



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

Board of County Commissioners Meeting

June 5, 2018
9:30 A.M.
Commission Chambers

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Miami, FL 33128
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**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 2A1
File No. 181317**

Researcher: MF Reviewer: TD

ORDINANCE PERTAINING TO LEASES OF COUNTY PROPERTY FOR PRIVATE USE; AMENDING SECTION 2-8.9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR PAYMENT OF LIVING WAGE TO CERTAIN HOURLY EMPLOYEES OF CERTAIN COUNTY LESSEES; PROVIDING EXCEPTIONS; SUPERSEDING AND REPEALING RESOLUTION NO, R-148-07 [SEE ORIGINAL ITEMS UNDER FILE NOS. 180300, 181054]

ISSUE/REQUESTED ACTION

Whether the Board should approve the proposed ordinance to amend the Living Wage Ordinance for County service contracts to apply living wage requirements to certain hourly employees of certain County lessees.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-148-07, adopted by the Board on February 2, 2007, directs the County Mayor to include a Labor Peace requirement in all requests for proposals, requests for qualifications, bids and contracts for concession opportunities at the Miami International Airport (The proposed ordinance would supersede and repeal Resolution No. R-148-07).

<http://intra/gia/matter.asp?matter=062523&file=true&yearFolder=Y2006>

Miami-Dade County Administrative Order No. 8-4 gives the Board the authority to sell or lease or otherwise dispose of County-owned real property.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

Miami-Dade County Administrative Order No. 3-30 requires that all service contractors performing covered services pay employees no less than the applicable hourly living wage rate, with or without benefits.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO3-30.pdf>

Miami-Dade County Code, Section 2-8.9 codifies the Living Wage Ordinance for County Service Contracts and County Employees.

<https://www.miamidade.gov/business/library/ordinances/living-wage-code.pdf>

Miami-Dade County Code, Section 2-8.6.5 governs purchases, sales and lease of real property.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Barbara J. Jordan, District 1

The proposed ordinance was adopted on first reading at the Board meeting on February 21, 2018. At that meeting, Commissioner Martinez requested that the item be bifurcated. Commissioners Martinez, Sosa and Diaz voted “no”.

The proposed ordinance was considered at the Government Operations Committee meeting of March 13, 2018.

Commissioner Sosa expressed her concerns with this item, noting the companies would have to pay two different sets of wages: one for the employees working in properties owned by the County, and one for the employees working in other locations. She said she was opposed to dictating to companies what they should pay their employees. She

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also pointed out that the proposed ordinance could have unintended consequences because private companies may be reluctant to rent County-owned property to avoid paying living wages.

Commissioner Martinez said he was opposed to imposing compromises reached with labor unions on private companies.

Assistant County Attorney David Murray noted the Board in 2007 passed a requirement that concessionaires in Aviation Concession Leases have Labor Peace Agreements. He said the intent was to ensure that employees, to the extent that they wished to unionize, did not do so in a manner that was disruptive to the operations of the airport. He explained that when a union sought to represent a concessionaire's workforce, the concessionaire, as a pre-condition to being awarded a concession by the Board, had to enter into a Labor Peace Agreement with that union.

The proposed ordinance was deferred to the next Committee meeting by the Government Operations Committee.

The proposed ordinance was considered at the April 17, 2018 Government Operations Committee meeting.

Assistant County Attorney David Murray read into the record the following proposed amendment: On handwritten page 9, the following exemptions would be added, "Any entity or individual leasing space", "A Public Health Trust property", and "Any non-profit organizations"; and on handwritten page 10, Section 5, dealing with Miami-Dade County Resolution No. R-148-07, would be deleted.

In response to Commissioner Martinez' question as to whether the proposed ordinance would remove the requirement for Labor Peace Agreements, Assistant County Attorney Murray clarified that it did not alter the requirement that concessionaires in Aviation Concession Leases have Labor Peace Agreements; however, it did not expand the requirement beyond the airport.

Responding to Commissioner Martinez' question regarding whether the County had imposed this requirement on private companies in the past, Assistant County Attorney Murray recalled that in 2007 the Board passed a requirement that concessionaires in Aviation Concession Leases have Labor Peace Agreements; however, this requirement solely applied to the airport. He advised that the proposed ordinance, as amended, would not expand this requirement beyond the airport.

The proposed ordinance was forwarded to the BCC with a favorable recommendation, with Committee amendments to (a) create exemptions for lessees at the Public Health Trust and also for lessees which are Community-Based Organizations, and (b) delete all references to Resolution No. R-148-07 (Commissioner Martinez voted "no").

At the May 1, 2018 Board meeting, the proposed ordinance was deferred to the May 15, 2018 BCC meeting, at the request of the Prime Sponsor.

The proposed ordinance was considered at the May 15, 2018 BCC meeting.

Assistant County Attorney David Murray read the following proposed amendment into the record: 1) to add the language "or any contractor or subcontractor of such lessee," immediately following "Services of hourly employees of any lessee," to the first sentence of Section (3); and 2) to add the language "A lessee who is otherwise exempt under this subsection may still be required to provide a living wage to its employees if it engages in activities covered in Sections 2-8.9(F)(1) and 2-8.9(F)(2)" to the end of Section 3.

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Pursuant to Commissioner Edmonson's request for clarification regarding the proposed amendment, Assistant County Attorney Murray explained that the first part of the proposed amendment would clarify that if the County were to lease a property to a company, and the company sub-contracted employees, the company would still be required to pay a living wage to those employees if they were working on County-owned property. He further explained that the second part of the proposed amendment stated that if the company provided goods or services to the County pursuant to a County contract, or provided gas-related services at the airport, it would still be required to pay a living wage to its employees.

Commissioner Jordan emphasized that the proposed ordinance would not impact existing leases or their renewal.

Assistant County Attorney Murray confirmed that the proposed ordinance would not apply retroactively.

Ms. Lily Bach, Political Director, 32 BJ SEIU, applauded Commissioner Jordan for her efforts to expand the living wage to County lessees. She noted if the proposed ordinance did not pass, as amended, there would be unintended, significantly harmful consequences for working families. She pointed out that without the amendment the proposed ordinance had two shortcomings: first, the proposal would cover lessees, but not their contractors or sub-contractors, which would provide them a loophole to avoid paying the living wage; second, the proposal expressly carved out airlines from its coverage, and unless it was clear that this carve out applied only to this additional sub-section of the living wage ordinance, it might result in excluding airlines from coverage when they performed services for another airline. She noted the amendment's stated goal of using County-owned land to drive prosperity in the community would be undermined. Ms. Bach said she believed that if airline leases were excluded from this section, it should be clear that they were not exempted from their responsibilities to comply with the other living wage sub-section related to paying living wages for performing gas-related services. She stressed that the living wage should apply to all workers operating on County-owned land, not only to some groups of workers.

Responding to Commissioner Sosa's question as to whether the exemptions still applied, Assistant County Attorney Murray confirmed that they were included in the proposed ordinance.

Commissioner Sosa lamented that the proposed ordinance was seeking to impose on the private industry what they should pay their employees. She expressed her concerns with the proposed ordinance, noting the companies would have to pay two different sets of wages: one for the employees working in properties owned by the County, and one for the employees working in other locations. Commissioner Sosa noted the proposed ordinance would hurt the tourism industry, including the airport and the port.

Commissioner Diaz said while he supported the living wage, he did not want to hinder competitiveness. He noted he wanted to be certain that the proposed ordinance would not impact existing leases or their renewal.

In response to Commissioner Martinez' question regarding whether the proposed ordinance would apply to the renewal of leases, Assistant County Attorney Murray stated that this item did not direct County staff to ensure that the lessee was paying a living wage before renewing a lease. He advised that the Board could direct that the payment of living wages be incorporated into all renewals, if it so chose.

Commissioner Martinez pointed out that this item would then leave this question open to the interpretation of a future administration. He said he had always voted for County workers to earn a living wage; however, he did not believe that the County should be dictating to the private sector what they should pay their employees.

Commissioner Heyman noted in the past she supported the living wage items because they pertained to services that came under County control. She said she shared quite a few of her colleagues' concerns; one of her concerns was

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that the requirement should not be retroactive. She also expressed her concern related to people with disabilities, who may receive higher wages as a result of the proposed ordinance, but who may, as a result no longer qualify to receive disability benefits.

Assistant County Attorney Murray noted the programs to which Commissioner Heyman was referring were typically federal and State programs for supplemental assistance; and they were structured in such a way that as an employee's wages rose, their benefits were reduced in a commensurate level. He emphasized that the employees would not be made worse off because they earned higher wages, as the programs were designed to incentivize people to work.

Pursuant to Commissioner Monestime's question as to whether the proposed ordinance, even if it were adopted, could be waived if the County needed to enter into a particular contract, Assistant County Attorney Murray advised that in such cases, the Board could pass a subsequent ordinance creating additional exemptions.

Commissioner Monestime noted the last time a similar ordinance was put forth, a businessman told him that his only issue with it was that it was retroactive. He indicated that as the proposed ordinance was prospective, he was in support of the item.

Commissioner Moss recalled that any time the Board had supported these kinds of initiatives, they had done it to raise the standard of living of the residents. He compared San Diego's medium income to Miami's, and pointed out that San Diego's had increased considerably in recent years. Commissioner Moss expressed his concern with how the proposed ordinance would impact the County's competitiveness; however, his over-riding concern was to help the residents increase their quality of life.

Commissioner Suarez said he concurred with Commissioners Monestime and Moss that the County should seek to help its residents to the extent that it could use its assets to do so; and in the case of a monopoly, such as the airport and the seaport there was no concern regarding competitiveness. He pointed out that some cities were requiring that all jobs within their boundaries pay a living wage.

Commissioner Lava lamented that the County had been pre-empted by State law from passing a higher minimum wage; yet it was one of the counties within the country with the lowest prevailing wage rates and one of the highest cost of living. Therefore, she noted, it was incumbent upon the Board to find ways to increase the standard of living of the County's residents. Commissioner Levine Cava said she was dismayed when she learned that the County had exempted the concessionaires at the airport from any wage guarantees because of the Minimum Annual Guarantee. She expressed the belief that the proposed ordinance would help redress that wrong.

Commissioner Jordan pointed out that the federal government dictated to the County every day regarding federal contracts. She stressed that the County was another level of government, and its role was to ensure the welfare of the community members. She acknowledged the need to encourage the private sector to grow, and this was the reason for the legislation that the Board had adopted in favor of local and small businesses. Commissioner Jordan stressed that businesses preferred to be located on County-owned land because it was more profitable for them; and it was unlikely that they would choose to lease elsewhere if the County imposed living wages. She recalled that recently the Board passed an ordinance imposing living wage for construction companies operating on County-owned land. She reiterated that the proposed ordinance was prospective and would not apply retroactively.

The proposed ordinance was adopted by the Board.

The ordinance was vetoed by the Mayor. In his veto message received by the Clerk of the Board on May 23, 2018, the Mayor noted "[w]hile a short-term benefit to our local workforce in terms of increased wages could be realized

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by enactment of this ordinance, the long-term consequences – particularly relating to the potential loss of jobs and revenue – greatly outweigh any potential short-term gains. Like most large urban governments, the focus of economic development in Miami-Dade County is job creation. With enactment of this ordinance, Miami-Dade County would be at a long-term competitive disadvantage with neighboring counties like Broward and Palm Beach that do not subject lessees to the living wage. Implementation of this ordinance may also deter businesses from setting up shop in Miami-Dade County and cause others to relocate operations to more cost-effective locations. Specifically, increasing wages may cause production costs to rise, making Miami-Dade County a less desirable place to do business. Moreover, higher costs may ultimately be passed down to our residents. In closing, this legislation sets a bad precedent, and my Administration and I stand ready to continue to work with the Board as we strive to make the right decisions entrusted to us by the residents of Miami-Dade County.”

FISCAL IMPACT

According to the Fiscal Impact Statement, implementation of this ordinance will have an indeterminate fiscal impact for Miami-Dade County. It will not result in additional staffing. However, there may be an impact in relation to attracting fewer future lessees for County property and a potential decrease in future rental rates.

ANALYSIS

The purpose of this proposed ordinance is to seek the Board’s approval to amend the Living Wage Ordinance to require that certain County properties that are being leased to a lessee provide payment of living wage to certain hourly employees. The existing ordinance covers the following services: County service contracts that involve a total contract value of over \$100,000 per year for food preparation, security services, routine maintenance services, clerical office work, transportation and parking services, etc.; service contractors at Aviation Department facilities, such as ramp service, porter assistance services, janitorial services, in-house cargo handling, etc.

The proposed ordinance would add the following provisions to Subsection (F) regarding services covered by the existing ordinance:

(3) Services Performed by Employees of County Lessees on County Property

Services of hourly employees of any lessee offering goods or services for sale to the public pursuant to any lease of County owned property, but only to the extent such employees are actually employed at the location of such lease. For purposes of this section, an employee shall be considered “actually employed” at such location if that employee spends more than half of their working hours onsite at the location of the lease, or if the employee must physically report to the location of the lease at the beginning or end of the working day or both.

This amendment carves out an exception for the following lease categories:

- Any airline offering passenger or cargo transportation services;
- Any maritime passenger cruise line;
- Any maritime cargo line;
- Any lease appurtenant to any contract with a contractor providing goods and services to the County;
- Any lease to an architect/engineer appurtenant to an ongoing County construction project;
- Any lease to a construction contractor pursuant to any ongoing County construction contract;
- Any lease to a state or federal entity;
- A lessee leasing any property owned or operated by the Public Health Trust;
- A Community-Based Organization; or
- A lessee who is exempt from this requirement pursuant to federal or Florida Law.

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The proposed ordinance would also supersede and repeal Resolution No. R-148-07, which directs the County Mayor to include a Labor Peace requirement in all requests for proposals, requests for qualifications, bids and contracts for concession opportunities at the Miami International Airport (MIA).

The Living Wage requirement was established by the Board on May 11, 1999. This requirement is for employees on County service contracts to allow individuals to support themselves and their families above the poverty line and with dignity. The County believes that employees making the State minimum wage of \$8.25 per hour are more likely to have financial difficulties and make use of governmental services. Therefore, County property should be used to promote business activities that drive broad-based prosperity throughout all communities in the County.

The Living Wage applies to contracts valued greater than \$100,000 per year for the following services:

- Food preparation and/ distribution;
- Security services;
- Routine maintenance service such as custodial, cleaning, refuse removal, repair, refinishing and recycling;
- Clerical or non-supervisory work;
- Transportation and parking services including airport and seaport services;
- Printing and reproduction service; and,
- Landscaping, lawn, and/ agricultural services.

The current living wage for County contracts for covered services entered into before October 1, 2016 is \$13.20 per hour with qualifying health benefits valued at least \$1.91 per hour, otherwise \$15.11 per hour. There was an increase of 2.85 percent compared to the FY 2016/2017 rate.

Living wage for contracts for covered services entered into, extended (by exercise of option to renew or otherwise), amended, or modified on or after October 1, 2016, and all service contractors operating under permits for the Aviation Department is \$12.99 per hour with qualifying health benefits valued at least \$3.16 per hour, otherwise \$16.15 per hour. There was an increase of 4.06 percent compared to the FY 2016/2017 rate.

According to the Social Equity Statement, the proposed ordinance has a direct social impact, as applying the applicable Living Wage rate could benefit eligible employees by providing them with increased wages/benefits. However, such benefit to the employees could impact their employers who will be required to comply with an increased amount.

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Item No. 5F

File No. 180979

Researcher: BM Reviewer: TD

RESOLUTION GRANTING PETITION TO CLOSE NW 186 STREET FROM NW 107 AVENUE TO NW 132 AVENUE AND NW 182 STREET BEGINNING APPROXIMATELY 165 FEET WEST OF THEORETICAL NW 129 AVENUE WEST FOR APPROXIMATELY 165 FEET (ROAD CLOSING PETITION NO. P-930)

ISSUE/REQUESTED ACTION

Whether the Board should approve a resolution granting petition to close NW 186 Street from NW 107 Avenue to NW 132 Avenue and NW 182 Street.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code Section 33-422, Rock Mining Overlay Zoning Area, relates to the permitted rock mining uses of the article.

[https://library.municode.com/fl/miami -
dade county/codes/code_of_ordinances?nodeId=PTIIICOR_CH33ZO_ARTXLIROOVZOARRO_S33-422USPEAR](https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIIICOR_CH33ZO_ARTXLIROOVZOARRO_S33-422USPEAR)

Florida State Statutes, Section 336.09, Closing and abandonment of roads, relates to the process of closing public streets.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0336/Sections/0336.09.html

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Jose “Pepe” Diaz, District 12

Department/Requester: Transportation and Public Works

5/10/18: Forwarded to BCC with a favorable recommendation by Transportation and Public Works Committee; Passed 3 – 0.

FISCAL IMPACT

The rights-of-way, assessed by the Property Appraiser’s Office, have an estimated value of \$271,462. If closed and vacated, the properties will be placed on the tax roll, and generate an estimated \$4,752 annually in property taxes. The road closure fee is \$29,106.

ANALYSIS

This item grants a petition to close NW 186 Street from NW 107 Avenue to NW 132 Avenue and NW 182 Street which are located in District 12, represented by Commissioner Jose “Pepe” Diaz. The agreement has been signed by all abutting property owners.

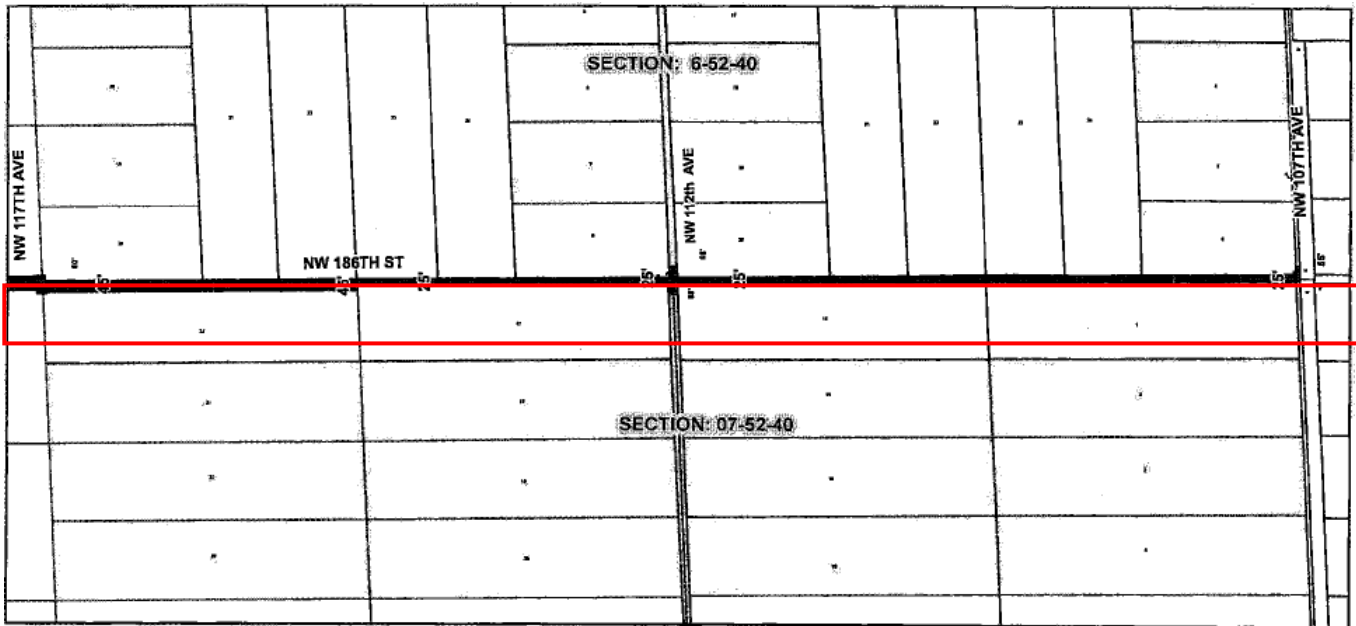
The closed right-of-way provides access to remaining lake excavation operations, and for access to construct and maintain littoral shelves along the perimeter of the lakes, as required by the approval lake excavation mitigation plans and permits. Approval will not create any landlocked properties nor will it adversely affect access to any properties not owned or controlled by the applicant.

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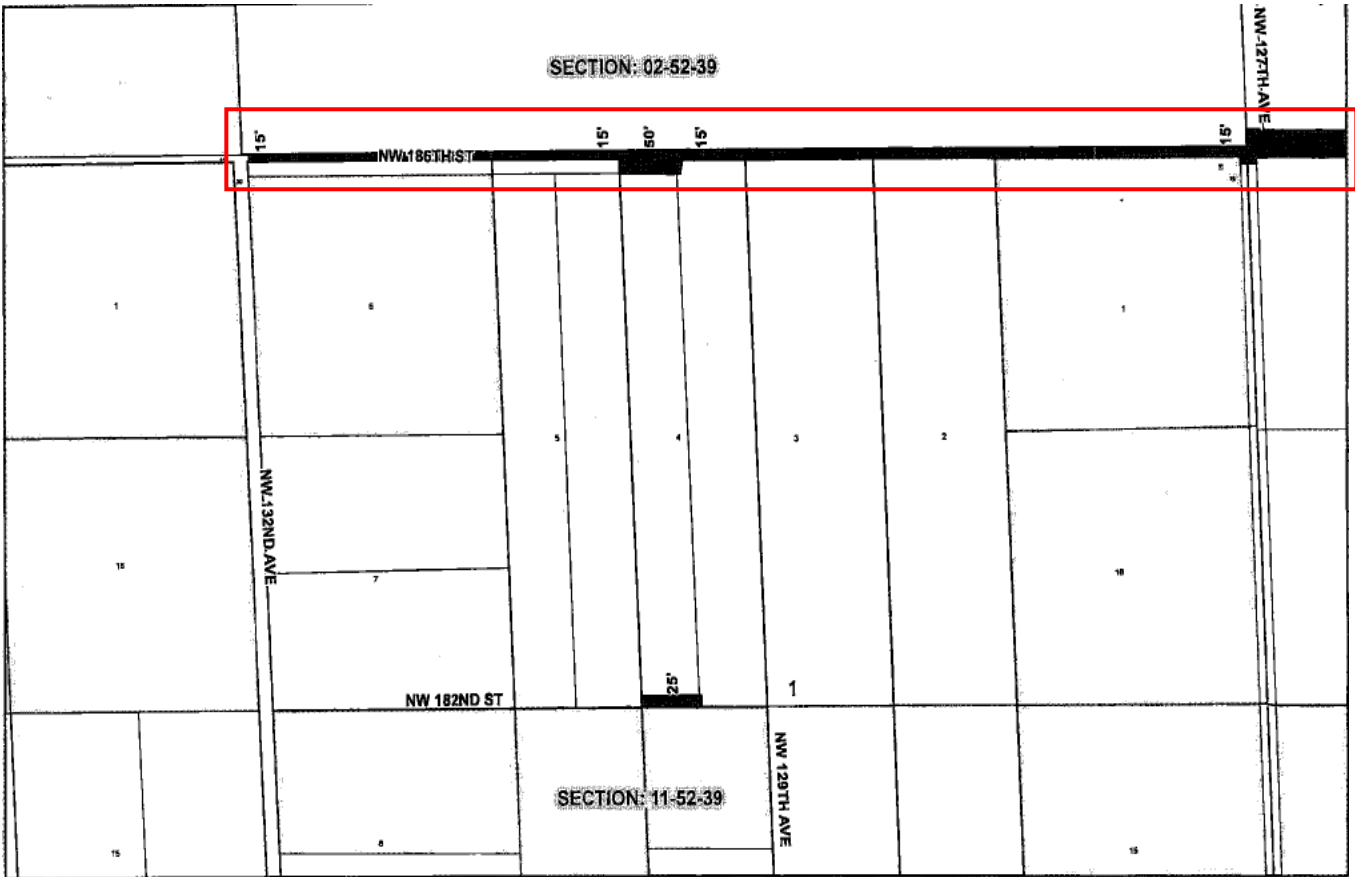
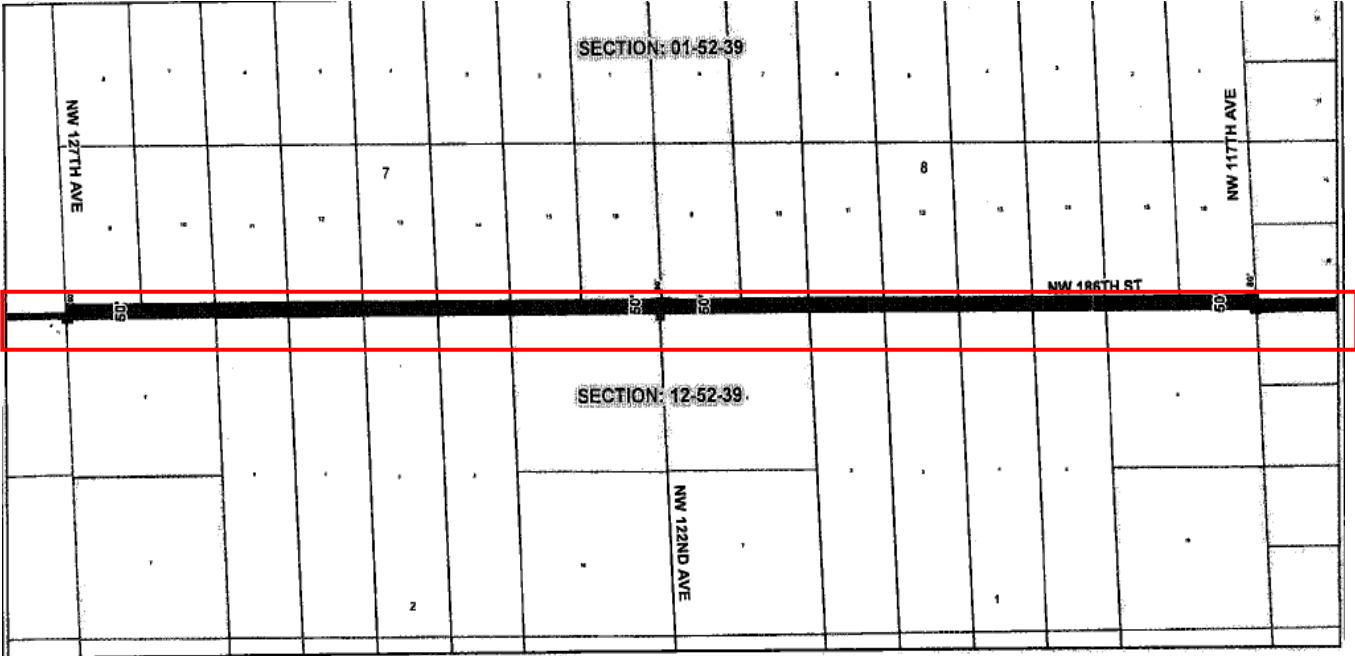
A littoral shelf is a shallow shelf in a water body that is planted with native aquatic vegetation normally located by an out flow structure. The purpose of a littoral shelf is to help filter out the nutrients and minerals in the water prior to it leaving the pond via the out flow structure.

The benefit to the county due to the approval of the road closures are listed below:

- Removes the County's responsibility for the care and maintenance of the unimproved roads and right-of-ways.
- Eliminates the County liability that might result from unauthorized access and use of the areas.
- Returns the responsibility for controlling access to the lakes to the property owners.
- Protects the water quality in the lakes by reducing the possibility of illegal dumping of trash and harmful substances.
- Returns the right-of-way area to a County tax roll.



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Item No. 7A

File No. 180540

Researcher: MF Reviewer: TD

ORDINANCE RELATING TO THE FIXED-GUIDEWAY RAPID TRANSIT SYSTEM-DEVELOPMENT ZONE; CREATING SECTION 33C-10 AND AMENDING SECTIONS 33C-2, 33C-3, 33C-4, AND 33C-9 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR EXPANSION OF THE RAPID TRANSIT ZONE AND CREATING THE BRICKELL STATION SUBZONE; PROVIDING USES, SITE PLAN REVIEW STANDARDS, AND PROCEDURES FOR APPROVAL OF SUCH SITE PLAN IN THE SUBZONE; REQUIRING SUPERMAJORITY VOTES BY THE BOARD IN CERTAIN CIRCUMSTANCES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should approve the proposed ordinance creating Section 33C-10 of the County Code, pertaining to the Fixed-Guideway Rapid Transit System-Development Zone; and amending Sections 33C-2, 33C-3, 33C-4, and 33C-9 of the County Code, in effect creating the Brickell Station Subzone and providing for expansion of the Rapid Transit Zone.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 33C, establishes and governs the Rapid Transit System for the Metrorail Transit System.

[https://library.municode.com/fl/miami -
dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH33CFIIDRATRSYEVZO](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH33CFIIDRATRSYEVZO)

Miami-Dade County Code, Section 33-314, addresses direct applications and appeals to the County Commission, delineating which applications are within the jurisdiction of the County Commission.

[https://library.municode.com/fl/miami -
dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIZOPR_S33-
314DIAPAPCOCO](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIZOPR_S33-314DIAPAPCOCO)

Ordinance No. 18-8, adopted by the Board on February 6, 2018 related to Tax Increment Financing and Transportation Infrastructure Development; created Article CLIX of Chapter 2 of the Code of Miami-Dade County; created the Miami-Dade County Transportation Infrastructure Improvement District; provided that the District shall be within a certain distance of proposed alignments of the SMART Plan Rapid Transit Corridors; established a Trust Fund; defined SMART Plan Rapid Transit Corridor projects eligible for Trust Fund revenues; limited the use of Trust Fund revenues to the development, construction, maintenance, and operation of SMART Plan Rapid Transit Corridor projects; and provided for the funding of the Trust Fund from tax increment revenues within the District.

<http://intra/gia/matter.asp?matter=180354&file=false&yearFolder=Y2018>

PROCEDURAL HISTORY

Prime Sponsor: Chairman Esteban L. Bovo, District 13

The proposed ordinance was adopted on first reading and set for public hearing before the Transportation and Public Works Committee meeting on May 10, 2018.

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The proposed ordinance was considered at the Transportation and Public Works Committee meeting on May 10, 2018.

Pursuant to Commissioner Moss' request for clarification regarding the item, Assistant County Attorney Dennis Kerbel explained that the item seeks to expand the Rapid Transit Zone around the Brickell station to encompass private property that had previously been under the City of Miami's zoning jurisdiction.

Responding to Commissioner Moss' question as to whether this expansion was pending the City of Miami's approval, Assistant County Attorney Kerbel noted he anticipated that the City of Miami would approve the Interlocal Agreement before the item was heard by the full Board.

Responding to Commissioner Heyman's question regarding who would cover the costs for this item, Ms. Alice Bravo, Director, Transportation and Public Works Department, explained that the item would create a joint permitting process that would allow the properties to have a higher density, because they were located closer to the train station. Therefore, she noted, there would be no costs associated with the implementation of this item.

In response to Commissioner Heyman's question regarding the annual ridership of the Metromover, Ms. Bravo noted the average was 35,000 riders per day.

Commissioner Heyman pointed out that the City of Miami would benefit from having higher density properties located close to the train station, and would enjoy greater revenues through real estate property taxes; yet, the County was struggling with unfunded needs for the transportation system, including maintenance and operating costs for the Metromover. She lamented that the City of Miami was benefiting from the County's transportation system, but was not contributing towards its costs. Commissioner Heyman requested that Ms. Bravo prepare a study on which other cities in the country offered a similar system that was completely free for the entire ridership. She suggested that the voters be asked whether they wished to continue subsidizing the Metromover.

Commissioner Moss noted the Administration had indicated that it would be very expensive for the County to implement fare boxes for the Metromover. He inquired whether increasing the density around the Brickell station was part of the Tax Increment Financing (TIF) and Transportation Infrastructure Plan.

Assistant County Attorney Kerbel noted the item would increase density around the Brickell station, and in that sense it would further the TIF goals.

Ms. Bravo clarified that the TIF boundaries included the existing Metrorail and the six SMART Plan Rapid Transit Corridors.

The proposed ordinance was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, the implementation of this ordinance will not have a fiscal impact for Miami-Dade County.

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ANALYSIS

The Miami-Dade County Home Rule Charter grants to the County the power to carry on a central metropolitan government and to provide rail facilities and public transportation systems. The Board has found that the coordinated review and analysis of mass transit facilities is necessary to carry on a central metropolitan government in Miami-Dade County; and that coordinated review and analysis of the mass transit system is most effectively carried on under a uniform plan of regulation applicable to the County as a whole.

The proposed ordinance seeks to provide uniform regulations for the properties surrounding the Brickell Metrorail Station which the Ordinance includes within the Rapid Transit Zone (RTZ).

The Social Equity Statement states that the proposed ordinance expands the RTZ to include a block bound by SW 11th Street to the north SW 12 Street to the south, SW 2nd Avenue to the west, and SW 1st Avenue/Metrorail station to the east, within the City of Miami. The properties would be developed under the same regulations that govern the All Aboard Florida’s Brightline site at the Government Center. The proposed ordinance establishes the Brickell Sub-Zone and the regulatory framework for development within the Sub-Zone and aligns with Miami-Dade County’s effort of intensifying land uses surrounding mass transit stations and corridors.

The following are the proposed amendments to the County Code. The Social Equity Statement states that these amendments to the Code would result in additional housing and business opportunities. The proposed changes are underlined.

The County Code as it Currently Reads	Proposed Changes to the County Code
<p>Sec. 33C-2. - Rapid Transit Zone.</p> <p>(B) <i>Designation of lands included.</i> The Board of County Commissioners hereby designates all land areas (including surface, subsurface, and appurtenant airspace) shown on Exhibits 1 through 16, bearing the following effective dates: Exhibit 1, July 31, 1998, Exhibits 2 through 9 and Exhibits 11 through 16, July 13, 1979, Exhibit 10, May 26, 1983, and Exhibit 17, February 13, 2014 as superseded by Ordinance No. 16-122, effective November 11, 2016, certified by the Clerk of the Board as a portion of this Chapter, incorporated hereby by reference, and transmitted to the custody of the Department of Regulatory and Economic Resources or its successor Department, as the Rapid Transit Zone for the Stage I Fixed-Guideway Rapid Transit System. The Director of the Department of Regulatory and Economic Resources or its successor Department shall submit to each affected municipality an official map or maps designating the Rapid Transit Zone which may from time to time be altered, enlarged, added to, amended or deleted by ordinance, after a public hearing within each municipality affected.</p> <p align="center">* * *</p>	<p>Sec. 33C-2. - Rapid Transit Zone.</p> <p>(B) <i>Designation of lands included.</i> The Board of County Commissioners hereby designates all land areas (including surface, subsurface, and appurtenant airspace) shown on Exhibits 1 through 16, bearing the following effective dates: Exhibit 1, July 31, 1998, Exhibits 2 through 9 and Exhibits 11 through 16, July 13, 1979, Exhibit 10, May 26, 1983, Exhibit 17, February 13, 2014, <u>and Exhibit 18, [insert effective date]</u> certified by the Clerk of the Board as a portion of this chapter, incorporated hereby by reference, and transmitted to the custody of the Department of Regulatory and Economic Resources or its successor Department, as the Rapid Transit Zone for the Stage I Fixed-Guideway Rapid Transit System. The Director of the Department of Regulatory and Economic Resources or its successor Department shall submit to each affected municipality an official map or maps designating the Rapid Transit Zone which may from time to time be altered, enlarged, added to, amended or deleted by ordinance, after a public hearing within each municipality affected.</p>

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(D) *Uses.* No land, body of water, or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, structurally altered, or maintained for any purpose in the Rapid Transit Zone, except as provided in this article.

* * *

(2) *Other uses; procedures for approval of such uses within the Rapid Transit Zone.* The following additional uses shall be permitted in conformance with the requirements set forth herein:

* * *

(e) *Process for City of Miami.*

* * *

* * *

(D) *Uses.* No land, body of water, or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, structurally altered, or maintained for any purpose in the Rapid Transit Zone, except as provided in this article.

* * *

(2) *Other uses; procedures for approval of such uses within the Rapid Transit Zone.* The following additional uses shall be permitted in conformance with the requirements set forth herein:

* * *

(e) *Process for City of Miami.*

* * *

(3) Brickell Station Subzone. Notwithstanding any other provision of this code to the contrary, whenever uses authorized by subparagraphs (D)(2)(a) and (D)(2)(b) above are proposed within the Brickell Station Subzone of the Rapid Transit Zone as designated in subsection 33C-10 herein, the procedures and development standards adopted pursuant to subsection 33C-10 shall control.

Sec. 33C-3. - Rapid Transit Developmental Impact Committee.

(a) There is hereby established a Rapid Transit Developmental Impact Committee Executive Council composed of the County's Developmental Impact Committee Executive Council (established by Section 33-303.1, Miami-Dade County Code) and two (2) representatives from each of the following municipalities: City of South Miami, City of Coral Gables, City of Miami, and the City of Hialeah. It is provided, however, that for developments located within the Downtown Intermodal District Corridor Subzone established by subsection 33C-9, however, the Rapid Transit Developmental Impact Committee

Sec. 33C-3. - Rapid Transit Developmental Impact Committee.

(a) There is hereby established a Rapid Transit Developmental Impact Committee Executive Council composed of the County's Developmental Impact Committee Executive Council (established by Section 33-303.1, Miami-Dade County Code) and two (2) representatives from each of the following municipalities: City of South Miami, City of Coral Gables, City of Miami, and the City of Hialeah. It is provided, however, that for developments located within the Downtown Intermodal District Corridor Subzone established by section 33C-9 and the Brickell Station Subzone established by section 33C-

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shall be composed of the County's Developmental Impact Committee Executive Council and three (3) representatives from the City of Miami. In addition, there shall be an RTDIC Staff Council composed of members of the County Departments identified in Section 33-303.1(A) of this Code and three (3) representatives from the City of Miami. The Rapid Transit Developmental Impact Committee shall, subject to the procedures specified in 33-303.1, Miami-Dade County Code, perform the duties specified in Section 33C-2 and Section 33C-4 of this chapter.

- (b) Except for the Downtown Intermodal District Corridor Subzone established by subsection 33C-9 herein, mailed notice of hearings before the Rapid Transit Development Impact Committee pursuant to Section 33C-2(D)(2)(d) shall be provided in the same manner as hearings on applications filed before the Community Zoning Appeals Board pursuant to Section 33-310(d)(3) for the special exceptions expressly enumerated in that subsection. Mailed notice of the hearing shall also be provided simultaneously to the municipality in which the application site is located. Applications shall comply with the procedural requirements of Section 33-304.
- (c) Notwithstanding any other provision of this code to the contrary, for the Downtown Intermodal District Corridor Subzone established by subsection 33C-9 herein, notice of meetings before the Rapid Transit Developmental Impact Committee shall comply with the procedures set forth in 33C-9.

10, however, the Rapid Transit Developmental Impact Committee shall be composed of the County's Developmental Impact Committee Executive Council and three (3) representatives from the City of Miami. In addition, there shall be an RTDIC Staff Council composed of members of the County Departments identified in Section 33-303.1(A) of this Code and three (3) representatives from the City of Miami. The Rapid Transit Developmental Impact Committee shall, subject to the procedures specified in section 33-303.1, Miami-Dade County Code, perform the duties specified in Section 33C-2 and Section 33C-4 of this chapter.

- (b) Except for the Downtown Intermodal District Corridor Subzone established by subsection 33C-9 and the Brickell Station Subzone established by section 33C-10 herein, mailed notice of hearings before the Rapid Transit Development Impact Committee pursuant to Section 33C-2(D)(2)(d) shall be provided in the same manner as hearings on applications filed before the Community Zoning Appeals Board pursuant to Section 33-310(d)(3) for the special exceptions expressly enumerated in that subsection. Mailed notice of the hearing shall also be provided simultaneously to the municipality in which the application site is located. Applications shall comply with the procedural requirements of Section 33-304.
- (c) Notwithstanding any other provision of this code to the contrary, for the Downtown Intermodal District Corridor Subzone established by section 33C-9 and the Brickell Station Subzone established by section 33C-10 herein, notice of meetings before the Rapid Transit Developmental Impact Committee shall comply with the procedures set forth in those respective sections.

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Sec. 33C-4. - Rapid Transit Development Impact Zone.

* * *

- (b) Except for the Downtown Intermodal District Corridor Subzone established by subsection 33C-9 herein, and notwithstanding anything to the contrary herein, mailed notice of hearings before the Rapid Transit Development Impact Committee pursuant to Section 33-2(D)(2)(e)(1) shall be provided in the same manner as hearings on applications filed before the Community Zoning Appeals Board pursuant to Section 33-310(d)(3) for the special exceptions expressly enumerated in that subsection. Mailed notice of hearings shall also be provided simultaneously to the municipality in which the application site is located. Applications shall comply with the procedural requirements of Section 33-304.

Sec. 33C-4. - Rapid Transit Development Impact Zone.

* * *

- (b) Except for the Downtown Intermodal District Corridor Subzone established by section 33C-9 and the Brickell Station Subzone established by section 33C-10 herein, and notwithstanding anything to the contrary herein, mailed notice of hearings before the Rapid Transit Development Impact Committee pursuant to Section 33-2(D)(2)(e)(1) shall be provided in the same manner as hearings on applications filed before the Community Zoning Appeals Board pursuant to Section 33-310(d)(3) for the special exceptions expressly enumerated in that subsection. Mailed notice of hearings shall also be provided simultaneously to the municipality in which the application site is located. Applications shall comply with the procedural requirements of Section 33-304.

Sec. 33C-10. Brickell Station Sub-Zone.

(A) Purpose and Intent. The following development review standards and criteria shall govern applications for Initial Plan Approval of the general site development plan and applications for Final Site Plan Review for all development to be located within the boundaries of the Brickell Station Sub-Zone established in this section. The standards set forth herein further the unique land use characteristics of this area, which lies within the City of Miami Urban Core, as defined in section 33-84, and within the Downtown Regional Urban Center, as designated on the Land Use Plan Map of the County's Comprehensive Development Master Plan, and are consistent with, and support the City's commitment to, principles of urban planning, including responding to the existing conditions of the City, its downtown corridor, and its natural features, infrastructure, and buildings, improved mobility, enhanced pedestrian environment, and the reduction of urban sprawl. Development in this sub-zone also addresses government service and infrastructure needs of this quickly growing area, and therefore projects within this sub-zone are encouraged to incorporate public service, public infrastructure, or public benefit components, including, but not limited to, a police or

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fire station, regional sewer pump station, and affordable housing.

(B) Boundaries. The Brickell Station Sub-zone of the Rapid Transit Zone is hereby established; the boundaries of the Sub-zone are identified in Exhibit 18 of section 33C-2(B). The legal description and a full-scale map of the boundaries are on file with the Miami-Dade County Department of Regulatory and Economic Resources or its successor Department (the "Department").

(C) Permitted Uses: The following uses shall be permitted in the Brickell Station Sub-zone, either alone or as mixed uses in horizontal or vertical integration. "Vertical integration" means any combination of primary uses (such as passenger transit systems or businesses) located on the ground floor, and residential and accommodation uses such as hotels on the upper floors. "Horizontal integration" means any combination of parcels or buildings and structures with different primary uses within the same development.

- (1) hotels;
- (2) commercial/retail;
- (3) offices;
- (4) residential;
- (5) bars and restaurants;
- (6) rental car facilities;
- (7) parking lots and parking structures, including commercial parking lots and garages that charge fees for parking;
- (8) governmental;
- (9) convention halls and showrooms;
- (10) institutional;
- (11) health care facilities, except hospitals;
- (12) public parks and open spaces; and
- (13) other similar uses, as approved by the Director of the Department.

(D) Pre-application conference. The applicant shall participate in at least one pre-application conference with the Rapid Transit Development Impact Committee (RTDIC) prior to filing the application. The applicant shall provide a general outline of the proposal through schematics and sketch plans including narrative information sufficient for the understanding of the proposed development.

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(E) Initial Review.

(1) Application. Following the pre-application conference, a request for approval of a general site development plan for development within the Brickell Station Sub-zone, shall be made by filing an application with the RTDIC in accordance with the provisions of section 33-304. Said application shall be considered a special exception for approval of a general site development plan to be considered and acted upon directly by the Board of County Commissioners pursuant to the development of regulations established in this section. Applications shall comply with the procedural requirements of section 33-304 of this code.

