays and layover bays;
- Continuous weather-protection canopies over loading/unloading bus area;
- Pedestrian canopies from west/east parking lots to bus bay area;
- A break lounge for drivers;
- Ticket vending machines;
- Motorcycle parking areas;
- Bicycle racks;
- Perimeter fencing and/or privacy wall to buffer the residential area to the south;
- Parking lot/site lighting;
- Under canopy lighting; and
- Drought-tolerant landscaping.

The solicitation was advertised on March 19, 2019. Five bids were received, with JVA submitting the lowest bid at a base price of \$10,347,825. DTPW proceeded with recommending JVA for award, despite JVA's bid being 8.16% above the Engineer of Record's estimate, after finding JVA to be responsive and responsible.

JVA has held six contracts with the County in the last three years, at a total value of \$31,042,474, including \$521,229 in Board-approved Change Orders. Pursuant to Resolution No. R-421-16, a performance record verification was conducted in the Capital Improvements Information System (CIIS) on October 21, 2019, finding that JVA has 53 evaluations with an average rating of 3.6 points out of a possible 4.0. Five of the 53 evaluations were below 3.0. JVA has three closed SBD violations, including a \$91,193 violation for underpayment of an employee.

In addition, detailed below is a summary of OCA's due diligence performed on JVA, including relevant litigation.

<b>Awarded Firm</b>	<b>Corporate Registration</b>	<b>Tax Collector's Office</b>	<b>Florida DBPR</b>	<b>Litigation (Westlaw)</b>
JVA Engineering Contractor, Inc.	Florida Profit Corporation  Active	Business address: 6600 NW 32nd Avenue, Miami, FL 33147	License type: Certified General Contractor	<i>Jorge Martinez vs. JVA Engineering Contractor, Inc. et al</i> (Case No. 2019-006049-CA-01); Filed on February 25, 2019



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	<p>Principal Address: 6600 NW 32<sup>nd</sup> Avenue, Miami, FL 33147</p> <p>Filed: September 26, 2002</p>	<p>Status: Paid and Current</p>	<p>(expires August 31, 2020); Certified Underground Utility and Excavation Contractor (expires August 31, 2020)</p>	<p>in the 11<sup>th</sup> Judicial Circuit, Miami-Dade County; Allegations: plaintiff was not paid at the proper overtime rate for hours worked in excess of forty hours per week and plaintiff was paid at a rate below the applicable hourly wage rate as set forth under federal law for some of his hours; and Case Status: Removed to federal court.</p> <p><i>Herbert Morales vs. JVA Engineering Contractor, Inc.</i> (Case No. 2019-006584-CA- 01); Filed on March 1, 2019 in the 11<sup>th</sup> Judicial Circuit, Miami- Dade County; Allegation: defendant breached its duty of care and was negligent in failing to warn of the existence or presence of the danger and/or hazardous condition created by an uncovered hole on the premises where plaintiff and others would walk, causing plaintiff to slip and fall into the uncovered hole, resulting in plaintiff being severely, significantly and permanently injured, incurring significant and permanent loss of bodily function; and Case Status: Open</p> <p><i>Rivera et al v. TJ Pavement Corp. et al</i> (Case No. 1:12-CV- 22359); Filed on June 26, 2012 in U.S. District Court, Southern District of Florida (Miami); Allegation: defendant and co- defendant breached the terms of the contracts with the County by not paying the plaintiff the specified hourly wage and</p>
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overtime rate for his position as a dump truck driver; and Case Status: Closed.

**Proposed Tamiami Station at SW 8th Street and SW 147th Avenue**



**ADDITIONAL INFORMATION**

**Transportation Planning Organization's 2040 Long Range Transportation Plan**

<http://www.miamidadetpo.org/library/plans/2040-long-range-transportation-plan-final-2014-10.pdf>

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**2017 Transportation Improvement Plan**

<http://www.miamidadetpo.org/transportation-improvement-program.asp>  
<http://www.interactip.com/>

**Florida Department of Transportation 2017 State Transportation Improvement Program**

<https://www.fdot.gov/workprogram/federal/stip.shtm>

**SR 836 Express Bus -Project Fact Sheet**

<https://www.miamidade.gov/transit/library/pdfs/misc/sr-836-fact-sheet.pdf>

**APPLICABLE LEGISLATION/POLICY**

**Section 2-8.1(h) of the Code of Miami-Dade County** 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 2-8.1 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; (2) describes the circumstances under which non-competitive purchases may be approved; (3) establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and (4) provides that procurement procedures shall be established by I.O. and approved by the Board.

