

MEMORANDUM

Agenda Item No. 8(I)(1)

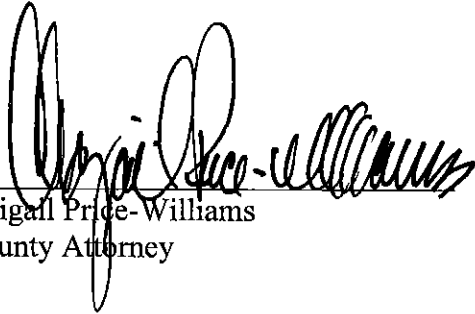
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving the terms of and authorizing the County Mayor to execute the Emergency Facility Agreement with Bill Ussery Motors of Cutler Bay, LLC, d/b/a Mercedes Benz of Cutler Bay, and Miami-Dade County, through the Miami-Dade Police Department, for a 10-year term and at no cost to the County, to use the designated service building as an emergency facility within 48 hours of a known emergency to store Miami-Dade Police Department's emergency or disaster-related equipment and/or to operate a Miami-Dade Police Department Cutler Bay Police District command center during an emergency, such as a major natural disaster or catastrophic incident; and authorizing the County Mayor to exercise amendment, renewal, termination and other provisions contained therein

The accompanying resolution was prepared by the Miami-Dade Police Department and placed on the agenda at the request of Prime Sponsor Commissioner Joe A. Martinez.


Abigail Price-Williams
County Attorney

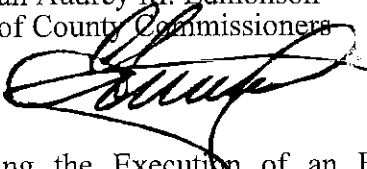
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Memorandum



Date: February 19, 2020

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez 
Mayor

Subject: Resolution Authorizing the Execution of an Emergency Facility Agreement
Between Bill Ussery Motors of Cutler Bay, LLC, D/B/A Mercedes Benz of Cutler
Bay and Miami-Dade County

Recommendation

It is recommended that the Board of County Commissioners approve the attached resolution authorizing the County Mayor or the County Mayor's designee to execute the Emergency Facility Agreement (Agreement) between Miami-Dade County (the County), by and through the Miami-Dade Police Department (MDPD), and Bill Ussery Motors of Cutler Bay, LLC, D/B/A Mercedes Benz of Cutler Bay (Mercedes Benz of Cutler Bay), for a term of 10-years at no cost to the County. This resolution authorizes the County Mayor or the County Mayor's designee to utilize the designated Service Building as an emergency facility within 48 hours of a known emergency, to store MDPD emergency or disaster-related equipment and/or for the MDPD's Town of Cutler Bay Police District to operate a command center during an emergency, in the event of a major natural disaster, or catastrophic incident, and to execute termination and modification provisions contained in the Agreement.

Scope

This Agreement pertains to the MDPD's Town of Cutler Bay District, which is located in County Commission District 8 represented by Commissioner Daniella Levine Cava.

Delegation of Authority

The County Mayor or the County Mayor's designee is authorized to execute the Agreement between Mercedes Benz of Cutler Bay and the County, and to exercise the termination and modification provisions contained therein.

Fiscal Impact/Funding Source

There is no fiscal impact to the County. However, the County agrees to indemnify and hold harmless Mercedes Benz of Cutler Bay.

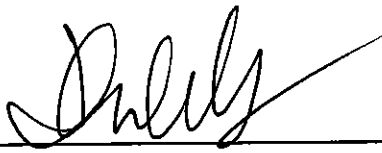
Track Record/Monitor

Major Leonard Ricelli, of the MDPD's Town of Cutler Bay Police District, will track and monitor this Agreement.

