



**OFFICE OF THE COMMISSION AUDITOR
MIAMI-DADE BOARD OF COUNTY COMMISSIONERS**

**COMMISSION AUDITOR'S
INFORMATIONAL RESEARCH**

BOARD OF COUNTY COMMISSIONERS MEETING

May 18, 2021

9:30 A.M.

Commission Chambers

Yinka Majekodunmi, CPA
Commission Auditor

Office of the Commission Auditor (OCA)
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Research Notes**

**Item No. 5F
File No. 210831**

Research: CB / Reviewer: PGE

ORDINANCE CREATING THE SIENA NORTH COMMUNITY DEVELOPMENT DISTRICT

Prime Sponsor: None
Requester: Parks, Recreation and Open Spaces
Committee Action Date: N/A

RESEARCH FINDINGS

OCA completed the required background research regarding the initial members of the Board of Supervisors of the Siena North Community Development District – Yadira Monzon, Vanessa Perez, Maria Carolina Herrera, Teresa Baluja and Carmen Beatriz Orozco. The research yielded no adverse informational findings for the members. This report is being provided as a Supplement to BCC Agenda File Item Number 210831.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Resolution No. R-636-14](#), adopted on July 1, 2014, requires OCA to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations or appointments by the BCC.

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Research Notes**

**Item No. 802
File No. 211096**

Researcher: TA / MF / Reviewer: PGE

RESOLUTION RATIFYING ACTION BY THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE RELATED TO MIAMI-DADE WATER AND SEWER DEPARTMENT'S CONSENT DECREE AND CAPITAL IMPROVEMENT PROGRAMS ACCELERATION ORDINANCE PURSUANT TO SECTION 2-8.2.12 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA SPECIFICALLY APPROVING A SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND DAVID MANCINI & SONS, INC., PROJECT NO. DB14-WASD-05; CONTRACT NO. 16DMSI001, IN THE AMOUNT OF \$804,373.45, FOR DESIGN-BUILD SERVICES TO FURNISH AND INSTALL A 48-INCH FORCE MAIN ALONG NORTH MIAMI AVENUE FROM N.W. 8 STREET TO N.E. 36 STREET AND ALONG N.E. 36 STREET FROM NORTH MIAMI AVENUE TO N.E. 2 AVENUE

Prime Sponsor: Commissioner Keon Hardemon, District 3
Requester: Water and Sewer Department (WASD)
Committee Action Date: N/A

RESEARCH FINDINGS

OCA's review of the item found no substantive legislative, procedural or administrative noncompliance.

The following was noted:

1. Negligence lawsuit pertaining to David Mancini & Sons, Inc. as a co-defendant with a final judgment amount in excess of \$1,000,000.00 – *Alberni Anabel (PR) v. EAN Holdings, LLC, et al*, Case No. 2017-009968-CA-01, was filed April 26, 2017 in the 11th Judicial Circuit of Miami-Dade County. According to the complaint, Tatiana Sanchez died because of non-operating streetlights and negligence from another driver who operated a vehicle belonging to one of the co-defendants. Per the lawsuit, Ms. Sanchez (a driver) was involved in a two-car wreck while traveling westbound on I-195 (SR 112). After Ms. Sanchez and the driver of the second car involved in the accident exited their vehicles to inspect the damages, the driver of a third vehicle (owned by one of the co-defendants) collided with both Ms. Sanchez (the decedent) and the second driver, thereby resulting in Ms. Sanchez's death. The complaint states that the driver of the third vehicle (owned by a co-defendant) that crashed into both Ms. Sanchez and the second driver did not have a valid driver's license, was incompetent, careless, reckless, and unfit to operate the motor vehicle. Judge Alan Fine issued a final judgment on May 19, 2020 in the amount of \$1,000,000.00 with a statutory interest rate of 6.66% per year.
2. This ratification item should have been scheduled for the next available Board meeting after the delegated action occurred as required by Ordinance. (See the Additional Information section.)