(2) RTDIC recommendation. Within 60 days after the filing of the application, the RTDIC Staff Council shall review the application, and the RTDIC shall issue a recommendation upon such application. The recommendation shall reflect the consensus of the members present. In the event that the City representatives present do not concur with a recommendation for approval, the recommendation shall be for denial. The recommendation shall be transmitted to the Board of County Commissioners for final action. In the event of a recommendation of denial by the RTDIC, approval of the application shall require the affirmative vote of 9 members of the Board of County Commissioners.

(3) Phased development. Projects within the sub-zone may be constructed in phases, and the construction of public buildings and infrastructure to serve future development may accordingly need to be completed in phases. Where a phased development is requested, the Board of County Commissioners, in approving a phased site plan, shall specify building footprints, heights, density, intensity, and gross square footage of buildings as future development parameters. The RTDIC may review and approve specific land uses and design details of said future development in subsequent phases pursuant to the Final Review criteria enumerated herein, provided that the development parameters approved by the Board of County Commissioners

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in the phased site plan are not exceeded and that the development regulations set forth herein are met.

(4) Required exhibits for Initial Development. The following exhibits shall be submitted with the application for a general site development plan:

- (a) A narrative describing the project's scope, including but not limited to: vision statement, the project's consistency with the intent and purpose of these regulations, size of project and location, and prominent components of the development; phasing of the development if necessary; scale; relevance to the region; its connection to the surrounding urban context; economic impact on the local economy; design concept(s); significance of the project as a gateway to the community; and any additional information necessary to explain the development.

- (b) Schematic site plan(s), at a scale of not less than 1 inch equals 100 feet, indicating: prominent structural components of the development; permitted land uses; existing and proposed streets; major points of egress/ingress of the development; public open space locations and area in square feet; floor area ratio; pedestrian circulation; residential density; and square feet of retail, office, institutional, governmental, and other proposed land uses, not to exceed the development thresholds contained in the administrative site plan development parameters included herein.

- (c) Information on adjoining and adjacent uses, on a plan at a scale no less than 1 inch equals 100 feet, to indicate the relationship(s) between the proposed development and adjacent areas including, but not limited to: existing land

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uses and their intensities; densities, vehicular and pedestrian circulation systems, blocks and lots, and unique geographical features.

(d) Perspectives, isometrics, elevations and other drawings illustrating proposed development.

(e) Any additional information specified by the RTDIC at the pre-application conference to evaluate the character and impact of the proposed development.

(F) Final Review.

(1) Final Review for development of the Brickell Subzone. Following approval of the special exception, final review for all or a portion of the development, including phased development, shall be made and approved administratively by the RTDIC in accordance with the plans and documents approved by the Board of County Commissioners. The RTDIC review shall be guided by development standards established in this section. Applications to modify a site plan approved pursuant to this section, including applications to approve a subsequent phase of a previously-approved phased site plan, shall be considered and acted upon administratively by the RTDIC without the necessity of public hearing.

(2) In the event that the City representatives present do not concur with approval of the application, the decision of the RTDIC shall be for denial. The affirmative vote of 9 members of the Board of County Commissioners shall be required to reverse a decision of denial by the RTDIC.

(3) Notice.

(a) Mailed notices of the RTDIC Executive Council meeting shall be accomplished by placing in the United States mail a written notice to all property owners of record, as reflected on the Miami-Dade County Property Appraiser's tax roll as updated, within 500

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feet of the subject property. Such mailed notices shall contain general information, including, but not limited to, the date, time and place of the meeting, the property's location (and street address, if available), and nature of the application shall be sent no sooner than 30 days and no later than 20 days prior to the meeting.

(b) The property shall be posted no later than 20 days prior to the meeting in a manner conspicuous to the public, by a sign or signs containing information including, but not limited to, the applied for zoning action, application number, and the time and place of the public meeting. The property owner shall be responsible for ensuring that the sign is maintained on the site until completion of the public meeting and for removal of the sign within two weeks following completion of the public meeting.

(c) In addition, notice shall be published in a newspaper of general circulation in Miami-Dade County, as follows: a full legal notice, to be published no later than 20 days and no earlier than 30 days prior to the meeting, to contain the date, time and place of the meeting, the property's location and street address, if available.

(3) *Required Exhibits.* The following exhibits must be included with an application. It is provided, however, that the Director of the Department shall have the authority to waive any of the items because of the nature or timing of the development or because the information cannot be furnished at the time of this review. The application shall be deemed complete if all items in this subsection are included in the application.

(a) Master plan, at a scale of not less than 1 inch equals 100 feet, which shall include the following information:

(i) Lot lines and setbacks.

(ii) Proposed floor area of all permitted uses.

(iii) Height, size, shape, and location of existing and proposed buildings.

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(iv) Location of off-street parking and layouts showing number of parking spaces required and provided.

(v) Proposed grades if significantly altered.

(vi) Signage, street and lot lighting, and street and lot furniture.

(vii) Total number of dwelling units and hotel rooms, if applicable.

(viii) Location and amount of open space required and provided.

(ix) Phase lines, if applicable.

(x) Figures indicating gross and net acreage, and areas to be dedicated for public rights-of-way.

(xi) Vehicular and pedestrian circulation system, including blocks, streets, major points of access into and out of the development, pedestrian crosswalks, medians, and on-street parking.

(xii) Location of pedestrian access points, including connections to existing or proposed bridges, roadways, or sidewalk areas.

(xiii) Location of loading facilities, waste collection areas, and other service areas.

(b) Floor plans and elevations of all structures, including gross square footage of each floor.

(c) Sections of major structures.

(d) Isometrics or perspectives of the proposed development.

(e) Landscape plan(s) in accordance with Chapter 18(A), except as modified herein.

(f) Such other design data as may be specified to satisfy a condition of approval of the Initial Review.

(G) Administrative Site plan development parameters. The following development regulations shall apply to all development within the sub-zone.

(1) Parking: The table below indicates minimum parking for each type of use.

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<u>Use</u>	<u>Minimum Parking Requirements</u>
<u>Commercial/Retail, Restaurants, Bars, Convention Halls and Showrooms</u>	<u>1.8 spaces / 1000 SF</u>
<u>Office, Government, Institutional, Health Care Facilities</u>	<u>0.6 spaces / 1000 SF</u>
<u>Residential</u>	<u>0 spaces per unit</u>
<u>Hotels</u>	<u>0.3 spaces / room</u>
<u>Transit systems including Maintenance Facilities</u>	<u>0.6 spaces / 1000 SF (excluding platform)</u>
<u>Other Uses</u>	<u>50% of the required parking indicated in Section 33-124</u>

- (a) To minimize adverse visual effects of the structure(s), multi-story parking garages facing public and private streets, rights-of-way, and/or public open space shall use screening methods, including, without limitation: liner buildings; glazing; building wall extensions; vertical planted walls; berms; landscaping; architectural fenestration; sculpture; design features; and/or other innovative screening methods.
- (b) Surface parking lots fronting streets shall be located a minimum of 10 feet from the right-of-way and screened at the 10-foot line with a wall having a maximum height of 3'6". The setback shall incorporate a combination of hard-scape and landscape elements finished to match the existing sidewalk.
- (c) Mechanized parking shall be allowed and, when provided, shall be exempt from the provisions of Section 33-122. For the purpose of this sub-zone, mechanized parking shall be defined as a mechanism with vertical and horizontal transport capability that provides for automobile storage and retrieval. A mechanized parking space shall be counted toward the parking requirements of this Section. Mechanized parking may not be provided unless a queuing analysis is

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submitted and approved during the Administrative Site Plan Review process.

- (d) Required off-street parking for uses located within this Sub-zone may be located within one mile of the boundaries of the sub-zone. An applicant for approval of development with off-site parking shall execute and record in the public records of this County a declaration of restrictions, approved by the Director of the Department, covenanting that such development shall cease and terminate upon the elimination of such parking area, and that no development requiring such parking shall be made of such property until the required parking area is available and provided.

(2) Setbacks, cubic content, and lot size:

- (a) Due to the unique characteristics associated with the high-density or high-intensity, mixed-use developments contemplated for this sub-zone, there shall be no minimum setback from streets at grade and above the eighth floor, interior/rear property lines, and park rights-of-way.
- (b) There shall be no maximum or minimum limitation on the size of a floor plate.
- (c) The minimum lot size required to develop pursuant to these regulations is 32,000 square feet.

(3) Encroachments:

- (a) Buildings and structures above the ground floor may be built above colonnades and/or encroach into street setbacks but shall not extend into the public or private right-of-way unless permitted by State law and approved by the Miami-Dade County Department of Transportation and Public Works or successor agency (“DTPW”) or by other agency with authority over the right-of-way. It is provided, however, that, to the extent permitted by State law and subject to the approval of DTPW or other agency

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with authority over the right-of-way, and for the transportation purpose of providing a connecting pedestrian or vehicular corridor, the street may be covered above the first floor with publicly-accessible structures connecting buildings, including: platforms fitted with trains and passenger waiting areas; roofs; upper story terraces, pedestrian bridges, and automobile bridges between parking garages. Adequate clearance for structures above streets shall be maintained.

- (b) Cantilevered balconies, awnings, weather protection elements and similar features with adequate vertical clearance may encroach into street rights-of-way but shall not extend closer than six (6) inches from the curb face.

(4) Floor Area Ratio and lot coverage: The floor area ratio, lot coverage, and maximum square footage of buildings to be developed within the sub-zone shall not be limited.

(5) Building Height: The maximum building height shall be the maximum allowed by the Federal Aviation Administration.

(6) Open Space: The minimum open space requirement shall be 15 percent of the gross development area. Open space shall include parks, plazas, balconies, terraces, courtyards, arcades/colonnades, pedestrian paths, rooftop green spaces above buildings and parking garages, and transit platform areas improved for pedestrian comfort.

(7) Signs: Signs visible from public rights-of-way or public areas shall comply with section 33-284.87 of this Code, except that Class C signs may be permitted in accordance with section 33-107 of this Code. The signage plan submitted with the application for final site plan review shall contain criteria, locations and sizes of signs.

(8) Density: Residential density shall not exceed 500 units per gross acre.

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(9) Architectural Expression: Building facades facing public and private street rights-of-way or public open space or both shall be a minimum 40 percent glazed. Glazing is not required for building facades that face the Metrorail or Metromover rights-of-way or for above-grade parking garage structures that face public and private street rights-of-way or public open space; however, parking garages shall conform to the parking standards included herein. Blank walls facing public and private street rights-of-way and public open space shall be prohibited unless furnished with some type of artistic expression, such as sculpture, mosaic and similar features.

(10) Landscaping: Landscaping shall conform to the standards set forth in section 18A-6, Code of Miami-Dade County, as applicable to non-residential development, with the following exceptions:

- (a) A minimum of 30 trees per net acre of open space shall be provided. Trees may be placed in the lot, or in greens, squares, plazas and street medians within or in close proximity to this sub-zone. Lot trees shall have a minimum 2-inch diameter at breast height.
- (b) Street trees shall be planted at a maximum of 30 feet average on center, with a minimum 3-inch diameter at breast height. Street trees shall be placed inside landscaped strips, tree planters, and in medians in the right-of-way or on private property where demonstrated to be necessary due to right-of-way obstructions, as determined by the Department of Transportation and Public Works or its successor Department or other agency with jurisdiction.

(11) Service areas and mechanical equipment: Service areas and fixtures shall be screened and located so as not to be visible from public and private rights-of-way or public open space. Mechanical equipment installed on roofs shall be screened from view by parapets or other architectural elements. Fixtures, including but not limited to backflow preventers, pumps,

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underground ventilation exhausts, and electrical vaults, shall be located within or to the side or rear of buildings; such fixtures shall not be located within the street setback area. Backflow preventers shall be shielded from view, as required by section 32-157(d).

(12) Alcoholic Beverages: The restrictions on premises used for the sale of alcoholic beverages set forth in chapter 33, article X of this code regarding hours and days of sale, distance from other premises used for the sale of alcoholic beverages, and distance from schools or religious facilities shall not apply in this sub-zone.

(H) Plan Review Standards. The purpose of the plan review standards is to encourage the creation of development within the Brickell Subzone that is consistent with the intent and purposes of these regulations, acts as a significant gateway for and destination to the Brickell area, and facilitates its future growth by designing and arranging buildings, public open space, transit, and street circulation in a manner that fosters around-the-clock pedestrian activity, serves the local and regional transit demands of the community, contributes to the urban revitalization of the City of Miami, and encourages public service, infrastructure, or public benefit components to address the needs of a growing population.

(1) A mix of uses in the design of development projects is encouraged to the maximum extent possible. Mixed-use buildings, including, without limitation, residential, commercial, office, hotel, and restaurants, are highly encouraged in combination with transit and other governmental facilities.

(2) Developments shall provide direct pedestrian and vehicular connections to the adjacent block and street network. Pedestrian crosswalks providing safe passage from adjoining streets and blocks into the development project of the sub-zone shall be installed at street corners and, if practicable, midblock locations. Crosswalks shall be distinguished from other street elements by

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the use of conspicuous materials, texture and color.

- (3) Public open space in the form of plazas, squares, greens, and landscaped areas shall be incorporated in the design of all development projects at grade or on above-grade surfaces. The public open spaces should have a scale that is compatible and complementary with the intensity of proposed development, and their design should relate to the development's concept. Landscaping, furniture, art, paved pedestrian paths, and lighting, among other features, should be used to enhance the open spaces pedestrian experience.
- (4) Consideration should be given to providing landscaping in a manner that reduces the heat island effect of the development on the urban environment.
- (5) All new development shall strive to meet certification standards from Florida Green Building Coalition or a similar organization.
- (6) Developments shall be designed with a coordinated outdoor lighting and signage system that is an integral part of the project and compatible and harmonious with existing and proposed development in the sub-zone and with surrounding uses. Signage should clearly indicate locations of, and guide pedestrians and vehicles to, proposed parking areas, transit facilities, permitted uses, and surrounding activities and uses.
- (7) Proposed building scale should be in harmony with building scales allowed by applicable City of Miami regulations for surrounding properties. Buildings and their landscapes shall be built to the sidewalk edge in a manner that frames the adjacent street to create public space in the street corridor that is comfortable and interesting, as well as safe for pedestrians. Architectural elements at street level shall have abundant fenestration, windows and doors and design elements that create interest for the pedestrian.
- (8) Proposed development in the sub-zone shall provide connections via bridges, paths, sidewalks, or a combination of such features to adjacent or nearby Metrorail and Metromover systems.

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(I) Platting. Separate parcels located within the sub-zone and made subject to a unity of title or covenant in lieu of unity of title shall not be deemed a subdivision and shall be exempt from the platting requirements of chapter 28.

(J) Conflicts. The development review procedures, standards, and criteria set forth in this section 33C-10 shall govern in the event of conflicts with other zoning, subdivision, or landscape regulations of the Miami-Dade County Code or with the Miami-Dade County Public Works Manual.

(K) Amendments. At least six weeks prior to the scheduled public hearing of any amendments to this section 33C-10, the County shall mail or e-mail a copy of the proposed ordinance to the City Clerk and the City Attorney of the City of Miami. The communication to the City shall include the date of the scheduled public hearing.

Sec. 33-314. Direct applications and appeals to the County Commission.

* * *

(C) The County Commission shall have jurisdiction to directly hear other applications as follows:

* * *

(9) Upon application for, hear and decide appeals of decisions of the Rapid Transit Developmental Impact Committee pertaining to site plan approvals and related zoning actions issued pursuant to Section 33C-2(D)(2)(d) and (2)(e) or Section 33C-9 of the Code of Miami-Dade County.

Sec. 33-314. Direct applications and appeals to the County Commission.

* * *

(C) The County Commission shall have jurisdiction to directly hear other applications as follows:

* * *

(10)* Upon application for, hear and decide appeals of decisions of the Rapid Transit Developmental Impact Committee pertaining to site plan approvals and related zoning actions issued pursuant to section 33C-2(D)(2)(d) and (2)(e) section 33C-9, or section 33C-10.

ADDITIONAL INFORMATION

Palm Beach Post article on All Aboard Florida's Brightline.

<http://projects.mypalmbeachpost.com/all-aboard/>

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Item No. 7B

File No. 180383

Researcher: JFP Reviewer: TD

ORDINANCE RELATING TO RULES OF PROCEDURE OF THE BOARD OF COUNTY COMMISSIONERS; AMENDING SECTION 2-1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING AN EXCEPTION FROM COMMITTEE CONSIDERATION FOR SELECTION AND APPOINTMENT OF PERSONS TO SERVE AS MEMBERS OF THE PUBLIC HEALTH TRUST BOARD OF TRUSTEES AND THE JACKSON HEALTH SYSTEM GENERAL OBLIGATION BOND CITIZENS' ADVISORY COMMITTEE; PROVIDING AN EXCEPTION FROM COMMITTEE CONSIDERATION FOR NON-IMPASSE PUBLIC HEALTH TRUST COLLECTIVE BARGAINING AGREEMENTS; PROVIDING SEVERABILITY INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 2-1 of the Code, providing an exception from committee consideration for selection and appointment of persons to serve as members of the Public Health Trust Board of Trustees and the Jackson Health System General Obligation Bond (GOB) Citizens Advisory Committee, as well as an exception from committee consideration for non-impasse Public Health Trust Collective Bargaining Agreements.

APPLICABLE LEGISLATION/POLICY

Section 2-1 of the Code of Miami Dade County outlines the Rules of Procedure of the County Commission.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE

Chapter 25A of the Code of Miami Dade County governs the Public Health Trust.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH25APUHETR

Chapter 2, Article CL of the Code of Miami Dade County governs the Jackson Health System General Obligation Bond Program.

https://library.municode.com/fl/miami_-_dade_county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTCLJAHESYGEOBOPR

Resolution No. R-636-14, adopted on July 1, 2014, directs the Commission Auditor to complete background research on applicants being considered to serve on County Boards and Trusts that require nominations and/or appointments by the Board.

<http://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2014/R-636-14.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Sally A. Heyman, District 4

Department/Requester: None

The proposed Ordinance was forwarded to the BCC with a favorable recommendation by the Public Safety and Health Committee at its May 9, 2018 committee meeting following a public hearing in which no members of the public elected to participate.

FISCAL IMPACT

The implementation of the proposed Ordinance will not have a fiscal impact.

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ANALYSIS

The proposed Ordinance amends Section 2-1 of the Code to provide the exceptions from committee consideration in the following instances: 1) for the selection of individuals to serve as members of the Public Health Trust Board of Trustees and the Jackson Health System General Obligation Bond Citizens Advisory Committee; and 2) non-impasse Public Health Trust Collective Bargaining Agreements.

As indicated by the Public Health Trust liaison, this item allows the selections and appointments to travel straight to the Board for consideration, bypassing the Public Safety and Health Committee, thus expediting the process.

It is unclear how this expedited process will affect the background research the Commission Auditor must complete on applicants being considered to serve on County Boards and Trusts that require nominations and/or appointments by the Board pursuant to Resolution No. R-636-14.

Below is the proposed amendment to Section 2-1 of the Code. Specifically, Part 4: Committees under Exceptions to Committee Requirement (changes underlined and in **bold**).

Current	Proposed
<p>(2) Quasi-judicial items, special taxing districts, ordinances for first reading, consent agenda items, other than items related to certificates of transportation, district office fund allocations, special presentations, naming, renamings or codesignations of County roads, facilities or properties, approvals of naming, renaming or codesignations of federal, state or municipal roads, facilities or properties, citizens' presentations, bid protests, settlements, options to renew contracts, resolutions recommending the acceleration and deceleration of Building Better Communities General Obligation Bond Program funding of projects using unspent bond proceeds, including interest earnings and premium funds, notwithstanding Rule 4.01(d)(6), ordinances related to debt obligations, resolutions related to debt obligations, resolutions urging an entity or person to take stated action, resolutions taking a position or seeking direction from the Board on legislation or administrative action at the federal, state or local level, resolutions related to contract lobbyist conflict waiver requests and resolutions expressing intent shall be heard directly by the county commission, items awarding, granting, amending or relating to an award or grant of Targeted Jobs Incentive Fund, Qualified Targeted Industry Business incentives, property or utility tax exemptions in enterprise zones, or Brownfield Economic Development Initiative Loan Funds or similar incentives and tax exemption programs; provided, however, any such item relating to an award of Community</p>	<p>(2) Quasi-judicial items, special taxing districts, ordinances for first reading, consent agenda items, other than items related to certificates of transportation, district office fund allocations, special presentations, namings, renamings or codesignations of County roads, facilities or properties, approvals of namings, renamings or codesignations of federal, state or municipal roads, facilities or properties, citizens' presentations, bid protests, settlements, options to renew contracts, <u>selection and appointment of persons to serve as members of the Public Health Trust Board of Trustees and the Jackson Health System General Obligation Bond Citizens' Advisory Committee, non-impasse Public Health Trust Collective Bargaining Agreements</u> resolutions recommending the acceleration and deceleration of Building Better Communities General Obligation Bond Program funding of projects using unspent bond proceeds, including interest earnings and premium funds, notwithstanding Rule 4.01(d)(6), ordinances related to debt obligations, resolutions related to debt obligations, resolutions urging an entity or person to take stated action, resolutions taking a position or seeking direction from the Board on legislation or administrative action at the federal, state or local level, resolutions related to contract lobbyist conflict waiver requests and resolutions expressing intent shall be heard directly by the county commission,</p>

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Redevelopment Agency funding or Community Development Block Grant funding or other funding administered by the Public Housing and Community Development department, or successor department, shall not be excepted from committee review by this subsection (j)(2). On such items, the public shall have the same rights to participate and be heard at the county commission as they would have received had the item been heard in committee.

items awarding, granting, amending or relating to an award or grant of Targeted Jobs Incentive Fund, Qualified Targeted Industry Business incentives, property or utility tax exemptions in enterprise zones, or Brownfield Economic Development Initiative Loan Funds or similar incentives and tax exemption programs; provided, however, any such item relating to an award of Community Redevelopment Agency funding or Community Development Block Grant funding or other funding administered by the Public Housing and Community Development department, or successor department, shall not be excepted from committee review by this subsection (j)(2). On such items, the public shall have the same rights to participate and be heard at the county commission as they would have received had the item been heard in committee.

ADDITIONAL INFORMATION

The Public Health Trust Board of Trustees was created in 1973 by the Board as an independent governing body concerned with the County's most vital health care resource, Jackson Memorial Hospital. The Trustees establish policies that ensure Jackson Health System is responsive to community needs. They provide leadership for joint planning between Jackson Health System, the University of Miami Miller School of Medicine, Miami-Dade County and other private and community organizations.

In 2003, the Board amended Chapter 25A of the Miami-Dade County Code that governs the Public Health Trust. This amendment altered the composition and size of the Public Health Trust as well as the responsibilities for Countywide health care.

<http://www.jacksonhealth.org/trust.asp#gref>

In 2014, the Board passed an ordinance that created the Jackson Health System GOB Citizens Advisory Committee that is responsible for advising the public and elected leaders regarding Jackson's GOB program. At the time, Jackson had direct oversight provided by the Public Health Trust Board of Trustees, which is itself subordinate to the Board under the Miami-Dade County Code. The Advisory Committee is able to enhance the work of the Board and Trust Board by publicly reviewing and discussing the following: the use of bond program funds in Jackson's capital program; the bond program's contribution to completion of Jackson's capital projects funded in whole or in part by the GOB; performance and program achievement related to the bond program; citizens outreach efforts relating to GOB-funded capital projects; and preparation of regular reports describing the progress of the bond program. Additionally, a member of the Advisory Committee participates in monthly meetings of the Trust Board committee with jurisdiction over facilities and construction.

<http://jacksonhealth.org/library/notices/CAC%20Legislation.pdf>

A Scrivener's Error was found on the item: Chapter 2, **Article CXLIV** of the Code of Miami-Dade County should read Chapter 2, **Article CL** of the Code of Miami-Dade County. https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTCLJAHESYGEOBBOPR

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Research Notes**

Item No. 7C

File No. 180148

Researcher: JFP Reviewer: TD

ORDINANCE RELATING TO EMERGENCY MANAGEMENT AND EMPLOYMENT; CREATING SECTION 8B-11.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; MAKING IT UNLAWFUL FOR AN EMPLOYER TO RETALIATE OR THREATEN TO RETALIATE AGAINST A NON-ESSENTIAL EMPLOYEE WHO COMPLIES WITH COUNTY EVACUATION OR EMERGENCY ORDERS; PROVIDING EXEMPTIONS FOR CERTAIN GOVERNMENT EMPLOYEES AND CERTAIN OTHER ESSENTIAL EMPLOYEES; PROVIDING EXCEPTIONS; ESTABLISHING PENALTIES; PROVIDING FOR APPLICABILITY AND ENFORCEMENT; AMENDING SECTION 8CC; PROVIDING CIVIL PENALTY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should create Section 8B-11.1 and amend Chapter 8CC of the County Code, making it unlawful for an employer to retaliate or threaten to retaliate against a non-essential employee who complies with County evacuation or emergency orders.

APPLICABLE LEGISLATION/POLICY

Chapter 8CC of the Code of Miami-Dade County governs code enforcement.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH8CCCOEN

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Sally A. Heyman, District 4

Department/Requester: None

At the May 9, 2018 Public Safety and Health Committee meeting, the proposed Ordinance's sponsor, Commissioner Heyman, explained that the reasoning behind the proposed Ordinance is to protect employees, many who rely on public transportation during an emergency when public transportation options are often minimal and getting to work proves difficult, from retaliation from employers for the employee not reporting to work.

Commissioner Martinez asked for clarification from the administration as to whether the proposed Ordinance would apply to the County. Deputy Mayor Kemp responded that his understanding was that the proposed Ordinance would not apply to the County. Sponsor Commissioner Heyman clarified that it applies to both the incorporated and unincorporated areas of Miami-Dade County, while government already has a policy in place to redirect people to *essential* categorization during a declared State of Emergency, otherwise they are sent home.

The proposed Ordinance was forwarded to the BCC with a favorable recommendation by the Public Safety and Health Committee.

FISCAL IMPACT

The implementation of the proposed ordinance will not have a fiscal impact on the County since it will not result in additional staffing needs or future operational costs.

ANALYSIS

The proposed Ordinance protects employees from employer-issued sanctions when complying with County-issued evacuation orders.

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During a declared State of Emergency, mass transit options are often minimal and many are left without means of transportation. For individuals who comply with an evacuation order, getting to work is often difficult or impossible. The proposed Ordinance states that individuals who comply with a County-issued evacuation order during a declared State of Emergency shall not be subject to sanctions from their employer. Unlawful sanctions by an employer could result in civil penalties in the amount of \$500 or by imprisonment for up to 60 days, or both.

There is no Florida law directly barring employers from issuing sanctions to staff for evacuating during emergencies, even if the evacuation was mandatory. However, private employees can seek relief through civil action under Florida's private sector Whistleblower Act. The Act provides that an employer cannot take any retaliatory action, such as termination, against an employee who refused to participate in any activity that is in violation of a law, rule, or regulation, Sections 448.101-448.105, F.S. To prevail, a court would need to find:

- The employer's request to attend work under a mandatory evacuation order was a violation of a law, rule, or regulation;
- The employee refused to violate such law, rule, or regulation; and
- The employer took retaliatory personnel action against the employee

However a nursing home employee who sought relief through a Florida Whistleblower Act civil action as a result of being terminated by her employer after following mandatory evacuation orders was unsuccessful in her attempt to establish that a mandatory evacuation order was a law, rule, or regulation, *see Gillyard v. Delta Health Group, Inc.*, 757 So.2d 601, (Fla. 5th DCA 2000).

At the state level, SB 1828, similar legislation that would prohibit an employer from taking retaliatory personnel action against an employee who has left a place of employment to evacuate under a mandatory evacuation order, was introduced during the 2018 State Legislative Session. The bill died in the first of three committee stops.

At the local level, OCA's search produced no other Florida counties or municipalities with similar ordinances to that which has been proposed.

Below are the proposed amendments, compared to the County Code as it currently reads:

Section 8B-11.1 of the Code of Miami-Dade County is created to read as follows:	
	<p>Sec. SB-11.1. Unlawful Retaliation Against Employees During Emergency Disasters.</p> <p>(1) For purposes of this section,</p> <p style="padding-left: 40px;">a. "essential employee" shall mean any employee that is critical to the essential functioning of the following employers:</p> <p style="padding-left: 80px;">i.) hospital or health care provider;</p> <p style="padding-left: 80px;">ii.) public or private utility;</p> <p style="padding-left: 80px;">iii.) media;</p> <p style="padding-left: 80px;">iv.) government agency;</p> <p style="padding-left: 80px;">v.) government contractor;</p> <p style="padding-left: 80px;">vi.) public safety agency; and</p> <p style="padding-left: 80px;">vii) any other business that provides essential emergency related public safety supplies or services.</p>

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b. "unlawful retaliation" shall mean termination, demotion, or withholding or nonpayment of wages, salary, bonuses or benefits.

(2) Upon a declaration of a state of emergency applicable to any portion of Miami-Dade County, it shall be unlawful for any employer to retaliate or threaten to retaliate against any employee who is not an essential employee and who complies with County evacuation orders or other County Executive Orders issued during a declared state of local emergency.

(3) To ensure that employees that rely on mass transit services are evacuated from vulnerable areas, for purposes of this section, any non-essential employee that depends on mass transit service to commute to work to an area that is subject to a County evacuation order shall comply with County evacuation orders prior to the suspension of transit services. No employer shall retaliate or threaten to retaliate against such an employee for complying with a County evacuation order.

(4) This section shall not apply to any employer who has promulgated a written policy that

- a. defines essential and non-essential employees, and
- b. requires that only essential personnel report to the place of employment during a declared state of local emergency.

No policy shall be considered promulgated unless conveyed to all employees in writing at least 30 days prior to the declaration of local emergency and enforced by the employer.

(5) In addition to any remedies elsewhere provided in the County Code or under law, any employer who violates any provision of

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this section may be punished by a fine not to exceed \$500, or by imprisonment for not more than 60 days, or both. An employer who violates this section shall be subject to a separate violation for each employee unlawfully retaliated or threatened to be retaliated against.

(6) *Applicability and enforcement.* This section shall apply to both the incorporated and unincorporated areas, and in the unincorporated areas shall be enforced by the County and in the incorporated areas shall be enforced concurrently by the municipalities and the County.

Chapter 8CC of the Code of Miami-Dade County as it currently reads:

Proposed amendment to Chapter 8CC of the Code of Miami-Dade County:

Chapter 8CC Code Enforcement

* * *

Sec. 8CC-10. Schedule of civil penalties

* * *

Code Section	Description of Violation	Civil Penalty
8AA-160(d)	Failure to maintain membership in Sunshine State One Call	\$100.00
	All other Chapter 8AA, Article I violations	\$500.00
8B-16	Failure to file or abide by Gas Station Emergency Plan	\$500

Chapter 8CC Code Enforcement

* * *

Sec. 8CC-10. Schedule of civil penalties

* * *

Code Section	Description of Violation	Civil Penalty
8AA-160(d)	Failure to maintain membership in Sunshine State One Call	\$100.00
	All other Chapter 8AA, Article I violations	\$500.00
<u>8B-11.1</u>	<u>Unlawful Retaliation for Compliance With County Emergency Management Evacuation Orders</u>	<u>\$500</u>
8B-16	Failure to file or abide by Gas Station Emergency Plan	\$500

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Item No. 7D

File No. 180778

Researcher: MF Reviewer: TD

ORDINANCE RELATING TO ZONING; AMENDING SECTION 33-253 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; AUTHORIZING AUTOMOBILE STORAGE AS A PERMITTED USE IN THE BU-2 (SPECIAL BUSINESS) DISTRICT UNDER CERTAIN CONDITIONS FOR AUTOMOBILE DEALERS OR VEHICLE RETAIL SHOWROOMS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should amend Section 33-253 of the Code of Miami-Dade County (Zoning) to authorize automobile storage as a permitted use in the BU-2 (Special Business) District under certain conditions for automobile dealers or vehicle retail showrooms.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 33-253, provides the uses permitted in a BU-2 Special Business District.

http://miamidade.fl.elaws.us/code/coor_ptiii_ch33_artxxvi_sec33-253

Miami-Dade County Code, Section 33-124(h)(2), states that “Off-street parking shall be provided in accordance with the following minimum standards (h) Commercial (2) Auto dealership showrooms, garage and gas station bay areas, and similar uses shall be provided three (3) parking spaces for the first twenty-five hundred (2,500) square feet of floor area, ..., and one (1) parking space for each additional five hundred (500) square feet of gross floor area, ..., plus three (3) parking spaces for each five thousand (5,000) square feet, ..., of open lot area.”

http://miamidade.fl.elaws.us/code/coor_ptiii_ch33_artvii_sec33-124

PROCEDURAL HISTORY

Prime Sponsor: Sally A Heyman, District 4

The proposed ordinance was adopted on first reading at the Board of County Commissioners’ meeting on April 10, 2018, and set for public hearing before the Government Operations Committee on May 8, 2018.

The proposed ordinance was considered at the Government Operations Committee meeting on May 8, 2018.

During the public hearing, Mr. Brian Adler, attorney with Bilzin Sumberg, representing the applicant, explained that the item was seeking to pair properties that had excess parking facilities with automobile dealerships that had excess inventory. He emphasized that this would only apply in the BU2 and BU3 zoning districts, on properties that were 40 acres or more, and only as an ancillary use. He said that renewal would be required annually.

Responding to Commissioner Martinez’ question as to the location of these districts, Assistant County Attorney Lauren Morse noted the BU2 zoning districts were located throughout the County.

In response to Commissioner Martinez’ question as to the identity of the applicant, Mr. Adler indicated that this item was put forth at the request of the Falls Shopping Center. He explained that a number of malls were built years ago when the demand for parking spaces was greater; and today there were many parking garages that were under-utilized.

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Pursuant to Commissioner Martinez’s question regarding the identity of the automobile dealership, Mr. Adler said he did not know the identity of the dealership, but could obtain it for the commissioner. He clarified that the extra parking spaces were located on the upper levels of the parking garages.

In response to Chairman Moss’ question regarding how it was determined that the property had excess parking capacity, and that this would not inconvenience the mall’s patrons, Mr. Nathan Kogon, Development Services, Regulatory and Economic Resources Department, noted this storage use required an annual renewal of the Certificate of Use; and in deciding whether to renew the Certificate of Use, staff had to determine whether there was additional parking over and above the minimum code requirement.

The proposed ordinance was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, the implementation of the proposed ordinance will not have a fiscal impact for Miami-Dade County as it will not result in additional staffing needs or future operational costs.

ANALYSIS

Currently, only large scale commercial and office facilities, which serve the needs of large urban areas, are permitted in the BU-2 Special Business Districts. At present, automobile dealers frequently store automobiles off-site; however, the Zoning Code does not currently allow the storage of automobiles off-site in the BU-2 District.

The proposed ordinance seeks to amend Section 33-253 of the Code of Miami-Dade County to authorize automobile storage as a permitted use in the BU-2 (Special Business) District under certain conditions for automobile dealers or vehicle retail showrooms. Automobile storage of new vehicles will be allowed for an automobile dealer that does not operate a sales facility on the same site, subject to the following conditions:

- (a) That such use shall be ancillary to another allowable use under this article;
- (b) That such use shall be on a site of at least 40 net acres;
- (c) That the automobile storage must occur only within a parking garage;
- (d) That the parking spaces used for the automobile storage shall not be required spaces for the remaining uses on the property;
- (e) That no independent additional parking spaces pursuant to Section 33-124(h)(2) will be required as parking for the on-site automobile storage; and
- (f) That such use shall obtain a Certificate of Use, and that the Certificate of Use shall be renewed annually for as long as such use operate.

The following table compares the current language of Section 33-253 of the Code of Miami-Dade County to the proposed amendment (words [[double brackete4d]] shall be deleted. Words underscored and >>double arrowed<< constitute the proposed amendment):

Section 33-253 (Current Language)	Section 33-253 (Proposed Amendment)
No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied or maintained for any purpose in any BU-2 District except for one (1) or more of the following uses:	No land, body of water and/or structure shall be used or permitted to be used, and no structure shall be hereafter erected, constructed, reconstructed, moved, occupied or maintained for any purpose in any BU-2 District except for one (1) or more of the following uses:

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(2.04) Brewery (not farm related), subject to the following conditions:

- (a) The manufacture of malt liquors, such as beer and ale, shall be limited to 10,000 kegs per year as a micro-brewery.
- (b) The brewery may have a restaurant as an accessory use, and the restaurant may also have an accessory cocktail lounge-bar use, subject to the requirements of Article X of this chapter.
- (c) Off-street parking for industrial, retail, restaurant, and other allowable uses shall be provided as otherwise required in this Code.

>>(3) Automobile storage of new vehicles for an automobile dealer that does not operate a sales facility on the same site, subject to the following conditions:

(a) That such use shall be ancillary to another allowable use under this article.

(b) That such use shall be on a site of at least 40 net acres.

(c) That the automobile storage must occur only within a parking garage.

(d) That the parking spaces used for the automobile storage shall not be required spaces for the remaining uses on the property, as calculated by Chapter 33, or as part of the required parking pursuant to the zoning resolution(s) governing the Property.

(e) That no independent additional parking spaces pursuant to Section 33-124(h)(2) will be required as parking for the on-site automobile storage.

(f) That such use shall obtain a Certificate of Use, and that the Certificate of Use shall be renewed annually for as long as such use operate.

(4)<< [[2.04]] Brewery (not farm related), subject to the following conditions:

- (a) The manufacture of malt liquors, such as beer and ale, shall be limited to 10,000 kegs per year as a micro-brewery.
- (b) The brewery may have a restaurant as an accessory use, and the restaurant may also have an accessory cocktail lounge-bar use, subject to the requirements of Article X of this chapter.
- (c) Off-street parking for industrial, retail, restaurant, and other allowable uses shall be provided as otherwise required in this Code.

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<p>(2.05) Commuter Colleges/Universities.</p> <p>(2.1) Hospitals (other than animal hospitals), subject to the following conditions:</p> <p>* * *</p> <p>(2.2) Hotel and motel uses, subject to all provisions of the RU-4A District pertaining to such uses.</p> <p>(3) Liquor package stores.</p> <p>(4) Major department stores.</p> <p>(5) Marinas for the following purposes only: Commercial boat piers or slips for docking purposes; yacht or boat storage, for laying up, but not for repairs or overhaul; and boats carrying passengers on excursion, sightseeing, pleasure or fishing trips.</p> <p>(5.1) Movie and television studios with indoor sound stages/studios.</p> <p>(5.2) Movie and television studios with outdoor lots/backlots after public hearing.</p> <p>(6) Night clubs located no closer than five hundred (500) feet of any RU or EU District, if approved at a public hearing.</p> <p>(7) Office parks.</p> <p>(8) Pubs and bars.</p> <p>(9) Regional shopping centers.</p> <p>(9.5) Vehicle Retail Showroom, provided that:</p> <p style="padding-left: 40px;">(1) No on-site vehicle storage/stock beyond the showroom is; and</p> <p>(2) No more than six (6) vehicles on site to be used for</p>	<p>>>(5)<< [[2.05]] Commuter Colleges/Universities.</p> <p>>>(6)<< [[2.1]] Hospitals (other than animal hospitals), subject to the following conditions:</p> <p>* * *</p> <p>>>(7)<< [[2.2]] Hotel and motel uses, subject to all provisions of the RU-4A District pertaining to such uses.</p> <p>>>(8)<< [[3]] Liquor package stores.</p> <p>>>(9)<< [[4]] Major department stores.</p> <p>5) Marinas for the following purposes only: Commercial boat piers or slips for docking purposes; yacht or boat storage, for laying up, but not for repairs or overhaul; and boats carrying passengers on excursion, sightseeing, pleasure or fishing trips.</p> <p>>>(10)<< [[5.1]] Movie and television studios with indoor sound stages/studios.</p> <p>>>(11)<< [[5.2]] Movie and television studios with outdoor lots/backlots after public hearing.</p> <p>>>(12)<< [[6]] Night clubs located no closer than five hundred (500) feet of any RU or EU District, if approved at a public hearing.</p> <p>>>(13)<< [[7]] Office parks.</p> <p>>>(14)<< [[8]] Pubs and bars.</p> <p>>>(15)<< [[9]] Regional shopping centers.</p> <p>>>(16)<<[[9.5]] Vehicle Retail Showroom, provided that:</p> <p style="padding-left: 40px;">(1) >><u>On-site vehicle storage/stock beyond the showroom shall only be allowed in accordance with subsection 2.01 above</u><< [[No on-site vehicle storage/stock beyond the showroom is allowed]]; and</p>
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<p>test drives purposes; and (3) No test drive shall be conducted on residential local streets (fifty-foot wide rights-of-way); and (4) No new, purchased vehicle deliveries at showroom are allowed.</p> <p>(10) Warehouse, membership.</p>	<p>(2) No more than six (6) vehicles on site to be used for test drives purposes; and (3) No test drive shall be conducted on residential local streets (fifty-foot wide rights-of-way); and (4) No new, purchased vehicle deliveries at showroom are allowed.</p> <p>>>(17)<< [[10]] Warehouse, membership.</p>
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According to the Social Equity Statement, the proposed ordinance authorizes automobile storage of new vehicles for an automobile dealer in the BU-2 zoning district that does not operate a sales facility on the same site, subject to a series of conditions. The conditional allowance stems from the fact that car dealerships are not allowed in the BU-2 zoning district and said storage of vehicles is allowed under the following conditions: (1) as an ancillary use (not the primary use of the property); (2) on a property with a minimum lot size of 40 acres; (3) within a parking garage (not a surface lot); and (4) subject to an annual Certificate of Use.

DEPARTMENT INPUT

The Office of the Commission Auditor posed the following questions to the Department of Transportation and Public Works, and received the following answers:

- Why are these changes authorizing automobile storage as a permitted use in the BU-2 district needed now? **Some automobile dealerships in need of additional vehicle storage space have approached some large commercial facilities in order to use their surplus garage parking space.**
- Is there a maximum number of vehicles that can be stored in one location at a time? **They can only use surplus parking so at any given point in time, all the required parking shall be available to those shopping at the facility. Sometimes commercial facilities provide more parking spaces than they are required by our code.**

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Item No. 7E

File No. 180535

Researcher: MF Reviewer: TD

ORDINANCE RELATING TO THE NORTH CENTRAL DADE MUNICIPAL ADVISORY COMMITTEE CREATED TO STUDY THE POSSIBLE INCORPORATION OF A MUNICIPALITY IN THE NORTH CENTRAL DADE AREA; EXTENDING THE SUNSET DATE OF THE MUNICIPAL ADVISORY COMMITTEE, NOTWITHSTANDING ORDINANCE NO. 15-32 WHICH PROVIDED FOR THE SUNSET OF SAID COMMITTEE AND ANY OTHER ORDINANCE TO THE CONTRARY; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should extend the sunset date of the North Central Dade Municipal Advisory Committee (MAC) created to study the possible incorporation of a municipality in the North Central Dade area of Miami-Dade County.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-1445-01, adopted by the Board on December 18, 2001, created and established the North Central Dade Municipal Advisory Committee; and directed County staff to prepare a study on the possible creation of a new municipality in the area of North Central Dade.

<http://www.miamidade.gov/govaction/matter.asp?matter=020090&file=false&yearFolder=Y2002>

Ordinance No. 03-42, adopted by the Board on March 3, 2003, created and established the North Central Dade Municipal Advisory Committee; and directed staff to prepare a study on the possible creation of a new municipality in the area of North Central Dade.

<http://www.miamidade.gov/govaction/matter.asp?matter=030112&file=false&yearFolder=Y2003>

Ordinance No. 05-192, adopted by the Board on November 1, 2005, relates to incorporations and annexations; suspends consideration of certain proposed incorporations and annexations until receipt of the County Manager's Report on the effects of incorporations and annexations in Miami-Dade County.

