

## MEMORANDUM

Agenda Item No. 7(G)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** (Second Reading 2-2-16)  
December 15, 2015

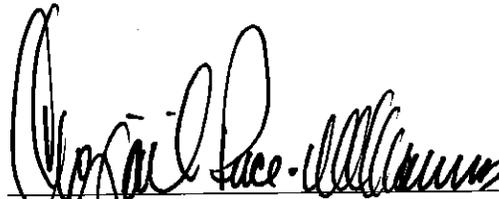
**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Ordinance pertaining to County  
Mayor's delegated authority;  
amending Sections 2-8.2.7, 2-  
8.2.7.01, and 2-285 of the Code  
to require contracts with small  
business measures meet at least  
eighty-five percent of the small  
business goals applicable to the  
portion(s) of the contract work  
performed to date before a  
change order or contract  
amendment be considered for  
Mayoral approval

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Ordinance No. 16-19

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan and Co-Sponsor Commissioner Audrey M. Edmonson.



Abigail Price-Williams  
County Attorney

APW/cp

# Memorandum



**Date:** February 2, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

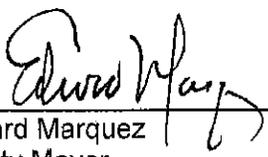
**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Ordinance Relating to Requirements for Small Business Contracts

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The proposed Ordinance, relating to requirements for Small Business contracts, amends Sections 2-8.2.7, 2-8.2.7.01, and 2-285 of the Code of Miami-Dade County. The amendment requires any County contract or amendment with Small Business measures to meet at least eighty-five percent (85%) of the Small Business goals applicable to the tasks and value of the portion(s) of the contract work performed to date before a change order or contract amendment may be considered for approval, unless the following explanatory information as delineated has been provided. Items with Small Business measures which failed to meet this minimum threshold or equivalent percentage must clearly explain the circumstances as to why the goal(s) was not achieved, steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and how the Small Business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered for approval.

The eighty-five percent of Small Business goals requirement will be managed by existing staff within the Project Review and Analysis unit of Small Business Development. Therefore, it is anticipated that the implementation of this ordinance would have no additional fiscal impact.

  
\_\_\_\_\_  
Edward Marquez  
Deputy Mayor

Fis01416

# Memorandum



**Date:** February 2, 2016

**To:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

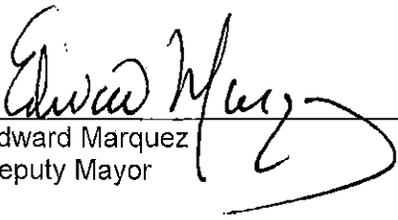
**From:** Carlos A. Gimenez  
Mayor 

**Subject:** Social Equity Statement for Ordinance requiring that contracts with small business measures meet at least eighty-five percent of the small business goals applicable to the portion(s) of the contract work performed to date before a change order or contract amendment be considered for Mayoral approval

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The proposed Ordinance pertaining to the County Mayor's delegated authority amends Sections 2-8.2.7, 2-8.2.7.01, and 2-285 of the Code of Miami-Dade County to require that any County contract with small business measures meet at least eighty-five percent of the stated goal prior to being considered for a change order and/or amendment, unless certain information is provided.

Placing this requirement on applicable contracts will provide for stronger accountability to small business measures during the duration of the contract. In addition, this amendment will assist all parties involved to resolve any issues in meeting small business measures prior to it resulting in a compliance or debarment hearing, thereby saving the County the cost of conducting said hearings and benefiting small businesses by ensuring they are utilized as envisioned.

  
Edward Marquez  
Deputy Mayor

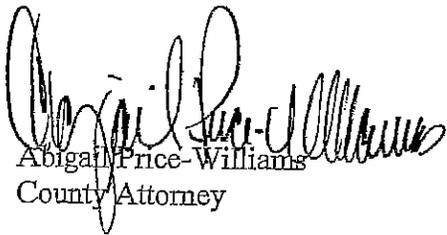


# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** February 2, 2016

**FROM:**   
Abigail Price-Williams  
County Attorney

**SUBJECT:** Agenda Item No. 7(G)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_\_, 3/5's \_\_\_\_\_, unanimous \_\_\_\_\_) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7(G)  
2-2-16

ORDINANCE NO. 16-19

ORDINANCE PERTAINING TO COUNTY MAYOR'S DELEGATED AUTHORITY; AMENDING SECTIONS 2-8.2.7, 2-8.2.7.01, AND 2-285 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA TO REQUIRE CONTRACTS WITH SMALL BUSINESS MEASURES MEET AT LEAST EIGHTY-FIVE PERCENT OF THE SMALL BUSINESS GOALS APPLICABLE TO THE PORTION(S) OF THE CONTRACT WORK PERFORMED TO DATE BEFORE A CHANGE ORDER OR CONTRACT AMENDMENT BE CONSIDERED FOR MAYORAL APPROVAL; AND PROVIDING SEVERABILITY, INCLUSION IN CODE AND EFFECTIVE DATE

**WHEREAS**, the Miami-Dade County (the "County") Small Business Development ("SBD") provides business opportunities and technical assistance to aid small businesses in their growth and contribution to the County and South Florida economy; and

**WHEREAS**, the goal of the SBD is to increase the participation of small businesses on County contracts; and

**WHEREAS**, the County encourages the utilization of certified small businesses on County contracts, where applicable; and

**WHEREAS**, the County will benefit from a requirement that such small business goals be met before any change order or amendment to the underlying contract be considered for approval by the Mayor; and