FINANCIAL ANALYSIS

According to WASD, the settlement amount of \$804,373.45 was budgeted (OMB #2000000580 in the FY2020-21 Adopted Budget and Multi-Year Capital Plan, Page #69), and there was no negative fiscal impact to another project.

ADDITIONAL INFORMATION

On December 6, 2016, the Board ratified award of this Design-Build contract to David Mancini & Sons, Inc. (DMSI) via [Resolution No. R-1124-16](#). The award was for a total amount of \$22,012,99.04 with a total contract term of 960 calendar days (September 1, 2016 – April 19, 2019). Exhibit A indicates the project was completed on May 31, 2019; however, the recitals in Exhibit B states that the installation of the water force main had to be completed by June 5,

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Researcher: TA / MF / Reviewer: PGE

2017, due to an impending five-year moratorium on any excavation in the subject area by the Florida Department of Transportation (FDOT).

Due to the need for the contractor to re-design the work to meet the compressed time frame, DMSI was able to ensure compliance with the permit conditions by accelerating not only construction (through a 24/7 work schedule) but also any necessary re-design work. The FDOT Utility Permit (permit for constructing in FDOT right-of-way) provided a time certain for completion.

An acceleration claim was submitted by DMSI to the County on June 12, 2018 and a settlement was negotiated; the action is now subject to ratification by the Board at its May 18, 2021 Board meeting. [Ordinance 14-77](#), adopted by the Board on September 3, 2014, authorized the Mayor or Mayor's Designee to advertise, award, amend and negotiate capital projects and certain services, and settle claims related to its Capital Improvement Programs and Consent Decree projects without the need for prior Board approval, but subject to ratification by the Board. It should be noted that Section 2-8.2.1.2(6) provides that:

(6) Any act undertaken pursuant to the authority set forth in this Ordinance is subject to ratification by the Board of County Commissioners and shall be brought directly to the Board at the next available meeting and will not be subject to the 4-Day Rule...

According to WASD, while the claim was received in June 2018, there were several iterations of negotiations with DMSI to reach an agreeable settlement amount. The final amount was agreed to in April 2020 and required subsequent agenda and other reviews prior to Mayoral approval and placement on a Board agenda. To comply with the Ordinance 14-77, the ratification item should have been submitted for a Board agenda in May 2020.

Among the requirements for applicability of this delegated authority is that the settlement amount not exceed 10% of the base contract amount. The settlement of \$804,373.45 equates to 3.7% of the base contract amount of \$22,012,999.04. Upon OCA's request for clarification on how the 55% reduction in the original claim amount was accomplished, WASD indicated it was by adjusting expenses related to additional labor and equipment and to reflect costs that could be justified, substantiated, and documented as attributable to the acceleration.

According to Small Business Development's *Compliance Report of Open and Closed Small Business, Wage and/or Workforce Violations in the last three (3) years as of May 14, 2021*, DMSI has two closed violations related to other projects:

1. On May 30, 2019, a violation of \$7,881,75 was issued for Misclassification and Underpayment of an Employee. (Closed 9/19/19)
2. On June 18, 2019, a violation was issued for failure to achieve Community Workforce Program requirements. (Closed 6/16/20)

The Capital Improvements Information System (CIIS) indicates that DMSI has a total of 15 [evaluations](#) on file with an average score of 3.8 out of a maximum total of 4.0. The evaluation for the subject contract was submitted by WASD on May 14, 2021, although the project was completed in 2017. [Administrative Order No. 3-42](#) requires departments to evaluate firm performance on construction and architectural and engineering contracts, with a minimum of one project evaluation at the end of each project. No time frame is specified in the Administrative Order for when the evaluation is due by the department.

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A review of Florida's Department of Business and Professional Regulation (DBPR) shows the subject contractor has the following certifications: General Contractor; Construction Business Information; Construction Financial Officer; and Underground Utility and Excavation Contractor. No complaints were found.