<http://intra/gia/matter.asp?matter=052207&file=true&yearFolder=Y2005>

Ordinance No. 07-120, adopted by the Board on May 8, 2007, relates to incorporations; and suspends consideration of proposed incorporations until receipt and consideration of the County Manager's Report on the effects of incorporations and annexations in Miami-Dade County.

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2007/071165.pdf>

Ordinance No. 12-24 adopted by the Board on January 24, 2012, related to incorporations; repealed Ordinance No. 07-120 of Miami-Dade County; and deleted provisions that suspended processing and consideration of proposed incorporations.

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2011/112543.pdf>

Ordinance No. 05-140, adopted by the Board on July 7, 2005, relates to incorporation; amends Sections 20-20, 20-21, 20-22 and 20-29 of the Code of Miami-Dade County, Florida; increases the percentage of electors required to consent to a petition for incorporation; requires municipal advisory committees created pursuant to section 20-29 of the Code to review and study petitions for incorporation; revises the process pertaining to incorporation petitions and creation of municipal advisory committees; and requires the consent of no less than twenty-five percent of resident electors to create certain municipal advisory committees.

<http://www.miamidade.gov/govaction/matter.asp?matter=052009&file=false&yearFolder=Y2005>

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Ordinance No. 15-32, adopted by the Board on February 3, 2015, relates to the North Central Dade Municipal Advisory Committee created to study the possible incorporation of a municipality in the North Central Dade area. <http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2015/150175.pdf>

Miami-Dade County Code, Section 20-29 (A), governs the creation and limitation of study areas for Municipal Advisory Committees. It states that "... no Municipal Advisory Committee shall be created by the County Commission, unless no less than twenty-five (25) percent of the resident electors in the area to be studied consent to the creation of a [MAC] on a consent form, which shall be approved by the Office of Strategic Business Management".

http://miamidade.fl.elaws.us/code/coor_ptiii_ch20_artii_sec20-29

PROCEDURAL HISTORY

Prime Sponsor: Jean Monestime, District 2

The proposed ordinance was adopted on first reading by the Board on March 20, 2018, and set for public hearing before the Government Operations Committee on May 8, 2018.

The proposed ordinance was considered at the Government Operations Committee meeting on May 8, 2018.

During the public hearing, three members of the public appeared in opposition to the proposed ordinance.

Commissioner Monestime pointed out that the public speakers did not reside in North Central Dade. In addition, he noted, this MAC was not a new creation; this item was seeking to extend an existing MAC.

Pursuant to Commissioner Martinez' question as to the reason for the requested extension, Mr. Jorge Fernandez, Office of Management and Budget, explained that the MAC lost some members along the way, and needed additional time to complete its process.

In response to Commissioner Martinez' question as to the length of time the MAC was in existence, Mr. Fernandez noted the MAC was created in 2001.

Commissioner Martinez expressed his opposition to extending the MAC.

Chairman Moss recalled that every MAC that was established in the County was created by the County commissioner of the area. He said it was a process, and at the end of the process residents would vote in favor of or against incorporation. He noted he would vote in favor of extending this MAC, in order to provide the residents of the area the opportunity to vote in favor of or against incorporation.

The proposed ordinance was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, the implementation of the proposed ordinance will not have a fiscal impact for Miami-Dade County. There are no additional costs associated with extending the North Central Dade Municipal Advisory Committee (MAC) an additional two years.

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ANALYSIS

The proposed ordinance seeks to extend the sunset date of the North Central Dade Municipal Advisory Committee (MAC), which was created with Resolution No. R-1445-01, adopted by the Board on December 18, 2001, to study the possible incorporation of a municipality in the North Central Dade area of Miami-Dade County. The North Central Dade area generally comprises the following:

- North: Cities of Opa-Locka and North Miami - 125 Street east to 27 Avenue; north to 135 Street; east to 17 Avenue; south to 119 Street; east to I-95
- East: Interstate 95 and City of Miami - I-95 south to 79 Street; west to 7 Avenue; south on 7 Avenue to 71 Street; west on 71 Street to 17 Avenue to 62 Street; then west on 62 Street to 32 Avenue; then south to 54 Street; then west to 37 Avenue
- South: N.W. 54 Street
- West: City of Hialeah - 37 Avenue north to City of Opa-locka

Through the adoption of Ordinance No. 05-192 on November 1, 2005, and Ordinance No. 07-120 on September 4, 2007, the Board suspended the processing of incorporation proposals. The reasons for the suspension were that there had been a number of significant annexations since 2000; these incorporations and annexations had resulted in a configuration of the unincorporated municipal service area which might prove difficult to service efficiently and effectively; and it was necessary for the Board to evaluate fully the effects of incorporations and annexations on the County. Through Ordinance No. 12-24, adopted by the Board on January 24, 2012, the Board repealed the suspension of the processing of incorporation proposals.

Ordinance No. 05-140, adopted by the Board on July 7, 2005, amends Sections 20-20, 20-21, 20-22 and 20-29 of the Code of Miami-Dade County, Florida; increases the percentage of electors required to consent to a petition for incorporation; requires municipal advisory committees created pursuant to section 20-29 of the Code to review and study petitions for incorporation; revises the process pertaining to incorporation petitions and creation of municipal advisory committees; and requires the consent of no less than twenty-five percent of resident electors to create certain municipal advisory committees.

Section 20-29 (A) of the Code of Miami-Dade County states that "... no Municipal Advisory Committee shall be created by the County Commission, unless no less than twenty-five (25) percent of the resident electors in the area to be studied consent to the creation of a [MAC] on a consent form, which shall be approved by the Office of Strategic Business Management." It provides, however, that "where a Municipal Advisory Committee has been established prior to the effective date of [Ordinance No. 5-140], no consent of resident electors shall be required for the adoption of an ordinance creating a Municipal Advisory Committee involving the same area."

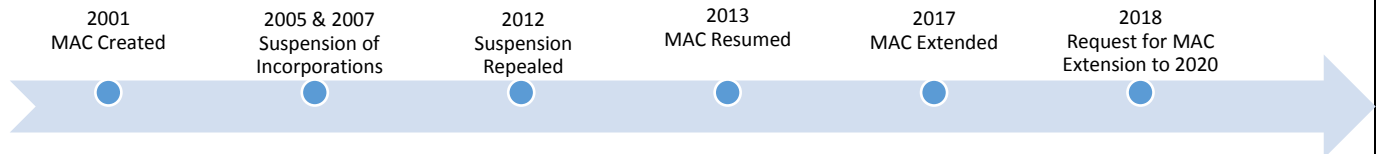
In June 2013, more than 18 months after the repeal of Ordinance No. 05-192 and Ordinance No. 07-120, the North Central Dade Municipal Advisory Committee was reorganized and resumed its meetings. On May 5, 2015 the Board adopted Ordinance No. 15-32 which extended the existence of the North Central Dade Municipal Advisory Committee to no later than May, 15, 2017. However, the North Central Dade MAC claims the need for additional time to conduct required public hearings, complete its study, and respond to inquiries from the Board.

Therefore, notwithstanding any provisions in Ordinance No. 15-32 or any ordinance or provisions of the Code of Miami-Dade County, the proposed ordinance seeks to extend the sunset date of the North Central Dade MAC. It provides that "the North Central Dade Municipal Advisory Committee shall remain in existence or otherwise re-constituted until the earlier of (i) the date that the Board of County Commissioners votes to defer, approve or deny

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a resolution submitting the incorporation question to the resident electors of the North Central Dade area or (ii) two years from the effective date of this Ordinance.”

According to the Social Equity Statement, extension of this MAC for two additional years will provide the public additional opportunities to discuss the issue of incorporating their respective area.



ADDITIONAL INFORMATION

According to the website of the Office of Management & Budget, “Municipal Advisory Committees (MACs) are organizations composed of elected or appointed members whose purpose is to study and give advice to the County Commission regarding the creation of a proposed municipality. The Board of County Commissioners creates Municipal Advisory Committees. MACs are charged with studying the feasibility of incorporating a specific area into a municipality. All meetings are free and open to the public. Residents are encouraged to attend the meetings to find out more information and/or express their opinions.”

<http://www.miamidade.gov/incorporationandannexation/municipal-advisory-committees.asp>

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Item No. 7F

File No. 180572

Researcher: JFP Reviewer: TD

ORDINANCE EXTENDING AMNESTY PERIOD CREATED BY ORDINANCE NO. 11-64, AS SUBSEQUENTLY AMENDED, FOR AN ADDITIONAL YEAR COMMENCING JULY 12, 2018; PROVIDING FOR A LIMITED EXCEPTION FROM CIVIL PENALTIES AND LIENS FOR BUILDING CODE VIOLATIONS UPON A HOMEOWNER'S COMPLIANCE WITH THE BUILDING CODE; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE, AND AN EFFECTIVE DATE

ISSUE/REQUESTED ACTION

Whether the Board should approve the extension of the Amnesty Period it created in Ordinance No. 11-64, which provides for a limited exception from civil penalties for building code violations upon a homeowner's compliance with the building code. The original ordinance was previously amended to allow for extensions, with the most recent extension expiring July 12, 2018. If approved, this Ordinance would extend the Amnesty Period for an additional year, commencing July 12, 2018.

APPLICABLE LEGISLATION/POLICY

Ordinance No. 11-64 is the original ordinance creating the Amnesty Period authorizing a limited exception from civil penalties and liens for building code violations upon a homeowner's compliance with the building code.

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2011/111577.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Rebeca Sosa, District 6

Department/Requester: None

The proposed Ordinance was forwarded to the BCC with a favorable recommendation by the Government Operations Committee at its May 8, 2018 meeting following a public hearing (in which no members of the public elected to participate) and clarification from the County Attorney and Commissioner Martinez regarding the purpose of the proposed Ordinance.

Commissioner Martinez mentioned that he introduced the original Ordinance in 2011, and that the amnesty has saved residents millions of dollars. The intent was to help elderly residents and protect them from financial hardship due to penalties from building code violations if they bring their property into compliance.

Commissioner Moss added that he was approached by members of the Black Affairs Advisory Board regarding amnesty issues, and would like those concerns addressed in the proposed Ordinance.

FISCAL IMPACT

A fiscal impact will continue to occur as a result of the practice of waiving penalties and liens previously assessed by Miami-Dade County. The extent of the fiscal impact on the County as a result of the extension will depend on the number of property owners with outstanding violations who elect to take advantage of the amnesty period and correct the violations during that time.

ANALYSIS

The proposed Ordinance extends the Amnesty Period, which allows the County to waive civil penalties and liens assessed for building code violations provided certain conditions are met by the property owner, for an additional year (through July 12, 2019).

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The Amnesty Period was enacted by the Board in 2011, through Ordinance No. 11-64, with the intent to encourage compliance with the Building Code while being mindful of the economic crisis that plagued the County at the time, and the potential financial hardships that homeowners can incur as a result of County-assessed fine and penalties related to building code violations.

The Amnesty Period was subsequently extended and modified through Ordinance Nos. 12-06, 12-59, 13-61, 14-66, 15-34, 16-133, and 17-77. It applies to work performed without permits or on expired permits. Work without permits can lead to faulty installations, causing fires, flood damage and other hazards. As stated in the Mayor's Social Equity Statement, safety is part of the rationale in extending the Amnesty Period, as it can benefit purchasers of distressed homes with multiple violations that are seeking to bring such homes into compliance, in turn improving the safety and values of surrounding properties. As of July 31, 2017, more than 3,700 property owners had taken advantage of the amnesty period.

Several counties and municipalities have similar amnesty programs, with Broward County and the City of Plantation having programs where relief in the form of reduction in the value of the code enforcement lien against the property is granted in exchange for bringing the property into code compliance. The City of Plantation's Code Amnesty Program commenced on May 1, 2017 and ends on November 15, 2018, and is applicable to code liens received prior to December 31, 2016. Broward County launched the Broward Municipal Services District (BMSD) Lien Amnesty Program on October 1, 2017. Broward's program, originally slated to span six months, was recently extended until September 30, 2018.

<http://www.broward.org/Planning/FormsPublications/Documents/LienAmnestyBMSD.pdf>

According to the Miami-Dade County website, the following conditions apply to be able to participate in the program:

- This Amnesty only applies to primary owners of a residential property and does not apply to properties owned by financial institutions or commercial/industrial properties.
- This program does not apply in the event that the County has commenced a civil action to collect on the civil penalties or to foreclose a lien.
- A permit is issued to bring the structure into compliance with the Building Code within the Amnesty Period.
- The structure is brought into compliance with the Building Code within the period provided in the Building Code for completion of the work under the permit obtained within the Amnesty Period.
- All direct costs of the Regulatory and Economic Resources Department related to prior enforcement in connection with the structure, as documented by the Department shall be satisfied in full (These may include inspections, photographs, researches, recordation and enforcement recovery fee).

<https://www.miamidade.gov/building/amnesty-program.asp>

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**Item No. 8A1
File No. 181039**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING 10-YEAR LEASE AGREEMENT WITH F&E AIRCRAFT MAINTENANCE (MIAMI), LLC, FOR AN AIRCRAFT MAINTENANCE, REPAIR AND OVERHAUL OPERATION AT MIAMI INTERNATIONAL AIRPORT FOR AN INITIAL ANNUAL LAND RENT OF \$199,706.75 AND IMPROVEMENT RENT FOR THE BUILDINGS REBUILT OR RECONSTRUCTED BY THE TENANT AT ITS COST; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, PERFORM ALL ACTS NECESSARY TO EFFECTUATE SAME AND EXERCISE ALL PROVISIONS THEREIN, INCLUDING TERMINATION; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE SAME TO THE COUNTY PROPERTY APPRAISER IN ACCORDANCE WITH RESOLUTION NO. R-791-14

ISSUE/REQUESTED ACTION

Whether the Board should approve a 10-year land lease agreement with F&E Aircraft Maintenance LLC (FEAM) for aircraft maintenance, repair and overhaul operations at Miami International Airport (MIA) for an initial annual land rent of \$199,706.75 and improvement rent, yet to be determined, commencing in the sixth lease year, for reconstructed buildings.

APPLICABLE LEGISLATION/POLICY

Section 2-8.3 of the County Code (Mayor's Recommendation) prescribes 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

Section 2-8.6.5 of the County Code governs the purchase, sale and lease of real property.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR

Resolution No. R-791-14, adopted by the Board on September 3, 2014, directs the Mayor or Mayor's designee to provide the County Property Appraiser a copy of all leases and operating agreements involving County-owned property.

<http://intra/gia/matter.asp?matter=141723&file=true&yearFolder=Y2014>

Resolution No. R-333-15, adopted by the Board on April 21, 2015, established the County policy requiring disclosure of market value or market rental in legislative items authorizing the conveyance or lease of County-owned property to promote transparency and fiscal responsibility.

<http://intra/gia/matter.asp?matter=150446&file=true&yearFolder=Y2015>

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Research Notes**

Administrative Order No. 8-4 sets forth the County's policy regarding the sale, lease and disposal of County-owned real property.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Aviation

This item was forwarded to the Board with a favorable recommendation by the Economic Development and Tourism Committee at its May 10, 2018 meeting. At the meeting, the following discussion transpired:

- Responding to an invitation to comment on the item from Commissioner Sosa, the Aviation Department Director explained that: (1) the leases on the agenda – item Nos. 3A, 3C and 3D – concern old properties that failed 40-year re-certification requirements and have been re-tagged for abandonment; (2) such abandonment would negatively impact the airport as these are the only facilities providing repairs for airlines; (3) abandoning the properties would result in a loss of over 500 jobs; (4) the agenda item proposes a win-win situation, allowing the lessees to continue to operate so long as they make a sizeable investment in the properties by reconstructing the buildings to satisfy the County Code; (5) the capital improvements would result in an increased rent payment; and (6) the \$197,000 rental figure in the agenda item should be replaced with \$204,000.
- Commissioner Moss asked the Aviation Department Director whether the facilities abuts any thoroughfares; the Director responded that they abut the northeastern portion of the airport; Moss then requested that the new facilities be designed to comply with current aesthetic standards; the Aviation Director responded that the department will ensure that the new buildings meet the aesthetic standards.
- Commissioner Sosa noted that the companies employ a large number of local residents.

FISCAL IMPACT

FEAM is subject to land and improvement rent as well as an opportunity fee under the lease agreement.

Land Rent

The buildings that are the subject of the land lease have no positive value to the County because of Code violations. Accordingly, commencing May 1, 2018, FEAM shall pay the County annual rent just for the land and pavement associated with the premises in the initial sum of \$199,706.75.

Improvement Rent

In consideration of FEAM's expending its funds for demolition of the existing buildings and construction of either new facilities on the premises or reconstruction of the buildings to satisfy Code requirements, FEAM shall be entitled to a five-year period of time to amortize such costs and therefore shall not be required to pay any improvement rent on the new facilities as of the date FEAM begins the new facilities work but shall commence paying rent on the new facilities as of May 1, 2023 and monthly thereafter for the duration of the remaining term of the agreement. The amount of such improvement rent shall be determined by the County in accordance with its standard appraisal practices.

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Opportunity Fee

As of May 1, 2023, FEAM shall pay the County the amount by which three percent of its monthly gross revenues generated from its activities under the lease exceeds the land, pavement and improvement rent then determined by the County to be payable for FEAM's use of the premises for the remainder of the term of the lease.

ANALYSIS

This item is requesting Board approval of a 10-year land lease agreement with FEAM for aircraft maintenance, repair and overhaul operations at MIA. The lease commences retroactively on May 1, 2018 and terminates on April 30, 2028. The premises leased are the land and pavement located on the north side of the airport that are associated with and lie under Buildings 861 and 862A and any new facilities constructed by FEAM on the premises. Under the lease, FEAM shall use the premises for the following purposes:

- Demolition of the existing buildings and construction of new facilities on the premises or reconstruction of the buildings so that they satisfy Code requirements;
- Maintenance of aircraft and aviation related equipment, including support shops and overhaul facilities, executive, administrative and operational offices and related activities; and
- Staging, loading and unloading of aircraft undergoing maintenance as well as parking of operable aircraft service equipment on the adjacent paved ramp space.

Background Information

The County owns and operates MIA through the Aviation Department and makes available for lease an aviation facility on the north side of MIA consisting of four separate buildings known as Buildings 861, 862, 862A and 863. FEAM is currently a tenant in Buildings 861 and 862A. Due to the poor conditions of the leased buildings, they have no positive economic value to the County. The Fire Rescue Department has placed Notices of Violations on the buildings indicating that fire code violations and life/safety violations have occurred within the buildings and are continuing.

Under the lease agreement, FEAM will be allowed to demolish and then construct new facilities on the premises or completely reconstruct the Buildings and associated common use areas so that they are placed in a condition that meets Code requirements.

The County and FEAM entered into a preliminary five-year lease agreement on September 19, 2017 for FEAM's use of the premises; that agreement will be superseded by this long-term agreement which incorporates the demolition and reconstruction work. FEAM is aware that the Unsafe Structures Board has the authority under the Code to declare the buildings to be unsafe structures and to order their closure or other actions despite the existence of the land lease agreement.

FEAM is obligated to complete the work associated with the new facilities and their common areas by September 20, 2021 or such other date as may be mandated by the Unsafe Structures Board and the Fire Rescue Department. If FEAM fails to satisfy the requirements of the Unsafe Structures Board and the buildings are ordered to be vacated, the County has the right to terminate the lease.

In the event that AeroThrust Holdings, LLC, the Building 863 lessee, or Miami Tech Line Maintenance Support, Inc., the Building 862 lessee, fail to complete the demolition and rebuilding option or the reconstruction option applicable to their respective lease agreements and as a consequence the County terminates such agreements, then FEAM shall have the option to assume the leasehold interests applicable to Buildings 862 and 863.

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ADDITIONAL INFORMATION

The Aviation Department informed OCA that given that each building has a 40-year re-certification requirement and these leases are often done in conjunction with those deadlines, such lease agreements have been executed before but are not a frequent departmental practice.

A May 30, 2018 search on sunbiz.org (Florida Department of State, Division of Corporations website) for F&E Aircraft Maintenance LLC listed the vendor as an active foreign limited liability corporation with a principal address of 657 South Drive, Suite 306, Miami Springs, Florida.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=FEAIRCRAFTMAINTENANCEMIAMI%20M020000030520&aggregateId=forl-m02000003052-9a2b6d2f-a4df-47e1-96e4-7d1c635cb996&searchTerm=F%20%26%20E%20Aircraft%20Maintenance%20LLC&listNameOrder=FEAIRCRAFTMAINTENANCE%20S597151>

FEAM has serviced multiple airlines (Lufthansa Airlines, China Airlines, Atlas Air Cargo, Polar Air Cargo, Singapore Airlines, AeroMexico, Taca, Eva Air and America West Airlines) from seven major U.S. cities – Miami, Chicago, Atlanta, Dallas, New York, Houston and Anchorage.

<http://www.feaircraft.com/page3.php>

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**Item No. 8A2
File No. 181049**

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING 10-YEAR LEASE AGREEMENT WITH MIAMI TECH LINE MAINTENANCE SUPPORT, INC., FOR AN AIRCRAFT MAINTENANCE, REPAIR AND OVERHAUL OPERATION AT MIAMI INTERNATIONAL AIRPORT FOR AN INITIAL ANNUAL LAND RENT OF \$134,901.80 AND IMPROVEMENT RENT COMMENCING IN THE SIXTH YEAR OF THE LEASE AT APPRAISED MARKET RENTAL VALUE AFTER THE BUILDING IS REBUILT OR RECONSTRUCTED BY THE TENANT AT ITS COST; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, PERFORM ALL ACTS NECESSARY TO EFFECTUATE SAME AND EXERCISE ALL PROVISIONS THEREIN, INCLUDING TERMINATION; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE SAME TO THE COUNTY PROPERTY APPRAISER IN ACCORDANCE WITH RESOLUTION NO. R-791-14.

ISSUE/REQUESTED ACTION

Whether the Board should approve a 10-year lease agreement with Miami Tech Line Maintenance Support, Inc. (Miami Tech) for the provision of aircraft maintenance, repair and overhaul operation at Miami International Airport out of Building 862, which needs repair and must be brought up to a standard that meets the 40-year recertification requirement by 2021. As part of the agreement, Miami Tech will either demolish and rebuild or make necessary improvements to bring the building up to code.

APPLICABLE LEGISLATION/POLICY

Section 2-8.3 of the County Code (Mayor's Recommendation) prescribes 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

Section 2-8.6.5 of the County Code governs the purchase, sale and lease of real property.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR

Resolution No. R-791-14, adopted by the Board on September 3, 2014, directs the Mayor or Mayor's designee to provide the County Property Appraiser a copy of all leases and operating agreements involving County-owned property.

<http://intra/gia/matter.asp?matter=141723&file=true&yearFolder=Y2014>

Resolution No. R-333-15, adopted by the Board on April 21, 2015, established the County policy requiring disclosure of market value or market rental in legislative items authorizing the conveyance or lease of County-owned property to promote transparency and fiscal responsibility.

<http://intra/gia/matter.asp?matter=150446&file=true&yearFolder=Y2015>

**BCC Meeting: June 5, 2018
Research Notes**

Administrative Order No. 8-4 sets forth the County's policy regarding the sale, lease and disposal of County-owned real property.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Aviation Department

This proposed Resolution was forwarded to the BCC with a favorable recommendation by the Economic Development and Tourism Committee at its May 10, 2018 meeting. At the meeting, the following discussion transpired:

- Responding to an invitation to comment on the item from Commissioner Sosa, the Aviation Department Director explained that: (1) the leases on the agenda – item Nos. 3A, 3C and 3D – concern old properties that failed 40-year re-certification requirements and have been re-tagged for abandonment; (2) such abandonment would negatively impact the airport as these are the only facilities providing repairs for airlines; (3) abandoning the properties would result in a loss of over 500 jobs; (4) the agenda item proposes a win-win situation, allowing the lessees to continue to operate so long as they make a sizeable investment in the properties by reconstructing the buildings to satisfy the County Code; (5) the capital improvements would result in an increased rent payment; and (6) the \$197,000 rental figure in the agenda item should be replaced with \$204,000.
- Commissioner Moss asked the Aviation Department Director whether the facilities abuts any thoroughfares; the Director responded that they abut the northeastern portion of the airport; Moss then requested that the new facilities be designed to comply with current aesthetic standards; the Aviation Director responded that the department will ensure that the new buildings meet the aesthetic standards.
- Commissioner Sosa noted that the companies employ a large number of local residents.

FISCAL IMPACT

If this agreement is approved through the proposed Resolution, Miami Tech will pay \$134,901.80 in annual land and pavement rent for approximately 1.4 acres at MIA for five years, and in the sixth year of the lease will begin paying land and pavement rent, plus improvement rent, in an amount based on the appraised value of the building, thus generating revenue for the Miami-Dade Aviation Department (MDAD). Miami Tech employs more than 100 workers.

ANALYSIS

Miami Tech currently operates an aircraft Maintenance, Repair, and Overhaul operation out of Building 862 at MIA, and has done so for 10 years under successive five-year lease terms. Building 862 is the only facility at MIA where Miami Tech can run its operations. Miami Tech's facilities at MIA include over 78,000 square feet of hangar, shop, and office space as well as over 30,000 square feet of ramp space.

Building 862 is more than 40 years old and has several code violations which must be corrected by September 21, 2021 in order to meet the 40-year recertification requirement. The cost of bringing Building 862 to a satisfactory condition is approximately \$2,400,000, which greatly exceeds the building's present value.

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Given that no other facility or land is available on MIA grounds for Miami Tech's operations, MDAD notified Miami Tech that if it wished to remain a tenant at MIA, it would have to either demolish and replace the structures or renovate them to bring them up to code. Miami Tech agreed to take on the cost of either making building improvements or demolishing and rebuilding.

Because Building 862 has no positive economic value to the County due to the code violations, Miami Tech will pay the County annual rent solely for the land and parking spaces associated with the premises, in the amount of \$134,901.80 in twelve monthly installments of \$11,241.82, beginning on May 1, 2018. Control of the building will revert to the County on April 30, 2023; Miami Tech will then begin paying improvement rent on Building 862 on May 1, 2023 based on the new or renovated building's appraised fair market value.

Miami Tech supports & services domestic and international airlines, military aircraft, and aircraft leasing companies worldwide, and has approximately 104 to 150 full-time employees.

ADDITIONAL INFORMATION

Miami Tech's website:

<http://miamitechfl.com/>

DEPARTMENT INPUT

The following question was asked of the Aviation Department; response is below in bold and italics.

Is this a common practice at the Airport?

Given that each building has a 40-year recertification requirement, and these leases are often done in conjunction with those deadlines, this has been done before but is not a frequent practice by the Aviation Department.

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Research Notes**

**Item No. 8A3
File No. 181050**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING 10-YEAR LEASE AGREEMENT WITH AEROTHRUST HOLDINGS, LLC, FOR AN AIRCRAFT COMPONENTS MAINTENANCE, REPAIR AND OVERHAUL OPERATION AT MIAMI INTERNATIONAL AIRPORT FOR AN INITIAL ANNUAL LAND RENT OF \$197,000.30 AND IMPROVEMENT RENT COMMENCING IN THE NINTH YEAR OF THE LEASE AFTER THE BUILDING IS REBUILT OR RENOVATED BY THE TENANT AT ITS COST; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME, PERFORM ALL ACTS NECESSARY TO EFFECTUATE SAME AND EXERCISE ALL PROVISIONS THEREIN, INCLUDING TERMINATION; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO PROVIDE SAME TO THE COUNTY PROPERTY APPRAISER IN ACCORDANCE WITH RESOLUTION NO. R-791-14

ISSUE/REQUESTED ACTION

Whether the Board should approve a 10-year lease agreement with AeroThrust Holdings, LLC, for an aircraft components maintenance, repair and overhaul operation at Miami International Airport for an initial annual land rent of \$204,590.80 and improvement rent commencing in the ninth year of the lease after the building is rebuilt or renovated by the tenant at its cost.

APPLICABLE LEGISLATION/POLICY

Section 2-8.3 of the County Code (Mayor's Recommendation) prescribes 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 2-8.6.5 of the County Code governs the purchase, sale and lease of real property.

[https://library.municode.com/fl/miami -
dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR)

Resolution No. R-791-14, adopted by the Board on September 3, 2014, directs the Mayor or Mayor's designee to provide the County Property Appraiser a copy of all leases and operating agreements involving County-owned property.

<http://intra/gia/matter.asp?matter=141723&file=true&yearFolder=Y2014>

Resolution No. R-333-15, adopted by the Board on April 21, 2015, established the County policy requiring disclosure of market value or market rental in legislative items authorizing the conveyance or lease of County-owned property to promote transparency and fiscal responsibility.

<http://intra/gia/matter.asp?matter=150446&file=true&yearFolder=Y2015>

**BCC Meeting: June 5, 2018
Research Notes**

Administrative Order No. 8-4 sets forth the County's policy regarding the sale, lease and disposal of County-owned real property.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

PROCEDURAL HISTORY

Department/Requester: Miami-Dade Aviation Department

The proposed resolution was considered at the Economic Development and Tourism Committee meeting on May 10, 2018.

During the setting of the agenda, Assistant County Attorney Altanese Phenelus noted the item had a scrivener's error which was to change the land and pavement rent from \$197,000.30 to \$204,590.80.

During the meeting, the following discussion transpired:

- Responding to an invitation to comment on the item from Commissioner Sosa, the Aviation Department Director explained that: (1) the leases on the agenda – item Nos. 3A, 3C and 3D – concern old properties that failed 40-year re-certification requirements and have been re-tagged for abandonment; (2) such abandonment would negatively impact the airport as these are the only facilities providing repairs for airlines; (3) abandoning the properties would result in a loss of over 500 jobs; (4) the agenda item proposes a win-win situation, allowing the lessees to continue to operate so long as they make a sizeable investment in the properties by reconstructing the buildings to satisfy the County Code; (5) the capital improvements would result in an increased rent payment; and (6) the \$197,000 rental figure in the agenda item should be replaced with \$204,000.
- Commissioner Moss asked the Aviation Department Director whether the facilities abuts any thoroughfares; the Director responded that they about the northeastern portion of the airport; Moss then requested that the new facilities be designed to comply with current aesthetic standards; the Aviation Director responded that the department will ensure that the new buildings meet the aesthetic standards.
- Commissioner Sosa noted that the companies employ a large number of local residents.

The proposed resolution was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, this agreement will generate revenue for Miami-Dade Aviation Department. AeroThrust will pay MDAD \$204,590.80 in annual land and pavement rent for approximately 2.3 acres for the first eight years, and thereafter pay land and pavement rent, plus improvement rent, in an amount based on the appraised value of Building 863. Both payments will be revised annually in keeping with the standard rent review policy at the airport. AeroThrust employs approximately 150 permanent employees, which has a beneficial economic impact for the County.

BCC Meeting: June 5, 2018
Research Notes

ANALYSIS

AeroThrust Holdings LLC (AeroThrust) has leased Buildings 861, 862, 862A and 863 at Miami-Dade International Airport since 2010, and has operated an aircraft components maintenance, repair and overhaul operation out of those buildings, employing some 150 full-time employees. AeroThrust Corporation provided similar services for a number of years out of the same buildings. AeroThrust Holdings LLC acquired the assets of its predecessor, the AeroThrust Corporation, through bankruptcy proceedings.

Building 863 is in extremely poor condition and has received Notices of Violations from the Miami-Dade Fire Rescue Department for fire code violations and from the County's Unsafe Structures Board. Miami-Dade Aviation Department (MDAD) notified AeroThrust that if it wished to continue leasing Building 863, it would have to either demolish and replace it or renovate it to the proper standards.

MDAD and AeroThrust entered into a preliminary five-year lease agreement on September 19, 2017 for the lease of Building 863. It was understood that this lease would be superseded by a longer-term lease to allow AeroThrust to undertake the demolition or reconstruction work upon the building to bring it up to standard in order to meet the 40-year re-certification requirement by September 21, 2021. If the proposed resolution is approved by the Board, the ten-year lease agreement will automatically go into effect and the prior five-year lease will automatically cease.

Because the buildings have no positive economic value to MDAD, beginning on February 1, 2018, AeroThrust will pay an annual rent just for the land and pavement associated with the buildings, in the initial sum of \$204,590.80, payable in twelve monthly equal installments. In consideration for the funds that AeroThrust will spend for the demolition or renovation of the building, the company will be entitled to an eight-year grace period to amortize such costs. MDAD will resume control of the building on April 30, 2026, and AeroThrust will begin paying improvement rent on the buildings on February 1, 2026, which will reflect the condition of the building as of October 1, 2025.

AeroThrust has always paid its rents in a timely fashion under the prior lease agreement, but a recent audit revealed that it has been utilizing additional space in the building as storage. MDAD and AeroThrust entered into a payment plan on April 5, 2018 that calls for AeroThrust to pay MDAD \$163,605.67, which AeroThrust paid without delay, and \$37,796.84 in 11 monthly instalments thereafter to discharge this additional space rental payment obligation.

ADDITIONAL INFORMATION

According to the Florida Department of State Division of Corporations website (Sunbiz.org), AeroThrust Holdings, LLC, has an active status as a Florida Limited Liability Company and first filed and registered on 10/15/2010. The principal address is registered as 5300 NW 36th Street, Building 863, Miami, FL 33166. Its registered agent is Miami Corporate Systems, LLC, 2550 Ponce de Leon Blvd., Suite 600, Coral Gables, FL 33134.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

DEPARTMENT INPUT

The Office of the Commission Auditor posed the following questions to the Aviation Department, and received the following responses:

- Is this a common practice at the Airport? **Given that each building has a 40-year recertification requirement, and these leases are often done in conjunction with those deadlines, this has been done before but is not a frequent practice by the Aviation Department.**

**BCC Meeting: June 5, 2018
Research Notes**

Item No. 8A4

File No. 181360 (Original File No. 181040)

Researcher: JFP Reviewer: TD

RESOLUTION WAIVING COMPETITIVE BIDDING BY TWO-THIRDS VOTE OF THE MEMBERS PRESENT PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1 OF THE COUNTY CODE; WAIVING THE PROVISIONS OF RESOLUTION NO. R-1587-72 AS BEING IN THE BEST INTERESTS OF MIAMI-DADE COUNTY; APPROVING FIFTH AMENDMENT TO LEASE AND CONCESSION AGREEMENT BETWEEN MIAMI-DADE COUNTY AND DUTY FREE AMERICAS MIAMI LLC FOR THE PROVISION OF DUTY AND TAX FREE MERCHANDISE AT MIAMI INTERNATIONAL AIRPORT; EXTENDING THE TERM OF THE AGREEMENT THROUGH SEPTEMBER 14, 2024 AND PROVIDING FOR A MINIMUM INVESTMENT BY DUTY FREE AMERICAS MIAMI LLC OF \$17,000,000; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE AND ENFORCE SAME

ISSUE/REQUESTED ACTION

Whether the Board should waive competitive bidding as well as the provisions of Resolution No. R-1587-72 as being in the best interests of Miami-Dade County; approve the Fifth Amendment to the Lease and Concession Agreement with Duty Free Americas Miami, LLC (DFA) for the Duty-Free and Tax-Free Concession Program at Miami International Airport (MIA), extending the term of the agreement through 2024 and providing for a \$17 million minimum investment by DFA into its 21 locations.

APPLICABLE LEGISLATION/POLICY

Section 5.03(D) of the County's Home Rule Charter states that Contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids.

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

Section 2-8.1 of the County Code requires formal sealed bids for purchases over \$250,000; describes the circumstances under which non-competitive purchases may be approved; establishes requirements for legacy purchases, designated purchases, and single vehicle leases; 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)

Resolution No. R-1226-05, adopted by the Board on November 3, 2005, approved the award of a Lease and Concession Agreement to DFA for duty-free and tax-free services in the North, South, and Central Terminals at MIA. The agreement was for a 10-year term with one two-year extension, with an expiration date of December 31, 2017.

<http://www.miamidade.gov/govaction/matter.asp?matter=053354&file=false&fileAnalysis=false&yearFolder=Y2005>

Resolution No. R-13-10, adopted by the Board on January 21, 2010, amended all South Terminal concessionaires' agreements to provide financial relief due to construction delays and lower than anticipated passenger traffic.

<http://www.miamidade.gov/govaction/matter.asp?matter=092924&file=true&fileAnalysis=false&yearFolder=Y2009>

**BCC Meeting: June 5, 2018
Research Notes**

Resolution No. R-1120-11, adopted by the Board on December 19, 2011, amended Central Terminal Agreements to provide financial relief to nine concessionaires, including DFA, until January 31, 2013, due to a decrease in passenger traffic resulting from construction that forced passengers to exit between Terminals E and D.

<http://www.miamidade.gov/govaction/matter.asp?matter=112399&file=true&fileAnalysis=false&yearFolder=Y2011>

Resolution No. R-892-12, adopted by the Board on November 27, 2012, amended the agreements with the nine concessionaires that were the subject of Resolution No. R-1120-11 once again to extend the same financial relief package to the same concessionaires, including DFA, until January 31, 2015.

<http://www.miamidade.gov/govaction/matter.asp?matter=122160&file=true&fileAnalysis=false&yearFolder=Y2012>

Resolution No. R-96-14, adopted by the Board on February 4, 2014, amends all Agreements for DFA and North Terminal concessionaires to reset the lease effective dates from January 1, 2006 to September 14, 2014 to financially compensate the concessionaires for delayed gate openings and decreased passenger traffic that occurred as a result of construction.

<http://www.miamidade.gov/govaction/matter.asp?matter=140046&file=true&fileAnalysis=false&yearFolder=Y2014>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Aviation Department

This proposed Resolution was forwarded to the BCC as amended with a favorable recommendation by the Economic Development and Tourism Committee at its May 10, 2018 committee meeting. The amendment makes approval contingent upon the FAA approval of the lease term.

Prior to passage, Commissioner Moss asked Aviation Department Director Lester Sola about DFA's track record. Director Sola responded that DFA has exceeded its capital investment requirements by far. Aviation staff added in response to Commissioner Moss's follow-up question regarding the MAG that DFA has far exceeded the MAG of \$15,000,000 stated in the Lease Agreement with its MAG payment of \$26,710,605.

Commissioner Sosa advised that there should be a competitive process in place before the expiration of the contract so that a month-to-month approach is not necessary and renewals are not made without a competitive process.

FISCAL IMPACT

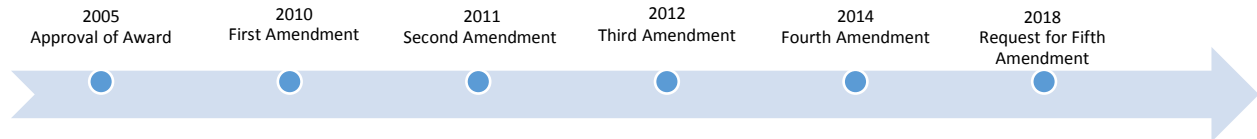
DFA currently pays the Miami-Dade Aviation Department a Minimum Annual Guarantee of \$26,710,605, with annual revenues to the County often exceeding \$30,000,000—an amount more than typical payments from duty free operators at other airports.

ANALYSIS

Duty Free Americas Miami, LLC is currently the sole provider of duty and tax-free merchandise as well as limited duty and tax paid merchandise at Miami International Airport. Passengers buy their duty-free merchandise in one of 21 locations in the North, Central and South Terminals. The agreement with DFA, as amended, authorizes DFA to occupy locations in the North Terminal through 2024, but only authorizes DFA to occupy locations in South and Central Terminals through 2018—which are currently operating on a month-to-month basis. The proposed fifth and final amendment would extend the occupancy date of DFA's South and Central terminal locations to September 13, 2024, which would have it coincide with the lease termination date of the North Terminal stores.

**BCC Meeting: June 5, 2018
Research Notes**

The below diagram depicts the timeline of amendments to the DFA Agreement.



The stated reasoning behind extending the contract and thus waiving competition is to prevent the logistical issues that would arise if multiple duty-free concessionaires were operating at MIA, given that U.S. Custom regulations require purchased duty-free merchandise to be delivered to passengers at the gate prior to entering the jet bridge. As stated in the Mayoral Memorandum, having multiple duty-free concessionaires operate at MIA could cause possible delays in boarding and will increase airline and passenger complaints.

DFA is required to commit a \$17 million Capital Investment Program for all its MIA locations as a condition of the fifth amendment in the proposed Resolution.

ADDITIONAL INFORMATION

According to the Florida Department of State Division of Corporations website (Sunbiz.org), Duty Free Americas Miami, LLC, has an active status as a Florida Limited Liability Company and first filed and registered on 03/30/2005. The principal address is 6100 Hollywood Blvd., 7th Floor, Hollywood, FL 33024. Its registered agent is David Taney, registered with the same address as the principal.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=DUTYFREEAMERICASMIAMI%20L050000311510&aggregateId=flal-105000031151-051191d2-e32d-4220-9d6a-98506c6ddf38&searchTerm=duty%20free%20americas%20miami%20llc&listNameOrder=DUTYFREEAMERICASMIAMI%20L050000311510>

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F1
File No. 181028**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING A CONTRACT FOR SALE AND PURCHASE BETWEEN MARCO T. PAREDES AND GUADALUPE ESTELLA PAREDES, AS SELLERS, AND MIAMI-DADE COUNTY, AS BUYER, FOR APPROXIMATELY 7,500 SQUARE FEET OF LAND AND A SINGLE-FAMILY HOME AT 4801 SW 112 COURT, UNINCORPORATED MIAMI-DADE COUNTY, IN THE AMOUNT OF \$345,000.00, THE ENTIRE ACQUISITION TO BE FUNDED BY PROJECT NO. 1025, SUB-PROJECT 102126, FUND EW660; AUTHORIZING THE EXPENDITURE OF UP TO \$6,000.00 FOR CLOSING COSTS; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE CONTRACT FOR SALE AND PURCHASE, EXERCISE ALL RIGHTS CONFERRED THEREIN, TAKE ALL OTHER ACTIONS NECESSARY TO EFFECTUATE SAID PURCHASE; ACCEPTING CONVEYANCE OF PROPERTY BY WARRANTY DEED; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD SUCH DEED

ISSUE/REQUESTED ACTION

Whether the Board should authorize the execution of a contract for Sale and Purchase between Miami-Dade County (the buyer) and Marco T. Paredes and Guadalupe Estella Paredes (the sellers) for approximately 7,500 feet of land and a single-family home located at 4801 SW 112 Court, in unincorporated Miami-Dade County, in the amount of \$345,000.00; authorize the expenditure of up to \$6,000 for closing costs; authorize the County Mayor or the County Mayor's designee to execute the contract for Sale and Purchase, accept conveyance of property by Warranty Deed and record such deed.

APPLICABLE LEGISLATION/POLICY

Miami-Dade County Code, Section 33-13 (f), relates to exceptions for sewer lift stations and pumping stations.

http://miamidade.fl.elaws.us/code/coor_ptiii_ch33_arti_sec33-13

Miami-Dade County Code, Section 2-8.6.5, entitled "Purchase, sale, lease of real property," provides that "Prior to the County's entering into any contract, agreement or lease relating to the purchase, sale or leasing of real property by, to or from the County, all individuals, corporations, partnerships, joint ventures or other legal entities having any interest of any kind in the property to be purchased, sold or leased, shall file with the County a document identifying the extent of its ownership interest in the subject real property".

https://library.municode.com/fl/miami_-

[_dade_county/codes/code_of_ordinances?nodeId=PTIIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR](https://library.municode.com/fl/miami_-dade_county/codes/code_of_ordinances?nodeId=PTIIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR)

Miami-Dade County Code, Section 2-10.4.2, entitled "Appraisers required for purchases, sales and leases.

http://miamidade.fl.elaws.us/code/coor_ptiii_ch2_arti_sec2-10.4.2

Resolution No. R-974-09, adopted by the Board on July 21, 2009, directed that any resolution authorizing the execution of instruments creating a County interest in real property shall require such instruments to be recorded in the public records of Miami-Dade County and attached by the Clerk of the Board to the authorizing resolution.