Background

The owner of Mercedes Benz of Cutler Bay desires to allow MDPD's Town of Cutler Bay Police District to use its Service Building to store emergency or disaster-related equipment and/or for the Town of Cutler Bay Police District to operate a command center during an emergency. Presently,

the Town of Cutler Bay Police District does not have an enclosed, safe structure to store equipment such as Mobile Operations Command vehicle, prisoner transport van, all-terrain and or other vehicles and equipment. This Agreement provides for the use of Mercedes Benz of Cutler Bay's Service Building to store this equipment during emergencies and not risk damage. Additionally, this Agreement will provide the Town of Cutler Bay Police District a safe structure to operate a district command center in the event the Town of Cutler Bay Police District station is compromised. The owner has stated that this Agreement is due to the appreciation and support of the MDPD protecting the community, especially during emergencies. This public/private partnership is an example of the community and the MDPD working together in the best interest of public safety.

for 

Maurice L. Kemp
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: February 19, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(I)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(I)(1)
2-19-20

RESOLUTION NO. _____

RESOLUTION APPROVING THE TERMS OF AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE THE EMERGENCY FACILITY AGREEMENT WITH BILL USSERY MOTORS OF CUTLER BAY, LLC, D/B/A MERCEDES BENZ OF CUTLER BAY, AND MIAMI-DADE COUNTY, THROUGH THE MIAMI-DADE POLICE DEPARTMENT, FOR A 10-YEAR TERM AND AT NO COST TO THE COUNTY, TO USE THE DESIGNATED SERVICE BUILDING AS AN EMERGENCY FACILITY WITHIN 48 HOURS OF A KNOWN EMERGENCY TO STORE MIAMI-DADE POLICE DEPARTMENT'S EMERGENCY OR DISASTER-RELATED EQUIPMENT AND/OR TO OPERATE A MIAMI-DADE POLICE DEPARTMENT CUTLER BAY POLICE DISTRICT COMMAND CENTER DURING AN EMERGENCY, SUCH AS A MAJOR NATURAL DISASTER OR CATASTROPHIC INCIDENT; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXERCISE AMENDMENT, RENEWAL, TERMINATION AND OTHER PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the terms of the Emergency Facility Agreement between Bill Ussery Motors of Cutler Bay, LLC, D/B/A Mercedes Benz of Cutler Bay, and Miami-Dade County, through the Miami-Dade Police Department ("MDPD"), for a 10-year term and at no cost to the County, to use the designated service building as an emergency facility within 48 hours of a known emergency to store MDPD's emergency or disaster-related equipment and/or to operate a MDPD Cutler Bay Police District command center during an emergency such as a major natural disaster or catastrophic event;

authorizes the County Mayor or the County Mayor’s designee to execute the Emergency Facility Agreement; and authorizes the County Mayor or the County Mayor’s designee to exercise the amendment, renewal, termination and other provisions contained therein, as may be necessary on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

- | | |
|--------------------------------|----------------------|
| Audrey M. Edmonson, Chairwoman | |
| Rebeca Sosa, Vice Chairwoman | |
| Esteban L. Bovo, Jr. | Daniella Levine Cava |
| Jose “Pepe” Diaz | Sally A. Heyman |
| Eileen Higgins | Barbara J. Jordan |
| Joe A. Martinez | Jean Monestime |
| Dennis C. Moss | Sen. Javier D. Souto |
| Xavier L. Suarez | |

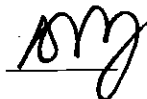
The Chairperson thereupon declared this resolution duly passed and adopted this 19th day of February, 2020. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Anita Viciano Zapata

EMERGENCY FACILITY AGREEMENT
BETWEEN BILL USSERY MOTORS OF CUTLER BAY, LLC
D/B/A MERCEDES-BENZ OF CUTLER BAY AND
MIAMI-DADE COUNTY

This Emergency Facility Agreement (Agreement) is made by and between Bill Ussery Motors of Cutler Bay, LLC d/b/a Mercedes-Benz of Cutler Bay, a Florida limited liability company (hereinafter referred to as "MBCB"), and Miami-Dade County, a political subdivision of the State of Florida (hereinafter referred to as the County), through the Miami-Dade Police Department's, Town of Cutler Bay Police District, (hereinafter referred to as the MDPD), and collectively the Parties,

WHEREAS, MBCB is the owner ("Owner") of a building having a street address of 10701 SW 211th Street, Miami, Florida, 33186, currently used by Owner as a Mercedes-Benz dealership and service center (hereinafter referred to as the Service Building); and

WHEREAS, in the event of a major natural disaster or catastrophic incident affecting the County, including a hurricane of any strength category (an Emergency), the MDPD desires to use portions of the Service Building to store emergency and disaster-related equipment and/or to operate an emergency command center prior to and during the Emergency; and

WHEREAS, Owner desires to permit the MDPD to use the Emergency Facility without cost as described in this Agreement, as a demonstration of Owner's appreciation of and support for the efforts of the MDPD in protecting the community during emergencies, and in consideration of the benefits to the Owner of having a police presence on the premises during an Emergency.