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**Item No. 803
File No. 211098**

Researcher: JNF & VW / Reviewer: PGE

RESOLUTION RATIFYING ACTION BY THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE RELATED TO MIAMI-DADE WATER AND SEWER DEPARTMENT'S CONSENT DECREE AND CAPITAL IMPROVEMENT PROGRAMS ACCELERATION ORDINANCE PURSUANT TO SECTION 2-8.2.12 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA SPECIFICALLY APPROVING CHANGE ORDER NO. 1 BETWEEN MIAMI-DADE COUNTY AND LEE CONSTRUCTION GROUP, INC. FOR AN INCREASE TO THE CONTRACT AMOUNT BY \$262,793.74 AND A 310-DAY NON-COMPENSABLE TIME EXTENSION FOR THE ALEXANDER ORR JR. WATER TREATMENT PLANT LIME KILN ELECTRICAL SWITCHGEAR BUILDING, CONTRACT NO. W-944

Prime Sponsor: None

Requester: Water and Sewer Department (WASD)

Committee Action Date: N/A


RESEARCH FINDINGS

OCA's review of the item produced the following findings:

- 1) OCA inquired about the timeline of the project. The Notice to Proceed date was July 23, 2019, with the contract's original final completion date being May 18, 2020. According to WASD, despite this item seeking ratification of extension of the contract's final completion date to March 24, 2021, the project is ongoing. Delays primarily resulting from unforeseen soil conditions and underground utility conflicts have delayed the project. The contractor has submitted a revised schedule which shows a completion date of March 2022. This revised schedule is currently under review by WASD and WASD Construction Management. An additional item before the Board will be required to extend the contract to the anticipated completion date.
- 2) Amendments and change orders pursuant to Ordinance No. [14-77](#) are subject to ratification by the Board and must be brought directly to the Board at the next available meeting. This change order was executed on December 9, 2020 and thus should have been brought before the Board on December 14, 2020. (See Additional Information section).

FINANCIAL ANALYSIS

The table depicts the value of the initial construction contract, and the value of the first change order. The total value of the change order, \$262,793.74, represents a 4% increase from the initial award.

Contract No. W-944	
Contract Event	Value
Initial Contract	\$6,270,105.91
First Change Order	\$262,793.74
TOTAL	\$6,532,899.65
% Change from Initial Contract Value	 4.19%

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Researcher: JNF & VW / Reviewer: PGE

On May 13, 2021, OCA requested the following budgetary information from WASD:

Has the expenditure or revenue (as applicable) been budgeted for?					
If yes:		If no:	If applicable:		
Provide the budget line item where this expenditure or revenue can be identified. Include the Budget Book Page number, if applicable.	Provide the funding or revenue source(s).	Provide the Financial index or account code.	Explain why this expenditure or revenue was not budgeted for, including how the expenditure will be addressed, or what the revenue will be utilized for.	Provide the actual expenditures/revenues in FY19-20.	Provide the projected expenditures/revenues in FY20-21.
Project number is 9650031, page #83 in the FY20-21 Adopted Budget and Multi-Year Plan	WASD Revenue Bonds Sold Water Renewal and Replacement Fund Future WASD Revenue Bonds	ER W017119	Budgeted	\$1,182,772	\$2,253,813

ADDITIONAL INFORMATION

This item requests retroactive approval of a contract extension and \$262,793.74 to accommodate the additional time and monies required primarily due to WASD requesting electrical enhancements to be completed on the project. Upon OCA's request for clarification on this, WASD stated that, when the project design was initiated in 2014, some of the equipment specified by the engineering consultant was based on general industry standards at the time, rather than WASD standards at the time of construction. In 2018 during the pre-construction phase, WASD Operations requested enhancements necessary to meet WASD's electrical standards/requirements. For example, the original design included manually controlled medium voltage switchgear. Remote control operated medium voltage switchgear was requested by WASD Operations as a safety enhancement. This did not impact any other WASD contracts.