<http://intra/gia/matter.asp?matter=091900&file=true&yearFolder=Y2009>

**BCC Meeting: June 5, 2018
Research Notes**

PROCEDURAL HISTORY

Prime Sponsor: Javier D. Souto, District 10

Department/Requester: Internal Services Department

The proposed resolution was considered at the Infrastructure and Utilities Committee meeting on May 8, 2018; and was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, the estimated total cost of the acquisition is \$351,000, which includes \$345,000 for the acquisition and approximately \$6,000 for closing costs. The funding source for the acquisition of the land is Water and Sewer bond proceeds (Project No. 1025, Sub-project 102126).

ANALYSIS

The proposed resolution seeks the Board's authorization for the execution of a contract for Sale and Purchase between Miami-Dade County (the buyer) and Marco T. Paredes and Guadalupe Estella Paredes (the sellers) for approximately 7,500 feet of land and a single-family home located at 4801 SW 112 Court, in unincorporated Miami-Dade County, in the amount of \$345,000.00; and for the expenditure of up to \$6,000 for closing costs. This purchase is necessary to accommodate a new Pump Station 0616, as required by the Water and Sewer Department standards.

The relocation and construction of the pump station is scheduled to begin in late 2018; and the project will be completed by 2022. Pump Station No. 616 is currently situated in a rear easement (17' deep x 16' wide) between two residential parcels, 4800 SW 112th Avenue (Folio 30-4019-005-1000) and 4801 SW 112th Court (Folio 30-4019-005-1110) in unincorporated Miami-Dade County; the north side of the pump station is flush with the SW 48th Street right-of-way. The project will relocate the equipment and wet well to the property adjacent to the pump station. A generator will be added, which will better serve the community. There is currently a single-family home on the property, which will be demolished to accommodate the new pump station and large trucks that will need to have access for maintenance of the facility.

There will be minimal impact to the community. The project will locate the pump station to the adjacent residential parcel, creating more space between the remaining house and the pump station. The relocation of the pump station will also reduce the impact to the road and right of way and traffic when the pump station is being serviced. The lot will be surrounded by landscape, and the generator will be enclosed to reduce noise associated with its operation during emergency events. Any odor from the pump station should remain constant, and it is vented to limit impacts to the community.

WASD recently acquired its first pump station relocation parcel since 2009 when it acquired land for Pump Station No. 49. WASD has historically secured land as needed for new pump stations, treatment plants, and other system needs. The BCC authorized a capital improvement project to relocate 20 pump stations which are located in areas that staff cannot properly service, or because the pump stations require a generator and the current easement sizes do not allow for the additional equipment. In addition, another budgeted capital project includes several pump stations which will be impacted by the Ocean Outfall Legislation Program. For that project, the flow changes will require upsizing pumps and generators, and some of those pump stations require relocation and land acquisition.

The proposed resolution also seeks the Board's authorization for the County Mayor or the County Mayor's designee to execute the contract for Sale and Purchase; accept conveyance of property by Warranty Deed; and record such deed pursuant to Resolution No. R-974-09.

**BCC Meeting: June 5, 2018
Research Notes**

An independent appraisal obtained in November 2017 by the Internal Services Department concluded that the market value of the property was \$345,000. The estimated total cost of the acquisition is \$351,000, which includes \$345,000 for the acquisition and approximately \$6,000 for closing costs. The funding source for the acquisition of the land is Water and Sewer bond proceeds (Project No. 1025, Sub-project 102126).

The proposed pump station is allowed as an exception through Section 33-13 (f) of the Miami-Dade County Code of Ordinances, as verified with the County's Department of Regulatory and Economic Resources, Area Planning Unit – Development Services Division.

DEPARTMENT INPUT

The Office of the Commission Auditor posed the following questions to the Internal Services Department, and received the following responses:

- What is the precedent for this contract for sale and purchase, e.g., how often do properties have to be purchased to accommodate an upgrade to an existing pump station and how many such purchases have occurred in the preceding 5 years? **WASD recently acquired its first pump station relocation parcel since 2009 when it acquired land for Pump Station No. 49. WASD has historically secured land as needed for new pump stations, treatment plants, and other system needs. The BCC authorized a capital improvement project to relocate 20 pump stations which are located in areas that staff cannot properly service, or because the pump stations require a generator and the current easement sizes do not allow for the additional equipment. In addition, another budgeted capital project includes several pump stations which will be impacted by the Ocean Outfall Legislation Program. For that project, the flow changes will require upsizing pumps and generators, and some of those pump stations require relocation and land acquisition.**

- What is the projected completion date for this project and what does the upgrade entail? Include the project's environmental impact to the surrounding community, if applicable. **The project will be completed by 2022. Pump Station No. 616 is currently situated in a rear easement (17' deep x 16' wide) between two residential parcels, 4800 SW 112th Avenue (Folio 30-4019-005-1000) and 4801 SW 112th Court (Folio 30-4019-005-1110) in unincorporated Miami-Dade County; the north side of the pump station is flush with the SW 48th Street right-of-way. The project will relocate the equipment and wet well to the property adjacent to the pump station. A generator will be added, which will better serve the community. There will be minimal impact to the community. The project will locate the pump station to the adjacent residential parcel, creating more space between the remaining house and the pump station. The relocation of the pump station will also reduce the impact to the road and right of way and traffic when the pump station is being serviced. The lot will be surrounded by landscape, and the generator will be enclosed to reduce noise associated with its operation during emergency events. Any odor from the pump station should remain constant, and it is vented to limit impacts to the community.**

- Have the neighbors and surrounding community been informed of this project, and have any complaints been received regarding the proposed relocation and upgrade? **The neighbors have not been contacted concerning this project. They will be contacted during the pre-construction phase. We have no complaints noted by operations in the planning request.**

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F2
File No. 180870**

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING REJECTION OF ALL PROPOSALS RECEIVED IN RESPONSE TO REQUEST FOR PROPOSALS NO. RFP-00569 FOR THE PURCHASE OF A FIBER OPTIC CABLE SYSTEM FOR THE INFORMATION TECHNOLOGY DEPARTMENT

ISSUE/REQUESTED ACTION

Whether the Board should approve the rejection of all proposals received in response to Request for Proposals No. RFP-00569 for the purchase of a fiber optic cable system for the Information Technology Department.

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

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>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services

The proposed Resolution was forwarded to the BCC with a favorable recommendation by the Infrastructure and Utilities Committee at its May 8, 2018 meeting.

FISCAL IMPACT

There is no fiscal impact to the County for the rejection of proposals.

ANALYSIS

This request for rejection of all proposals received under RFP-00569 for the purchase of a fiber optic cable system arises from a solicitation under full and open competition in response to which two proposals were received. ISD is requesting approval of the rejection of all proposals received so that it may issue a revised Request for Proposal that incorporates necessary revisions in scope.

The solicitation was for the provision of a fiber optic cable system for 12 transportation corridors, with the selected proposer being responsible for the design, engineering, installation, construction, maintenance, and management of the system to address the Transportation Congestion Plan. The advertised value of the solicitation was \$24,346,814.

**BCC Meeting: June 5, 2018
Research Notes**

Two proposers responded to the solicitation, Fibernet Direct Florida, LLC and Hotwire Communications, Ltd. The Internal Services Department is recommending rejection of both received proposals not based on their merits, as this determination was made prior to the evaluation of the proposals. The Department of Transportation and Public Works decided a revision of scope was necessary to leverage emerging technologies, expand the scope beyond the twelve transportation priority corridors, and to allow proposers to offer the latest communication technology based on the County's functional requirements.

A search was performed in the Goods & Services database of Miami-Dade County Small Business Enterprises for commodity code 72523 – Fiber Optics Cables, Interconnecting Components, and Accessories (Including Wiring Systems Tools and Supplies), and the following local vendors were found:

- B & R Electronics Supply, Inc.
- Electropower Utility Sales Company
- Interlink Group Professional Services

It is unknown whether the above local vendors are capable of providing all the specialized, necessary services for the implementation of the fiber optic cable system.

The proposers for the current RFP are both registered in Broward County.

DEPARTMENT INPUT

The following questions were asked of the Internal Services Department on May 3, 2018; the department's response is below in bold and italics.

- 1) Please provide a list of the priority transportation corridors included under the revised scope of services.

County Congestion Management Plan Corridors Phase 1 Twelve (12) Corridors

Corridor	A Cross Street	Z Cross Street	Included Number of Traffic Controller Cabinet Terminations	Number of Customer Fibers	Total Route Miles	County Facility Tie-In
Miami Gardens Dr.	SR-821(Florida Turnpike Ext)	W Dixie Highway	33	4	18.40	North Dade Justice Center -15555 Biscayne Boulevard, N. Miami Beach, FL 33160
163rd / 167th St	US-1	NW 2 Ave	14	4	11.74	North Dade Justice Center -15555 Biscayne Boulevard, N. Miami Beach, FL 33160

**BCC Meeting: June 5, 2018
Research Notes**

Miami Beach	Indian Creek Drive 81 St	63 St	12	4	5.46	North Dade Justice Center -15555 Biscayne Boulevard, N. Miami Beach, FL 33160
NW 36 Street	LeJeune Rd (NW 42 Ave)	SR-821 (Florida Turnpike Ext)	26	4	20.28	Miami-Dade County Traffic Signals & Signs Division- 7100 NW 36 Street, Miami, FL 33166
Flagler Street	W27 Ave	W 118 Ave	29	4	15.78	Miami-Dade County Water & Sewer Department- 3071 SW 38th Ave, Miami, FL 3314
SW 8 th Street	Brickell Ave (US-1)	SW 177 th Ave (Krome Ave)	53	4	29.25	Stephen P. Clark Government Center- 111 NW 1 Street, Miami, FL 33128
LeJeune Rd	US-1	Okeechobee Rd	23	4	13.52	Miami-Dade County Water & Sewer Department – 3071 SW 38th Ave, Miami, FL 33146
Unity Blvd	SR-821 (Florida Turnpike Ext)	US-1	53	4	46.48	Martin Luther King Office – 2525 NW62nd Street, Miami, FL 33147
North Biscayne Blvd	NE 213 St	NE 3rd St	70	4	19.45	North Dade Justice Center -15555 Biscayne Boulevard, N. Miami Beach, FL 33160

**BCC Meeting: June 5, 2018
Research Notes**

US 1 North Sector	SE 5th St	SW 98th St	39	4	13.03	Miami-Dade County Water & Sewer Department – 3071 SW 38th Ave, Miami, FL 33146
US 1 South Sector	SW 104th St	SW 344th St (Palm Dr)	44	4	23.85	South Dade Government Center- 10710 SW 211th Street, Miami, FL 33189
SW 88 th (Kendall Drive)	US-1	Krome Ave	36	4	13.50	Miami-Dade County Information Technology Department – 5680 SW 87 Avenue, Miami, FL 33173
Total			432		230.74	

**County Congestion Management Plan Corridors Phase 2
Thirty-Three (33) Corridors Option**

Corridor	A Cross Street	Z Cross Street	Included Number of Traffic Controller Cabinet Terminations	Number of Customer Fibers	Total Route Miles
McArthur Causeway/5 St- US - 1 to Ocean Dr	McArthur Causeway/5 St - US -1	Ocean Dr	11	4	4.22
Bird Rd (SW 40 St)/SW 42 St – SW 157 Ave to US-1	Bird Rd (SW 40 St)/SW 42 St SW 157 Ave	US-1	45	4	22.75
SW/NW 8 Ave – SW 8 St to NW	SW/NW 8 Ave - SW 8 St	to NW 5 St	7	4	3.50
NW 7 Ave – NW 5 St to NW 159 St	NW 7 Ave – NW 5 St	NW 159 St	37	4	20.61
Red Rd (NW 57 Ave) – Okeechobee Rd to NW 202	Red Rd (NW 57 Ave) – Okeechobee Rd	NW 202 St	35	4	16.76
Red Rd (SW/NW 57 Ave)- US-	Red Rd (SW/NW 57 Ave) – US-1	Perimeter Rd	17	4	11.62
SW 137 Ave - US-1 to SW 8	SW 137 Ave-US-1	SW 8 St	29	4	30.95
SW/NW 107 Ave - SW 104 St to NW 36 St	SW/NW 107 Ave - SW 104 St	NW 36 St	31	4	14.76
Sunset Dr (SW 72 St) – SW 157 Ave to US-1	Sunset Dr (SW 72 St) – SW 157 Ave	US-1	23	4	41.27

**BCC Meeting: June 5, 2018
Research Notes**

NW 54 St (Hialeah Dr) – Okeechobee Rd to Biscayne Blvd	NW 54 St (Hialeah Dr) – Okeechobee Rd	Biscayne Blvd	22	4	11.49
SW 112 Ave (S Allapattah Rd) – SR-821 (Florida Turnpike Ext)	SW 112 Ave (S Allapattah Rd) – SR-821 (Florida Turnpike Ext)	US-1	9	4	5.32
SW/NW 87 Ave- US-1 to NW 58 St	SW/NW 87 Ave- US-1	NW 58 St	30	4	23.50
NW/NE 125/123 St- SR-7 (NW 7 Ave) to N Bavshore Drive	NW/NE 125/123 St - SR-7 (NW 7 Ave)	N Bayshore Drive	17	4	9.63
NW/NE 103 St- Okeechobee Rd to NE 6 Ave	NW/NE 103 St - Okeechobee Rd	NE 6 Ave	38	4	19.56
Okeechobee Rd - N Krome Ave to NW 95 St	Okeechobee Rd - N Krome Ave	NW 95 St	14	4	13.29
Okeechobee Rd - NW 95 St to LeJeune Rd (NW 42 Ave)	Okeechobee Rd - NW 95 St	LeJeune Rd (NW 42 Ave)	11	4	18.04
SW 11 St- SW 107 Ave to E Campus Circle inside FIU Campus, continue around E Campus Circle until back to SW 11 St	SW 11 St - SW 107 Ave	E Campus Circle inside FIU Campus, continue around E Campus Circle until	2	4	3.39
NW 12 St-NW 127 Ave to NW 87 Ave	NW 12 St - NW 127 Ave	NW87 Ave	12	4	7.93
NW 25 St- SR-821 (Florida Turnpike Ext) to NW 72 Ave	NW 25 St - SR-821 (Florida Turnpike)	NW 72Ave	11	4	4.43
SW/NW 97 Ave - Coral Way to NW 41 St	SW/NW 97 Ave - Coral Way	NW 41St	11	4	14.45
SW 117 Ave - Coral Way to US-41 (SW 8 St)	SW 117 Ave- Coral Way	US-41 (SW 8 St)	3	4	5.46
Quail Roost Dr - Krome Ave to US-1	Quail Roost Dr - Krome Ave	US-1	14	4	10.97
SW 152 Ave/Campbell Dr/NE 10 Ct - E Palm Dr to US-1	SW 152 Ave/Campbell Dr/NE 10 Ct- E Palm Dr	US-1	6	4	12.36
SW 157 Ave - SW 184 St to US-41 (SW 8 St)	SW 157 Ave- SW 184 St)	US-41(SW 8 St)	15	4	14.30
SW 152 St - US-1 to Krome Ave	SW 152 St- US-1	Krome Ave	17	4	9.70
SW 104 St - US-1 to SW 157 Ave	SW 104 St - US-1	SW 157 Ave	20	4	12.45
SW 56 St - Red Rd (SW 57 Ave) to SW 157 Ave	SW 56 St - Red Rd (SW 57 Ave)	SW 157 Ave	23	4	16.16

**BCC Meeting: June 5, 2018
Research Notes**

Coral Way/SW 3 Ave- US-1 to SR-821 (Florida Turnpike Ext)	Coral Way/SW 3 Ave - US-1	SR-821 (Florida Turnpike Ext)	52	4	14.79
Le Jeune Rd {E 8 Ave) - Okeechobee Rd to Opa Locka Blvd (NW 135 St)	Le Jeune Rd {E 8 Ave) - Okeechobee Rd	Opa Locka Blvd (NW 135	19	4	13.07
Biscayne Blvd/NE 6 Ave- NE 79 St to 183 St	Biscayne Blvd/NE 6 Ave- NE 79 St	NE 183 St	18	4	12.11
NE/NW 79 St/E 25 St/E 4 Ave/E 21 St (Hialeah Expressway)/NW 74 St- US-1 to SR-821 (Florida	NE/NW 79 SUE 25 SUE 4 Ave/E 21 St (Hialeah Expressway)/NW 74 St- US-1	SR-821 (Florida Turnpike	41	4	22.24
SR-916 Opa Locka Blvd/NE 135 SUNW 135 SWV 84 St/Gratigny Parkway - Biscayne Blvd to SR-826 (Palmetto Expressway)	SR-916 Opa Locka Blvd/NE 135 St/NW 135 St/W 84 St/Gratigny Parkway - Biscayne Blvd	SR-826 (Palmetto Expresswa	35	4	15.58
S Miami-Dade Busway- Dadeland Blvd/SW 72 Ct to W Palm Dr	S Miami-Dade Busway - Dadeland Blvd/SW 72 Ct	WPalm Dr	44	4	23.86
Total			719		480.52

- 1) Considering that ITD submitted a Justification for Non-Competitive Acquisition in favor of FPL FiberNet LLC since the vendor's extensive fiber network system is already installed throughout the County, allowing the County to implement a fiber corridor much quicker and at a much lower cost since it is leveraging the existing network throughout the County, why was a competitive solicitation issued, and why will one be reissued?
ISD performed an industry evaluation and it was decided to competitively bid the project as the findings outlined additional possible vendors.
- 2) What would have been the contract's value and term, including OTRs, were this a recommendation to award; and what's the status of the revised RFP, including anticipated advertisement date;
- 3) As only two proposers responded to the solicitation, what is ISD's strategy to maximize competition under the revised RFP; and
(Same answer for 3 and 4)
Through the process of the solicitation emerging technologies presented possible alternatives such as 5th Generation Cellular. In addition, DPTW is performing market research for innovative smart lighting which may include a communication network and additional possible vendors.
- 4) As the scope of the project includes design and engineering elements, why wasn't the procurement conducted according to Section 2-10.4 of the County Code (Acquisition of Professional Architectural, Engineering, Landscape Architectural or Land Surveying and Mapping Services)?

BCC Meeting: June 5, 2018
Research Notes

The project scope entailed actual field work to be performed by the winning firm. The Prime contractor was still responsible to assure that any new installations requiring Engineering services would be performed by the subcontractors. It was the prime's responsibility to assure that all related engineering services performed by their subcontractors were provided by a prequalified engineering firm.

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F3
File No. 181029**

Researcher: PGE Reviewer: TD

RESOLUTION AMENDING AWARD OF CONTRACT NO. RFP-00160 TO CORVEL HEALTHCARE CORPORATION FOR DELIVERY OF A COMPREHENSIVE CLAIMS MANAGEMENT SYSTEM AND ASSOCIATED CLAIMS SERVICES FOR WORKERS COMPENSATION AND LIABILITY PROGRAMS FOR THE INTERNAL SERVICES DEPARTMENT IN AN AMOUNT OF UP TO \$28,383,000.00 FOR THE INITIAL FIVE-YEAR TERM AND TWO, FIVE-YEAR OPTIONS TO RENEW; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE ALL PROVISIONS CONTAINED THEREIN, INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS, PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should authorize amending the County's contract with CorVel Healthcare Corporation for delivery of a comprehensive claims management system and associated claims services for workers' compensation and liability programs in order to retract the contract provision allowing CorVel to open and close bank accounts in the County's name.

APPLICABLE LEGISLATION/POLICY

Chapter 440 of the Florida Statutes governs the administration of workers' compensation throughout the state and bars all employee petitions for benefits unless the employee, or the employee's estate if the employee is deceased, has advised the employer of the injury or death and the petition is filed within two years after the date on which the employee knew or should have known that the injury or death arose out of work performed in the course and scope of employment.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0440/0440.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 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

Resolution No. R-747-17, adopted by the Board on July 18, 2017, awarded Contract No. RFP-00160 to CorVel Healthcare Corporation for delivery of a comprehensive claims management system and associated claims services for workers compensation and liability programs for the Internal Services Department in an amount of up to \$28,383,000 for the initial five-year term and two, five-year options to renew.

<http://intra/gia/matter.asp?matter=171463&file=true&yearFolder=Y2017>

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>

BCC Meeting: June 5, 2018
Research Notes

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-391-17, adopted by the Board on April 4, 2017, directs the County Mayor to provide specific findings of fact in any item presented to the Board seeking to authorize additional scope in a contract as to why the provision of goods and services through competition instead of via adding additional scope is not feasible.

<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>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

This item was forwarded to the Board with a favorable recommendation by the Government Operations Committee at its May 8, 2018 meeting.

FISCAL IMPACT

The contract is in its initial five-year term, which is valued at \$9,461,000 and expires on August 31, 2022. Per information found in the Bid Tracking System on May 31, 2018, of the \$9,461,000 allocated to the contract's Blanket Purchase Order, \$461,046.64 has been released, leaving a balance of \$8,999,953.36. Should the County exercise the two, five-year options to renew, the estimated cumulative value will be \$28,383,000. Neither a time extension nor a cost increase is being requested under this contract amendment.

ANALYSIS

This item is requesting Board approval to amend the County's contract with CorVel Healthcare Corporation for delivery of a comprehensive claims management system and associated claims services for workers' compensation and liability programs. More specifically, the contract currently provides a Designation of Agent by the Contractor, which allows the Contractor to open and close bank accounts in the name of the County. That provision is inconsistent with County practices as the County restricts the opening of County bank accounts to the Finance Director. Accordingly, the proffered amendment is needed to modify the terms of the contract to reflect the County's internal processes for claims management services.

The proffered amendments will be effectuated through Supplemental Agreement No. 1, which does the following:

- Under Section 2.4.3 of the contract's Scope of Services (Contractual Claims Services: Check Services and Printing), the first paragraph, second sentence reads: "the Contractor will provide accurate supporting documentation including 1099s, positive pay reports etc. which are critical to secure and ensure a fiscally sound payment system as described hereunder;" that language is replaced with: "the contractor will provide accurate supporting documentation including positive pay reports etc., which are critical to secure and ensure fiscally sound payment system as described hereunder. The Contractor will file the appropriate required 1099 documentation with the IRS for all vendors paid on behalf of Miami-Dade County (MDC), Internal Services Risk Management Division."

**BCC Meeting: June 5, 2018
Research Notes**

- Under Section 2.4.3 of the Scope of Services (Contractual Claims Services: Check Services and Printing), the 11th bullet point reading: “To provide the required check services, the Contractor shall generate a 1099 extract file for County by the 15th of January. In the event that errors occur in the file, the Contractor may be liable for resulting penalties,” is replaced with: “the Contractor will file the appropriate required 1099 documentation with the IRS for all vendors paid on behalf of MDC Internal Services Risk Management Division and will be responsible for any fees/penalties associated therewith.”
- Deletes the last bullet under the subsection titled “the County shall have the following responsibilities” of Section 2.4.3 of the Scope of Services that reads: “the County will be responsible for 1099 IRS Reporting and all Penalties associated with the 1099 process.”
- Under Section 2.4.4 of the Scope of Services (Contractual Claims Services: Funding Account), the second sentence: “The account shall be in the name of the County for the exclusive use of the County’s WC and Liability programs,” is replaced with “the account shall be in the name of the Contractor for the exclusive use of the County’s WC and Liability programs.”
- Under Section 2.4.5 (Contractual Claims Services: ISO Indexing), the third sentence: “the Contractor shall provide access through the Contractor to ISO, and that the ISO reports are automatically incorporated into the file,” is replaced with: “the Contractor shall provide access through the Contractor’s CMS to ISO.”

The Supplemental Agreement No. 1 was signed by CorVel, through its Treasurer, on March 22, 2018.

Background Information

The contract was approved by the Board on July 18, 2017 and is in its initial term, which expires on August 31, 2022. Under the contract, CorVel shall provide Software as a Service for a comprehensive Claims Management System (CMS) as Contractor’s CareMC Application and Online Systems and Claims Services for its Workers Compensation (WC) and Liability Programs. CorVel will provide access to its CMS as a replacement for the County’s existing workers’ compensation and liability system including the subrogation claims processing system. Additionally, claims services, such as the WC Pharmacy Benefit Management Program, WC bill review Medical Electronic Data Interchange, access to the Contractor’s PPO network and Indexing Service Organization (ISO), shall be furnished.

CorVel will deliver a turn-key CMS under a leasing arrangement with the County, which includes implementation, configuration, data conversion, testing, training and maintenance and technical support services.

ADDITIONAL INFORMATION

A May 31, 2018 search on sunbiz.org (Florida Department of State, Division of Corporations website) for CorVel Healthcare Corporation listed the vendor as an active foreign for-profit corporation with a principal address of 2010 Main Street, Suite 600, Irvine, California.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=CORVELHEALTHCARE%20P378861&aggregateId=forp-p37886-74893532-5521-4562-8a74-24e20410b77a&searchTerm=CorVel%20Healthcare%20Corporation&listNameOrder=CORVELHEALTHCARE%20P378861>

CorVel has four Florida locations: Jacksonville, Lake Mary, Sunrise and Tampa. Its website states that the company is a national provider of risk management solutions for the workers’ compensation, auto, health and disability management industries.

<http://www.corvel.com/about-us/>

BCC Meeting: June 5, 2018
Research Notes

A recent WLRN article summarizes disputed workers' compensation bills throughout Florida.

<http://wlrn.org/post/report-details-disputed-workers-comp-bills>

See the link below to the Florida Department of Financial Services Division of Workers' Compensation website.

<https://www.myfloridacfo.com/division/wc/>

See the link below to access Workers' Compensation forms and associated documents on the County's Human Resources website.

<http://www.miamidade.gov/humanresources/benefits-forms.asp#9>

An article, dated December 18, 2013, in the Fort Worth Weekly – *A Maze of Pain* – details the barriers created by CorVel for city employees seeking treatment for on-the-job injuries. The workers claim CorVel uses obstructionist tactics to prevent employees from receiving treatment. The article also shares information from a former CorVel employee who claims that the company's software was programmed to provide underpayments.

<https://www.fweeklly.com/2013/12/18/a-maze-of-pain/>

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F4
File No. 181032**

Researcher: BM Reviewer: TD

RESOLUTION APPROVING ADDITIONAL EXPENDITURE AUTHORITY IN A TOTAL AMOUNT UP TO \$2,756,000.00 FOR PREQUALIFICATION POOL NO. 1046-1/21-1 FOR PURCHASE OF REFRIGERANT GASES FOR THE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS

ISSUE/REQUESTED ACTION

Whether the Board should approve a resolution additional expenditure authority for Prequalification Pool No. 1046-1/21-1, Refrigerant Gases, for Department of Transportation and Public Works in the amount of \$2,756,000 for the purchase of refrigerant gases for air conditioning units on the Metrorail and Metromover cars and Metrobuses.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code, Contracts and purchases generally, relates to the bid requirement for certain purchases. Per the County Code, the Board of County Commissioners, upon written recommendation of the Mayor or Mayor's designee, may, by resolution adopted by two-thirds vote of the members present, waive competitive bidding when it finds this is to be in the best interest of the County.

Below is a link relating to Section 2-8.1 of the County Code:

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 requires the Citizens' Independent Transportation Trust (CITT) to submit a recommendation to the County Commission regarding contract awards where surtax proceeds are applied and for contract awards where no surtax proceeds are applied but the associated allocation is for a transit-related procurement valued at over \$1 million dollars.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH29TA_ARTXVIONHAONPECHCOTRSYSASUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPPROCIINTRTR

(ii) Where no surtax proceeds are used to fund a contract, no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami-Dade Transit or for transit-related procurements is valued at over one million dollars (\$1,000,000.00) 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 majority vote. 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.

Implementing Order 3-38, Master Procurement Implementing Order, establishes the roles and responsibilities of the Internal Services Department (ISD), methods of purchasing goods and services, and the authority to award contracts. Additional policies and procedures relating to the County's procurement processes are detailed in the ISD Procurement Guidelines, other A.O.s and the County Code.

Below is a link relating to Implementing Order 3-38:

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

**BCC Meeting: June 5, 2018
Research Notes**

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.

Below is a link to Resolution No. R-187-12:

<http://intra/gia/matter.asp?matter=120287&file=true&yearFolder=Y2012>

Resolution No. R-279-12, adopted by the Board on April 3, 2012, established the prequalification pool for the purchase of refrigerant gases for various County departments.

<http://intra/gia/legistarfiles/MinMatters/Y2012/120290min.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

05/10/18: Forwarded to BCC with a favorable recommendation by TPWC; Passed 3 – 0.

FISCAL IMPACT

The \$2,756,000 additional expenditure allocation request is based on estimated usage by the Department of Transportation and Public Works. If approved by the Board, the cumulative contract value for prequalification pool will be \$7,247,000 and will expire on May 31, 2022. The additional expenditure requested is solely allocated to the Department of Transportation and Public Works.

Per information found in the Bid Tracking System on May 30, 2018, \$2,245,200 has been allocated to the current contract's Blanket Purchase Order, of which \$847,288 has been released leaving a balance of \$1,396,912. As it relates to Department of Transportation and Public Works, \$1,276,200 has been allocated to the current contract's Blanket Purchase Order, of which \$684,993 has been released leaving a balance of \$591,207.

ANALYSIS

Prequalification Pool No. 1046-1/21-1, Refrigerant Gases, for various County departments was approved by the Board on April 3, 2012, pursuant to Resolution No. R-279-12 for a five-year term with one five-year option to renew term. The pool currently expires on May 31, 2022. The pool is in its first option to renew valued at \$2,245,200.

Refrigerant gases are fluids used in the cooling process for various refrigerating equipment including air conditioners, central air conditioning systems, dehumidifiers, and automotive air conditioners. The Department of Transportation and Public Works requests the additional expenditure authority to continue purchasing refrigerant gases for air conditioning units on the Metrorail and Metromover cars and Metrobuses providing transit users a comfortable and safe environment.

The request for additional expenditure is due to the increase of use of refrigerant gases caused by the aging fleet. The department currently spends approximately \$65,000 per month maintaining this fleet. The use of refrigerant gases peaks in the warm summer months. A spot market quote was issued January 2018 which resulted in a price of approximately \$2,120 per unit.

The Department currently maintains approximately 835 buses and 135 train cars. The department is currently in the process of receiving a new fleet which expected to begin late-2018 or early 2019. The request for additional expenditure authority is made to sustain operation of the aging fleet until the end of the contract and the new cars/buses are operational.

BCC Meeting: June 5, 2018
Research Notes

Per information on the Bid Tracking System, as of May 30, 2018, there are currently nine prequalified vendors in the pool. Only one of the awarded vendors, JD Distributors Automotive Supplies, Inc., has a local address. The pool is meant to remain open so that vendors can be added to the pool at any time. A search of the Sunbiz website revealed that all of the awarded vendors, except for Coolgas, Inc., are currently registered to do business in the state of Florida. Below is a list of the prequalified vendors in the pool:

- Trane U S, Inc.
- JD Distributors Automotive Supplies, Inc.
- American Refrigerants, Inc.
- Airgas Refrigerants, Inc.
- Aspen Refrigerants, Inc.
- The Ware Group, LLC.
- W W Grainger, Inc.
- RTR Suppliers, Inc.
- Coolgas, Inc.

A search of the Miami-Dade County Small Business Enterprise Certified Firms list, as May 30, 2018, resulted in the following local vendors under Commodity Code 74055 - Refrigerant Gases (Except Ammonia):

- Done Wright A/C And Electric Service
- Electropower Utility Sales Company
- MAM A/C and Refrigeration Company

These vendors are not currently included in the prequalification pool.

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F5
File No. 181034**

Researcher: BM Reviewer: TD

RESOLUTION AUTHORIZING WAIVER OF BID PROCEDURES BY A TWO-THIRDS VOTE OF THE MEMBERS PRESENT PURSUANT TO SECTION 5.03(D) OF THE COUNTY CHARTER AND SECTION 2-8.1 OF THE COUNTY CODE AND APPROVING AWARD OF CONTRACT NO. SS9862-0/23 TO ARROW INTERNATIONAL, INC. FOR INTRAOSSEOUS INFUSION SYSTEMS AND RELATED ITEMS FOR THE MIAMI-DADE FIRE RESCUE DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$800,000.00 FOR THE FIVE-YEAR TERM; 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

ISSUE/REQUESTED ACTION

Whether the Board should waive competitive bidding procedures and approve Contract No. SS986-0/23, *EZ-IO Intraosseous Infusion Systems and Related Items*, to Arrow International, Inc. (Arrow) for intraosseous infusion systems for the Miami-Dade Fire Rescue Department.

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

Section 2-8.1(b)(3) of the County Code sets forth procedures for authorizing a designated purchase; under this section, designated Purchase shall mean a purchase within the scope of this section when the purchase through the use of formal sealed bids is not practicable, including, but not limited to: (1) sole source purchases, (2) services where no competition exists such as public utility services, (3) where purchases or rates are fixed by law or ordinance, (4) unique professional or artistic services not governed by the Consultants' Competitive Negotiations Act, section 287.055, Florida Statutes, (5) purchases of goods and services necessary to address an emergency, or where additional formal competition would not be practicable, and (6) solicitations where only a single proposer has responded to a competitive solicitation but such response contains material defects and the County still desires to enter into a contract with such proposer.

Any recommendation by the Mayor for the award of a Designated Purchase shall at a minimum: (1) provide a written explanation of why the purchase through formal sealed bids would not be practicable under the circumstances and is in the best interest of the County, (2) provide a written explanation of the process followed resulting in the recommendation for a Designated Purchase, and (3) provide a written description of any informal competition conducted and any and all efforts to obtain a valuation of the recommended purchase. The Board of County Commissioners shall adopt any resolution authorizing a Designated Purchase by a two-thirds vote of the members present.

https://library.municode.com/fl/miami-dade-county/codes/code_of_ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE

**BCC Meeting: June 5, 2018
Research Notes**

Section 5.03(D) of the Home Rule Charter of Miami-Dade County governs contracts for public improvements and purchases of supplies, materials, and services other than professional shall be made whenever practicable on the basis of specifications and competitive bids.

<http://www.miamidade.gov/charter/library/charter.pdf>

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>

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-140-15, adopted on February 3, 2015, directs the County Mayor or County Mayor’s designee to conduct a full review, prior to re-procurement of replacement contracts for goods or services of the scopes of services or goods requested to ensure such contracts reflect the current needs of the County, to include information in recommendations to the Board, and to consult with the Small Business Development Division regarding solicitation and contract language.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

Resolution No. R-1011-15, adopted on November 3, 2015, directs the County Mayor or County Mayor’s designee to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ; and directed the County Mayor or County Mayor’s designee to include such information in a memorandum to the Board pertaining to a vendor being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

5/9/18: Forwarded to BCC with a favorable recommendation by Public Safety and Health Committee; Passed 5 – 0.

FISCAL IMPACT

The fiscal impact for approving award Contract No. SS986-0/23, *EZ-IO Intraosseous Infusion Systems and Related Items*, for a five-year term is \$800,000 based on anticipated expenditures.

A search on the Bid Tracking System on May 30, 2018, as it relates to contract SS9862-0/18, resulted in the following information: \$435,000 has been allocated to the contract’s Blanket Purchase of which \$434,971 has been released, leaving a balance of \$29. The contract currently has a cumulative value of \$435,000 and expires on July 26, 2018. The table below illustrates the annualized cost allocation of either contract. When calculated at an annualized basis, the proposed allocation is lower than the current contract by approximately \$41,000.

Current Contract: SS9862-0/18	New Contract: SS9862-0/23
\$435,000, for a two-years, and two-month term	\$800,000, for a five-year term
Yearly cost allocation: \$200,770	Yearly cost allocation: \$160,000

**BCC Meeting: June 5, 2018
Research Notes**

ANALYSIS

The proposed Contract No. SS986-0/23, EZ-IO Intraosseous Infusion Systems and Related Items, is for a five-year term, at a value of \$800,000 and awarded to Arrow. The contract provides the Fire Rescue Department with intraosseous infusion systems used to provide direct access to veins located in bone marrow for delivery of fluids and medication.

Fire Rescue is the busiest emergency medical services provider in the State of Florida. The department handles over 240,000 emergency calls yearly when patients are in need of life-saving treatments, and IV access is not possible. The use of the EZ-IO intraosseous vascular access system option is necessary because it offers a fast access option that avoids unnecessary central line placement and the risk of central line infections. Use of EZ-IO devices, allow for a 20% reduction of time for IO access.

The recommended vendor, Arrow, is the incumbent vendor under the current contract. According to the contract, Arrow is to provide for the purchase of the Arrow EZ-IO Intraosseous Infusion System and related items. Furthermore, they are to provide training, parts, accessories, and disposables for EZ-IO systems.

Pursuant to Section 2-8.1(b)(3) of the County Code, recommendations by the Mayor shall provide a written explanation of why the purchase through formal sealed bids would not be practicable under the circumstances. The Mayoral memo states that the EZ-IO products utilize a proprietary, patented needle and power driver technology for which Arrow is the sole manufacturer that can provide both components. However, the Fire Rescue Department will continue to research the market for future comparable, suitable products.

Pursuant to Resolution no. R-1011-15, below is a summary of the recommended awarded vendor information as it relates to local address and percentage of employee County residents:

Vendor	Local Address	Number of Employees in Miami-Dade
Arrow International, Inc.	No	None

A search of the Miami-Dade County Small Business Enterprise Certified Firms list, on May 30, 2018, resulted in the following firms under commodity code no. 47500 – Hospital, Surgical, and Medical Related Accessories:

- Advanced Care Medical Supplies, Inc.
- Century Medical Supplier LLC
- CMS International Group, Corp.
- District Healthcare & Janitorial Supply
- Health Medical Equipment, Inc.
- Hillusa Corporation
- Inversiones IGMC, LLC
- Medical Equipment Solutions Corp.
- Medtek Medical Solutions LLC
- Morph Medical, LLC
- Total Connection Inc.

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Research Notes

Per the information on the Bid Tracking System, on May 30, 2018, none of the firms found in the SBE list have submitted a bid proposal for consideration for inclusion into the prequalification pool. However, per the Mayoral memo, the EZ-IO products utilize a proprietary, patented needle and power driver technology for which Arrow is the sole manufacturer that can provide both components.

ADDITIONAL INFORMATION

OCA searched on the Florida Department of State Division of Corporations website (Sunbiz.org) for the registration status and determined that Arrow International, Inc. currently registered and active to conduct business in the state of Florida.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=ARROWINTERNATIONAL%20Q130000000690&aggregateId=agent-q13000000069-876cbb33-57a3-45d3-bb39-7509322859e1&searchTerm=arrow%20international%2C%20inc.&listNameOrder=ARROWINTERNATIONAL%204000350>

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F6
File No. 181035**

Researcher: JFP Reviewer: TD

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-00620 IN A TOTAL AMOUNT UP TO \$15,060,000.00 FOR PROCESS CONTROL AND INSTRUMENTATION FOR VARIOUS COUNTY DEPARTMENTS FOR A TERM OF FIVE YEARS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

ISSUE/REQUESTED ACTION

Whether the Board should approve the proposed Resolution authorizing the establishment of prequalification pool RTQ-00620 in a total amount up to \$15,060,000 for process control and instrumentation for various County departments for a term of five years.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-140-15, adopted by the Board on February 3, 2015, is a Resolution directing the County Mayor to conduct a full review, prior to re-procurement of replacement contracts for goods or services, of the scopes of services or goods requested to ensure such contracts reflect the current needs of the County.

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2015/150090.pdf>

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

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2012/120287.pdf>

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

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>

PROCEDURAL HISTORY

Prime Sponsor: None

Requester/Department: Internal Services

The proposed item was forwarded to the BCC with a favorable recommendation by the Government Operations Committee at its May 8, 2018 meeting.

BCC Meeting: June 5, 2018
Research Notes

FISCAL IMPACT

The Bid Tracking System has an advertised value of \$14,930,000, and an awarded value of \$0 for pool RTQ-00620 as of May 30, 2018. The Mayoral Memorandum states that the fiscal impact for a five-year term will be \$15,060,000. The current pool, CA7959-3/11, is valued at \$28,804,194 for a twelve-year term that expires July 31, 2018. The table below depicts the price differences relating to the pools.

The current pool over a twelve-year period	The new pool over a 5 year period
\$2,400,349.50 per year	\$3,012,000 per year

The new pool will have an increase of \$611,650.50 per year from the previous pool, albeit for a five-year period as opposed to a twelve-year period.

ANALYSIS

This item establishes a prequalification pool, RTQ-00620 Process Control and Instrumentation, for the Water and Sewer and the Regulatory and Economic Resources Department.

The pool provides for the purchase of process control and instrumentation units, parts and services. This type of equipment is used to monitor, analyze and control various processes in water and wastewater treatment, in addition to the testing, identification, and measurement for the analyzing of environmental contaminants.

Nine of the 13 vendors responding to the solicitation are being recommended for inclusion in the pool with two of the nine being local. OCA performed a commodity search on May 30, 2018, using commodity code 92557 - Instrumentation, Professional Services, and identified the following additional local vendors:

- I&C Consulting Engineers, Corp. The address listed is 227 W 32nd St Hialeah, FL 33012
- Nifah and Partners Consulting Engineers, Inc. The address listed is 8785 SW 165 Avenue, Miami, FL 33193

Process control and instrumentation equipment has a diverse nature creating the necessity to establish a pool including both local and non-local vendors in order to ensure availability of the goods and services to support operations.

DEPARTMENT INPUT

The following questions were asked of the Internal Services Department on May 7, 2018; the department's response is below in bold and italics.

1. Why weren't local vendors I&C Consulting Engineers, Corp, and Nifah and Partners Consulting Engineers, Inc. considered for inclusion in the vendors recommended for prequalification list? ***Please know that all local vendors are considered for all our pools and contracts; we will let you know the reason why these two specific vendors are not included at this time.***
2. The Mayoral Memorandum shows an allocation of \$15,060,000 while the Bid Tracking system has an Advertised Value of \$14,930,000 as of May 7, 2018; why is there a difference?
Pending response as of May 31, 2018.
3. Why isn't the current pool being extended instead of creating a new pool?
The GOC committee members have expressed concerns about the extension of pools, so we have begun to re-establish pools in some cases.

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Research Notes**

Item No. 8F7

File No. 181031

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING ADDITIONAL EXPENDITURE AUTHORITY IN A TOTAL AMOUNT UP TO \$1,000,000.00 FOR PREQUALIFICATION POOL NO. 6640-8/18-7 FOR PURCHASE OF RADIO COMPONENTS AND SERVICES FOR THE INFORMATION TECHNOLOGY DEPARTMENT

ISSUE/REQUESTED ACTION

Whether the Board should approve additional expenditure authority in an amount totaling up to \$1,000,000 for the prequalification pool for the purchase of radio components and services.

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

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>

Resolution No. R-191-09, adopted on March 3, 2009, establishes the pool for the purchase of radio components, battery packs, and services for a two-year term with eight, one-year option to renew terms.

<https://www.miamidade.gov/govaction/legistarfiles/Matters/Y2009/090204.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services

The proposed Resolution was forwarded to the BCC with a favorable recommendation by the Infrastructure and Utilities Committee at its May 8, 2018 meeting.

FISCAL IMPACT

As it currently stands, the pool has an allocation of \$15,592,000, and it is set to expire on July 18, 2018. Approval of this request for the eighth and final Option to Renew term will translate into a modified cumulative value of \$16,592,000 and expiration date of July 18, 2019.

A total of \$2,000,000 was allocated to the current term of the pool's Blanket Purchase Order—the pool is currently in its seventh Option to Renew term. Of the \$2,000,000, \$1,090,974.16 has been released (as of May 30, 2018), leaving a balance of \$909,025.84.

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Research Notes**

ANALYSIS

This item is for the approval of additional expenditure authority in an amount not to exceed \$1,000,000 for the eighth and final Option to Renew term of Prequalification Pool No. 6640-8/18-7. The Information Technology Department is requesting the increased expenditure authority to accommodate the continued purchasing of Harris mobile and handheld radio units, parts, and technical services used to support the primary radio communication system used by the County. The Mayoral Memorandum states the additional expenditure authority is needed since the cumulative value of the Board-approved allocation and modifications exercised to date have resulted in insufficient allocation for the final option to renew term.

Below are both the awarded and current values of the Prequalification Pool and each option to renew.