[https://library.municode.com/fl/miami -  
dade county/codes/code of ordinances?nodeId=PTIICOOR CH2AD ARTIINGE S2-8.1COPUGE](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)

**Section 2-8.3 of the Code of Miami-Dade County** (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)

**Section 2-11.16 of the Code of Miami-Dade County** 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)

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**Section 33-303 of the Code of Miami-Dade County** provides that, prior to the construction, erection or operation of a governmental facility in the unincorporated areas of Miami-Dade County, a favorable public hearing before the Board is required. The Board may only authorize the use, construction, erection and operation of such facilities in any zoning district after considering, among other factors, the public need for the facility, the type of function involved, existing land use patterns in that area and the nature of the impact of the facility on surrounding properties.

[https://library.municode.com/fl/miami - dade county/codes/code of ordinances?nodeId=PTIICOOR\\_CH33ZO\\_ARTXXXVIZOPR\\_S33-303EXPRZOUNARWHCOREZOJUNAREXAPGOFA](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIZOPR_S33-303EXPRZOUNARWHCOREZOJUNAREXAPGOFA)

**Section 29-124(f) of the Code of Miami-Dade County** (Special fund created; uses of surtax proceeds; and role of Citizens' Independent Transportation Trust) requires CITT review of contracts funded by the People's Transportation Plan or for contracts with a Transit allocation that exceeds \$1 million.

[https://library.municode.com/fl/miami - dade county/codes/code of ordinances?nodeId=PTIICOOR\\_CH29TA\\_ARTXVIONHAONPECHCOTRSYSASUAUSE212.0551\\_FLST2001\\_S29-124SPFUCRUSSUPRROCIINTRTR](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH29TA_ARTXVIONHAONPECHCOTRSYSASUAUSE212.0551_FLST2001_S29-124SPFUCRUSSUPRROCIINTRTR)

**Section 2-11.15 of the Code of Miami-Dade County** governs works of art in public places and specifies that the County and each municipality in the County shall provide for the acquisition of works of art equivalent in value to not less than one and one-half (1.5) percent of the construction cost of new governmental buildings, provided that no funds may be appropriated for this purpose from the ad valorem tax operations fund.

[https://library.municode.com/fl/miami - dade county/codes/code of ordinances?nodeId=PTIICOOR\\_CH2AD\\_ARTIINGE\\_S2-11.15WOARPUPL](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-11.15WOARPUPL)

**Section 10-34 of the Code of Miami-Dade County** requires the listing of subcontractors on county construction contracts in which a bidder may use a subcontractor which involves the expenditure of \$100,000 or more.

[https://library.municode.com/fl/miami - dade county/codes/code of ordinances?nodeId=PTIICOOR\\_CH10CO\\_ARTIIBIPUPR\\_S10-34LISURE](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH10CO_ARTIIBIPUPR_S10-34LISURE)

**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>

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

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

**Implementing Order No. 3-57** 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>

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**Resolution R-272-18**, adopted March 20, 2018, approved the proposed development of a Park And Ride/Bus Terminal Facility, known as Tamiami Station, to be located at the southwest corner of SW 8 Street and SW 147 Avenue, as a Government Facility in compliance with Section 33-303 of the Code of Miami-Dade County.

<http://intra/gia/matter.asp?matter=180503&file=true&yearFolder=Y2018>

**Resolution No. R-187-12**, adopted 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>

**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-1181-18**, adopted 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>

**Ordinance No. 07-65**, adopted May 8, 2007, establishes the County's Sustainable Buildings Program.

<http://intra/gia/matter.asp?matter=070463&file=true&yearFolder=Y2007>

**Ordinance No. 14-79**, adopted 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>