The contract to Lee Construction Group, Inc. for construction of the Alexander Orr, Jr. Water Treatment Plant Lime Kiln was awarded on October 2, 2018 via Resolution No. [R-1022-18](#). Pursuant to Ordinance No. [14-77](#), the Mayor's delegated authority encompasses the ability to amend this contract, as well as negotiate and designate change orders as this is a funded capital project pertaining to the Consent Decree for the Water and Sewer Department. Amendments and change orders are subject to

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**Item No. 803
File No. 211098**

Researcher: JNF & VW / Reviewer: PGE

ratification by the Board and must be brought directly to the Board at the next available meeting. This change order was executed on December 9, 2020 and thus should have been brought before the Board on December 14, 2020.

According to the Business Management Workforce System, Lee Construction Group, Inc., has been awarded 13 contracts as prime contractor, with a cumulative value of \$16,272,257, and one as subcontractor, at a value of \$124,964, as detailed below.

Contracts as Prime Contractor		
Contract Number and Title	Dates	Award Amount
4107842: ACCE Elevator and AHU 101	6/5/2018 to 6/4/2021	\$1,377,862
4107760: ACCW 3,4,5 Renovation	5/18/2018 to 5/17/2021	\$12,765
4108107: Adult Fluoroscopy	10/12/2018 to 10/11/2021	\$171,574
2017-039.03: Cruise Terminals B and C Conversion to C - Building Improvements	4/23/2019 to 1/1/2020	\$4,856,740
17-14995 GC Pool T1 Lee Construction: GC Pool T1 17-14995 Lee Construction	1/1/2019 to 12/31/2024	\$0
16 GC-01 Lee Construction Group: JOC Contract GC-01 Lee Construction Group	1/1/2019 to 12/31/2024	\$0
502501-14-001: NF-Deering Estate - Shutters Panels and AC Units - Replacement	9/1/2017 to 8/30/2020	\$1,122,674
GC-01A (1123487): NF-JMT 8TH Floor Renovations	2/21/2017 to 12/31/2019	\$87,325
GC-01A (1224011): NF-Retail Pharmacy Buildout	8/30/2017 to 12/31/2019	\$999,712
TW944: Orr JR. Water Treatment Plant	10/2/2018 to 8/28/2019	\$6,270,106
4108277: Pediatric Fluoroscopy	11/28/2018 to 11/27/2021	\$202,539
4110746: Pneumatic Tube System	6/12/2020 to 6/12/2021	\$475,971
4107843: WW5 Mechanical Room	6/5/2018 to 6/4/2021	\$694,989
		Total: \$16,272,257
Contracts as Subcontractor		
Contract Number and Title		Award Amount
GC-01A (1224011): NF-Retail Pharmacy Buildout		\$124,964
		Total: \$124,964

OCA conducted due diligence of Lee Construction Group, Inc., and its subcontractors performing under the contract (as listed in the Business Management Workforce System) in the Capital Improvements Information System (CIIS) on May 14, 2021. The search yielded the following results:

Contractor/Subcontractor	No. of Evaluations	Average Rating (out of a possible 4.0)
Lee Construction Group, Inc. (Prime)	13	3.7
Statewide Electric & Environmental Solutions, LLC (SBE-Con)	0	-
Luis & Luigi Concrete, LLC (SBE-G&S)	0	-

An SBE-Con goal of 8.46% (\$512,250.50) and an SBE-G&S goal of 1.79% (\$108,383.96) apply to the contract. Statewide Electric & Environmental Solutions, LLC (SBE-Con) was contracted at 61% (\$3,824,765) and Luis & Luigi Concrete, LLC was contracted at 3.5% (\$219,454) in fulfillment of these goals at the time of contract award. As of May 14, 2021, \$617,835

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File No. 211098**

Researcher: JNF & VW / Reviewer: PGE

(78.89%) has been paid to the SBE-Con firm, and 9.92% (\$77,648) has been paid to the SBE-G&S firm. Per the SBD memo dated March 15, 2021, the contract is in compliance with Resolution No. [R-1001-15](#), which requires County contracts with small business measures to meet at least 85% of the small business goals applicable to the portion of the contract work performed to date before a change order or contract amendment is considered for approval.