Prequalification Pool No.	Contract Type	Effective Date – Expiration Date	Awarded Value	Current Value
6640-8/18	New	3/19/2009 - 3/18/2011	\$2,600,000	\$2,600,000
6640-8/18-1	1st Option to Renew	3/19/2011 - 3/18/2012	\$1,300,000	\$1,560,000
6640-8/18-2	2nd Option to Renew	3/19/2012 - 3/18/2013	\$1,560,000	\$1,560,000
6640-8/18-3	3rd Option to Renew	3/19/2013 - 3/18/2014	\$1,560,000	\$1,872,000
6640-8/18-4	4th Option to Renew	3/19/2014 - 3/18/2015	\$1,872,000	\$2,000,000
6640-8/18-5	5th Option to Renew	3/19/2015 - 3/18/2016	\$2,000,000	\$2,000,000
6640-8/18-6	6th Option to Renew	3/19/2016 - 3/18/2017	\$2,000,000	\$2,000,000
6640-8/18-7	7th Option to Renew	3/19/2017 - 7/18/2018	\$2,000,000	\$2,000,000
TOTAL:			\$14,892,000	\$15,592,000

The pool consists of Harris Corporation authorized resellers capable of providing replacement components, parts and services as needed. The three vendors currently in the pool are as follows:

Vendor	Principal Address	Local Address	Status
Cooper General Corporation	1785 NW 79 Avenue, Miami, FL 33126	Yes	Active
Global Technology Systems, Inc.	550 Cochituate Rd. Suite 15 Framingham, MA 01701*	No	Active*
Harris Corporation	1025 W. Nasa Boulevard Melbourne, FL	No	Active

*A search on the official website of the Florida Department of State Division of Corporations, sunbiz.org, shows that there are two corporations with the cross reference name, Global Technology Systems, Inc.—one inactive and one active. The active corporation, G T S Batteries, Inc., shows a different address for Global Technology Systems, Inc. than what appears in the Mayoral Memorandum. The address in the Mayoral Memorandum is the address for the inactive Global Technology Systems, Inc. corporation, Global Tech Battery Co.

Extensive outreach was conducted to increase local vendor participation, including calls to 16 local vendors registered under similar commodities as this pool. OCA found the following local vendors registered under commodity code 72559—telecommunications parts and accessories—on the May 3, 2018 SBE Goods and Services Certified Firms List:

- B & R Electronics Supply, Inc.
- Cooper - General Corporation
- Electropower Utility Sales Company
- Grupo Inpower, LLC

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DEPARTMENT INPUT

The following question was asked of the Internal Services Department; the department's response is below in bold and italics.

Is this item requesting an extension of the 7th Option to Renew term in addition to the \$1,000,000 in additional expenditure authority, or is this request for the 8th and final Option to Renew term, given that it extends the pool by an additional year?

The \$1M in additional expenditure authority being requested in this item is for the 8th and final Option term.

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Research Notes**

Item No. 8F8

File No. 181037

Researcher: PGE Reviewer: TD

RESOLUTION AUTHORIZING ADDITIONAL TIME OF FIVE YEARS AND EXPENDITURE AUTHORITY IN A TOTAL AMOUNT UP TO \$79,199,000.00 FOR PREQUALIFICATION POOL NO. 6819-5/17-5 FOR PURCHASE OF NEW AND REBUILT UNITS AND PARTS, AND REPAIR AND MAINTENANCE SERVICES FOR VARIOUS COUNTY DEPARTMENTS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BI-ANNUAL BASIS

ISSUE/REQUESTED ACTION

Whether the Board should authorize additional time of five years and expenditure authority in a total amount up to \$79,199,000 for Prequalification Pool No. 6819-5/17-5, *Pumps, Drives and Motors: Purchase of New and Rebuilt Units and Parts and Repair and Maintenance Services*, for various County departments.

APPLICABLE LEGISLATION/POLICY

Resolution No. R-477-18, adopted by the Board on May 1, 2018, directs the County Mayor or the County Mayor's designee to disclose to the Board 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 of vendors 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-417-08, adopted by the Board on April 8, 2008, authorized establishment of a prequalification pool for provision of pumps, drives and motors to multiple County departments for a five-year term, plus five, one-year options to renew.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2008/081202min.pdf>

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://www.miamidade.gov/govaction/legistarfiles/Matters/Y2012/120287.pdf>

Resolution No. R-716-12, adopted by the Board on September 4, 2012, requires identification of certified small businesses in procurement items submitted for Board approval.

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

Section 2-8.1 of the Code of Miami-Dade County requires formal sealed bids for purchases over \$250,000; describes the circumstances under which non-competitive purchases may be approved; establishes requirements for legacy purchases, designated purchases, and single vehicle leases; and 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

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Implementing Order 3-38 governs the County's processes and procedures for the purchase of goods and services including professional services. It establishes the roles and responsibilities of the Internal Services Department, methods of purchasing goods and services, and the authority to award contracts.

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

Section 29-124(f) of the Code of Miami-Dade County pertains to surtax proceeds and states 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.

Where no surtax proceeds are used to fund a contract, no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami-Dade Transit or for transit-related procurements is valued at over one million dollars 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 majority vote. 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=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRR](https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPRROCIINTRR)

PROCEDURAL HISTORY

Prime Sponsor: None

Requester/Department: Internal Services

This item was forwarded to the Board with a favorable recommendation by the Government Operations Committee at its May 8, 2018 meeting.

FISCAL IMPACT

The cumulative value of the pool for a term of 10 years and three months is \$132,803,902 and expires on July 31, 2018. The value of the current, final one-year option term is \$26,674,654.76. Per information found in the Bid Tracking System on May 29, 2018 for the current option term, a total of \$26,674,654.76 was allocated to the pool's Blanket Purchase Order, of which \$15,721,218.53 was released, leaving a balance of \$10,953,436.23.

The table below shows the allocation breakdown for the initial pool term and the subsequent OTRs.

Term	Effective Date	Expiration Date	Value
Initial	05/01/2008	04/30/2013	\$51,825,000
OTR 1	05/01/2013	04/30/2014	\$8,268,592.58

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OTR 2	05/01/2014	04/30/2015	\$14,616,345.34
OTR 3	05/01/2015	04/30/2016	\$14,896,654.58
OTR 4	05/01/2016	04/30/2017	\$16,522,654.40
OTR 5*	05/01/2017	07/31/2018	\$26,674,654.76
			Total: \$132,803,902

*OTR five was extended administratively by three months, from an original expiration date of April 30, 2018 to July 31, 2018.

The yearly allocation under the current pool is approximately \$12,956,478, while the yearly allocation under the extension term will be approximately \$15,839,800. The mayoral memo indicates that the value of the extension term is based on anticipated expenditures.

ANALYSIS

This item is requesting Board approval to extend Prequalification Pool No. 6819-5/17-5, *Pumps, Drives and Motors: Purchase of New and Rebuilt Units and Parts, and Repair and Maintenance Services*, for five additional years and \$79,199,000 in increased spending authority. The pool was originally established in May 2008 pursuant to Resolution No. R-417-08 for an initial five-year term plus five, one-year options to renew. The pool includes three groups: (1) Purchase of New and Rebuilt Pumps, Drives and Motors (Units and Parts); (2) Pump Repair and Maintenance Services; and (3) Motor/Drive Repair and Maintenance Services.

The Water and Sewer Department (WASD) is the principal user of this pool and is requesting the largest allocation (\$60,240,000) for the extension period. WASD operates and maintains thousands of motors and pumps that are specifically designed for the water treatment industry. Pumps are widely used by other County departments to (1) transfer fluids for processing applications, (2) provide fluid circulation in cooling systems or (3) provide the motive force in hydraulic systems. Transportation and Public Works is requesting the second largest allocation (\$14,500,000) for the extension period, followed by the Aviation Department (\$1,545,000).

The Market Research conducted by the Internal Services Department for this item concluded that it is in the best interest of the County to extend the pool rather than re-solicit it as the method of award and scope of the work would remain the same and the same bidders would prequalify. Accordingly, extending the pool rather than re-soliciting it promotes administrative efficiencies, saving the County re-procurement expenses.

The pool includes 50 vendors, of which 22 have a local address. Per information found on sunbiz.org, the official State of Florida, Division of Corporations website, two of the prequalified vendors – Applied Industrial Technologies-Dixie, Inc. and FCX Performance, Inc. – share the same principal address (One Applied Plaza, Cleveland, Ohio) and Director (Neil A. Schrimsher).

The solicitation includes two commodity codes for this pool – 28568 (*Motors and Parts, Fractional H, P, Electric and Remanufactured*) and 93662 (*Pumps and Pump Accessories Maintenance and Repair*). Based on the SBE Goods

and Services Certified Firms by Trade Code List dated May 29, 2018, OCA found the following firms under code 28568.

- A&B Hardware, Inc.
- Brohpy Associates, Inc.
- CMS International Group, Corp.
- Condo Electric Industrial Supply, Inc.

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- Donerite Pumps, Inc.
- Electropower Utility Sales Company
- Generating Systems, Inc.
- Ready Components, Inc.
- Rock International Distributors, Inc.
- The Tool Place Corp.

Of the above certified firms, Condo Electric Industrial Supply, Inc., Donerite Pumps, Inc., Generating Systems, Inc., and The Tool Place Corp. are currently prequalified.

The following firms were found under code 93662 on the same list:

- Ameradrain Plumbing Corp.
- Donerite Pumps, Inc.
- Stone Concept Miami, Inc.

Of the above firms, only Donerite Pumps, Inc. is currently prequalified to participate in this pool.

ADDITIONAL INFORMATION

The Pump Station Improvement Program consists of managing the upgrades to WASD's Wastewater Collection and Transmission System (WCTS) that includes the sanitary sewer collection system, pump stations and force mains upgrades. As per the United States Environmental Protection Agency (USEPA), all pump stations need to meet an established nominal operating time of less or equal to 10 hours per day as well as other established criteria. See the link below for more information on WASD's Pump Station Improvement Plan.

<https://www.miamidade.gov/water/pump-station-improvement.asp>

INPUT FROM THE INTERNAL SERVICES DEPARTMENT

Pasted below is input received from the Internal Services Department in response to questions and requests from OCA. The department's responses have been italicized.

1. The two departments requesting the largest increased spending for the extension period are WASD (\$60,240,000) and DTPW (\$14,500,000); what are some of the planned purchases during the extension term for these departments;

DTPW: DTPW plans to continue procuring parts, maintenance and repairable services to all of the traction motors placed throughout the Metro Rail and Metro Mover systems as needed. A repair to a single traction motor can range from \$2,000 to \$14,000 per unit. The department also plans to purchase prop blowers, pump barrels, pump kits, condenser fans for the traction motors, various brands of new pumps and motors and more. Furthermore, the Road and Bridges Division relies heavily on this contract to maintain their storm water pump stations as well as their portable pumps.

WASD: WASD uses pumps and motors to support its treatment operations throughout WASD's facilities, and to support the Department's "Pump Station Improvement Program" as well as its Capital Improvement Program. The County owns and operates six (6) regional water and wastewater treatment facilities, and more than 1,000 wastewater pump stations. This

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Prequalification Pool is used by WASD to repair and replace parts associated with pumps, motors, and drive units used at these facilities. WASD replaces the pumps, motors and drive units when the equipment is reaching the end of life. WASD's facilities have numerous pumps and motors that range from 2½ to 2,000 horsepower:

- **The wastewater transmission system has 33 large pump stations with equipment units that have a life span of 10-15 years. The average cost of the equipment units at these pump stations is about \$550K per unit. Each large pump station has a minimum of 3 equipment units, and some have up to 5 units. Larger pumps are returned to the factory for repairs. Repair costs at the factory range from \$10K to \$100K, depending on size and extent of the damage incurred.**
- **The wastewater transmission system has more than 1,000 small pump stations in which the equipment units have a life span of about 5-10 years. Replacement costs of these equipment units range from \$10K to \$80K. Each small station has a minimum of 2 equipment units, and some have 3-4 units.**

2. Provide a list showing the five vendors receiving the largest awards under the pool over the last five years; include the cumulative award value;

<i>Vendor</i>	<i>5-Year Cumulative Award Value</i>
<i>TENCARVA MACHINERY COMPANY LLC</i>	<i>\$13,545,540.62</i>
<i>TOM EVANS ENVIRONMENTAL INC</i>	<i>\$10,063,890.91</i>
<i>MOTIVE POWER INC</i>	<i>\$5,459,928.10</i>
<i>XYLEM WATER SOLUTIONS USA INC</i>	<i>\$5,300,831.41</i>
<i>CONDO ELECTRIC MOTOR REPAIR CORP</i>	<i>\$4,422,787.84</i>

3. Per the State of Florida Division of Corporations website, two of the prequalified vendors – Applied Industrial Technologies-Dixie, Inc. and FCX Performance, Inc. – share the same principal address and Director; clarify their relationship;

Compliance was completed by staff on 12/7/17. Applied Industrial Technologies-Dixie, Inc. acquired FCX Performance, Inc. January 2018 and a subsequent change on the annual report was filed with

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the State of Florida Division of Corporations on 4/19/18. The two companies operate under separate FEIN numbers and operate independently.

4. The mayoral memo indicates that a recent spot market quote showed pricing from a local vendor was 37 percent higher than the non-local vendor; specify: the good or service solicited; the user department; the prices received; and the awarded vendor; and

Product: DEMING CENTRIFUGAL PUMP 7165-4056-1-1-2-3 WITH COUPLING

Department: Aviation

Prices received: \$9,843.76 (non-local) / \$15,734.00 (local)

Awarded Vendor: Arroyo Process Equipment (non-local)

5. The solicitation includes three groups, yet the vendor table does not specify award groups; explain if the group award applies to the extension period.

This pre-qualification pool includes three groups: Group 1 for the purchase of new and rebuilt pumps, drives and motors, Group 2 for pump repair and maintenance services and Group 3 which is utilized for motor/drive repair and maintenance services. Vendors who are currently pre-qualified in these groups will remain pre-qualified to participate in subsequent spot market quotes for the same groups during the extension period.

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Research Notes**

Item No. 8F9

File No. 181043

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AWARD OF CONTRACT NO. RFP-00567 FOR PURCHASE OF EMERGENCY MEDICAL SERVICES BILLING FOR THE FIRE RESCUE DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$12,000,000.00 OVER THE INITIAL FIVE-YEAR TERM AND ONE, FIVE-YEAR OPTION TO RENEW TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS 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 award a contract to Advanced Data Processing, Inc. for Emergency Medical Services (EMS) Billing for the Fire Rescue Department for a five-year term, including a five-year option to renew, for an estimated cumulative value of \$12,000,000.

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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[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(j) of the County Code sets forth the County's policy relating to electronic commerce, electronic signatures, and online procurement of goods and services, authorizing the County Mayor to pursue electronic commerce and online procurement of goods and services through the use of electronic means including the use of electronic signatures. Procurement by electronic means includes, but is not limited to, the advertising and receipt of competitive sealed bids, competitive sealed proposals and informal quotations, reverse auctions, vendor registration and any other current or future procurement method or process.

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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)

Resolution No. R-1011-15, adopted by the Board on November 3, 2015, directs 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 and include such information in memorandum to the Board pertaining to vendor(s) being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

Resolution No. R-140-15, adopted by the Board on February 3, 2015, directs the County Mayor to conduct a full review, prior to the re-procurement of replacement contracts for goods or 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>

**BCC Meeting: June 5, 2018
Research Notes**

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-229-17, adopted by the Board on March 7, 2017, authorized a designated purchase, awarding additional time of up to 12 months and additional expenditure authority in a total amount of up to \$1,500,000 for the purchase of emergency medical services billing and collections from Advanced Data Processing, Inc.

<http://intra/gia/matter.asp?matter=170223&file=true&yearFolder=Y2017>

Resolution No. R-477-18, adopted by the Board on May 1, 2018, directs the County Mayor or the County Mayor's designee to disclose to the Board 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 of vendors where less than 75 percent of the pool members are local businesses.

<http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018>

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>

Implementing Order No. 2-13 sets forth guidelines and procedures regarding legal opinions with respect to County competitive processes.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO2-13.pdf>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Internal Services

This item was forwarded to the Board with a favorable recommendation by the Public Safety and Health Committee at its May 9, 2018 meeting. At the meeting, the following discussion transpired:

- Commissioner Diaz voiced that he has received many constituent calls, particularly from the elderly, complaining about the transport fees; Diaz requested clarification on why fees are charged given that taxes are paid for delivery of such services; the Fire Rescue Department responded, stating: (1) it charges a Commission-approved transport fee that has not been increased since October 2011; (2) if the transport fee is not paid within a year, the bill is transferred to the County's Credit and Collections Section which attempts to satisfy and/or negotiate the debt through phone calls and letters; (3) that the customer's credit is not impacted in any way; (4) the bill is generally paid by Medicare (40 percent), commercial insurance (20 percent), Medicaid and out-of-pocket (less than 5 percent); (5) the service generates \$24 million per year and without it, the County would have to increase property taxes; and (6) there is a liberal forgiveness policy based on the federal poverty guidelines.

**BCC Meeting: June 5, 2018
Research Notes**

- Deputy Mayor Kemp added that this process is standard across South Florida agencies and most of the agencies mimic the County’s fee structure.

FISCAL IMPACT

The fiscal impact for the five-year term is \$6,000,000. If the one, five-year option to renew is exercised, the cumulative contract value is estimated to be \$12,000,000. The current contract is valued at \$8,503,703.70 for a term of six years and 10 months.

The table below has been taken from the replacement contract’s price schedule and shows the rates for all billing and collection services.

Item	Description	Cost
1	Percentage fee charged by contractor for all collections except Medicaid	2.45%
2	Flat fee charged by contractor for each Medicaid eligible account	\$12.25
3	Liquidated returns	\$30,000
4	Bonus	\$30,000

ANALYSIS

This item is requesting Board approval of a replacement contract for EMS billing for the Fire Rescue Department for a five-year initial term plus a five-year option term for a cumulative value of \$12,000,000 to Advanced Data Processing, Inc., the incumbent vendor. The replacement solicitation was advertised on July 10, 2017 and four proposals were received in response to it.

Advanced Data Processing, Inc. marked significant portions of its proposal “confidential and proprietary” and failed to sign the RFP’s Confidentiality Waiver. Regarding this issue, a responsiveness opinion from the County Attorney’s Office (CAO) was sought. That opinion is attached to the agenda item and concludes that the proposal sections submitted by Advanced Data Processing, Inc. that have been marked confidential and proprietary must be returned and not evaluated; “if after doing so, there is insufficient information for the County to evaluate, Advanced Data Processing’s proposal is nonresponsive.” It has been deduced that there was sufficient information left for the County to evaluate Advanced Data Processing’s proposal as the firm is the recommended awardee.

The Fire Rescue Department transports patients from incidents to health care facilities in its emergency medical transport vehicles. Under the contract, Advanced Data Processing will use the information collected from Fire Rescue’s Electronic Patient Care Report, hospitals and other sources as the basis for billing the transported patients, Medicare, Medicaid and insurance companies. Advanced Data Processing will make every effort to bill other appropriate third party payers for services provided to patients and must assess service levels prior to billing and classifying services into levels that meet Medicare and Medicaid transport criteria. The service levels may, in limited cases, differ from what is indicated on internal documents based upon interpretation and must be brought to Fire Rescue’s attention on a monthly basis to determine whether changes are necessary.

Patient billing is performed through different payer categories (financial classes), such as self-pay accounts, Medicaid, Medicare, and Private insurance. EMS currently provided by Fire Rescue include: Advanced Life Support and Basic Life Support. The current transport fees and related fees for each service are as follows.

**BCC Meeting: June 5, 2018
Research Notes**

EMS Rate Schedule

Transport/Service	Fee
Basic Life Support	\$800
Advanced Life Support 1	\$800
Advanced Life Support 2	\$900
Specialty Care Transport	\$900
Ground Mileage	\$15
Oxygen	\$30
IV/IO Solutions	\$25
Cardiac Monitoring	\$25
Cervical Collar	\$25
Backboard	\$25

ADDITIONAL INFORMATION

OCA found a lawsuit – *Weinberg v. Advanced Data Processing, Inc.* – in which the U.S. District Court for the Southern District of Florida denied the defendant’s motion to dismiss plaintiff’s negligence and unjust enrichment claims. The case concerns a class action lawsuit against Advanced Data Processing, Inc. for failure to safeguard sensitive personal information (i.e., names, dates of birth, Social Security numbers, dates of medical services, health insurance information and other protected health information) of emergency medical service patients pursuant to HIPPA and its implementing rules.

In the case, Advanced Data Processing, Inc. handled the billing and payment-related processing services for the Philadelphia Fire Department Emergency Medical Services. An Advanced Data Processing, Inc. employee sold sensitive patient information to individuals who used the information to file fraudulent tax returns. The Court found that the plaintiff sufficiently stated a claim for negligence pursuant to the undertaker’s doctrine and that direct contact between parties is unnecessary to confer a direct benefit for purposes of an unjust enrichment claim. See the Attachment containing the Court’s Order.

A June 1, 2018 search on sunbiz.org (Florida Department of State, Division of Corporations website) for Advanced Data Processing, Inc. listed the vendor as an active foreign for-profit corporation with a principal address of 6451 N. Federal Highway, Suite 1000, Fort Lauderdale, Florida.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=ADVANCEDDATAPROCESSING%20F020000051510&aggregateId=forp-f02000005151-1462997c-941c-48fa-a43c-e81669defa6d&searchTerm=Advanced%20Data%20Processing&listNameOrder=ADVANCEDDATAPROCESSING%203069780>

KeyCite Yellow Flag - Negative Treatment

Distinguished by In re: Community Health Systems, Inc., N.D.Ala.,
September 12, 2016

147 F.Supp.3d 1359
United States District Court,
S.D. Florida.

Yehonatan Weinberg, individually and on
behalf of all others similarly situated, Plaintiff,
v.

Advanced Data Processing, Inc., et al., Defendants.

Case No. 15-CIV-61598-BLOOM/Valle

|
Signed November 16, 2015

|
Filed November 17, 2015

Synopsis

Background: Ambulance service patient brought putative class action against medical billing companies for failure to safeguard sensitive information pursuant to Health Insurance Portability and Accountability Act (HIPAA), and claims of negligence, breach of fiduciary duty, and unjust enrichment. Defendants moved to dismiss.

Holdings: The District Court, Beth Bloom, J., held that:

[1] plaintiff did not have private cause of action in negligence per se;

[2] plaintiff stated claim of negligence pursuant to undertaker's doctrine;

[3] plaintiff failed to state breach of fiduciary duty claim; and

[4] allegations were sufficient to state cause of unjust enrichment.

Motion granted in part and denied in part.

West Headnotes (16)

[1] Negligence

⇒ Elements in general

Under Florida law, a negligence claim requires a plaintiff to show that: (1) defendant owes plaintiff a duty; (2) defendant breached the duty; (3) defendant's breach injured plaintiff; and (4) plaintiff's damage was caused by the injury to the plaintiff as a result of the defendant's breach of duty.

Cases that cite this headnote

[2] Negligence

⇒ Necessity and Existence of Duty

Negligence

⇒ Foreseeability

Negligence

⇒ Duty based upon statute or other regulation

Duty for purposes of a negligence claim encompasses concepts of foreseeability and may arise from: (1) legislative enactments or administration regulations; (2) judicial interpretations of such enactments and regulations; (3) other judicial precedent; and (4) a duty arising from the general facts of the case.

Cases that cite this headnote

[3] Negligence

⇒ Voluntarily Assumed Duty

Under Florida law, pursuant to "undertaker's doctrine," whenever one undertakes to provide a service to others, whether one does so gratuitously or by contract, the individual who undertakes to provide the service thereby assumes a duty to act carefully and to not put others at undue risk of harm.

Cases that cite this headnote

[4] Action

⚡ Statutory rights of action

Health

⚡ Records and duty to report;
confidentiality in general

Health

⚡ Records and duty to report;
confidentiality in general

There is no private right of action under Health Insurance Portability and Accountability Act (HIPAA). Health Insurance Portability and Accountability Act of 1996, § 1171 et seq., 42 U.S.C.A. § 1320d et seq.

1 Cases that cite this headnote

[5] **Action**

⚡ Statutory rights of action

Health

⚡ Records and duty to report;
confidentiality in general

Patient whose sensitive information was disclosed or sold to criminals by employees of billing company for ambulance service, did not have private cause of action in negligence per se under Florida law, based on alleged violation of Health Insurance Portability and Accountability Act (HIPAA), inasmuch as HIPAA does not permit private causes of action to enforce its provisions. Health Insurance Portability and Accountability Act of 1996, § 1171 et seq., 42 U.S.C.A. § 1320d et seq.

3 Cases that cite this headnote

[6] **Health**

⚡ Records and duty to report;
confidentiality in general

Under Florida law, patient whose sensitive information was allegedly disclosed or sold to criminals by employees of billing company for ambulance service, sufficiently alleged duty pursuant to undertaker's doctrine, as required to state claim of negligence against billing company; billing company voluntarily agreed to provide ambulance service with medical billing and payment processing services,

through which billing company knowingly received patient's sensitive information, and thereby assumed duty to act carefully and to not put patient at undue risk of harm by neglecting to implement data security policies and procedures.

Cases that cite this headnote

[7] **Negligence**

⚡ Contractual duty

Under Florida law, undertaker's doctrine imposes a duty of care not only on the parties to a contract but also to any third parties that perform services under the contract.

Cases that cite this headnote

[8] **Fraud**

⚡ Fiduciary or confidential relations

Under Florida law, elements of a claim for breach of fiduciary duty are: (1) the existence of a fiduciary relationship; (2) breach of a duty owed by the fiduciary; and (3) proximate cause.

1 Cases that cite this headnote

[9] **Fraud**

⚡ Fiduciary or confidential relations

A fiduciary relationship which is implied in law is based on the specific factual circumstances surrounding the transaction and the relationship of the parties.

Cases that cite this headnote

[10] **Fraud**

⚡ Fiduciary or confidential relations

Under Florida law, to establish a fiduciary relationship, a party must allege some degree of dependency on one side and some degree of undertaking on the other side to advise, counsel, and protect the weaker party.

1 Cases that cite this headnote

[11] Fraud

⇒ Fiduciary or confidential relations

Fraud

⇒ Duty to disclose facts

Generally, in an arms-length transaction, there is no duty imposed on either party to act for the benefit or protection of the other party, or to disclose facts that the other party could, by its own diligence have discovered.

1 Cases that cite this headnote

[12] Fraud

⇒ Fiduciary or confidential relations

Allegations that billing company for ambulance service was guardian of patient's sensitive information were insufficient to establish fiduciary relationship as required for patient to state claim of breach of fiduciary duty against billing company after his confidential information was allegedly disclosed or sold to group of individuals who used it to steal his identity and file fraudulent tax return by billing company's employees; patient did not depend on billing company, nor did billing company undertake to counsel, act for, or protect patient in any capacity.

Cases that cite this headnote

[13] Implied and Constructive Contracts

⇒ Unjust enrichment

Under Florida law, allegations of ambulance service patient, who was identity theft victim after his confidential information was disclosed by employees of ambulance services' billing company, that he conferred a benefit on billing company in form of one-time payment to ambulance service, that billing company was supposed to use its share of patient's payment to pay for administrative costs of data management and security but failed to implement measures to protect patient's sensitive information, were sufficient to state claim of unjust enrichment against billing company; billing company derived

direct benefit from patient by way of its direct relationship with ambulance service.

Cases that cite this headnote

[14] Implied and Constructive Contracts

⇒ Unjust enrichment

Unjust enrichment is an equitable doctrine that has to do with wealth being in one person's hands when it should be in another person's.

Cases that cite this headnote

[15] Implied and Constructive Contracts

⇒ Unjust enrichment

To establish a cause of action for unjust enrichment/restitution under Florida law, plaintiff must show that: (1) plaintiff has conferred a benefit on the defendant; (2) defendant has knowledge of the benefit; (3) defendant has accepted or retained the benefit conferred; and (4) circumstances are such that it would be inequitable for the defendant to retain the benefit without paying fair value for it.

Cases that cite this headnote

[16] Implied and Constructive Contracts

⇒ Unjust enrichment

Direct benefit element of an unjust enrichment claim may be satisfied where a benefit is conferred through an intermediary; in other words, a direct benefit can derive from a transaction with no direct contact.

Cases that cite this headnote

Attorneys and Law Firms

*1361 Edmund Alonso Normand, Normand Law PLLC., Orlando, FL, for Plaintiff.

Dana M. Richens, Smith Gambrell & Russell, Atlanta, GA, John Patrick Marino, Smith Gambrell Russell, Jacksonville, FL, for Defendants.

ORDER

BETH BLOOM, UNITED STATES DISTRICT JUDGE

THIS CAUSE is before the Court upon Defendant's Motion to Dismiss, ("Motion"), ECF No. [13], Plaintiff's Complaint, ECF *1362 No. [1] ("Complaint"). The Court has carefully reviewed the Motion, all supporting and opposing submissions, the record, and applicable law. For the reasons set forth below, the Motion is granted in part and denied in part.

I. Introduction

Plaintiff Yehonatan Weinberg ("Plaintiff") commenced this class action lawsuit on August 4, 2015, against Defendants Advanced Data Processing, Inc. ("ADP") and Intermedix Corp. ("Intermedix," together with ADP, "Defendants"),¹ for failure to safeguard the sensitive personal information of Plaintiff and other emergency medical service patients (the "Class"), including their names, dates of birth, Social Security numbers, dates of medical services, health insurance information, and other protected health information (collectively, "Sensitive Information"), pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), 42 U.S.C. §§ 1301, *et seq.*, and its implementing rules.

At some point in 2012, Plaintiff was taken by ambulance to a hospital for emergency medical treatment. Compl. ¶ 36. In order to use the ambulance, Plaintiff was required to provide the ambulance service with his Sensitive Information. *Id.* ¶ 37. "Unbeknownst to Plaintiff," the ambulance services he used, Philadelphia Fire Department Emergency Medical Services ("EMS"), engaged Defendants to handle its billing and payment-related processing services. *Id.* ¶ 38. As a result, Defendants received Plaintiff's Sensitive Information. *Id.* Between June 1 and October 2, 2012, "an Intermedix employee systematically accessed and viewed the Sensitive Information of hundreds (if not thousands) of emergency medical service patients [the Class] who used ambulances ([for] which Intermedix provided, among other things, billing and payment processing []). This Sensitive Information was then provided to third parties who used it to file fraudulent tax returns with the Internal Revenue Service." *Id.* ¶¶ 4, 21.

The records accessed and viewed by the Intermedix employee included Plaintiff's Sensitive Information. *Id.* ¶ 39. Plaintiff's Sensitive Information was "thereafter disclosed to or sold to a group of individuals who subsequently used that information to steal his identity and file a fraudulent tax return using his name and Social Security number." *Id.* ¶ 40. Plaintiff alleges that "after learning that his identity was stolen, Plaintiff Weinberg spent (and continues to spend) a substantial amount of time and resources fixing the identity theft that he experienced." *Id.* ¶ 41. Plaintiff further claims that these instances of identity theft, both for him and for the Class, were caused directly by Intermedix's failure to protect his Sensitive Information. *Id.* ¶¶ 6, 44-46.

Intermedix's alleged security failures include, but are not limited to, the following:

Failing to ensure the confidentiality and integrity of electronic protected health information created, received, maintained, and transmitted in violation of 45 C.F.R. § 164.306(a)(1);

Failing to implement technical policies and procedures for electronic information systems that maintain electronically protected health information to allow access only to those persons or software programs that have been granted access rights in violation of 45 C.F.R. § 164.312(a)(1);

Failing to implement policies and procedures to prevent, detect, contain, and correct security violations in violation of 45 C.F.R. § 164.308(a)(1);

Failing to identify and respond to suspected or known security incidents, and *1363 failing to mitigate, to the extent practicable, harmful effects of security incidents that are known to the covered entity in violation of 45 C.F.R. § 164.308(a)(6)(ii);

Failing to protect against any reasonably anticipated threats or hazards to the security or integrity of electronic protected health information in violation of 45 C.F.R. § 164.306(a)(2);

Failing to protect against reasonably anticipated uses or disclosures of electronic protected health information that are not permitted under the privacy rules regarding individually identifiable health information in violation of 45 C.F.R. § 164.306(a)(3);

Failing to ensure compliance with the HIPAA security standard rules by their workforce in violation of 45 C.F.R. § 164.306(a)(4);

Impermissibly and improperly using and disclosing protected health information that is and remains accessible to unauthorized persons in violation of 45 C.F.R. §§ 164.502, *et seq.*; and

Failing to effectively train all members of their workforce on the policies and procedures with respect to protected health information as necessary and appropriate for the members of their workforce to carry out their functions and to maintain security of protected health information in violation of 45 C.F.R. [§] 164.308(a)(5).

Id. ¶¶ 30–31. The Complaint also alleges that Defendants failed to comply with industry standards relating to data security.² *Id.* ¶¶ 32–34.

The Complaint states three counts—one for negligence, a second for breach of fiduciary duty, and a third for unjust enrichment. As to the negligence claim, Plaintiff asserts that Defendants “had a duty to exercise reasonable care in safeguarding and protecting” Sensitive Information, *id.* ¶ 55, as well as “a duty to employ procedures to detect and prevent the improper access and misuse of the Plaintiff’s and the Class’s Sensitive Information,” *id.* ¶ 56. Plaintiff alleges that Defendants unlawfully breached these duties. *Id.* ¶¶ 56–57. “But for [Defendants’] breach of its duties, Plaintiff’s and the Class’s Sensitive Information would not have been compromised. Plaintiff’s and the Class’s Sensitive Information was stolen and accessed as the proximate result of Intermedix failing to exercise reasonable care in safeguarding such information by adopting, implementing, and maintaining appropriate security measures.” *Id.* ¶ 59. Pursuant to the claim for breach of fiduciary duty, Defendants “owed a fiduciary duty to Plaintiff and the Class to: (1) protect their Sensitive Information; (2) timely notify them of a data breach; and (3) maintain complete and accurate records of what and where their Sensitive Information was stored and who had access to that information.” *Id.* ¶ 63. Defendants breached this duty to Plaintiff and the Class by failing to safeguard their Sensitive Information, which failures are articulated in more detail above and in the Complaint. *See id.* ¶ 64. For counts one and two, Plaintiff alleges actual damages that proximately flow

from Defendants’ breach of fiduciary duty, as well as “other forms of injury and/or harm including, but not limited to, anxiety, emotional distress, loss of privacy, and other economic and non-economic losses.” *Id.* ¶¶ 60–61, 65–66.³ Plaintiff’s third cause of *1364 action for unjust enrichment alleges that, “[u]nder principles of equity and good conscience,” Plaintiff and the Class are owed money knowingly received by Defendants for their payment processing services. *Id.* ¶¶ 67–72.

II. Legal Standard

A pleading in a civil action must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed.R.Civ.P. 8(a)(2). Although a complaint “does not need detailed factual allegations,” it must provide “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007); *see Ashcroft v. Iqbal*, 556 U.S. 662, 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (explaining that Rule 8(a)(2)’s pleading standard “demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation”). Nor can a complaint rest on “‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Iqbal*, 556 U.S. at 678, 129 S.Ct. 1937 (quoting *Twombly*, 550 U.S. at 557, 127 S.Ct. 1955 (alteration in original)). When reviewing such a motion, a court, as a general rule, must accept the plaintiff’s allegations as true and evaluate all plausible inferences derived from those facts in favor of the plaintiff. *See Chaparro v. Carnival Corp.*, 693 F.3d 1333, 1337 (11th Cir.2012); *Micosukee Tribe of Indians of Fla. v. S. Everglades Restoration Alliance*, 304 F.3d 1076, 1084 (11th Cir.2002); *AXA Equitable Life Ins. Co. v. Infinity Fin. Grp., LLC*, 608 F.Supp.2d 1349, 1353 (S.D.Fla.2009) (“On a motion to dismiss, the complaint is construed in the light most favorable to the non-moving party, and all facts alleged by the non-moving party are accepted as true.”).

A court considering a Rule 12(b) motion is generally limited to the facts contained in the complaint and attached exhibits, including documents referred to in the complaint that are central to the claim. *See Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 959 (11th Cir.2009); *Maxcess, Inc. v. Lucent Technologies, Inc.*, 433 F.3d 1337, 1340 (11th Cir.2005) (“[A] document outside the four corners of the complaint may still be considered if it is central to the plaintiff’s claims and is undisputed in terms

of authenticity.”) (citing *Horsley v. Feldt*, 304 F.3d 1125, 1135 (11th Cir.2002)).

III. Discussion

Defendants argue that Plaintiff's allegations are conclusory and, thus, insufficient. *See* Motion at 2. For this reason, they argue that none of Plaintiff's three counts state a claim upon which relief can be granted. *See id.* Plaintiff counters that Defendants' arguments are unsupported and improperly rely on facts outside of the four corners of the complaint. *See* ECF No. [18] (“Plaintiff's Response”) at 2.

A. Negligence

Defendants argue that dismissal of Plaintiff's negligence claim is warranted because Plaintiff has failed to establish any direct relationship between the parties—and even explicitly conceded as much. *See* Motion at 5–6 (quoting Compl. ¶ 24) (“Plaintiff pleads that he 'did not have a direct relationship (business or otherwise) with [Defendants].'”). Plaintiff responds that Defendants owed him a duty that *1365 originated from three different sources, outside of Defendants' “direct relationship” test, which Plaintiff maintains has no support in the law. *See* Pl. Resp. at 67.

[1] [2] [3] A negligence claim requires a plaintiff to show that (1) defendant owes plaintiff a duty, (2) defendant breached the duty, (3) defendant's breach injured plaintiff, and “(4) [plaintiff's] damage [was] caused by the injury to the plaintiff as a result of the defendant's breach of duty.” *Resnick v. AvMed, Inc.*, 693 F.3d 1317, 1325 (11th Cir.2012) (quoting *Delgado v. Laundromax, Inc.*, 65 So.3d 1087, 1089 (Fla. 3d DCA 2011)). Here, Defendants only dispute the first element of the negligence claim—the duty owed by them to Plaintiff. “Duty for purposes of a negligence claim encompasses concepts of foreseeability and may arise from: (1) legislative enactments or administration regulations; (2) judicial interpretations of such enactments and regulations; (3) other judicial precedent; and (4) a duty arising from the general facts of the case.” *Zimm v. United States*, 835 F.Supp.2d 1280, 1311 (S.D.Fla.2011) (citing *Clay Elec. Coop., Inc. v. Johnson*, 873 So.2d 1182, 1185 (Fla.2003)). The third category, judicial precedent, dictates that a defendant may assume a duty “whenever one undertakes

to provide a service to others, whether one does so gratuitously or by contract, the individual who undertakes to provide the service thereby assumes a duty to act carefully and to not put others at undue risk of harm.” *Zimm*, 835 F.Supp.2d at 1312 (citing *Clay Electric Coop., Inc. v. Johnson*, 873 So.2d 1182, 1186 (Fla.2003)). This case law principle is known as the “undertaker's doctrine.” *See id.* The fourth category encompasses “that class of cases in which the duty arises because of a foreseeable zone of risk arising from the acts of the defendant.” *McCain v. Florida Power Corp.*, 593 So.2d 500, 503 n. 2 (Fla.1992); *see Lamm v. State Street Bank and Trust*, 749 F.3d 938, 947 (11th Cir.2014) (citations omitted) (“Florida recognizes that a legal duty arises whenever a human endeavor creates a generalized and foreseeable risk of harming others.”). Plaintiffs argue that Defendants' duty in this instance arose from three independent sources: (1) HIPAA; (2) the undertaker's doctrine; and (3) the foreseeable zone of risk created by Defendants. *See* Pl. Resp. at 6–7.

1. HIPAA

[4] HIPAA provides no private right of action—a fact which Plaintiff does not contest. *See* Pl. Resp. at 7–8; *Jenkins v. Grant Thornton LLP*, 2014 WL 860547, at *7 (S.D.Fla. March 5, 2014) (citing *Sneed v. Pan American Hosp.*, 370 Fed.Appx. 47, 50 (11th Cir.2010) (“We decline to hold that HIPAA creates a private cause of action.”)); *see also Bradley v. Pfizer, Inc.*, 440 Fed.Appx. 805, 809 (11th Cir.2011) (relying on Fifth Circuit decision in holding for first time that “there is no private right of action for a violation of HIPAA's confidentiality provisions”). Yet, Plaintiff still maintains that he has stated a claim for negligence based upon alleged HIPAA violations.

[5] “Florida courts have refused to recognize a private right of action for negligence *per se* based on an alleged violation of a federal statute that does not provide for a private right of action.” *Stevens v. Danek Medical, Inc.*, 1999 WL 33217282, at *5–6 (S.D.Fla.1999) (citing *Jupiter Inlet Corp. v. Brocard*, 546 So.2d 1, 2–3 (Fla. 4th DCA 1998) (“OSHA [Occupational Safety and Health Act] does not provide the basis for a private right of action.... [Thus,] “violation of OSHA does not constitute *per se* negligence); *see Zarrella v. Pacific Life Ins. Co.*, 755 F.Supp.2d 1218, 1228–29 (S.D.Fla. Nov. 10, 2010) (“Plaintiffs cannot use negligence *per se* to create a private *1366 cause of action

for alleged violations of [Fla. Stat.] § 626.9541(1)(a) 1 and (b) 4 because the legislature has not demonstrated an intent to create a private cause of action under these sections.”); *cf. Smith v. Triad of Alabama, LLC*, 2015 WL 5793318, at *12 (M.D.Ala. Sept. 29, 2015) (“In light of Defendant’s failure to provide precedent binding on this court holding that HIPAA cannot serve as the basis of a negligence *per se* claim, coupled with the *Allen* decision, which indicates Alabama court’s willingness to allow statutes that do not otherwise provide private causes of action to serve as the basis for a negligence *per se* claim, Plaintiffs’ negligence *per se* claim is not due to be dismissed on the basis that it is not cognizable as a matter of law.”). The Plaintiff’s claim of negligence based upon a violation of HIPAA fails.

2. Undertaker's Doctrine

[6] [7] “The undertaker’s doctrine imposes a duty of care not only on the parties to a contract but also to *any third parties* that perform services under the contract.” *Hogan v. Provident Life & Acc. Ins. Co.*, 665 F.Supp.2d 1273, 1285 (M.D.Fla.2009) (holding that, pursuant to the undertaker’s doctrine, “[t]he duty of care owed by [defendant] Unum to Hogan is plausibly established by Hogan’s allegation that Unum’s employees “adjusted, reviewed, evaluated, handled, approved, and/or denied Hogan’s disability insurance benefits.”); *see also Clay Elec. Co-op., Inc.*, 873 So.2d at 1186. This implied legal obligation or duty to act with reasonable care exists “to the end that the *person or property* of others may not be injured.” *Ramjeawan v. Bank of America Corp.*, 2010 WL 1645097, at *3 (S.D.Fla. Apr. 21, 2010) (emphasis added) (citing *Union Park Memorial Chapel v. Hutt*, 670 So.2d 64, 67 (Fla.1996)); *see Assouman v. Bank of America Corp.*, 2008 WL 2262031, at *3 (M.D.Fla. May 30, 2008) (denying defendant’s motion where, “taking all the allegations in a light most favorable to plaintiff, the Court finds that it is foreseeable” that defendant “may have undertaken a duty”).

Here, Plaintiff alleges that Defendants voluntarily agreed to provide EMS with medical billing and payment processing services, through which Defendants knowingly received Plaintiff’s (as well as the Class’s) Sensitive Information. Compl. ¶¶ 38, 55. Defendants, therefore, “assume[d] a duty to act carefully and to not put [those patients] at an undue risk of harm” by, for

example, neglecting to implement data security policies and procedures. *Id.* ¶¶ 3235. These allegations are sufficient to state a claim for negligence pursuant to the undertaker’s doctrine.