**WHEREAS**, this Board passed and adopted Resolution No. R-1001-15 which requires County contracts with small business measures meet at least eighty-five percent (85%) of the small business goals applicable to the portion(s) of the contract work performed to date before a change order or contract amendment be considered for Board approval,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF  
MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 2-8.2.7 of the Code of Miami-Dade County, is hereby amended as follows:<sup>1</sup>

**Sec. 2-8.2.7. Economic stimulus ordinance.**

\* \* \*

(4) Notwithstanding any other provision of the Code of Miami-Dade County to the contrary, the Mayor or his/her designee shall have the following authority with respect to contracts within the scope of this Section:

\* \* \*

(e) For Capital Stimulus Projects negotiate and settle contractor claims, and issue change orders for additional work under contracts and amendments for professional services agreements where:

1. The change order or claim does not increase the contract amount, including contingencies; and
2. The contingency allowance established in accordance with Section 2-8.1(h) shall be utilized to ensure minimal disruption in work flow and shall be documented on the appropriate contingency authorization draw. Change orders shall be submitted to replenish the contingency account in a timely manner; and
3. The limitations provided in (4)(e)1 above shall not apply to any change order or amendment related to emergency actions impacting environmental remediation, public safety, health requirements or recovery from natural disaster~~[[.]]>>~~; and
4. Any County contract or amendment with small business measures is required to meet at least eighty-five percent (85%) of the small business goals applicable to the tasks and value of the portion(s) of the contract work performed

<sup>1</sup> Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

to date before a change order or contract amendment may be considered for approval, unless the following explanatory information as delineated has been provided. Items with small business measures which failed to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered for approval.<<

\* \* \*

**Section 2.** Section 2-8.2.7.01 of the Code of Miami-Dade County, is hereby amended as follows:

**Sec. 2-8.2.7.01. Miscellaneous Construction Contracts Program.**

\* \* \*

(5) Notwithstanding any other provision of the Code of Miami-Dade County to the contrary, the Mayor or Mayor's designee shall have the following authority with respect to the Miscellaneous Construction Contracts Program:

\* \* \*

(e) To negotiate and settle contractual disputes, and issue change orders for additional work. >>Any County contract with small business measures is required to meet at least eighty-five percent (85%) of the small business goals applicable to the tasks and value of the portion(s) of the contract work performed to date before a change order or contract amendment may be considered for approval, unless the following explanatory information as delineated has been provided. Items with small business measures which failed to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered for approval.<< [[:-and]]

\* \* \*

**Section 3.** Section 2-285 of the Code of Miami-Dade County, is hereby amended as follows:

**Sec. 2-285. County ~~[[Manager's]]~~>>Mayor<< Authority as to contracts for the Aviation Department.**

\* \* \*

- (3) The County ~~[[Manager]]~~ >>Mayor<< may negotiate and settle contractor claims, and issue change orders for additional work under contracts and amendments for professional services agreements; as to any specific contract or agreement, change orders or amendments thereto shall not exceed five hundred thousand dollars (\$500,000.00) in cumulative dollar amount and shall not exceed fifteen (15) percent of the contract price in cumulative percentage amount; provided however, that the foregoing limitation shall not apply to any change order or amendment related to environmental remediation or health requirements, and the foregoing change orders and amendments shall require ratification by the Board; provided further, that the County ~~[[Manager]]~~ >>Mayor<< may reduce in any amount the scope and compensation payable under any contract and grant compensable and non-compensable time extensions thereunder. >>Any County contract or amendment with small business measures is required to meet at least eighty-five percent (85%) of the small business goals applicable to the tasks and value of the portion(s) of the contract work performed to date before a change order or contract amendment may be considered for approval, unless the following explanatory information as delineated has been provided. Items with small business measures which failed to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered for approval.<<
- (3.1) The provisions of subsection (3) above notwithstanding, the County ~~[[Manager]]~~ >>Mayor<< shall have the authority to issue change orders or amendments provided that the cumulative effect of any such change orders and amendments to a specific contract or agreement does not exceed twenty (20) percent of the original amount of such contract or amendment, and further provided that the consulting engineer (under the existing trust indenture), the

Aviation Director, and the Miami-Dade Aviation Consultants (DAC) concur in such action, that the change order or amendment is submitted to the ~~[[County Commission]]~~ >>Board<< for ratification within one hundred eighty (180) days. >>Any County contract or amendment with small business measures is required to meet at least eighty-five percent (85%) of the small business goals applicable to the portion(s) of the contract work performed to date before a change order or contract amendment be considered for approval. Items with small business measures which failed to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered for approval.<< The County ~~[[Manager]]~~ >>Mayor<< shall report on a monthly basis to the Aviation Operations Committee of the ~~[[County Commission]]~~ >>Board<< on his actions taken in exercising the authority delegated to him hereunder. ~~[[I]]~~ >>I<<he County ~~[[Manager]]~~ >>Mayor<< shall not have delegated authority hereunder to issue any change order or amendment that is the result of design errors or omissions, and any such change order or amendment shall require prior ~~[[County Commission]]~~ >>Board<< approval.

\* \* \*

**Section 4.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 5.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word “ordinance” may be changed to “section,” “article,” or other appropriate word.

**Section 6.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: February 2, 2016

Approved by County Attorney as  
to form and legal sufficiency:

ADW  
dsh

Prepared by:

David Stephen Hope

Prime Sponsor: Commissioner Barbara J. Jordan  
Co-Sponsor: Commissioner Audrey M. Edmonson