Lee Construction Group, Inc. has the following two closed SBD violations, both issued for Project No. 13-11538 GC-01A (1224011):

- 1) Responsible Wages and Benefits for Construction Services violation issued September 7, 2018 with a \$5,567.65 penalty; and
- 2) Community Workforce Program violation issued on May 31, 2019.

Lee Construction Group, Inc. was a defendant in a negligence suit, *Carolina Permuy et al vs. School Board of Miami-Dade County et al* (Case No. 2018-025774-CA-01), filed in the 11th Judicial Circuit, Miami-Dade County on July 30, 2018, wherein alleged defective construction of a recess area led to the child of plaintiffs' fall and injuries. The case settled and an order authorizing Lee Construction Group, Inc. to pay an undisclosed settlement amount to plaintiffs was issued on September 3, 2020.

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Research Notes**

**Item No. 15C1
File No. 210972**

Research: CB / Reviewer: PGE

APPOINTMENT OF REPRESENTATIVE ANTHONY RODRIGUEZ TO THE PUBLIC HEALTH TRUST (PHT)
BOARD OF TRUSTEES

Prime Sponsor: None
Requester: Clerk of The Board
Committee Action Date: N/A

RESEARCH FINDINGS

OCA completed the required background research regarding the appointment of Anthony Rodriguez to the Public Health Trust (PHT) Board of Trustees. The research yielded no adverse informational findings for the appointee. This report is being provided as a Supplement to BCC Agenda File Item Number 210972.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Resolution No. R-636-14](#), adopted on July 1, 2014, requires OCA to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations or appointments by the BCC.

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Research Notes**

**Item No. 15C2
File No. 210993**

Research: CB / Reviewer: PGE

APPOINTMENT OF LAURIE WEISS NUELL TO THE PUBLIC HEALTH TRUST (PHT) BOARD OF TRUSTEES

Prime Sponsor: None
Requester: Clerk of The Board
Committee Action Date: N/A

RESEARCH FINDINGS

OCA completed the required background research regarding the appointment of Laurie Weiss Nuell to the Public Health Trust (PHT) Board of Trustees. The research yielded no adverse informational findings for the appointee. This report is being provided as a Supplement to BCC Agenda File Item Number 210993.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Resolution No. R-636-14](#), adopted on July 1, 2014, requires OCA to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations or appointments by the BCC.

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**Item No. 15D1
File No. 210997**

Research: CB / Reviewer: PGE

NOMINATIONS FOR APPOINTMENT TO THE CHILDREN'S TRUST BY THE GOVERNOR

Prime Sponsor: None
Requester: Clerk of The Board
Committee Action Date: N/A

RESEARCH FINDINGS

OCA completed the required background research regarding the applicants to the Children's Trust – Constance Collins, Frances Marine Davis, J.D., Nicole Gomez, Fran Gordon, Anna Gorayeb, Rebecca Greenfield, Michael Joseph and Steven Los. The research yielded no adverse informational findings for the applicants. This report is being provided as a Supplement to BCC Agenda File Item Number 210997.

FINANCIAL ANALYSIS

N/A

ADDITIONAL INFORMATION

Bulleted below is the relevant legislation relating to the background research process:

- [Resolution No. R-636-14](#), adopted on July 1, 2014, requires OCA to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations or appointments by the BCC.

CONTRIBUTORS

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

The Office of the Commission Auditor (OCA) was established in September 2002 by Ordinance 03-2 to provide support and professional analysis of the policy, service, budgetary and operational issues before the Miami-Dade Board of County Commissioners. The Commission Auditor's duties include reporting to the Board of County Commissioners on the fiscal operations of County departments, as well as whether the fiscal and legislative policy directions of the Commission are being efficiently and effectively implemented.

These research notes, prepared in collaboration with the Miami Dade County departments as subject matter experts, is substantially less detailed in scope than an audit in accordance with the Generally Accepted Auditing Standards (GAAS). The OCA plans and performs the review to obtain sufficient, appropriate evidence to provide a reasonable basis for its findings and conclusions based on its objectives; accordingly, the OCA does not express an opinion on the data gathered by the subject matter expert(s).