In their Motion, Defendants rely on cases with no-duty findings predicated upon factual circumstances that are conspicuously absent in the instant action. *See, e.g., Willingham v. Glob. Payments, Inc.*, 2013 WL 440702, at *18 (N.D.Ga. Feb. 5, 2013) (finding no duty because plaintiffs, non-Georgia residents, alleged negligence claim predicated on Georgia’s Data Breach Notification statute, which created a duty with respect to Georgia residents only); *Hammond v. The Bank of N. Y. Mellon Corp.*, 2010 WL 2643307, at *9 (S.D.N.Y. June 25, 2010) (holding no duty in case with defendant bank because, “generally, banks owe no duty of care to their non-customers”). Defendants fail to present any other bases for dismissal of Plaintiff’s negligence claim for the Court’s analysis. Thus, Defendants’ one-note attack must fail. Because the Court concludes that Plaintiff has sufficiently alleged a duty pursuant to the undertaker’s doctrine, the Court refrains from analyzing Plaintiff’s final argument for imposition of a duty arising under the “foreseeable zone of risk” standard. *See, e.g., *1367 Virgilio v. Ryland Group, Inc.*, 680 F.3d 1329, 1339–40 (11th Cir.2012).

B. Breach of Fiduciary Duty

[8] The elements of a claim for breach of fiduciary duty are: (1) the existence of a fiduciary relationship; (2) breach of a duty owed by the fiduciary; and (3) proximate cause. *Combe v. Flocar Inv. Grp. Corp.*, 977 F.Supp.2d 1301, 1307 (S.D.Fla.2013) (citation omitted). Fiduciary relationships must be either expressly or impliedly created. *See Greenberg v. Miami Children’s Hosp. Research Inst., Inc.*, 264 F.Supp.2d 1064, 1071 (S.D.Fla.2003) (citing *Capital Bank v. MVB, Inc.*, 644 So.2d 515, 518 (Fla. 3d DCA 1994)); *see also Bldg. Educ. Corp. v. Ocean Bank*, 982 So.2d 37, 41 (Fla. 3d DCA 2008) (quoting *Doe v. Evans*, 814 So.2d 370, 374 (Fla.2002) (“While a contractual relationship between the parties is not required to form a fiduciary relationship, a party must be ‘under a duty to act for or to give advice for the benefit of another upon matters within the scope of that relation.’ ”).

[9] [10] [11] “A fiduciary relationship which is implied in law is based on the specific factual circumstances

surrounding the transaction and the relationship of the parties.” *First Nat’l Bank & Trust Co. of Treasurer Coast v. Pack*, 789 So.2d 411, 415 (Fla. 4th DCA 2001) (citations omitted). “To establish a fiduciary relationship, a party must allege some degree of dependency on one side and some degree of undertaking on the other side to advise, counsel, and protect the weaker party.” *Jaffe v. Bank of Am., N.A.*, 667 F.Supp.2d 1299, 1319 (S.D.Fla.2009). Generally, “in an arms-length transaction, however, there is no duty imposed on either party to act for the benefit or protection of the other party, or to disclose facts that the other party could, by its own diligence have discovered.” *Id.* (citing *Watkins v. NCNB Nat’l Bank, N.A.*, 622 So.2d 1063, 1065 (Fla. 3d DCA 1993)).

[12] By Plaintiff’s own admissions, Plaintiff did not depend upon either Defendant nor did either Defendant undertake to counsel, act for, or protect Plaintiff in any capacity. Compl. ¶ 24 (Plaintiff “did not have a direct relationship (business or otherwise) with Intermedix.”). Because he cannot plead facts to establish any direct relationship, let alone a fiduciary one, Plaintiff appears to improperly base his claim on the conclusory allegation that “[a]s guardians of Plaintiffs’ ... Sensitive Information, Defendant owed a fiduciary duty to Plaintiff and the Class.” *Id.* ¶ 63. But the mere receipt of confidential information is insufficient by itself to transform an arm’s-length transaction into a fiduciary relationship. *See Winter Park Condo. Ltd. P’ship v. Wachovia Bank, N.A.*, 2009 WL 290992, at *1 (M.D.Fla. Feb. 6, 2009) (citing *Barnett Bank of Marion Cty., N.A. v. Shirey*, 655 So.2d 1156 (Fla. 5th DCA 1995)) (Florida law “does not stand for the proposition attributed to it by the Plaintiff ... that the bank’s receipt of confidential information gave rise to a fiduciary obligation.”). *See, e.g., Silver v. Countrywide Home Loans, Inc.*, 760 F.Supp.2d 1330, 1338 (S.D.Fla.2011), *aff’d*, 483 Fed.Appx. 568 (11th Cir.2012) (holding that “the mere communication of confidential information between the borrower and the bank is not enough to establish a fiduciary obligation.”); *see also Dolmage v. Combined Insurance Company of America*, 2015 WL 292947, at *6 (N.D.Ill. Jan. 21, 2015) (plaintiff’s allegations, that she and the class members placed their trust in defendant with regard to the handling, maintenance, and disposition of their confidential personal information, were insufficient to establish that defendant owed them a fiduciary duty to secure and protect their information). Accordingly,

Plaintiff’s claim for breach of fiduciary duty must be dismissed.

*1368 C. Unjust Enrichment

[13] Defendants argue that Plaintiff’s allegations demonstrate that any subject transaction was too tenuous to support a direct conferral of benefit, as required by a valid claim for unjust enrichment. Plaintiff responds that direct contact between the parties is unnecessary to confer a direct benefit on a defendant for purposes of an unjust enrichment claim. The Court agrees.

[14] [15] Unjust enrichment is an equitable doctrine that “has to do with wealth being in one person’s hands when it should be in another person’s.” *Jovine v. Abbott Labs., Inc.*, 795 F.Supp.2d 1331, 1341 (S.D.Fla.2011) (quoting *Guyana Tel. & Tel. Co. v. Melbourne Int’l Commc’ns, Ltd.*, 329 F.3d 1241, 1245 n. 3 (11th Cir.2003)). In Florida, “[t]o establish a cause of action for unjust enrichment/restitution, a Plaintiff must show that ‘1) the plaintiff has conferred a benefit on the defendant; 2) the defendant has knowledge of the benefit; 3) the defendant has accepted or retained the benefit conferred; and 4) the circumstances are such that it would be inequitable for the defendant to retain the benefit without paying fair value for it.’ ” *Resnick*, 693 F.3d at 1328 (quoting *Della Ratta v. Della Ratta*, 927 So.2d 1055, 1059 (Fla. Dist. Ct. App. 2006)).

The Court finds *Resnick* instructive. 693 F.3d at 1328. There, plaintiffs alleged as follows:

[T]hat they conferred a monetary benefit on defendant in the form of monthly premiums, that [defendant] AvMed “appreciates or has knowledge of such benefit,” that defendant uses the premiums to “pay for the administrative costs of data management and security,” and that defendant “should not be permitted to retain the money belonging to Plaintiffs ... because [AvMed] failed to implement the data management and security measures that are mandated by industry standards.” Plaintiffs also allege that AvMed either failed to implement or inadequately implemented policies to secure sensitive information, as can be seen from the data breach.

Resnick, 693 F.3d at 1328 (quoting complaint). The Eleventh Circuit found that these allegations were sufficient to survive a motion to dismiss. *See id.*

[16] Similarly, under the instant facts, Plaintiff alleges that he paid EMS for his ambulance trip and, as a result of the direct relationship between EMS and Defendants, a portion of his payment was transferred to Defendants. Compl. ¶ 38. Plaintiff further alleges that a portion of Defendants' share of this payment was supposed to be, but was not, "used ... to pay for the administrative costs of data management and security." *Id.* ¶ 70. The only fact differentiating this case from *Resnick* is the fact that Plaintiff paid Defendants through EMS, an intermediary. But, the "direct benefit" element of an unjust enrichment claim may be satisfied where a benefit is conferred through an intermediary. In other words, a direct benefit can derive from a transaction with no direct contact. *See, e.g., Williams v. Wells Fargo Bank, N.A.*, 2011 WL 4901346, at *5 (S.D.Fla. Oct. 14, 2011) (unjust enrichment claim survived even though the at-issue benefit did not pass directly between the parties and, instead, passed through a third party); *Ulbrich v. GMAC Mortg., LLC*, 2012 WL 3516499, at *2 (S.D.Fla. Aug. 15, 2012) (allegations that third-party Balboa charged plaintiff inflated premiums and "skimmed the excess for themselves" was sufficient to show that plaintiff, by paying the allegedly excessive premiums, conferred a direct benefit on third-party); *Carruolo v. Gen. Motors LLC*, 72 F.Supp.3d 1323, 1326 (S.D.Fla.2014) ("Plaintiffs have alleged that they have conferred the required direct *1369 benefit upon Defendant. It is of no matter that the benefit passed through independent dealerships."); *see also Aceto Corp. v. TherapeuticsMD, Inc.*, 953 F.Supp.2d 1269, 1288–89 (S.D.Fla.2013) ("It would not serve the principles of justice and equity to preclude an unjust enrichment claim merely because the 'benefit' passed through an intermediary before being conferred on a defendant.").

Plaintiff alleges that he made a one-time payment to EMS for its services and, as part and parcel to those services, reasonably expected that his Sensitive Information would remain confidential and protected. Compl. ¶¶ 68–70. EMS, in turn, decided to hire and pay Defendants

to perform the portion of those services relating to billing and payment processing, which, as alleged, also involved the transmittal of Sensitive Information belonging to Plaintiff and the Class. *Id.* ¶ 38. Thus, Plaintiff's single payment directly benefited both EMS and Defendants—even if Defendants received it by way of EMS. *See, e.g., Romano v. Motorola, Inc.*, 2007 WL 4199781, at *2 (S.D.Fla. Nov. 26, 2007) (denying motion to dismiss unjust enrichment claim against cell phone manufacturer, even though plaintiff directly paid a non-defendant retailer, because "[d]efendant erroneously equates direct contact with direct benefit"). The fact that EMS functioned as a payment intermediary has no legal significance for Plaintiff's unjust enrichment claim. Because the remainder of Plaintiff's unjust enrichment claim stands unchallenged, Defendants' Motion is denied on this count.

IV. Conclusion

Accordingly, it is **ORDERED AND ADJUDGED** that Defendant's Motion to Dismiss, ECF No. [13], is **GRANTED IN PART AND DENIED IN PART** as follows:

1. Defendants' Motion is **DENIED** as to Plaintiff's claim for negligence;
2. Defendants' Motion is **GRANTED** as to Plaintiff's claim for breach of fiduciary duty;
3. Defendants' Motion is **DENIED** as to Plaintiff's claim for unjust enrichment;
4. Defendants are directed to file an Answer to the Complaint no later than **December 4, 2015**.

DONE AND ORDERED in Miami, Florida, this 16th day of November, 2015.

All Citations

147 F.Supp.3d 1359

Footnotes

- 1 Intermedix is ADP's parent company. *See* Motion at 3.
- 2 Plaintiff cites to a report published by the National Institute of Standards and Technology detailing standards for healthcare-related service providers to come into compliance with HIPAA's Security Rule. *Id.* ¶¶ 32–33. He alleges that this report illustrates Defendants' failure to "comply with even basic industry standards." *Id.* ¶ 34.

- 3 Specifically, Plaintiff alleges damages “including, but not limited to, expenses and/or time spent on credit monitoring and identity theft insurance; time spent scrutinizing bank statements, credit card statements, and credit reports; expenses and/or time spent initiating fraud alerts; decreased credit scores and ratings; and increased risk of future harm.... Further, Plaintiff and the Class have suffered and will continue to suffer other forms of injury and/or harm including, but not limited to, anxiety, emotional distress, loss of privacy, and other economic and non-economic losses.” *Id.*

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**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F10
File No. 181052**

Researcher: BM Reviewer: TD

RESOLUTION APPROVING AWARD OF CONTRACT NO. FB-00594 FOR PURCHASE OF SODIUM HYPOCHLORITE AND CONTAINMENT TANKS FOR THE PARKS, RECREATION AND OPEN SPACES DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$1,099,000.00 OVER THE INITIAL FIVE-YEAR TERM AND ONE, TWO-YEAR OPTION TO RENEW TERM; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ALL PROVISIONS OF THE CONTRACT, INCLUDING ANY CANCELLATION, RENEWAL AND EXTENSION PROVISIONS PURSUANT TO SECTION 2-8.1 OF THE CODE AND IMPLEMENTING ORDER 3-38

ISSUE/REQUESTED ACTION

Whether the Board should approve this Resolution approving award of Contract No. FB-00594 for purchase of Sodium Hypochlorite and Containment Tanks for The Parks, Recreation and Open Spaces Department (PROS) in a total amount not to exceed \$1,099,000.00 over the initial five-year term and one, two-year option to renew term.

APPLICABLE LEGISLATION/POLICY

Section 2-8.1 of the County Code requires formal sealed bids for purchases over \$250,000; describes the circumstances under which non-competitive purchases may be approved; establishes requirements for legacy purchases, designated purchases, and single vehicle leases; 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

Implementing Order 3-38 governs the County's processes and procedures for the purchase of goods and services including professional services. It establishes the roles and responsibilities of the Internal Services Department, methods of purchasing goods and services, and the authority to award contracts. Contains requirements for access contracts, emergency purchases, bid waivers, confirmation purchases, and sole sources.

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

Resolution No. R-1011-15, adopted on November 3, 2015, directs the County Mayor or County Mayor's designee to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ; and directed the County Mayor or County Mayor's designee to include such information in a memorandum to the Board pertaining to a vendor being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

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

<http://www.miamidade.gov/govaction/legistarfiles/Matters/Y2012/120287.pdf>

Resolution No. R-477-18, adopted by the Board on May 1, 2018, directs the County Mayor or the County Mayor's designee to disclose to the Board 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 of vendors where less than 75 percent of the pool members are local businesses.

<http://intra/gia/matter.asp?matter=180822&file=true&yearFolder=Y2018>

**BCC Meeting: June 5, 2018
Research Notes**

PROCEDURAL HISTORY

Prime Sponsor: None

Requester/Department: Internal Services

05/09/18: Forwarded to BCC with a favorable recommendation by Parks and Cultural Affairs Committee; Passed 5 – 0.

FISCAL IMPACT

The Bid Tracking System shows Contract No. FB-00594, as of May 30, 2018, with an advertised value of \$925,000 and an awarded value of \$785,000. The cumulative bid value under the Bid Tracking System is \$1,099,000 as of May 30, 2018.

Current Contract FB-00041-3(4),	New Contract FB-00594,
\$548,000, for a period of three years, and seven month term	\$785,000, for a five-year term
Yearly cost allocation: \$152,930.23	Yearly cost allocation: \$157,000

The new contract cost allocation difference: \$4,069.77 per year over the five-year term. The mayoral memo states that the County has elected to forego exercising the final option to renew term as the new contract offers a lower per unit cost compared to the existing contract.

ANALYSIS

This item will approve a competitive contract award for PROS. The contract No. FB-00594, Sodium Hypochlorite and Containment Tanks is used in public swimming pools for sterilization and sanitation. The chemical will be stored in the containment tanks.

Sodium Hypochlorite is a compound that can be effectively used for water purification. It is used on a large scale for surface purification, bleaching, odor removal and water disinfection. It is the main ingredient in laundry bleach. It will be fed into public swimming pools for sterilization and sanitation.

The County reached out to the Beacon Council for assistance in securing a local vendor. A list of 24 vendors was provided, staff contacted the vendors, and it was indicated that the vendors did not possess the proper required chemicals. OCA performed a vendor search by commodity code 88540, Chlorinating and Oxidizing Agents: Bromohydan, Chloroisocyanurates, Hypochlorites, etc on May 30, 2018. The following vendor was found:

- Pancar Industrial Supply Corporation.

The mayoral memo does not state if this vendor was included in the list of 24 vendors.

The Hawkins Water Treatment Group, Inc. with a principle address of Roseville, Minnesota, is the vendor recommended. This vendor does not have a local address or local Miami-Dade County employees hired. The rejected vendor, Allied Universal Corp, has a local address, 3901 NW 115 Avenue, Miami, FL 33178. However, per the ISD, The recommended vendor has a branch in Broward County. They have a fleet of truck and drivers for distribution.

**BCC Meeting: June 5, 2018
Research Notes**

Below is a table with information regarding both vendors from Bid Tracking System as of May 30, 2018:

Vendor Name	Hawkins, Inc.	Allied Universal Corp.
SBD Certification	No	No
Registered Vendor	Yes	Yes
Incumbent vendor	Yes	No
Local Preference	No	Yes/Dade County
State of Florida or Miami-Dade County License	Yes	No

Description	Estimated Annual Quantity/Unit Measures	Current Unit Price
Sodium Hypochlorite	145,000 gallons	\$1.10
Rental of 65 gallon containment tank	1 each	N/A
Rental of 100 gallon containment tank	1 each	\$11.00
Rental of 165 gallon containment tank	4 each	N/A
Rental of 300 gallon containment tank	16 each	\$18
Rental of 325 gallon containment tank	1 each	N/A
Rental of 500 gallon containment tank	6 each	\$24
Rental of 1,100 gallon containment tank	3 each	\$66

Cost Analysis

Vendor Name	Hawkins, Inc.	Allied Universal Corp.
Total Raw Price	\$156,920	\$426,424
Evaluation Adjustment 10% Local Preference	\$15,692	-
Total Evaluated Price	\$172,612	\$426,424
Evaluation Adjustment Raw Price x 5 Years	\$784,600	\$2,132,120
Unit Price Per Gallon	\$1.04	\$1.32

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8F12
File No. 180868**

Researcher: BM Reviewer: TD

RESOLUTION AUTHORIZING ESTABLISHMENT OF PREQUALIFICATION POOL RTQ-00626 IN A TOTAL AMOUNT UP TO \$13,982,000.00 FOR THE PURCHASE OF AUDIO VISUAL EQUIPMENT AND SUPPLIES FOR VARIOUS COUNTY DEPARTMENTS FOR AN INITIAL TERM OF FIVE YEARS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO SOLICIT PRICING, AWARD CONTRACTS, EXERCISE ALL PROVISIONS OF THE SOLICITATION DOCUMENTS AND ANY RESULTING CONTRACTS PURSUANT TO SECTION 2-8.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA AND IMPLEMENTING ORDER 3-38, AND ADD VENDORS TO THE POOL AT ANY TIME, SUBJECT TO RATIFICATION BY THE BOARD ON A BIENNIAL BASIS

ISSUE/REQUESTED ACTION

Whether the Board should approve a resolution establishing a prequalification pool, RTQ-00626, Audio Visual Equipment and Supplies, for multiple County departments at a value of \$13,982,000 for an initial term of five-years.

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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[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)

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>

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-140-15, adopted on February 3, 2015, directs the County Mayor or County Mayor's designee to conduct a full review, prior to re-procurement of replacement contracts for goods or services of the scopes of services or goods requested to ensure such contracts reflect the current needs of the County, to include information in recommendations to the Board, and to consult with the Small Business Development Division regarding solicitation and contract language.

<http://intra/gia/matter.asp?matter=150090&file=true&yearFolder=Y2015>

Resolution No. R-1011-15, adopted on November 3, 2015, directs the County Mayor or County Mayor's designee to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents such vendors employ; and directed the County Mayor or County Mayor's designee to include such information in a memorandum to the Board pertaining to a vendor being recommended for contract award.

<http://intra/gia/matter.asp?matter=152271&file=true&yearFolder=Y2015>

BCC Meeting: June 5, 2018
Research Notes

Miami-Dade County, Code Section 29-124(f), *Special fund created; uses of surtax proceeds; and role of Citizens' Independent Transportation Trust*, states that where no surtax proceeds are used to fund a contract, no County funds may be used to pay the costs of a contract where the portion procured by or on behalf of Miami-Dade Transit or for transit-related procurements is valued at over one million dollars (\$1,000,000.00) 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 majority vote. 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=PTIIICOR_CH29TA_ARTXVIONHAONPECHCOTRSYSA_SUAUSE212.0551FLST2001_S29-124SPFUCRUSSUPPROCIINTRTR

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Internal Services Department

5/8/18: Forwarded to BCC with a favorable recommendation by Government Operations Committee; Passed 3 – 1. Commissioner Suarez questioned the amount of approximately \$14 million for audio visual equipment and the possibility of voting against the item. He voted 'No' on this item. The Director of ISD advised that voting against the item would be the detriment of many County departments that rely on this contract. The pool has existed for a 10-year period previously.

FISCAL IMPACT

The fiscal impact for the establishment of Prequalification Pool RTQ-00626, Audio Visual Equipment and Supplies, for an initial five-year term is \$13,982,000. The funding will be provided through different funding sources depending on the Department.

A search on the Bid Tracking System (BTS) on May 30, 2018, as it relates to the current prequalification pool 8279-5/18-1, resulted in the following information: \$13,152,137 has been allocated to the contract's Blanket Purchase of which \$9,918,197 has been released, leaving a balance of \$3,233,940. The pool has a cumulative value of \$22,940,000 and expires on July 31, 2018. The proposed cost allocation, even though slightly higher, is in line with the current pool's cost allocation.

ANALYSIS

The proposed Prequalification Pool RTQ-00626, Audio Visual Equipment and Supplies, is for an initial five-year term, at a value of \$13,982,000. The pool would provide multiple County departments with prequalified vendors capable of for purchases of a wide variety of audio visual equipment and supplies, such as commercial and educational audio visual equipment, slide-tape presentations, films, televisions, CDs, videos, and all related products and installation support.

The current pool, 8279-5/18, has been effective since August 2008. It was authorized for a five-year term, with one, five-year option to renew term. This proposed pool is intended to be an open pool and will remain open, allowing qualified vendors to be added once they have completed the prequalification criteria.

**BCC Meeting: June 5, 2018
Research Notes**

In response to its solicitation regarding the prequalification pool, the county received responses from 21 vendors. Ten vendors are recommended for inclusion into the prequalification pool. Eight vendors are pending submission of the required documents to satisfy the prequalification criteria with the County. Three vendors did not submit bids.

Only two vendors of the ten recommended vendors, Classroom Outfitters, LLC and Pro Sound, Inc., have a local address. The prequalification pool is intended to remain open and will remain advertised on the County website for possible inclusion of other vendors. Below is a summary of the vendor submission information:

Vendor	Local Address	Prequalification Status
Audio Visual Innovations, Inc.	No	Prequalified for Pool
CDW Government, LLC	No	Prequalified for Pool
Classroom Outfitters, LLC	Yes	Prequalified for Pool
Computer Station of Orlando, Inc.	No	Prequalified for Pool
Emtec Group, Inc.	No	Prequalified for Pool
Encore Broadcast Equipment Sales, Inc.	No	Prequalified for Pool
Howard Industries, Inc. dba Howard Technology Solutions	No	Prequalified for Pool
Pro Sound, Inc.	Yes	Prequalified for Pool
Pyramid Paper Company dba Pyramid School Products	No	Prequalified for Pool
School Specialty, Inc.	No	Prequalified for Pool

A search of the Miami-Dade County Small Business Enterprise Certified Firms list, on May 30, 2018, resulted in the following firms under commodity code no. 88011 – Audio Visual Equipment and Supplies (Not Otherwise Classified):

- High End Audio Visual, Inc.
- Home Entertainment Systems, Inc.

Per the information on the Bid Tracking System, on May 30, 2018, neither of the two firms found in the SBE list have submitted a bid proposal for consideration for inclusion into the prequalification pool. However, per the Mayoral memo, SBEs were contacted but only one submitted a bid proposal. The other SBEs advised that they are either not interested or they were not audio visual firms.

ADDITIONAL INFORMATION

OCA searched on the Florida Department of State Division of Corporations website (Sunbiz.org) for the registration status and determined that all of the recommended vendors are currently registered and active to conduct business in the state of Florida.

**BCC Meeting: June 5, 2018
Research Notes**

**Item No. 8H1
File No. 181007**

Researcher: BM Reviewer: TD

RESOLUTION AUTHORIZING THE EXECUTION OF A CONSERVATION EASEMENT TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR THE PRESERVATION AND CONSERVATION OF LANDS WITHIN TREE ISLAND PARK AND PRESERVE LOCATED 14800 SW 10 STREET; AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE CONSERVATION EASEMENT AND EXERCISE ALL PROVISIONS CONTAINED THEREIN; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO RECORD THE CONSERVATION EASEMENT AND PROVIDE A COPY TO THE CLERK OF BOARD FOR PERMANENT STORAGE

ISSUE/REQUESTED ACTION

Whether the Board should authorize the execution of a conservation easement to South Florida Water Management District for the preservation and conservation of lands within Tree Island Park and Preserve located 14800 SW 10 Street.

APPLICABLE LEGISLATION/POLICY

Resolution R-974-09 adopted July 21, 2009 directs that any resolution authorizing the execution of instruments creating a County Interest in real property shall require such instruments to be recorded in the public records of Miami-Dade County.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2009/091900min.pdf>

Section 704.06 of the Florida Statutes governs the Conservation Easements; creation; acquisition; enforcement.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0704/Sections/0704.06.html

PROCEDURAL HISTORY

Prime Sponsor: Dennis C. Moss, District 9

Requester/Department: Parks, Recreation and Open Spaces

5/9/18: Forwarded to BCC with a favorable recommendation by Parks and Cultural Affairs Committee; Passed 5 – 0.

FISCAL IMPACT

There is no negative fiscal impact. The only item being approved is the recording of the conservation easement.

ANALYSIS

This item will approve the conveyance of a conservation easement with the South Florida Water Management District for the development of Tree Island Park and Preserve. The County (Grantor) desires to construct Tree Island Park and Preserve at a site in Miami-Dade County which is subject to the regulatory jurisdiction of South Florida Water Management District (District).

The Grantor has developed and proposed as part of the permit conditions a conservation tract and maintenance buffer involving preservation of certain wetland and/or upland systems on the property. The development of Tree Island Park and Preserve required an Environmental Resource Permit from the District. The permit 13-06029-P was issued on February 1, 2016. The permit requires the recording of the conservation easement.

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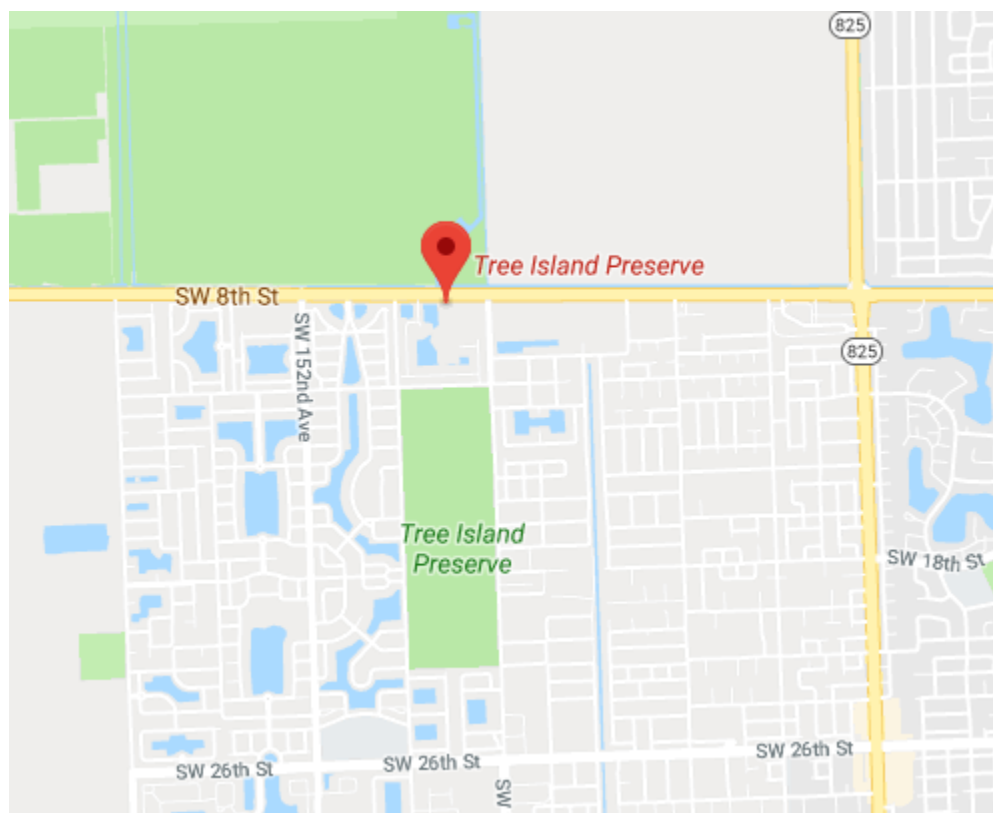
The purpose of the conservation easement is to retain land or water areas in their natural, vegetative, hydrologic, scenic, open, and agricultural or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife. Those wetland and/or upland areas included in the Conservation Easement which are to be preserved, enhanced or created pursuant to the Permit will be retained and maintained in the enhanced or created conditions required by the Permit. The Grantor, in consideration of the permit, is agreeable to granting and securing to the District a perpetual Conservation Easement.

The Grantor will minimize and avoid, to the fullest extent possible, impact to any wetland or upland buffer areas within the Conservation Easement Area and avoid materially diverting the direction of the natural surface water flow in the area.

The Conservation Easement will not constitute permit authorization for the construction and operation of the passive recreational facilities. The Grantor can however construct and maintain passive public use facilities for the purpose of educating the public or allowing public access and recreation which have minimal or no impact on natural resources.

This conservation easement will not constitute authorization for the construction and operation of the passive recreational facilities. Work related to that will be subject to all applicable federal, state, district or local permitting requirements.

Below is a google image of the location:



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Research Notes**

Item No. 8J1

File No. 181323

Researcher: MF Reviewer: TD

RESOLUTION AUTHORIZING EXECUTION OF SETTLEMENT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND DAN KIPNIS, TROPICAL AUDUBON SOCIETY, INC., BISCAYNE BAY WATERKEEPER, INC., AND MIAMI-DADE REEF GUARD ASSOCIATION, INC.; AUTHORIZING PAYMENT OF \$50,000.00 TO THE MIAMI-DADE COUNTY MOORING BUOY PROGRAM; CONDITIONALLY AUTHORIZING COUNTY GRANT OF UP TO \$500,000.00 TO THE UNIVERSITY OF MIAMI ROSENSTIEL SCHOOL OF MARINE AND ATMOSPHERIC SCIENCE TO FUND OUTPLANTING OF ACROPORA (STAGHORN) COLONIES; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SETTLEMENT AGREEMENT AND TO EXERCISE RIGHTS CONFERRED THEREIN [SEE AGENDA ITEM NO. 8J2]

ISSUE/REQUESTED ACTION

Whether the Board should approve a Settlement Agreement between Miami-Dade County and Dan Kipnis, Tropical Audubon Society, Inc., Biscayne Bay Waterkeeper, Inc., and Miami-Dade Reef Guard Association to resolve claims alleging violations of the Endangered Species Act and the Final Florida Department of Environmental Protection Permit during the Deep Dredge Project.

Whether the Board should authorize payment of \$50,000.00 to the Miami-Dade County Mooring Buoy Program.

Whether the Board should conditionally authorize the County to grant up to \$500,000.00 to the University of Miami Rosenstiel School of Marine and Atmospheric Science to fund Outplanting of Acropora (staghorn) colonies.

APPLICABLE LEGISLATION/POLICY

The Water Resources Reform and Development Act of 2007 re-authorized the Water Resources Development Act, and authorized flood control, navigation, and environmental projects and studies by the United States Army Corps of Engineers.

<https://www.congress.gov/110/plaws/publ114/PLAW-110publ114.pdf>

President Obama signed the Water Resources Reform and Development Act of 2014 into law on June 10, 2014. Section 2106 states that [a]mounts provided under this section may be used by a donor port or an energy transfer port (3) for environmental remediation related to dredging berths and federal navigation channels.

<https://www.congress.gov/113/plaws/publ121/PLAW-113publ121.pdf>

Resolution No. R-203-09, adopted by the Board on March 3, 2009, authorized execution of Design Agreement between Miami-Dade County and the U.S. Department of the Army for the design of Miami Harbor Federal Navigation Project Phase III; and authorized the Mayor or designee to execute the agreement for and on behalf of Miami-Dade County, to spend up to \$1,220,000 pursuant to the Design Agreement and to exercise any cancellation and renewal provisions thereof.

<http://intra/gia/matter.asp?matter=083126&file=true&yearFolder=Y2008>

Resolution No. R-06-12, adopted by the Board on December 19, 2011, urged the Army Corp. of Engineers and the State of Florida to expeditiously resolve pending objections to permits proposed to be issued to the Corp. in connection with the project to dredge channels used by the Port of Miami; and authorized the County Mayor to apply for any permits needed for the dredging project.

<http://intra/gia/matter.asp?matter=112675&file=true&yearFolder=Y2011>

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Resolution No. R-422-12, adopted by the Board on May 1, 2012, authorized execution of a Settlement Agreement between Miami-Dade County and the petitioners Dan Kipnis, Tropical Audubon Society, Inc., and Biscayne Bay Waterkeeper, Inc. in connection with the U.S. Army Corps of Engineers' Florida Department of Environmental Protection Permit to dredge channels used by the Port of Miami to a controlling depth of minus 50 feet below mean lower low water; authorized placement of \$1,310,000 into the Miami-Dade County Biscayne Bay Environmental Enhancement Trust Fund to be utilized for the tasks and projects identified in Schedule A of the Settlement Agreement, and authorized the disbursement of those funds for the identified projects; authorized \$50,000 donation to Tropical Audubon Society, Inc., according to terms of the Settlement Agreement; authorized \$50,000 donation to Biscayne Bay Waterkeeper, Inc., according to terms of the Settlement Agreement; and authorized execution of the Local Sponsor Agreement between Miami-Dade County and the Florida Department of Environmental Protection in connection with the U.S. Army Corps of Engineers Florida Department of Environmental Protection permit to dredge channels.

<http://intra/gia/matter.asp?matter=120856&file=true&yearFolder=Y2012>

Resolution No. R-650-12, adopted by the Board on July 17, 2012, approved and authorized execution of a Project Partnership Agreement between Miami-Dade County and the United States Department of the Army in the approximate amount of \$180,000,000; expressed the intent of the County to issue Port revenue bonds to finance part of the Port's Phase III dredging project's costs; and authorized the County to advance a portion of projects costs from County-pooled cash, to be reimbursed upon future Port revenue bond proceeds becoming available.

<http://intra/gia/matter.asp?matter=121384&file=true&yearFolder=Y2012>

PROCEDURAL HISTORY

Prime Sponsor: Rebecca Sosa, District 6

Department/Requester: Port of Miami

The proposed resolution has no procedural history.

FISCAL IMPACT

According to the Fiscal Impact Statement, under the Settlement Agreement, the Seaport Department will transfer \$50,000 to the Miami-Dade Mooring Buoy Program, which is managed by the Department of Regulatory and Economic Resources. This transfer of funds will be paid from Seaport Revenues in FY2018.

Further, the Fiscal Impact Statement indicates that the Settlement Agreement requires the County to enter into a separate Grant Agreement with the University of Miami to fund outplanting of up to approximately 10,000 Acropora (staghorn) coral colonies over a period of three years with one one-year option to renew for a not to exceed amount of \$500,000. This funding will be paid from federal funds authorized through Section 2106 of the Water Resources Reform and Development Act of 2014. The schedule for transfer of funds to the University of Miami will be approximately as follows: FY(2018) - \$164,000; FY(2019) - \$185,000; FY(2020) - \$138,000; and FY(2021) - \$13,000.

ANALYSIS

In November 2007, Congress approved the Water Resources Development Act of 2007, which, among other things, authorized the Port of Miami's Deep Dredge Project that deepened the Port's outer and south channel to a depth of minus 50 feet. This additional depth was critical for the Port to enable it to accommodate deeper draft cargo vessels and help the Port remain competitive with both competing U.S. ports as well as foreign ports. Worldwide, the major shipping lines are increasingly procuring and deploying larger cargo vessels requiring deeper channel depths; and

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the minus 50 foot depth allowed the Port to remain a strategic hub for international commerce in both the north/south and east/west trade routes, as well as remain a dominant player with Latin America and the Caribbean.

On March 3, 2009, the Board adopted Resolution No. R-203-09, authorizing execution of a Design Agreement between the United States Army Corps of Engineers (COE) and the County for the design of Miami Harbor Federal Navigation Project Phase III; and authorized expenditure of to \$1,220,000 for the design, environmental, permitting, and engineering of the project. The COE sought certain approvals from the Florida Department of Environmental Protection (FDEP) needed to undertake the dredging project. On August 31, 2011, FDEP issued a Notice of Intent to issue a Consolidated Environmental Resource Permit, Associated Variances and State Sovereign Submerged Land Authorizations in connection with the project. On September 1, 2011 FDEP issued a proposed agency action to grant a proposed permit and related variances to the COE. On November 10, 2011, FDEP advertised an Amended Proposed Permit advising of revisions to the previously noticed proposed permit.

On November 28, 2011, Dan Kipnis, Tropical Audubon Society, Inc., and Biscayne Bay Waterkeeper, filed a petition challenging the Amended Proposed Permit and requested an administrative hearing under applicable Florida Statutes. The petition was later amended by the petitioners. As the U.S. Army Corps of Engineers was the permit applicant, the County was not initially a party to the administrative proceedings. On December 19, 2011, through Resolution No. R-06-12, the Board authorized taking all actions necessary to intervene in the administrative proceedings, which the County did.

After the initial litigation, the petitioners, the Florida Department of Environmental Protection, the U.S. Army Corps of Engineers and the County engaged in mediation and reached the following settlement: the petitioners agreed to withdraw their petition and any objections to a Revised Amended Proposed Permit, in exchange for the County's transfer of \$1.31 million from the Port to the Department of Permitting, Environment and Regulatory Affairs for the Biscayne Bay Environmental Enhancement Trust Fund; and to donate \$50,000 to Tropical Audubon Society and \$50,000 to Biscayne Bay Waterkeepers.

The funds transferred to the Department of Permitting, Environment and Regulatory Affairs for the Biscayne Bay Environmental Enhancement Trust Fund were to be used to fund environmental enhancement projects and to protect natural resources within Biscayne Bay and Miami-Dade County. As part of the settlement, certain provisions of the Revised Amended Proposed Permit required the U.S. Army Corps of Engineers to increase its commitment to a plan to minimize environmental impacts during construction of the dredging project, including some increases in the extensive monitoring of natural resources adjacent to the project. With the withdrawal of the petition, the FDEP was free to issue the Revised Amended Proposed Permit; and on May 22, 2012, FDEP issued a final permit for the project.

On July 17, 2012, through Resolution No. R-650-12, the Board authorized the County to execute a Project Partnership Agreement with the COE for the construction of the project, post-construction environmental monitoring and regulatory requirements, and the County's issuance of port revenue bonds to finance part of the project. The County executed the Project Partnership Agreement as authorized. The COE's dredging contractor, Great Lakes Dredge and Dock, commenced dredging operations in November of 2013; and the project was completed in September of 2015.

On July 16, 2014, Dan Kipnis, Tropical Audubon Society, Biscayne Bay Waterkeeper, the Miami-Dade Reef Guard Association, Coral Morphologic and the Sierra Club Miami Group submitted a pre-suit Notice Letter to the U.S. Department of the Army, Great Lakes Dredge and Dock, threatening to seek injunctive relief under the Endangered Species Act and the Revised Amended DEP Proposed Permit if the COE failed to cease certain project-related dredging activities within 60 days. Subsequently, Dan Kipnis, Tropical Audubon Society, Biscayne Bay

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Waterkeeper, and Miami-Dade Reef Guard filed a civil suit against the COE in federal court seeking preliminary and permanent injunctive relief alleging COE violations of the Endangered Species Act and the Final FDEP Permit. The County was not a defendant in this litigation.

On May 11, 2015, the district court dismissed Dan Kipnis, Tropical Audubon Society, and Biscayne Bay Waterkeeper from the suit on the grounds that their asserted claims against the COE had each previously been waived and released through the County's 2012 Settlement Agreement, and required Reef Guard to issue an Amended Complaint. Reef Guard's Amended Complaint was filed on June 22, 2015. On October 13, 2015, the district court dismissed Reef Guard's State and FDEP claims, leaving only its asserted Endangered Species Act claims against the COE.

On November 30, 2015, Reef Guard and the COE jointly asked the court to temporarily stay the case to participate in mediation. Though the County was not a party to the civil suit, the plaintiffs and the COE requested that it participate in the mediation. Thus the mediation included the County, COE, Dan Kipnis, Tropical Audubon Society, Biscayne Bay Waterkeeper and Reef Guard. As a result of this mediation, the parties have reached the following settlement, which is the subject of the proposed resolution:

- Dan Kipnis, Tropical Audubon Society, Biscayne Bay Waterkeeper, and Reef Guard have agreed to dismiss, with prejudice, the civil lawsuit and any and all federal, State and any other existing and future claims, actions, suits and appeals with regards to the civil suit or the project, and will execute releases providing for same;
- The County has agreed to the transfer of \$50,000 from the Seaport Department to the Miami-Dade Mooring Buoy program fund to be used to procure and install new anchor buoys and/or to maintain new and/or existing mooring buoys; and
- The County has agreed to enter into an environmental mitigation grant agreement with the University of Miami Rosenstiel School of Marine and Atmospheric Science, in an amount not to exceed \$500,000.00, to procure the propagation, maintenance, outplanting and monitoring of 10,000 *Acropora Cervicornis* (staghorn) coral colonies over a period of three years, with one one-year option to renew for a maximum amount of \$500,000.

The proposed settlement resolves almost four years of on-going litigation against the COE and reduce the County's exposure to the COE under the Project Partnership Agreement. The majority of the settlement amount will be funded by federal funds authorized through Section 2106 of the Water Resources Reform and Development Act of 2014.

ADDITIONAL INFORMATION

The Staghorn *Acropora* is a member of what is called the Formosa group of *Acros*. Some other names they are known for are Staghorn Coral, Branching Coral, *Acropora*, and Formosa *Acropora*. They are found on reef slopes and fringes, but are most dominant in lagoons.

<http://animal-world.com/Aquarium-Coral-Reefs/Staghorn-Acropora>

The Tropical Audubon Society's mission is to conserve South Florida's ecosystems, focusing on birds, other wildlife and their habitats.

<http://www.tropicalaudubon.org/about-us/mission>

It is the mission of Biscayne Bay Waterkeeper to defend, protect, and preserve the aquatic integrity of Biscayne Bay and its surrounding waters through citizen involvement and community action.

https://www.volunteermatch.org/search/org417056.jsp#more_info_tab

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The Miami-Dade Reef Guard Association was established at the end of 2009 in response to the Florida Coral Reef Protection Act, which went into effect on July 1, 2009. The law increases protection of Florida's endangered coral reefs by raising awareness of the damages associated with vessel groundings and anchoring on coral reefs. As a result, and in cooperation with Miami-Dade Department of Regulatory and Economic Resources, 42 mooring buoys were installed along the reefs adjacent to Miami-Dade County. Maintenance for these buoys costs approximately \$20,000 per year.

<http://www.reefguard.org/>

A newspaper article from the Miami Herald, dated November 21, 2016, entitled "Mud from PortMiami dredge spurred coral die-off, study finds", states that "[a] new study has confirmed what federal wildlife officials long suspected: dredging at PortMiami to make way for massive new ships killed far more coral than the U.S. Army Corps of Engineers predicted.

<http://www.miamiherald.com/news/local/environment/article116312178.html>

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Research Notes**

**Item No. 8L1
File No. 180988**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN CITY OF NORTH MIAMI BEACH AND MIAMI-DADE COUNTY TO PROVIDE FILM PERMITTING SERVICES FOR A FIVE-YEAR TERM WITH OPTION TO RENEW FOR ONE ADDITIONAL FIVE-YEAR TERM; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE THE PROVISIONS CONTAINED THEREIN, INCLUDING RENEWAL AND TERMINATION

ISSUE/REQUESTED ACTION

Whether the Board should approve an Interlocal Agreement between the City of North Miami Beach and Miami-Dade County to provide for film permitting services by the Miami-Dade County Film and Entertainment Office on behalf of the municipality, for a five-year term with option to renew for one additional five-year term.

APPLICABLE LEGISLATION/POLICY

Ordinance No. 91-50 authorizes the Miami-Dade Film and Entertainment Office to provide film, television and still photography permitting services for all of the County's municipalities.
(no link provided because this ordinance pre-dates the creation of Legistar)

PROCEDURAL HISTORY

Prime Sponsor: Sally A. Heyman, District 4

Department/Requester: Regulatory and Economic Resources Department

The proposed resolution was considered at the Economic Development and Tourism Committee meeting on May 10, 2018.

Commissioner Heyman referred to the efforts to attract the entertainment industry to South Florida.

The proposed resolution was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

According to the Fiscal Impact Statement, under the proposed agreement, the Miami-Dade Office of Film and Entertainment will receive a \$100.00 application fee for each film permit processed on behalf of the City, which assists with the maintenance of the permitting system utilized by County staff.

ANALYSIS

The film industry has a long history in Miami-Dade County and greater South Florida and continues to grow as the entertainment industry expands throughout Florida. Every year thousands of film, television, commercial, music video and still shoot productions showcase Greater Miami to the world. Miami-Dade County is currently home to 200 production companies, 15 soundstages, 15 recording studios, three Spanish-language production facilities and many businesses that support motion pictures and videos. Each year between 2010 and 2016, film, television, digital media and still photo projects spent anywhere from \$160,000,000 up to \$406,000,000 in Miami-Dade County for productions that were permitted through Miami-Dade County, the City of Miami, and the city of Miami Beach film offices.

From 2010 through 2016, film, television, digital media and still photo projects hired cast and crew that averaged between approximately 20,000 and 35,000 local hires on a yearly basis. The film, television and digital industry

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supports direct and indirect jobs and wages in many companies, such as hotels, restaurants, caterers, dry cleaners, for-hire transportation companies, florists and landscapers, vehicle and truck rental companies, furniture companies, hardware and lumber suppliers, lighting and grip rental companies, clothing stores, private and public office spaces, location rentals, digital equipment suppliers, tent suppliers, and portable air suppliers.

Ordinance No. 91-50 authorizes the Miami-Dade Film and Entertainment Office to provide film, television and still photography permitting services for all of the County's municipalities. Filmiami is a cooperation between the two Greater Miami Film Offices: Miami-Dade County and the City of Miami Beach and several County municipalities to offer a one-stop permitting system. To-date, Miami-Dade County has entered into interlocal agreements with 16 municipalities, allowing the efficient processing of permits for most filming locations.

In 2010, the City of North Miami Beach and the County entered into such an agreement, which subsequently expired. On February 20, 2018, the Commission of the City of North Miami Beach adopted Resolution No. R-2018-15, which authorized the City Manager to execute a new agreement with the County. According to Resolution No. R-2018-15, the City of North Miami Beach will appoint a representative to act as a liaison to the Film Office. The representative will coordinate the use of facilities and approve the issuance of permits subject to the City's guidelines. The Film Office will also require that all film and still photography production companies submit proof of insurance, in the amount of one million dollars for comprehensive general liability with the City named as additional insured prior to issuance of any permit.

The proposed resolution seeks to authorize the execution of an Interlocal Agreement with the City of North Miami Beach by the County Mayor or the County Mayor's designee to allow the Miami-Dade Office of Film and Entertainment in the Department of Regulatory and Economic Resources to issue permits to film, television and still photography production companies desiring to use the City's facilities, for a five-year term with option to renew for one additional five-year term.

ADDITIONAL INFORMATION

Miami-Dade County issues film permits on behalf of 16 municipalities, including Hialeah, South Miami, Miami Gardens, Sunny Isles Beach, Miami Lakes and more.

http://www.filmiami.org/permits_Municipalities.asp

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Research Notes**

Item No. 8L2

File No. 181048

Researcher: BM Reviewer: TD

RESOLUTION APPROVING AMENDMENT NO. 1 TO AGREEMENT NO. 4600003055 WITH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT FOR ECOLOGICAL MONITORING FOR THE BISCAYNE BAY COASTAL WETLANDS PROJECT TO REMOVE TASKS ASSOCIATED WITH ECOLOGICAL MONITORING OF THE L-31E CULVERTS PROJECT AND CORRESPONDINGLY REDUCE FUNDING TO THE COUNTY BY THE AMOUNT OF \$18,500.00 FOR A TOTAL REVISED AGREEMENT AMOUNT OF \$100,300.00; AUTHORIZING THE EXECUTION OF AMENDMENT NO.1; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL RIGHTS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should execute Amendment no. 1 to Agreement No. 4600003055 with the South Florida Water Management District (SFWMD) for ecological Monitoring for the Biscayne Bay Coastal Wetlands L-31E Culverts Project.

APPLICABLE LEGISLATION/POLICY

Resolution no. R-765-14, adopted by the Board on September 3, 2014, executed Agreement No. 4600003055, with SFWMD.

<http://intra/gia/legistarfiles/Matters/Y2014/141464.pdf>

PROCEDURAL HISTORY

Prime Sponsor: None

Department/Requester: Regulatory and Economic Resources

The proposed resolution was considered at the May 8, 2018 IUC Committee meeting.

Deputy Mayor Jack Osterholt noted staff was requesting a waiver of this item to the May 15, 2018 BCC meeting.

The proposed resolution was forwarded to the BCC with a favorable recommendation, with a request that it be waived to the May 15, 2018 BCC meeting.

FISCAL IMPACT

The fiscal impact for amendment no. 1 reduces the funding to the County from SFWMD by \$18,500. The revised agreement amount would be \$100,300.

The reduction in the agreement is for monitoring services for the Culverts Projects which are no longer needed.

ANALYSIS

The item proposes the execution of Amendment no. 1 to Agreement no. 4600003055 with the SFWMD for ecological Monitoring for the Biscayne Bay Coastal Wetlands L-31E Culverts Project. The effect of this proposed amendment is a reduction in the funding received by the County in the amount of \$18,500. The reduction in the agreement is for monitoring services for the Culverts Projects which are no longer needed.

The Board adopted resolution no. R-765-14 in 2014 executing the agreement with SFWMD for a period of four years to perform water quality and vegetation monitoring activities at the Deering Estates as part of the Biscayne

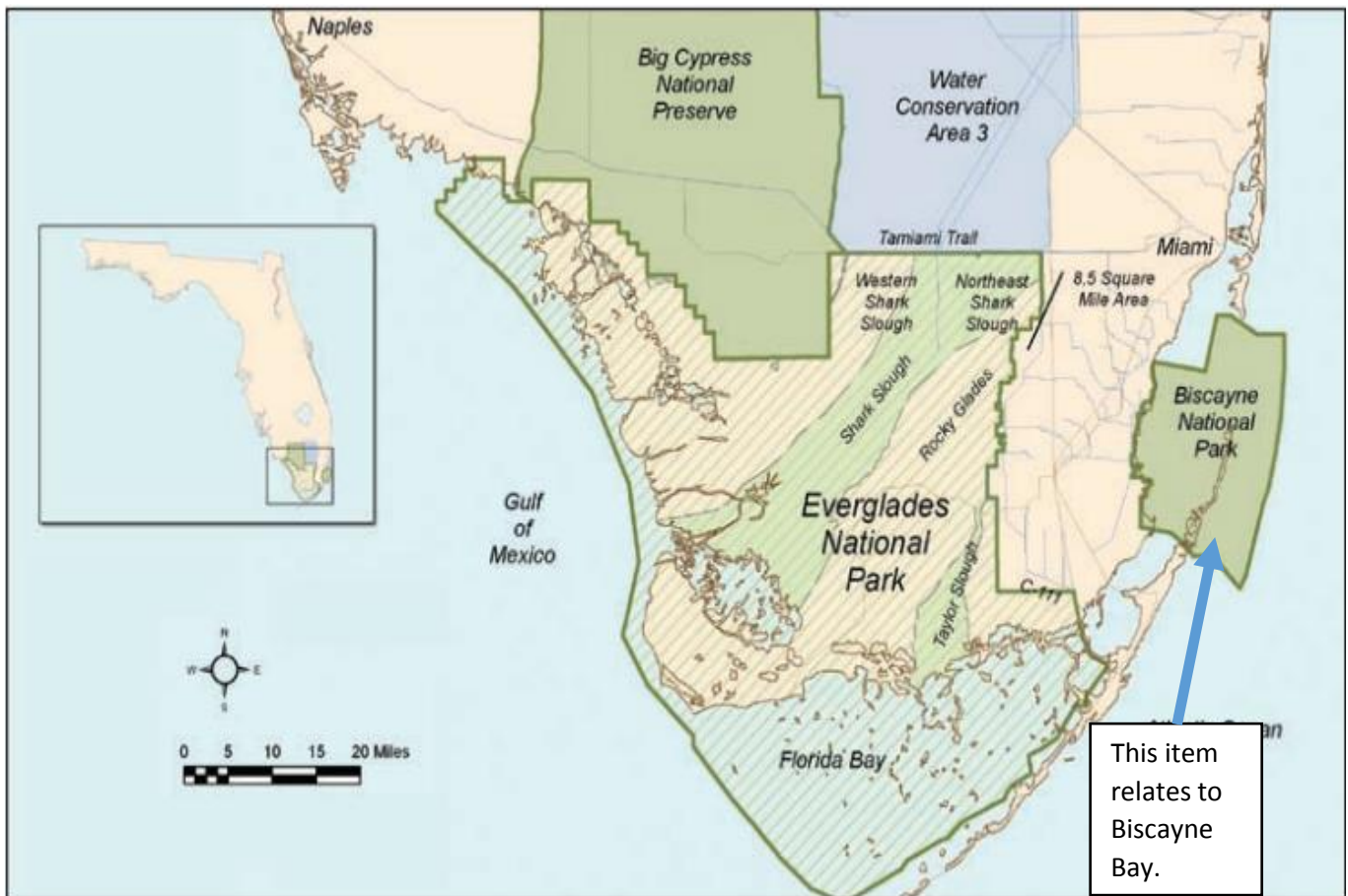
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Bay Coastal Wetlands Project. The original agreement provided the County with a total of \$118,800 to perform the monitoring duties over the four-year term.

The projects are intended to improve the flow of freshwater into Biscayne Bay and Biscayne National Park and to enhance the nearshore freshwater and estuarine habitats.

Biscayne Bay is a shallow subtropical estuary that is an important natural and economic resource. The historic groundwater and surface water flows to Biscayne Bay have dramatically changed caused by man-made alterations such as farmland drainage and the creation and operation of the Central and Southern Florida (CS&F) Project canal system. The Biscayne Bay Coastal Wetlands Project (BBCW) was thus selected as one of components of the Comprehensive Everglades Restoration Plan (CERP), approved by Congress as part of the Water Resource Development Act (WRDA) of 2000.

CERP was authorized by Congress in 2000 as a plan to "restore, preserve, and protect the South Florida ecosystem while providing for other water-related needs of the region, including water supply and flood protection." At a cost of more than \$10.5 billion and with a 30+ year time-line, CERP is the largest hydrologic restoration project ever undertaken in the United States. Additional resources as it relates to the CERP is available at the hyperlink below:
<https://www.nps.gov/ever/learn/nature/cerp.htm>



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Research Notes**

**Item No. 8M1
File No. 181030**

Researcher: JFP Reviewer: TD

RESOLUTION APPROVING CONTRACT AWARD TO ARCADIS U.S., INC. FOR A PERIOD OF THREE YEARS WITH ONE TWO-YEAR OPTION TO RENEW WITH THE EXERCISE OF SUCH RENEWAL AT THE SOLE DISCRETION OF THE BOARD OF COUNTY COMMISSIONERS, IN AN AMOUNT NOT TO EXCEED \$5,655,600.00 FOR CONTRACT NO. E17-DSWM-01 TO BE FUNDED BY SOLID WASTE PROPRIETARY FUNDS FOR BOND ENGINEERING SERVICES; AND AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE CONTRACT AND EXERCISE ALL OTHER RIGHTS CONFERRED THEREIN, INCLUDING TERMINATION

ISSUE/REQUESTED ACTION

Whether the Board should approve this Resolution approving contract award to Arcadis U.S. Inc. for a period of three years with one two-year option to renew with the exercise of such renewal at the sole discretion of the Board of County Commissioners, in an amount not to exceed \$5,655,600.

APPLICABLE LEGISLATION/POLICY

Ordinance No. 96-168, adopted by the Board on November 12, 1996, provides for issuance of Miami-Dade County, Florida Solid Waste System Revenue Bonds.

<http://intra/gia/matter.asp?matter=963393&file=false&yearFolder=Y1996>

Resolution No. R-942-15, adopted by the Board on October 20, 2015, approves the list of Landfill Closure Projects as eligible for future funding through Utility Service Fee or other funding sources through the Public Works and Waste Management Department for those County and municipal landfill closure and remediation and/or water supply protection projects identified in the Miami-Dade County Comprehensive Landfill Closure Plan.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2017/170664min.pdf>

Resolution No. R-1011-15, adopted by the Board on November 3, 2015, directs the County Mayor to require that vendors provide addresses of all local branch offices and headquarters and the number and percentage of local residents these vendors employ.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2015/152271min.pdf>

Resolution No. R-475-13, adopted by the Board on June 18, 2013, pertains to Contract Award Recommendation for Professional Bond Engineering Services—Contract No. E11-PWWM-01—to Arcadis U.S, Inc.

<http://www.miamidade.gov/govaction/legistarfiles/MinMatters/Y2013/131462min.pdf>

Resolution No. R-482-16, adopted by the Board on June 7, 2016, is a Resolution Exercising the Option to Renew Agreement for Professional Bond Engineering Services Contract No. E11PWWM-01 with Arcadis U.S., Inc.

<http://intra/gia/matter.asp?matter=160950&file=true&yearFolder=Y2016>

Section 2-8.1 of the Code of Miami-Dade County requires formal sealed bids for purchases over \$250,000; describes the circumstances under which non-competitive purchases may be approved; establishes requirements for legacy purchases, designated purchases, and single vehicle leases; 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

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PROCEDURAL HISTORY

Prime Sponsor: None

Requester/Department: Solid Waste Management Department

The proposed Resolution was forwarded to the BCC with a favorable recommendation by the Infrastructure and Utilities Committee at its May 8, 2018 meeting after Deputy Mayor Alina Hudak provided clarification on the item, specifying that the Resolution is pursuant to a requirement of the Bond covenant.

Commissioner Martinez requested information of the Administration on who wrote this specific requirement into the Bond ordinance.

FISCAL IMPACT

The Project Contract No. E17-DSWM-01, which will be awarded to Arcadis U.S, Inc. will have total compensation amount up to \$5,655,600. The following is the breakdown of the award:

Description	Award Estimate
Non-Capital Project, Operating Revenues (Technical Services; Landfill Facilities Operations, Transfer Stations, Resources Recovery), Accounting, Planning, Funding Year: 2016-2021 and prior years.	\$4,410,600
Munisport Landfill Closure Grant, Adopted Budget Fiscal Year 2016-17, Funding Year: 2016-2021 and prior years	\$530,000
Resources Recovery-Capital Improvements, Adopted Budget Fiscal Year 16-17, Funding Year: 2016-2018 and prior years	\$40,000
Virginia Key Landfill Study and Closure Grant Adopted Budget FY 16/17, Funding Year: 2016-2019 and prior years	\$675,000
Total:	\$5,655,600

ANALYSIS

This item seeks to approve the awarding of the Professional Services Agreement (PSA) for Professional Bond Engineering Services for the Department of Solid Waste Management with Arcadis U.S., Inc. The Bond Ordinance, Ordinance No. 96-168, requires that, as long as bonds are outstanding, the County must employ a nationally recognized, independent consultant to provide certain services, analyses, and certifications associated with the operation and maintenance of the County Solid Waste System (System). The 2015 Series of Miami-Dade County Solid Waste System Revenue Bonds have a final maturity date of October 1, 2030.

Since the current Professional Services Agreement between Arcadis U.S., Inc. and Miami-Dade County is about to expire, this item seeks to approve a new PSA. The total contract term is three years with one two-year option-to-renew. Arcadia has been the Bond Engineer for the County in this capacity since 2009 when it acquired Malcolm Pirnie, Inc., the then County-contracted Bond Engineer, prior to being awarded the PSA via Board Resolution No.

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R-475-13 in 2013. For the current PSA, the Selection Committee evaluated two responsive proposers, of which Arcadis U.S. Inc. was ranked number one and recommended for award.

Arcadis U.S. Inc. employs 5901 employees, with 45 (0.76%) being Miami-Dade County residents. According to the Florida Department of State Division of Corporations website (Sunbiz.org), Arcadis U.S. Inc., has an active status as a Foreign Profit Corporation and first filed and registered on 02/26/1998. The principal address is registered as 630 Plaza Drive Highlands Ranch, CO 80129. Its registered agent is CT Corporation System, 1200 South Pine Island Road, Plantation, FL 33324.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=ARCADISUS%20F980000011042&aggregateId=forp-f98000001104-fa2fd4a3-ef86-48df-8eea-10d211e37b26&searchTerm=Arcadis%20US%20Inc.&listNameOrder=ARCADISUS%20F980000011042>

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Research Notes**

**Item No. 8N1
File No. 180872**

Researcher: BM Reviewer: TD

RESOLUTION APPROVING A MAINTENANCE MAP FOR A PORTION OF NE 2 AVENUE BETWEEN NE 20 STREET AND NE 36 STREET, IN SECTIONS 25 AND 36, TOWNSHIP 53 SOUTH, RANGE 41 EAST, AND SECTIONS 30 AND 31, TOWNSHIP 53 SOUTH, RANGE 42 EAST, AUTHORIZING THE CHAIRMAN AND THE CLERK OF THE BOARD TO CERTIFY THE MAINTENANCE MAP, AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE SAME, AND AUTHORIZING THE RECORDING THEREOF AMONG THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

ISSUE/REQUESTED ACTION

Whether the Board should approve a Maintenance Map for a portion of NE 2 Avenue between NE 20 Street and NE 36 Street, authorizing the Chairman and the Clerk of the Board to certify same, and authorizing the recordation thereof in the Public Records of the County.

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Section 95.361, Roads presumed to be dedicated, states that the filing of a map in the office of the clerk of the circuit court of the county where the road is located showing the lands and reciting on it that the road has vested in the state, a county, or a municipality in accordance with subsection (1) or subsection (2) or by any other means of acquisition...shall be prima facie evidence of ownership of the land by the state, county, or municipality, as the case may be.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0000-0099/0095/Sections/0095.361.html

Resolution No. R-974-09, adopted by the Board on July 21, 2009, directs the County Mayor that any resolution authorizing the execution of instruments creating a County interest in real property shall require such instruments to be recorded in the public records of Miami-Dade County.

<http://intra/gia/legistarfiles/MinMatters/Y2009/091900min.pdf>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Audrey M. Edmonson, District 3

Department/Requester: Transportation and Public Works

5/10/18: Forwarded to BCC with a favorable recommendation by Transportation and Public Works Committee; Passed 3 – 0.

FISCAL IMPACT

This item does have a negative fiscal impact to the County as there is no increase in maintenance costs to the County.

ANALYSIS

This item approves a Maintenance Map for a portion of NE 2 Avenue between NE 20 Street and NE 36 Street.

Pursuant to Florida Statutes, Section 95.361, a road that is maintained by a County over a seven-year period vests to the County. As the County has maintained the road continuously for seven years, a filing of Maintenance Map, executed by the Assistant Director of the Construction and maintenance of the Department of Transportation and

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Public Works, with the Office of the Clerk of the Court is deemed prima facie evidence of ownership by the County, pursuant to the Statutes.

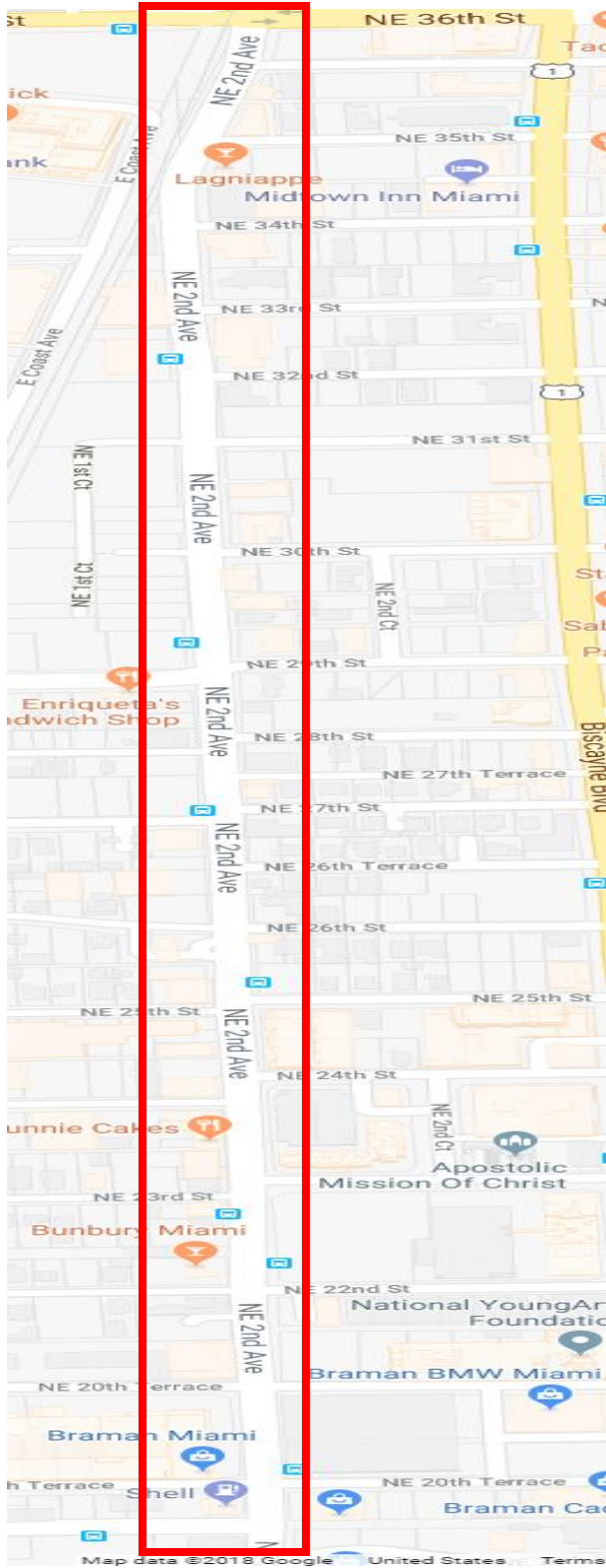
Pursuant to Resolution No. R-974-09, the County Mayor shall record in the public records of the County any resolution authorizing the execution of instruments creating a County interest in real property. Copies of the Maintenance Map is reference on the Mayoral memo.

Per information received by the Department, the Maintenance Map authorizes the Board to certify and claim the right-of-way maintained by the County, as a presumed dedication under Chapter 95.361 of the Florida Statutes. By requesting approval of this resolution, DTPW is asserting that it has maintained the affected segment of roadway for over seven years. The purpose for this project, will provide for that portion of NE 2 Avenue between NE 20 Street and NE 36 Street, a street traffic operational improvement with curbs and gutters, sidewalks, traffic signage, and pavement markings, in the interest of the City of Miami.

Below is a summary of items related to maintenance map brought before the Board:

Number	Date	Title
180872	4/4/2018	RESOLUTION APPROVING A MAINTENANCE MAP
170665	3/14/2017	RESOLUTION APPROVING A MAINTENANCE MAP
162356	10/17/2016	MAINTENANCE MAP FOR A PORTION OF NE 2 AVENUE
162334	10/12/2016	MAINTENANCE MAP FOR A PORTION OF SW 57 AVENUE
162011	9/9/2016	MAINTENANCE MAP FOR A PORTION OF SW 184
160578	3/16/2016	RESOLUTION APPROVING MAINTENANCE MAP
160572	3/16/2016	MAINTENANCE MAP FOR PORTION OF WEST DIXIE HIGHWAY

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**Item No. 8N2
File No. 180892**

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING AN OFF-SYSTEM CONSTRUCTION AND MAINTENANCE AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE CONSTRUCTION OF IMPROVEMENTS ALONG HIALEAH GARDENS BOULEVARD/NW 92 AVENUE FROM W 80 STREET TO SOUTH OF WEST 84 STREET/GRAHAM DAIRY ROAD AT AN ESTIMATED ANNUAL COST TO THE COUNTY OF \$216.61; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE SAME AND EXERCISE THE PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the Off-System Construction and Maintenance Agreement between the County and the Florida Department of Transportation (FDOT) for the construction of improvements along Hialeah Gardens Boulevard/NW 92 Avenue, from West 80 Street to South of West 84 Street/Graham Dairy Road at an estimated annual cost to the County of \$216.61.

APPLICABLE LEGISLATION/POLICY

Florida Statutes Chapter 337 governs public transportation, i.e., contracting, acquisition, disposal and use of property.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0300-0399/0337/0337.html

Section 339.135(6)(a) of the Florida Statutes relates to the execution of the Department of Transportation's budget and provides that the department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The department shall require a statement from the comptroller of the department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0300-0399/0339/Sections/0339.135.html

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Transportation and Public Works

This item was forwarded to the Board with a favorable recommendation by the Transportation and Public Works Committee at its May 10, 2018 meeting.

FISCAL IMPACT

The project is estimated to cost \$335,000 and will be built by FDOT with federal funds. The County is required to provide maintenance operations upon completion of the project which will be funded through DTPW General Fund Allocation at an estimated annual cost of \$216.61.

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ANALYSIS

This item is requesting Board approval of an Off-System Construction and Maintenance Agreement between the County and FDOT for the construction of improvements along Hialeah Gardens Boulevard/NW 92 Avenue from West 80 Street to South of West 84 Street/Graham Dairy Road. The project is located in the City of Hialeah, which is in Commission District 12, represented by Commissioner Jose “Pepe” Diaz. The construction is anticipated to commence in January 2020. The anticipated project completion date is not included in the agenda item nor is information pertaining to whether the project will impact traffic and pedestrian mobility in the surrounding area.

The County and FDOT agree that it is in the best interest of each party for FDOT to undertake and to complete all aspects of the project, including but not limited to, the design, construction, construction inspection, utilities, permits, easements and other associated tasks. The project includes construction of sidewalk and curb ramps, retrofitting two luminaires, and installation of one Arterial Dynamic Message Sign (ADMS). Additionally, the project includes all activities associated with, or arising out of the construction of the local roadway improvements. In the event that the project requires the acquisition of additional right-of-way within the project limits, FDOT shall acquire such right-of-way in order to complete the project. FDOT shall maintain the ADMS and any future required relocation of the ADMS shall be at the sole cost of FDOT.

Summarized below are key provisions under the agreement:

- FDOT shall have final decision authority with respect to the design, the design review process, and construction of the Local Roadway Improvements, and the relocation of any utilities that FDOT may determine to be required.
- The County will review the Project Design Plans and shall submit its comments, if any, via Electronic Reviewer Comments (ERC). Once the review process is concluded, the County shall authorize its DTPW to issue a permit to FDOT’s construction Contractor authorizing FDOT to construct the project in accordance with the Final Project Design Plans submitted through ERC.
- The County shall perpetually maintain the Local Roadway Improvements. To maintain means to perform normal maintenance operations for the preservation of the Local Roadway Improvements, which shall include but is not limited to, roadway surfaces, shoulders, roadside structures, drainage, signing and pavement markings, and such traffic control devices as are necessary for the safe and efficient use of the Local Roadway Improvements.
- FDOT shall transfer the permit to the County as the operational maintenance entity and the County agrees to accept said transfer and to be fully responsible to comply with all operational and maintenance conditions of the permit, at its sole cost and expense.
- Upon issuance of the Notice of Final Acceptance to the Contractor, FDOT shall provide a copy of said notice to the County. As of the date of the Notice of Final Acceptance, the County shall be immediately responsible for the maintenance of the Local Roadway Improvements.
- Upon completion of all work related to construction of the project, FDOT will be required to submit to the County final as-built plans for the Local Roadway Improvements and an engineering certification that construction was completed in accordance with the plans.

Note that FDOT may, in its sole discretion, terminate the agreement if it determines that it is in the best interest of the public to do so.

ADDITIONAL INFORMATION

See the link below to access FDOT Work Program and budget information relating to transportation construction projects.

<http://www2.dot.state.fl.us/fmsupportapps/workprogram/WorkProgram.aspx>

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Research Notes**

Item 8N4

File No. 181010

Researcher: PGE Reviewer: TD

RESOLUTION APPROVING THE TERMS OF AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN MIAMI-DADE COUNTY AND THE CITY OF CORAL GABLES TO PROVIDE UP TO \$15,000,000.00 FROM CITY PARK AND MOBILITY IMPACT FEES TO BE USED FOR ELIGIBLE EXPENSES FOR THE UNDERLINE PROJECT; AUTHORIZING THE RECEIPT AND EXPENDITURE OF FUNDS AS SPECIFIED IN THE AGREEMENT; AND AUTHORIZING RECEIPT AND EXPENDITURE OF ANY ADDITIONAL FUNDS FOR THE PROJECT AS SPECIFIED IN THE AGREEMENT SHOULD THEY BECOME AVAILABLE (Transportation and Public Works)

ISSUE/REQUESTED ACTION

Whether the Board should approve a Memorandum of Understanding (MOU) between the County and the City of Coral Gables for the city of provide up to \$15,000,000 in city park and mobility impact fees to be used for eligible expenses for the Underline project.

APPLICABLE LEGISLATION/POLICY

Section 163.01 of the Florida Statutes sets forth the Florida Interlocal Cooperation Act which permits local governmental units to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0163/0163.html

Directive 150056 sets forth the County's Implementation Plan for the Underline project, including the feasibility, cost, available funding sources and a timeline for construction.

<http://intra/gia/matter.asp?matter=151214&file=true&yearFolder=Y2015>

Resolution No. R-150-18, adopted by the Board on February 6, 2018, urged the Florida Legislature to enact HB 2597 or similar legislation providing an appropriation to help fund the Underline, waiving requirements of Resolution No. R-764-13 limiting the number of state legislative priorities and amending Resolution No. R-947-17 to include the Underline as an additional state legislative priority for the 2018 session.

<http://intra/gia/matter.asp?matter=180225&file=true&yearFolder=Y2018>

Resolution No. 2017-357, adopted by the City of Coral Gables Commission, authorized the City to enter into an MOU with the County to fund a portion of the Underline with City impact fees attributable to new development.

<https://coralgables.legistar.com/LegislationDetail.aspx?ID=3269848&GUID=F6344FA7-9CD9-4B72-85F9-144A2B271A8D>

PROCEDURAL HISTORY

Prime Sponsor: N/A

Department/Requester: Transportation and Public Works

This item was forwarded to the Board with a favorable recommendation by the Transportation and Public Works Committee at its May 10, 2018 meeting.

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FISCAL IMPACT

The City of Coral Gables will provide the County with up to \$15,000,000 in city park and mobility impact fees on an as-available basis. No County matching funds will be required. It is estimated that the cost of the entire Underline is \$100,000,000 with approximately 26.4 percent of the project located within the city. The grants funds shall be expended within six years of the date of payment of the impact fee by the owner of the property on which such fee has been paid.

ANALYSIS

This item is requesting Board approval of a MOU between the County and the City of Coral Gables whereby the city will provide the County up to \$15,000,000 to support the Underline Project.

The Underline will connect neighborhoods in Miami by transforming a 10-mile stretch beneath the Metrorail system, between Brickell Station and Dadeland South, into a linear park. This is a public-private partnership between the Miami-Dade Parks and Transit departments and the Friends of the Underline. The Underline will become a world-class urban trail creating a walkable, bikeable corridor to improve connectivity between surrounding neighborhoods with downtown destinations. The New York design consulting firm of James Corner Field Operations has been selected to develop the master plan for the project. The firm is renowned for high-profile projects, such as the New York City High Line, Seattle's Central Waterfront and South Park of London's Queen Elizabeth Olympic Park.

Under the MOU, the City of Coral Gables agrees to make available to the County funds to be used for the design, development and enhancement of the Underline. The City shall provide grant funds to the County on an as-available basis and the County shall be required to deposit such funds in a segregated account. Grant funds shall be expended solely for qualifying expenses incurred in connection with the planning, design, development and enhancement of the Underline within the city's territorial boundaries, i.e., roughly from Douglas Road to Granada Boulevard. Such expenses include the costs of land acquisition and development, expansion of existing surfaces, surveying, site testing, construction, engineering, construction management and inspection, and permitting. Qualifying expenses exclude costs related to the operation and maintenance of the Underline.

The MOU provides the City of Coral Gables the right to conduct audits of all of the County's records pertaining to the grant and to visit any site on which grant funds have been expended in order to conduct monitoring and evaluation activities. Finally, the MOU requires the County to mention in all Underline marketing material that the development of the Underline was supported and funded by the City of Coral Gables on all approved signage within the territorial limits of the city, promotional media and brochures, publications and similar documents or data pertaining to the development of the Underline.

ADDITIONAL INFORMATION

Click on the link below to access the Underline Framework Plan and Demonstration Projects prepared by James Corner Field Operations, the firm selected to create the master plan for the underline.

<https://www.theunderline.org/wp-content/uploads/2016/02/The-Underline-Framework-Plan-and-Demonstration-Projects-screen-revised-0205-2016-FINAL.pdf>

The link below is for the Friends of the Underline website; Friends of the Underline is a nonprofit organization advocating to transform the underutilized land below Miami's Metrorail into a 10-mile neighborhood park, urban trail and canvas for artistic expression to create a safer, healthier, more connected, mobile and engaged community. The Underline will be open to all and serve all with amenities and art that will connect people to place and each other.

<https://www.theunderline.org/>

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Research Notes**

**Item No. 801
File No. 181273**

Researcher: JFP Reviewer: TD

RESOLUTION RATIFYING ACTION BY 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 THE RECOMMENDATION APPROVING AWARD OF A CONSTRUCTION CONTRACT TO CONSTRUCT A 42-INCH DUCTILE IRON WATER MAIN AND 10-INCH FORCE MAIN BETWEEN THE INTERSECTION OF BISCAYNE BOULEVARD AND NE 5TH STREET TO THE PORT OF MIAMI AND PUMP STATION 9141 REPLACEMENT, CONTRACT NO. S-911 TO DAVID MANCINI & SONS, INC. IN THE TOTAL AMOUNT OF \$20,884,160.89; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE THE PROVISIONS CONTAINED THEREIN

ISSUE/REQUESTED ACTION

Whether the Board should approve the proposed Resolution ratifying action by the County Mayor or his designee, specifically the recommendation approving award of a construction contract to David Mancini & Sons, Inc. in the total amount of \$20,884,160.89 to construct a 42-inch ductile iron water main and 10-inch force main between the intersection of Biscayne Boulevard and NE 5th Street to the Port of Miami and Pump Station 9141 replacement.

APPLICABLE LEGISLATION/POLICY

Section 2-8.2.12 of the Code of Miami-Dade County outlines the Miami-Dade Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance, specifying that any act undertaken pursuant to the authority set forth in the 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.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.2.12MIDEWASEDECODECAIMPRACOR

Ordinance No. 14-77, adopted by the Board on September 3, 2014, authorizes the County Mayor or County Mayor's designee to award contracts for funded capital projects and related goods and services, and to accelerate the approval of WASD's Consent Decree projects as well as projects identified in WASD Multi-Year Capital Plan's Capital Improvement Program by not requiring prior Board approval but being subject to Board ratification.

<http://intra/gia/matter.asp?matter=141981&file=false&yearFolder=Y2014>

PROCEDURAL HISTORY

Prime Sponsor: None

Requester/Department: Water and Sewer Department

The proposed Resolution has no procedural history.

FISCAL IMPACT

This item requests ratification of a contract in the total amount of \$20,884,160.89, with a contract term of 363 days (including a contingency period of 33 days). The operations cost impact is \$100,000 per year and the maintenance cost impact is \$360,000 per year. Both the operations and maintenance costs are to be funded by WASD Operating Revenues.

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ANALYSIS

Approval of the proposed Resolution would ratify action recommending approval of an award of a construction contract to David Mancini & Sons, Inc. in the total amount of \$20,884,160.89 to construct a 42-inch ductile iron water main and 10-inch force main between the intersection of Biscayne Boulevard and NE 5th Street to the Port of Miami and Pump Station 9141 replacement.

This project is one of a series of projects that are being processed under Miami-Dade Water and Sewer Department Consent Decree and Capital Improvement Programs Acceleration Ordinance, Section 2-8.2.12 of the Code of Miami-Dade County. Pursuant to the WASD Acceleration Ordinance, the County Mayor or his designee shall, subject to funding limitations set forth in the Multi-Year Capital Plan approved by the Board of County Commissioners, be authorized to accelerate the processing, procurement, and award of any contract and agreement of the County for Consent Decree Work and other required Capital Improvements contracts to maintain the operational effectiveness and capacity of the water and sewer systems, including any contracts related to the purchase of goods and services, construction and professional services. The Miami-Dade Water and Sewer Department Consent Decree Work consists of all those projects needed to comply with the Consent Decree approved on April 9, 2014 by the United States District Court for the Southern District of Florida. The Miami-Dade Water and Sewer Department Capital Improvement Program consists of only those projects approved by the Board of County Commissioners as part of the Multi-Year Capital Plan.

The project that is the subject of the proposed Resolution is situated in District 5. The purpose of the project is to increase the capacity of water transmission lines and wastewater infrastructure required in accordance with the Port's 2035 Master Plan. The project also accommodates proposed terminals for Royal Caribbean Cruise Line. The improvements included in the project are deemed necessary as it has been determined that utilities currently serving PortMiami are inadequate to support proposed expansions.

WASD received eight proposals in response to an advertisement for a competitive solicitation for Contract No. S-911, with the three lowest priced bids as follows:

- David Mancini & Sons, Inc. (DMSI): \$20,884,160.89
- Ric-Man Construction Florida, Inc.: \$21,047,126.61
- Lanzo Construction Co., Florida: \$21,416,640.00

The two lowest bids, David Mancini & Sons, Inc. and Ric-Man Construction Florida, Inc., were submitted to the ISD's Division of Small Business Development for a Compliance Review. Both proposers were determined to be in compliance with the Implementing Order for the Small Business Enterprise Construction Program.

The project's Engineer of Record advised that DMSI meets the minimum experience qualifications and thus recommended award to them. In addition, ISD's Capital Improvements Information System database contains five evaluations for DMSI from 2015-2016 with an average overall rating of 3.8 out of a possible 4 points, indicating superior past performance.

Thus, DMSI, the lowest responsible, responsive bidder, is recommended for the project award. DMSI's base bid is approximately 2.73% below the engineer's base estimate of \$18,563,300.00.

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The table below provides details of the contract award amount.

Description	Amount
Base Contract Amount	\$18,056,779.55
Contingency Allowance	\$1,805,677.95
Dedicated Allowances for Permit Fees	\$541,703.39
Dedicated Allowances for Off-Duty Police (Maintenance of Traffic)	\$30,000.00
Dedicated Allowance for Unforeseen Utility Relocations, if Ordered by the Engineer	\$450,000.00
Total:	\$20,884,160.89

ADDITIONAL INFORMATION

On December 2010, the Board adopted the PortMiami 2035 Master Plan, which included a total of eight cruise passenger terminals on its north channel comprised of six existing, plus two new terminals at PortMiami.

<https://www.miamidade.gov/portmiami/master-plan.asp>

According to the Florida Department of State Division of Corporations website (Sunbiz.org), David Mancini & Sons, Inc., has an active status as a Florida Profit Corporation and first filed and registered on 10/20/2010. The principal address is 3401 North Miami Ave, Suite 213/214, Miami, FL 33127. Its registered agent is David A. Mancini, 2601 Wiles Road, Pompano Beach, FL 33073.

<http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=DAVIDMANCINISONS%20P100000860440&aggregateId=domp-p10000086044-8aa80fde-8da8-4333-a731-05be4f83da12&searchTerm=david%20mancini%20and%20sons&listNameOrder=DAVIDMANCINISONS%20P100000860440>

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Research Notes**

**Item No. 10A1
File No. 181305**

Researcher: BM Reviewer: TD

RESOLUTION RESCINDING RESOLUTION NO. R-800-16 AND APPROVING, FOR PURPOSES OF SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE DEBT OBLIGATIONS BY THE HOUSING FINANCE AUTHORITY OF MIAMI-DADE COUNTY (FLORIDA), IN ONE OR MORE SERIES, IN AN AMOUNT NOT TO EXCEED \$38,500,000.00, THE PROCEEDS OF WHICH WILL BE LOANED TO GOLDEN LAKES PARTNERS LTD TO FINANCE THE DEVELOPMENT OF A MULTIFAMILY HOUSING RENTAL PROJECT TO BE KNOWN AS GARDEN WALK APARTMENTS

ISSUE/REQUESTED ACTION

Whether the Board should authorize the Housing Finance Authority of Miami-Dade County (HFA) to issue Multifamily Mortgage Revenue Bonds (Bonds) in one or more series in an aggregate principal amount not to exceed \$38,500,000 for the acquisition and rehabilitation of Golden Lakes Apartments (Project).

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Section 159, Part VI, relates to volume ceiling on multifamily housing bonds.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0159/Sections/0159.804.html

Resolution no. R-800-16, adopted by the Board on September 7, 2016, approved the issuance of the Debt to finance the project, as required by the Code.

<http://intra/gia/legistarfiles/MinMatters/Y2016/161887min.pdf>

Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), relates to public hearing for the purpose of considering the issuance of public debt.

<https://www.congress.gov/bill/97th-congress/house-bill/4961>

Section 147(f) of the Internal Revenue Code of 1986, requires a public hearing following a reasonable public notice as it relates to private activity bonds.

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/pdf/USCODE-2011-title26-subtitleA-chap1-subchapB-partIV-subpartA-sec147.pdf>

PROCEDURAL HISTORY

Prime Sponsor: NONE

Requester/Department: Housing Finance Authority

On August 28, 2017, HFA passed Resolution No. HFA 2017-14 providing its initial approval of the issuance of the Debt in order to provide a loan to the Borrower for the financing of the Projects.

FISCAL IMPACT

The principal and interest on the Bonds shall not constitute a debt, liability or a general obligation of the HFA, County, the State of Florida or any political subdivision of each, but shall be the responsibility of the owner of the Project.

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Research Notes**

ANALYSIS

This item proposes to authorize the HFA to issue Multifamily Mortgage Revenue Bonds in the principal amount not to exceed \$38,550,000 for the low/low and moderate Project.

The Multifamily Mortgage Revenue Bond program (MMRB) uses both taxable and tax-exempt bonds to provide below market-rate loans to non-profit and for-profit developers who set aside a certain percentage of their apartment units for low income families.

The project, Golden Lakes Apartments, is located in District 2, represented by Commissioner Jean Monestime, at 1200 NW 155th Lane, Miami, FL. Resolution no. R-800-16, adopted by the Board on September 7, 2016, approved the issuance of the Debt to finance the project, as required by the Code. The intent of the resolution is the acquisition and rehabilitation of the Golden Lakes Apartments which consists of approximately 424 affordable housing units.

The table below summarized the rental cost for the very low/low and moderate units available for rent at Golden Lakes Apartments.

Number of Bedrooms	Number of Bathroom	Unit Size	Unit Cost
1 Bed	1 Bath	658 Sq Ft	\$894
2 BRs	1 Bath	772 Sq Ft	\$1,061
3 BRs	2 Baths	1,041 Sq Ft	\$1,212

The HFA conducted a public hearing for the purpose of considering the issuance of the Debt by the HFA in conformity with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and Section 147(f) of the Internal Revenue Code of 1986, as amended, and such public hearing disclosed no reason why the Debt should not be issued. Per the HFA, the developers requesting the loans go through a full credit review and underwriting process, to assure that the developer is financially capable of accepting the loan, and that it is financially viable, before the project is presented before the Board. Approval of this item will provide for continued affordable housing and prolong the life of the apartment building as this is a rehabilitation project.

The Projects will provide approximately 424 affordable housing units, comprised of 16-buildings on approximately a 18.53 acre site, of rental housing to be occupied, in part, by persons or families of low, moderate or middle income and will be owned by the Borrower (in this case Golden Lakes Partners, LTD, a Florida Limited Partnership as stated in the item).

Information on HFA

HFA provides low interest rate loans to developers, through HFA's Multifamily Mortgage Revenue Bond (MMRB) Program, who produce new or rehabilitated housing units for low, moderate and middle income families who desire to rent in Miami-Dade County.

The MMRB Program encourages the acquisition, construction, renovation and rehabilitation of multifamily projects, and provides bond financing for qualified multifamily rental housing developments which meet the goals of the HFA and comply with applicable federal and state laws.

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The HFA's MMRB program can be combined with multiple sources of funds which must be coordinated by the Developer.

Below is a map illustrating the location of the Golden Lakes Apartments.



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Research Notes**

**Item No. 10A2
File No. 181306**

Researcher: BM Reviewer: TD

RESOLUTION APPROVING, FOR PURPOSES OF SECTION 147(F) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE DEBT OBLIGATIONS BY THE HOUSING FINANCE AUTHORITY OF MIAMI-DADE COUNTY (FLORIDA), IN ONE OR MORE SERIES, IN AN AMOUNT NOT TO EXCEED \$14,000,000.00, THE PROCEEDS OF WHICH WILL BE LOANED TO WESTVIEW GARDEN PRESERVATION, LTD., TO FINANCE THE ACQUISITION AND REHABILITATION OF A MULTIFAMILY HOUSING RENTAL PROJECT KNOWN AS WESTVIEW GARDEN APARTMENTS

ISSUE/REQUESTED ACTION

Whether the Board should authorize the Housing Finance Authority of Miami-Dade County (HFA) to issue Multifamily Mortgage Revenue Bonds (Bonds) in one or more series in an aggregate principal amount not to exceed \$14,000,000 for the acquisition and rehabilitation of Westview Garden Apartments (Project).

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Section 159, Part VI, relates to volume ceiling on multifamily housing bonds.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0159/Sections/0159.804.html

Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), relates to public hearing for the purpose of considering the issuance of public debt.

<https://www.congress.gov/bill/97th-congress/house-bill/4961>

Section 147(f) of the Internal Revenue Code of 1986, requires a public hearing following a reasonable public notice as it relates to private activity bonds.

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/pdf/USCODE-2011-title26-subtitleA-chap1-subchapB-partIV-subpartA-sec147.pdf>

PROCEDURAL HISTORY

Prime Sponsor: NONE

Requester/Department: Housing Finance Authority

This item has no procedural history.

FISCAL IMPACT

The principal and interest on the Bonds shall not constitute a debt, liability or a general obligation of the HFA, County, the State of Florida or any political subdivision of each, but shall be the responsibility of the owner of the Project.

ANALYSIS

This item proposes to authorize the HFA to issue Multifamily Mortgage Revenue Bonds in the principal amount not to exceed \$14,000,000 for the Project.

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The Multifamily Mortgage Revenue Bond program (MMRB) uses both taxable and tax-exempt bonds to provide below market-rate loans to non-profit and for-profit developers who set aside a certain percentage of their apartment units for low income families.

The project, Westview Gardens, is located in District 2, represented by Commissioner Jean Monestime, at 2300 NW 119th Street, Miami, FL. The intent of the resolution is the acquisition and rehabilitation of the Westview Garden Apartments. It provides residents with approximately 160 affordable housing units.

The table below summarized the rental cost for the very low/low and moderate units available for rent at Westview Garden Apartments.

Number of Bedrooms	Number of Bathroom	Unit Size	Unit Cost
1 Bed	1 Bath	600 Sq Ft	\$773
2 BRs	2 Baths	800 Sq Ft	\$907

The HFA conducted a public hearing for the purpose of considering the issuance of the Debt by the HFA in conformity with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and Section 147(f) of the Internal Revenue Code of 1986, as amended, and such public hearing disclosed no reason why the Debt should not be issued. Per the HFA, the developers requesting the loans go through a full credit review and underwriting process, to assure that the developer is financially capable of accepting the loan, and that it is financially viable, before the project is presented before the Board. Approval of this item will provide for continued affordable housing and prolong the life of the apartment building as this is a rehabilitation project.

The Projects will provide approximately 160 units, on approximately a 9.38 acre site, of rental housing to be occupied, in part, by persons or families of low, moderate or middle income and will be owned by the Borrower (in this case Westview Garden Apartments, LTD, a Florida Limited Partnership as stated in the item).

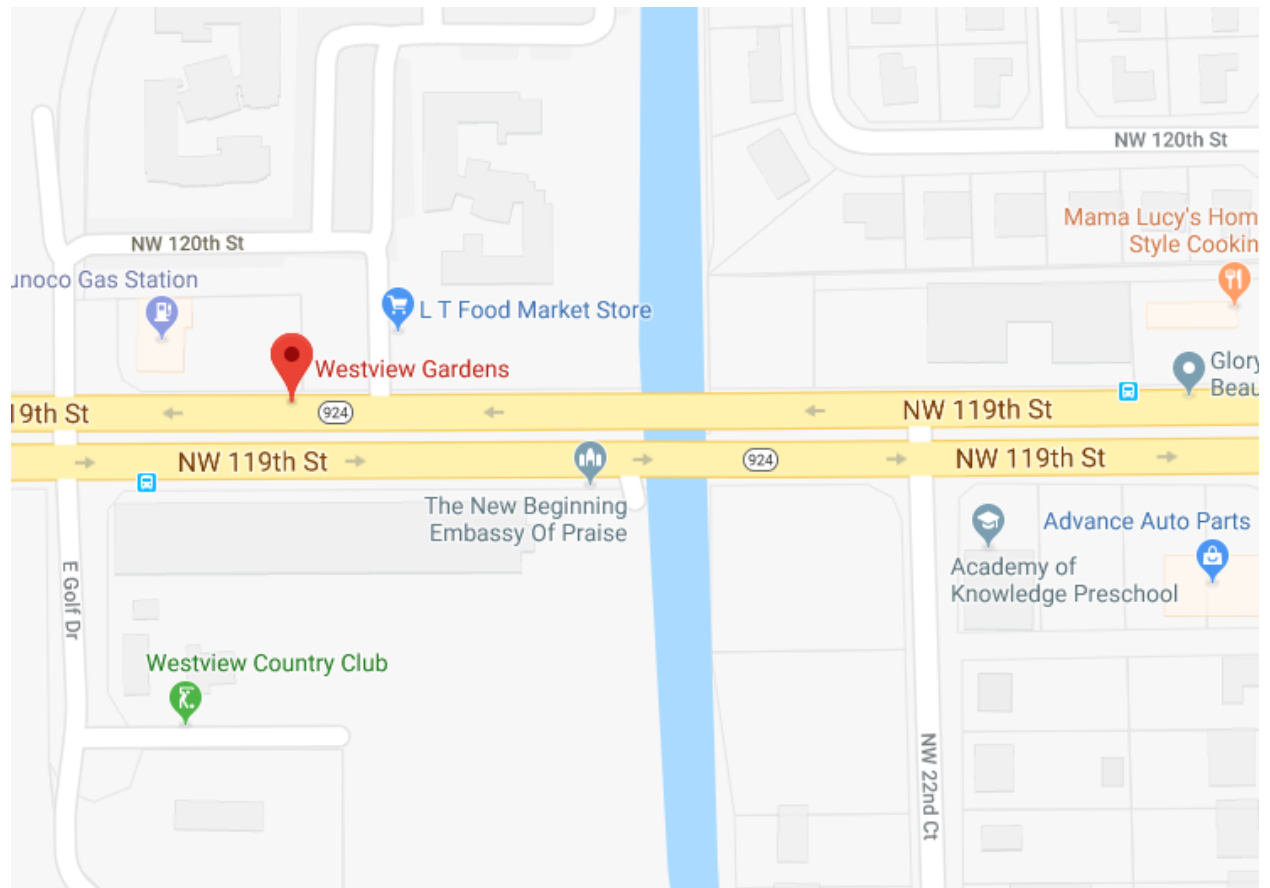
Information on HFA

HFA provides low interest rate loans to developers, through HFA's Multifamily Mortgage Revenue Bond (MMRB) Program, who produce new or rehabilitated housing units for low, moderate and middle income families who desire to rent in Miami-Dade County.

The MMRB Program encourages the acquisition, construction, renovation and rehabilitation of multifamily projects, and provides bond financing for qualified multifamily rental housing developments which meet the goals of the HFA and comply with applicable federal and state laws.

The HFA's MMRB program can be combined with multiple sources of funds which must be coordinated by the Developer.

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**Item No. 10A3
File No. 181309**

Researcher: BM Reviewer: TD

RESOLUTION RESCINDING RESOLUTION NO. R-521-17 AND APPROVING FOR PURPOSES OF SECTION 147(F) OF INTERNAL REVENUE CODE OF 1986, AS AMENDED, ISSUANCE BY THE HOUSING FINANCE AUTHORITY OF MIAMI-DADE COUNTY (FLORIDA) OF ITS SINGLE FAMILY MORTGAGE REVENUE BONDS AND NOTES IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$250,000,000.00 FOR THE PURPOSE OF PROVIDING FUNDS FOR THE PURCHASE OF QUALIFYING MORTGAGE LOANS ORIGINATED BY PARTICIPATING LENDING INSTITUTIONS TO FINANCE THE PURCHASE OR REHABILITATION OF NEW OR EXISTING OWNER-OCCUPIED SINGLE FAMILY RESIDENCES SITUATED IN MIAMI-DADE COUNTY, FLORIDA BY PERSONS OR FAMILIES OF LOW, MODERATE OR MIDDLE INCOME, OR TO PURCHASE SECURITIES FROM A MASTER SERVICER EVIDENCING INTERESTS IN OR BACKED BY A POOL OF SUCH MORTGAGE LOANS, INCLUDING, WITHOUT LIMITATION, SECURITIES ISSUED OR GUARANTEED BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, FANNIE MAE AND FREDDIE MAC (THE "PROJECT"), PROVIDING SHORT-TERM INTERIM FINANCING FOR THE PROJECT IN ANTICIPATION OF THE ISSUANCE OF LONG-TERM BONDS THAT, BY REFUNDING SUCH INTERIM FINANCING WILL MAKE FUNDS AVAILABLE FOR THE FINANCING OF THE PROJECT AND THE PAYMENT OF CERTAIN BOND ISSUANCE COSTS

ISSUE/REQUESTED ACTION

Whether the Board should rescind resolution No. R-521-17, and authorizes the Housing Finance Authority (HFA) to issue Single Family Mortgage Revenue Bonds (Bonds) in one (1) or more series in an aggregate principal amount not to exceed \$250,000,000.00 as part of the HFA's single family mortgage loan program, which is used to finance the purchase of single family residences to be occupied primarily by first time home buyers of low-, moderate- and middle-income within Miami-Dade County.

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Section 159, Part VI, relates to volume ceiling on single family housing bonds.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0159/Sections/0159.804.html

Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), relates to public hearing for the purpose of considering the issuance of public debt.

<https://www.congress.gov/bill/97th-congress/house-bill/4961>

Section 147(f) of the Internal Revenue Code of 1986, requires a public hearing following a reasonable public notice as it relates to private activity bonds.

<https://www.gpo.gov/fdsys/pkg/USCODE-2011-title26/pdf/USCODE-2011-title26-subtitleA-chap1-subchapB-partIV-subpartA-sec147.pdf>

R-521-17, adopted by the Board on May 2, 2017, approved the issuance by the HFA of its Single Family Mortgage Revenue Bonds.

<http://intra/gia/legistarfiles/MinMatters/Y2017/170918min.pdf>

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PROCEDURAL HISTORY

Prime Sponsor: NONE

Requester/Department: Housing Finance Authority

FISCAL IMPACT

The principal and interest on the Bonds shall not constitute a debt, liability or a general obligation of the HFA, County, the State of Florida or any political subdivision of each, but shall be the responsibility of the owner of the Project. Neither the County nor the Authority has any liability with respect to the repayment of the Bonds. The developer/owner of the Project is solely responsible for repayment of principal and interest on the Bonds.

ANALYSIS

This item proposes to authorize the HFA to issue its Single Family Mortgage Revenue Bonds in the principal amount not to exceed \$250,000,000 to finance the purchase of single family residences to be occupied primarily by first time home buyers of low-, moderate- and middle-income within Miami-Dade County.

Mortgage Revenue Bonds (MRBs) are tax-exempt bonds that state and local governments issue through HFAs to help fund below-market-interest-rate mortgages for first-time qualifying homebuyers. Eligible borrowers are first-time homebuyers with low to moderate incomes below 115 percent of median family income.

The HFA conducted a public hearing for the purpose of considering the issuance of the Debt by the HFA in conformity with the requirements of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and Section 147(f) of the Internal Revenue Code of 1986, as amended, and such public hearing disclosed no reason why the Debt should not be issued.

TEFRA Resolution is only valid for one year after the adoption thereof unless an initial series of the Bonds is issued and has expired or will expire prior to the issuance of the Bonds. Resolution No. R-521-17, adopted by the Board on May 2, 2017, has expired prior to the issuance of the Bonds.

The Office of the Commission Auditor (OCA) made the following inquiries of the HFA regarding the Single Family Mortgage Revenue Bonds:

1. How much funding of the \$250,000,000 bond programs has been awarded to County residents by year for the past five years?
2. How many County residents have benefits from the award of the bond program in obtaining home loans by year for the past five years?
3. What rate of default, if any, does the program show?

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**Item No. 11A2
File No. 181297**

Researcher: MF Reviewer: TD

RESOLUTION APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE CITY OF MIAMI IN CONNECTION WITH THE PROPOSED EXPANSION OF THE RAPID TRANSIT ZONE TO INCLUDE PRIVATE PROPERTY ADJACENT TO THE BRICKELL METRORAIL STATION; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE THE AGREEMENT IN SUBSTANTIALLY THE FORM ATTACHED AND TO EXERCISE THE PROVISIONS CONTAINED THEREIN [SEE ORIGINAL ITEM UNDER FILE NO. 180922; SEE AGENDA ITEM NO. 7A]

ISSUE/REQUESTED ACTION

Whether the Board should approve an Interlocal Agreement between Miami-Dade County (County) and the City of Miami (City) in connection with the proposed expansion of the Rapid Transit Zone (RTZ) to include private property adjacent to the Brickell Metrorail Station.

APPLICABLE LEGISLATION/POLICY

Home Rule Charter of Miami-Dade County, Section 1.01(A) (17), authorizes the County to enter into a contract with other governmental units for the performance by one unit of government on behalf of the other.

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

Miami-Dade County Code, Section 33C, establishes and governs the Rapid Transit System for the Metrorail Transit System.

<https://library.municode.com/fl/miami> -

[dade county/codes/code of ordinances?nodeId=PTIICOOR_CH33CFIIDRATRSYEVZO](https://library.municode.com/fl/miami/codes/code_of_ordinances?nodeId=PTIICOOR_CH33CFIIDRATRSYEVZO)

Miami-Dade County Code, Section 33-314, addresses direct applications and appeals to the County Commission, delineating which applications are within the jurisdiction of the County Commission.

<https://library.municode.com/fl/miami> -

[dade county/codes/code of ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIZOPR_S33-314DIAPAPCOCO](https://library.municode.com/fl/miami/codes/code_of_ordinances?nodeId=PTIICOOR_CH33ZO_ARTXXXVIZOPR_S33-314DIAPAPCOCO)

Ordinance No. 18-8, adopted by the Board on February 6, 2018 related to Tax Increment Financing and Transportation Infrastructure Development; created Article CLIX of Chapter 2 of the Code of Miami-Dade County; created the Miami-Dade County Transportation Infrastructure Improvement District; provided that the District shall be within a certain distance of proposed alignments of the SMART Plan Rapid Transit Corridors; established a Trust Fund; defined SMART Plan Rapid Transit Corridor projects eligible for Trust Fund revenues; limited the use of Trust Fund revenues to the development, construction, maintenance, and operation of SMART Plan Rapid Transit Corridor projects; and provided for the funding of the Trust Fund from tax increment revenues within the District.

<http://intra/gia/matter.asp?matter=180354&file=false&yearFolder=Y2018>

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PROCEDURAL HISTORY

Prime Sponsor: Chairman Esteban L. Bovo, District 13

The proposed resolution was considered at the Transportation and Public Works Committee meeting on May 10, 2018.

Pursuant to Commissioner Moss' request for clarification regarding the item, Assistant County Attorney Dennis Kerbel explained that the item seeks to expand the Rapid Transit Zone around the Brickell station to encompass private property that had previously been under the City of Miami's zoning jurisdiction.

Responding to Commissioner Moss' question as to whether this expansion was pending the City of Miami's approval, Assistant County Attorney Kerbel noted he anticipated that the City of Miami would approve the Interlocal Agreement before the item was heard by the full Board.

Responding to Commissioner Heyman's question regarding who would cover the costs for this item, Ms. Alice Bravo, Director, Transportation and Public Works Department, explained that the item would create a joint permitting process that would allow the properties to have a higher density, because they were located closer to the train station. Therefore, she noted, there would be no costs associated with the implementation of this item.

In response to Commissioner Heyman's question regarding the annual ridership of the Metromover, Ms. Bravo noted the average was 35,000 riders per day.

Commissioner Heyman pointed out that the City of Miami would benefit from having higher density properties located close to the train station, and would enjoy greater revenues through real estate property taxes; yet, the County was struggling with unfunded needs for the transportation system, including maintenance and operating costs for the Metromover. She lamented that the City of Miami was benefiting from the County's transportation system, but was not contributing towards its costs. Commissioner Heyman requested that Ms. Bravo prepare a study on which other cities in the country offered a similar system that was completely free for the entire ridership. She suggested that the voters be asked whether they wished to continue subsidizing the Metromover.

Commissioner Moss noted the Administration had indicated that it would be very expensive for the County to implement fare boxes for the Metromover. He inquired whether increasing the density around the Brickell station was part of the Tax Increment Financing (TIF) and Transportation Infrastructure Plan.

Assistant County Attorney Kerbel noted the item would increase density around the Brickell station, and in that sense it would further the TIF goals.

Ms. Bravo clarified that the TIF boundaries included the existing Metrorail and the six SMART Plan Rapid Transit Corridors.

The proposed resolution was forwarded to the BCC with a favorable recommendation, with committee amendments to strike the words "in perpetuity" on handwritten page 8, in the third line of Section 6, and to replace them with the words "at the City's sole discretion".

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FISCAL IMPACT

The Interlocal Agreement for development of property surrounding Brickell Metrorail Station (The agreement) states that the County and City agree to allocate the payment of development and permitting fees as follows:

- The County will collect from the City of Miami and Southside Place, LLC, its parents, affiliates, and successors (Owners) all fees related to regulatory reviews and approvals and construction permits.
- The City will collect from the Owner, all impact fees payable, and any fees for developments of regional impact fees, if any, associated with the development and operation of a City of Miami Fire Station, public-private parking garage, and mixed-use center(The Project).
- Additional impact fees, if any, associated with the Project shall be collected from the Owner by the City and the County in accordance with their respective impact fee ordinance.

ANALYSIS

The Miami-Dade County Home Rule Charter grants to the County the power to carry on a central metropolitan government and to provide rail facilities and public transportation systems. The Board has found that the coordinated review and analysis of mass transit facilities is necessary to carry on a central metropolitan government in Miami-Dade County; and that coordinated review and analysis of the mass transit system is most effectively carried on under a uniform plan of regulation applicable to the County as a whole.

The proposed resolution seeks Board approval of an agreement between Miami-Dade County and the City of Miami as it relates to the proposed expansion of the RTZ to include private property adjacent to the Brickell Metrorail Station. Furthermore, the City of Miami wishes to transfer to the County all zoning and permitting authority for the development of this property.

Chapter 33C of the Code of Miami-Dade County establishes the RTZ and grants exclusive jurisdiction to the County for purposes of building and zoning approvals, water and sewer installations, environmental compliance, street maintenance, and utility regulation for all property located within the RTZ. It also provides for municipal participation in the design, review, zoning, and development process through the Rapid Transit Development Impact Committee, which includes representation from the municipality in which the Project is located. Under the RTZ, the properties would be developed pursuant to the same regulations that govern the All Aboard Florida's Brightline site at Government Center.

The Interlocal Agreement between the County and the City of Miami states that the Project is of Countywide and regional importance and will bring substantial public health and safety benefits to the residents of the City, economic and quality-of-life benefits to the residents of the County and the City by increasing mobility to and from and throughout the City and the County, and reducing area traffic congestion and pollution as well as providing improved public safety for this area of the City.

This agreement will remain in effect for 30 years, and thereafter automatically renew for successive 10-year terms unless terminated by mutual agreement of the County and the City, as approved by majority vote of their respective governing bodies.

The County will exercise its jurisdiction over the Project in a manner that addresses the transportation needs of counties and urban centers throughout the State of Florida and that is consistent with, and supports the City's

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commitment to principles of urban planning, including responding to the existing conditions of the City, its downtown corridor, and its natural features, infrastructure, and buildings.

The City agrees and reconfirms that its previous acknowledgment of the RTZ and the requirement that development within the RTZ conform with applicable provisions of Chapter 33C, as amended, remains in full force and effect.

The City-owned Southside Park is located within the boundaries of the Subzone, and County and City agree that Southside Park shall remain as a park in perpetuity.

ADDITIONAL INFORMATION

Palm Beach Post article on All Aboard Florida's Brightline.

<http://projects.mypalmbeachpost.com/all-aboard/>

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**Item No. 11A6
File No. 181082**

Researcher: MF Reviewer: TD

RESOLUTION DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO REQUIRE AS A CONDITION OF RECEIPT OF STATE HOUSING INITIATIVE PARTNERSHIP, DOCUMENTARY STAMP SURTAX, HOME INVESTMENT PARTNERSHIPS, COMMUNITY DEVELOPMENT BLOCK GRANT, BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAMS, AND OTHER AFFORDABLE HOUSING FUNDS FOR ELDERLY HOUSING, THAT ALL DEVELOPERS, BORROWERS, OR GRANTEES OF SUCH FUNDS HAVE A NATURAL DISASTER PLAN AND MEET OTHER REQUIREMENTS SET FORTH HEREIN; REQUIRING THAT THE COUNTY'S REQUEST FOR APPLICATIONS, LOAN FUNDING AGREEMENTS OR GRANT AGREEMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND/OR REHABILITATING AFFORDABLE ELDERLY HOUSING SHALL CONTAIN PROVISIONS REQUIRING SUCH NATURAL DISASTER PLAN; URGING ALL DEVELOPERS, BORROWERS OR GRANTEES WHO HAVE RECEIVED FUNDS FROM SUCH PROGRAMS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND/OR REHABILITATING AFFORDABLE ELDERLY HOUSING PRIOR TO THE EFFECTIVE DATE OF THIS RESOLUTION TO IMPLEMENT SOME OR ALL OF THE REQUIREMENTS SET FORTH HEREIN; CREATING EXCEPTIONS; DIRECTING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO POST OR OTHERWISE MAKE AVAILABLE THIS RESOLUTION; AND REQUIRING A REPORT

ISSUE/REQUESTED ACTION

Whether the Board should direct the County Mayor or the County Mayor's designee to require, as a condition of receipt of State Housing Initiatives Partnership, Documentary Stamp Surtax, Home Investment Partnerships, Community Development Block Grant, Building Better Communities General Obligation Bond Programs, and other affordable housing funds for elderly housing, that all developers, borrowers, or grantees of such funds have a natural disaster plan and meet other requirements set forth in the proposed resolution.

Whether the Board should require that the County's request for applications, loan funding agreements or grant agreements for the purpose of acquiring, constructing and/or rehabilitating affordable elderly housing shall contain provisions requiring such natural disaster plan.

Whether the Board should urge all developers, borrowers or grantees who have received funds from such programs for the purpose of acquiring, constructing and/or rehabilitating affordable elderly housing prior to the effective date of this resolution to implement some or all of the requirements set forth in the proposed resolution.

Whether the Board should direct the County Mayor or the County Mayor's designee to post or otherwise make this resolution available on the County's website, including but not limited to the website maintained for the Miami-Dade Public Housing and Community Development Department; and

Whether the Board should direct the County Mayor or the County Mayor's designee to provide a written report detailing each developer, borrower or grantee's compliance with this resolution, within five years of the effective date of this resolution, and every five year thereafter.

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APPLICABLE LEGISLATION/POLICY

Florida Statutes, Section 201.02, governs taxes on deeds and other instruments relating to real property or interests in real property.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0201/Sections/0201.02.html

Florida Statutes, Section 201.031 governs discretionary surtax; administration and collection; Housing Assistance Loan Trust Fund; reporting requirements.

http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0200-0299/0201/Sections/0201.031.html

Ordinance No. 14-65, adopted by the Board on July 1, 2014, relates to zoning and other land development regulations.

<http://intra/gia/matter.asp?matter=140686&file=true&yearFolder=Y2014>

PROCEDURAL HISTORY

Prime Sponsor: Audrey M. Edmonson, District 3

The proposed resolution was considered at the Housing and Social Services Committee meeting on May 7, 2018.

Chairwoman Edmonson noted she worked with all of the affordable housing developers and staff of the Public Housing and Community Development Department on the proposed resolution; and everyone was pleased with the item.

Commissioner Levine Cava thanked Chairwoman Edmonson for putting forth the item, which proved that governments were not solely responsible for resilience, as it was a combined effort of the entire community. She commended the community groups that were very active in highlighting the community's needs, and were developing a coordinated community-based resiliency plan.

The proposed resolution was forwarded to the BCC with a favorable recommendation.

FISCAL IMPACT

No Fiscal Impact Statement was attached to the proposed resolution.

ANALYSIS

The 2017 hurricane season was extremely busy and devastating for the Caribbean region and Florida. In particular, Hurricane Irma resulted in 73 fatalities statewide. Of those fatalities, 14 were elderly patients who resided in a nursing home located in Hollywood, Fl., who died after Hurricane Irma disabled the facility's air conditioning. The Rehabilitation Center at Hollywood Hills failed to evacuate residents from the sweltering heat in the days following the storm, and 14 elderly residents died from complications related to heat exhaustion.

<https://www.cnn.com/2017/10/09/health/florida-irma-nursing-home-deaths-wife/index.html>

Power outages are frequent during hurricanes and storms, and this may lead to disabled generators, which are necessary to power air conditioners and elevators in high rise buildings. This creates an unsafe environment for many vulnerable residents, and traps others on the upper floors. According to researchers from Colorado State University, the 2018 Atlantic hurricane season is forecast to have a slightly higher than historical average number of storms and hurricanes.

<https://weather.com/storms/hurricane/news/2018-04-04-hurricane-season-forecast-atlantic-colorado-state>

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In preparation for the 2018 hurricane season, the proposed resolution seeks to ensure that all residents, especially the most vulnerable, enjoy decent, safe and sanitary housing before, during and after a natural disaster, such as a hurricane. In particular, the proposed resolution:

I. Directs the County Mayor or the County Mayor's designee to require, as a condition of receipt of State Housing Initiatives Partnership, Documentary Stamp Surtax, Home Investment Partnerships, Community Development Block Grant, Building Better Communities General Obligation Bond Programs, and other affordable housing funds for elderly housing, that all developers, borrowers, or grantees of such funds have a natural disaster plan and meet other requirements set forth in the proposed resolution.

II. Requires that the County's request for applications, loan funding agreements or grant agreements for the purpose of acquiring, constructing and/or rehabilitating affordable elderly housing contain provisions require all developers, borrowers or grantees of such funds to provide the following:

- a) A written natural disaster plan approved by the County Mayor or the County Mayor's designee for the affordable housing development. Such natural disaster plan shall be updated annually, be made available to the residents and first responders, and include at a minimum the following information:
 1. An evacuation plan for all residents of the affordable housing development;
 2. A contingency plan in the event the generators required herein are not operational before or after a natural disaster;
 3. Steps to be taken in order to identify all residents who evacuate from or choose to remain in an affordable housing development before and after a natural disaster;
 4. A refueling plan for generators;
 5. A communication plan between the developer, borrower or grantee and their personnel before, during and after a natural disaster; and
 6. Any other requirements that the County Mayor or the County Mayor's designee, at their sole discretion, determines to be necessary for inclusion in the natural disaster plan.
- b) A kitchen on the first, second or third floor of the building that can be used to cook food for the residents after a natural disaster;
- c) A community room on the first, second or third floor of the development that has air conditioning where residents can go during and after a natural disaster;
- d) A kitchen and/or community room on the first, second or third floor of the development that has water supplied by a pump connected to a generator during and after a natural disaster;
- e) A minimum of one generator to operate the lights, air conditioner and other appliances in a community room and kitchen after a natural disaster and throughout the duration of a power outage. Such generators shall be maintained in good working order and shall be inspected before and after a natural disaster;
- f) A minimum of one trained personnel on site at the affordable housing development during and after the storm. This person must receive disaster training based on the Medicaid guidelines. Such training can be provided, at no cost to the County, by a County department designated by the County Mayor or the County Mayor's designee. Any cost associated with such training shall be borne solely by the developer, borrower, or

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grantee;

g) A minimum of one trained personnel or volunteer, which may include a resident, on-site at the affordable housing development to provide assistance after a natural disaster;

h) Working contact telephone numbers, including at least one land telephone line and one cellular telephone, that shall be provided to each resident and which shall be made available to such residents before, during, and after a natural disaster. Such telephone numbers shall be posted in common areas, including but not limited to community rooms and management offices; and

i) A list of community agencies furnished by the County that can provide services before and after a natural disaster, which shall be prominently posted in administrative offices and the common areas.

III. Urges all developers, borrowers or grantees who have received Affordable Housing Program Funds for the purpose of acquiring, constructing and/or rehabilitating affordable elderly housing prior to the effective date of this resolution to implement some or all of the requirements set forth in the proposed resolution.

IV. Directs the County Mayor or the County Mayor's designee to post or otherwise make this resolution available on the County's website, including but not limited to the website maintained for the Miami-Dade Public Housing and Community Development Department; and

V. Directs the County Mayor or the County Mayor's designee to provide a written report detailing each developer, borrower or grantee's compliance with this resolution, within five years of the effective date of this resolution, and every five year thereafter. The completed reports shall be placed on an agenda of this Board pursuant to Ordinance No. 14-65.

The proposed resolution also provides the following exemptions:

1. All affordable housing developed in accordance with the County's Infill Housing Initiative Program shall be exempt from all requirements of this resolution;
2. All County-owned public housing and other affordable housing sites, including but not limited to those developed or rehabilitated in accordance with a mixed-finance development concept authorized by the United States Department of Housing and Urban Development shall be exempt from all requirements of this resolution;
3. All affordable housing sites with less than 40 units shall be exempt from the requirements set forth in Section 3, subsections (b) and (c) of this resolution; provided however, the developers, borrowers or grantees of such affordable housing sites shall include in their natural disaster plan alternative plans acceptable to the County Mayor or the County Mayor's designee to address the needs of their residents; and
4. All elderly affordable housing developments located in a mandatory evacuation area shall not be required to have any personnel on-site during a natural disaster.

ADDITIONAL INFORMATION

The State Housing Initiatives Partnerships (SHIP) Program provides funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multi-family housing. The program was designed to serve very low, low and moderate income families.

<http://www.miamidade.gov/housing/ship-program.asp>

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Under Sections 201.02 and 201.031 of the Florida Statutes, certain counties are authorized to levy a surtax on documents that transfer interest in Florida real property. Transfers of interest in single-family residences are exempt from this documentary surtax. In 1984, Miami-Dade County exercised this authority, and established a Housing Assistance Loan Trust Fund, and implemented the Documentary Surtax Program to benefit very low, low and moderate income families.

<http://www.miamidade.gov/housing/documentary-stamp-surtax-program.asp>

The Home Investment Partnerships program is designed to expand the supply of decent and affordable housing, particularly rental housing, for low and very low income individuals; strengthen the abilities of State and local governments to design and implement strategies for achieving adequate supplies of decent, affordable housing; provide both financial and technical assistance to participating jurisdictions, including the development of model programs of affordable housing for very low, and low income families; and expand and strengthen partnerships among all levels of government and private sector in the production and operation of affordable housing.

<http://www.miamidade.gov/housing/home-program.asp>

Eligible activities for Community Development Block Grant (CDBG) funding must meet one or more of the national objectives set by HUD and benefit the low and moderate income persons of Miami-Dade County. CDBG funds are designed to support projects that benefit low and moderate income persons; are integrated in a long-range community strategy; leverage further private and public partnership; and enhance deteriorated residential and business districts.

<http://www.miamidade.gov/housing/community-development.asp>

On November 2, 2004, the voters of Miami-Dade County approved the \$2.9 billion Building Better Communities Bond Program, which allows the County to issue long-term bonds to fund more than 300 neighborhood and regional capital projects to be completed over the next 15 years. For further information please see the link below.

<https://www.miamidade.gov/bondprogram/building-better-communities.asp>

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**Item No. 11A7
File No. 181076**

Researcher: MF Reviewer: TD

RESOLUTION AUTHORIZING CONVEYANCE, PURSUANT TO SECTION 125.379(2), FLORIDA STATUTES, OF FOUR COUNTY-OWNED PROPERTIES TO J.L. BROWN DEVELOPMENT CORPORATION, A FLORIDA CORPORATION, AT A PRICE OF \$10.00, FOR THE PURPOSE OF DEVELOPING SUCH PROPERTIES WITH AFFORDABLE HOUSING TO BE SOLD TO VERY LOW- LOW- OR MODERATE INCOME HOUSEHOLDS IN ACCORDANCE WITH MIAMI-DADE COUNTY'S INFILL HOUSING INITIATIVE PROGRAM; AUTHORIZING THE CHAIRPERSON OR VICE-CHAIRPERSON OF THE BOARD OF COUNTY COMMISSIONERS TO EXECUTE A COUNTY DEED; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO TAKE ALL ACTION NECESSARY TO ENFORCE THE PROVISIONS SET FORTH IN SUCH COUNTY DEED AND TO ENSURE PLACEMENT OF APPROPRIATE SIGNAGE

ISSUE/REQUESTED ACTION

Whether the Board should authorize the conveyance of four County-owned properties to J.L. Brown Development Corporation at a price of \$10.00, for the purpose of developing such properties with affordable housing to be sold to very low, low, or moderate income households in accordance with Miami-Dade County's Infill Housing Initiative Program.

APPLICABLE LEGISLATION/POLICY

Florida Statutes, Section 125.379(1), requires each County to prepare an inventory list at least every three years of all real County properties that are appropriate for use as affordable housing and further allows the governing body of the County to revise the inventory list upon conclusion of a public hearing held before the governing body.

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html

Florida Statutes, Section 125.379(2), prescribes the County's authority as to the County properties identified as affordable housing.

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.379&URL=0100-0199/0125/Sections/0125.379.html

Florida Statutes, Section 125.411, relates to deeds of conveyance of lands.

http://www.leg.state.fl.us/statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=125.411&URL=0100-0199/0125/Sections/0125.411.html

Miami-Dade County Code, Section 2-8.6.5, governs the purchase, sale and lease of real property.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH2AD_ARTIINGE_S2-8.6.5PUSALEREPR

Miami-Dade County Code, Section 17-121, relates to the Infill Housing Initiative Program, whose purpose is to increase the availability of affordable homes for very low, low and moderate income persons, maintain a stock of affordable housing, redevelop urban neighborhoods by eliminating the blight of vacant lots and dilapidated or abandoned properties, to equitably distribute homeownership opportunities within the Infill Target Areas, and generate payment of ad valorem taxes.

https://library.municode.com/fl/miami-dade-county/codes/code-of-ordinances?nodeId=PTIICOOR_CH17HO_ARTVIINHAIN_S17-121TIPU

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Miami-Dade County Implementing Order No. 3-44 establishes the process for the implementation and management of the Infill Housing Initiative Program (Infill Program) for Miami-Dade County, whereby the procedures are established to carry out the goals of the Infill Program.

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/IO3-44.pdf>

Miami-Dade County Administrative Order No. 8-4 states that the authority to sell, lease or otherwise dispose of County-owned real property lies solely with the Board of County Commissioners. Before action is taken on any proposed sale or lease of County-owned real property, unless expressly excluded herein, a recommendation will be requested from the Planning Advisory Board, to indicate whether such proposal is in the public interest and also recommending proper land use classification, if applicable.”

<http://www.miamidade.gov/aopdfdoc/aopdf/pdffiles/AO8-4.pdf>

Resolution No. R-376-11, adopted on May 3, 2011, directs that any resolution authorizing the rehabilitation, improvement or conveyance of County-owned real property appropriate for or to be used as affordable housing shall include detailed information on the property and the County’s investment and future control.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2011/R-376-11.pdf>

Resolution No. R-333-15, adopted April 21, 2015, establishes County policy to require disclosure of market value or market rental in legislative items authorizing the conveyance or lease of County-owned property to promote public disclosure and fiscal responsibility.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2015/R-333-15.pdf>

Resolution No. R-979-17, adopted on November 7, 2017, declared the County properties at issue in the proposed resolution surplus and added such properties to the County’s inventory list of affordable housing sites.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2017/R-979-17.pdf>

Resolution No. R-974-09, adopted on July 21, 2009, directs that any resolution authorizing the execution of instruments creating a County interest in real property shall require such instruments to be recorded in the public records of Miami-Dade County.

<https://www.miamidade.gov/cob/library/Registry/Resolutions/Board-of-County-Commissioners/2009/R-974-09.pdf>

Resolution No. R-380-17, adopted by the Board on April 4, 2017, established the policy requiring the County Mayor to provide written notification to the District Commissioner in which the County-owned property lies no less than four weeks prior to placing any item on the agenda requesting approval of the sale, lease or surplus of County-owned property.

<http://intra/gia/matter.asp?matter=170414&file=true&yearFolder=Y2017>

PROCEDURAL HISTORY

Prime Sponsor: Commissioner Dennis C. Moss, District 9

The proposed resolution was considered at the Housing and Social Services Committee meeting on May 7, 2018; and was forwarded to the BCC with a favorable recommendation.

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FISCAL IMPACT

The proposed resolution will save the County the cost of monitoring the properties and maintaining the lawn, for a total of \$1,769 (for all lots) annually. In addition, the new homes will generate real estate taxes for the County.

ANALYSIS

On April 16, 2018, J.L. Brown Development Corporation (J.L. Brown) submitted an application to Commissioner Moss requesting that the County convey four County-owned vacant properties located in District 9, in order to build affordable housing for sale to very low, low or moderate income households. According to Section 17-121 of the Miami-Dade County Code, "... any County owned parcel or parcels of property identified as appropriate for infill housing may be transferred, sold or otherwise conveyed to a qualified developer through a competitive solicitation established by the County or in accordance with Section 125.379 (2), Florida Statutes, for the development of infill housing". Section 125.379, Florida Statutes, provides that "the properties identified as appropriate for use as affordable housing on the inventory list adopted by the County may be offered for sale ... or may be donated to a non-profit housing organization for the construction of permanent affordable housing".

The proposed resolution to authorize conveyance of said properties to Southeast, at a price of \$10.00, would further the purpose of making affordable housing available to needy households in accordance with the Infill Program.

The purpose of the Infill Housing Program is to increase the availability of affordable homes for very low, low, and moderate income persons and households; maintain a stock of affordable housing; redevelop urban neighborhoods by eliminating the blight of vacant, dilapidated or abandoned properties; equitably distribute homeownership opportunities within the Infill Target Areas, and generate payment of ad valorem taxes. Between January 1, 2017 and December 12, 2017, 27 homes were sold under the Infill Housing Program.

<https://www.miamidade.gov/housing/library/guidelines/infill/infill-housing.pdf>

According to the letter sent by J.L. Brown to Commissioner Moss, the company is requesting to be conveyed the four properties to develop single family homes meeting the criteria set forth within the Infill Program. The 4 lots will be developed into six living units. The homes will include both 3 and 4 bedrooms with 2 baths and a family room. The 3 bedroom unit will be around 1600- 1700 Square feet and the 4 bedroom unit will be around 1800-1900 square feet. The price range for the 4 bedroom will be \$205,000.00 to meet the program guideline. The 3 Bedroom unit will be priced at \$200,000.00. The parcels will be developed within the next 12 to 18 months from the date of the conveyance.

Lot No.	Address	Land Value	Square Footage
30-5019-001-6670	14210 Madison Street	\$61,240	7,810
30-5019-003-1150	10700 SW 151 Street	\$66,960	9,240
30-6007-000-0141	11251 SW 216 Street	\$75,000	9,375
30-6913-000-0521	SW 122 Court (across from 22140 SW 122 Court)	\$35,750	14,157

Pursuant to Administrative Order No. 8-4, Miami-Dade Internal Services Department previously announced availability of the four County properties to all County departments and determined that there was no interest in the said properties.

The four County properties will be conveyed to J.L. Brown, subject to a reverter, on the condition that J.L. Brown develops each of the County properties with affordable housing to be sold to very low, low, or moderate income households within two years of the effective date of the conveyance of the four properties, unless such time is

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extended at the discretion of the Board. If J.L. Brown does not develop the four homes within 24 months, the Board may extend the time limit or exercise its reversionary interest. The main restrictions on the conveyance, as specified in the Deed, are as follows:

- That the properties shall be developed by J.L. Brown as defined by and in accordance with the requirements of the Infill Housing Initiative Program;
- That the properties shall be developed within two years of the recording of the Deed, as evidenced by the issuance of a final Certificate of Occupancy;
- That the dwelling units developed on the properties shall be sold to qualified households, but under no circumstances shall the sales price of the home exceed \$205,000;
- That for any of the properties located within the HOPE IV Target Area, J.L. Brown shall comply with the requirements set forth in Resolution No. R-1416-08, including but not limited to providing former Scott/Carver residents the right of first refusal on all units to be sold within the Target Area;
- That J.L. Brown shall not assign or transfer its interest in the properties in the Deed absent consent of the Miami-Dade County Board of County Commissioners, with the exception of any conveyance to qualified homebuyers;
- J.L. Brown shall require that the qualified household purchasing the eligible home execute and record simultaneously with the Deed of Conveyance from Southeast to the qualified household the County's "Affordable Housing Restrictive Covenant";
- That J.L. Brown shall pay real estate taxes and assessments on the properties or any part thereof when due;

ADDITIONAL INFORMATION

The Public Housing and Community Development Department oversees the Infill Housing Initiative Program and has developed guidelines for the administration of the program. The guidelines summarize the infill development process and requirements to be followed by developers.

<http://www.miamidade.gov/housing/library/guidelines/infill/infill-housing.pdf>

Infill Housing Homebuyer Requirements can be found at the below link:

<http://www.miamidade.gov/housing/infill-housing-homebuyers.asp>

According to the Florida Department of State Division of Corporations website (Sunbiz.org), J.L. Brown Development Corporation, has an active status as a Florida Profit Corporation and first filed and registered on 8/8/2000. The principal address is registered as 13645 Old Cutler Road, Palmetto Bay, FL 33158. Its registered agent is Brown, James L., 13645 Old Cutler Road, Palmetto Bay, FL 33158.

<http://search.sunbiz.org/Inquiry/CorporationSearch/ByName>

A newspaper article dated May 24, 2016, entitled "How poor is Miami? The rich earn \$40 for every \$1 earned by the poor," states that "Miami-Dade County has one of the least affordable housing markets in the nation. People are considered 'cost-burdened' by housing when more than 30 percent of income goes toward a place to live. By that measure, Miami-Dade has the third most cost-burdened housing market in the country, behind two counties in the New York area. In Miami-Dade, 51 percent of households are considered cost-burdened".

<http://www.miamiherald.com/news/local/community/miami-dade/article79670752.html>

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DEPARTMENT INPUT

The Office of the Commission Auditor posed the following questions to the Public Housing and Community Development Department, and received the following responses:

- Please provide the number of housing units projected for the properties. **There will be four homes.**
- Please provide information on the home specifications (how many bedrooms, bathrooms, square footage, price range). **Please be advised that the 4 lots allocated to J.L. Brown Development will provide 6 living units. The homes will include both 3 and 4 bedrooms with 2 baths and a family room. The 3 bedroom unit will be around 1600- 1700 Square feet and the 4 bedroom will be around 1800-1900 square feet. The price range for the 4 bedroom will be \$205,000.00 to meet the program guideline. The 3 Bedroom unit will be price at \$200,000.00.**
- Please provide some indication as to the economic impact of this item. **The proposed resolution will save the County the cost of monitoring the properties and maintaining the lawn, for a total of \$1,769 (for all lots) annually. In addition, the new homes will generate real estate taxes for the County.**