NOW, THEREFORE BE IT KNOWN that the Parties, in consideration for mutual promises and covenants contained herein, agree to fully and faithfully abide by and be bound by the following terms and conditions:

- I. **Use by the MDPD:** Owner will allow the MDPD to use the Emergency Facility, at no charge

to the County and the MDPD, to store emergency or disaster-related equipment and/or to operate a command center during an Emergency, as early as 48 hours before a known Emergency. When an Emergency occurs, the MDPD may continue to use the Emergency Facility without unreasonable interference to Owner's use of the Service Building, its business or its own emergency preparation to store such equipment until conditions allow for their safe removal. Generally, the parties expect that Emergency conditions would not exceed a one-week period, but the totality of the circumstances at the time would dictate when the Emergency has ended and conditions are safe for removal of the equipment. Notwithstanding, under no circumstances will the occupation extend beyond thirty (30) days from the date of the commencement of MDPD's occupation. While the MDPD uses the Emergency Facility as described in this paragraph, the MDPD employees will be assigned to staff the Emergency Facility and safeguard the stored equipment, and/or monitor the command center, providing a police presence at the Service Building.

- II. **Use by the Owner:** During any such Emergency, Owner will retain the right to use the Emergency Facility and the rest of the Service Building for its own business purposes, including the storage of equipment and other goods. However, during an Emergency, Owner will restrict access to the Emergency Facility to the MDPD and its personnel, and to Owner and Owner's employees, agents, contractors and business invitees only. During an Emergency, access to portions of the Service Building other than the Emergency Facility shall be under the sole control of Owner.
- III. **Security Cameras:** The Service Building has a 24-hour camera monitoring system that can be accessed only by Owner's supervisory staff, and Owner agrees to make the security tapes from any Emergency period available to the MDPD upon request for copying without any requirement of a warrant or subpoena.
- IV. **Electricity:** The Service Building is equipped with an emergency electrical generator, and Owner agrees to use commercially reasonable efforts to provide electrical power to the

Emergency Facility at Owner's expense during the MDPD's emergency use of the Emergency Facility as described herein, subject to the availability of fuel to operate the emergency generator.

V. Liability and Expenses: Owner will not charge the County for its use of the Emergency Facility as described herein or for providing electricity during any Emergency event; otherwise, each party shall be responsible for its own costs and expenses incurred during any Emergency event. Except as stated herein, each party to this Agreement agrees to assume responsibility for the acts, omissions, or conduct of such party's own employees while participating herein and pursuant to this Agreement, subject to the provisions of Section 768.28, Florida Statutes, where applicable. "Assume Responsibility" shall mean incurring any and all costs associated with any suit, action, or claim for damages arising from the performance of this Agreement. Neither Owner nor the MDPD shall be required to maintain any insurance for the benefit of the other party, nor to defend or indemnify the other party against any claims by or liability to any third party.

VI. Building Condition: The County understands and agrees that the MDPD's use of the Emergency Facility under this agreement shall be at the County's sole risk, and Owner has made no representation or warranty that the Service Building is safe or suitable for the uses proposed by the MDPD or that the Service Building will withstand any major natural disaster or catastrophic incident, including a hurricane of any strength category. The MDPD has physically inspected the Service Building and has sufficient access to the County building records concerning its construction, and the County and the MDPD are satisfied with and accept the physical condition of the Emergency Facility and the rest of the Service Building on an "AS-IS" basis with all defects, latent or patent. MDPD shall return the Emergency Facility in substantially the same condition as it found it at the commencement of its occupation. MDPD shall bear responsibility for any damages that MDPD causes to the Emergency Facility, the Service Building or Owner's business during its occupation. In no

event, however, shall MDPD bear responsibility for any damages to the Emergency Facility, the Service Building, or Owner's business that occur during MDPD's occupation but that were not caused by MDPD, including but not limited to any damages caused by the natural disaster or catastrophic incident itself.

VII. Compliance with Laws: Each party shall comply with all applicable statutes, ordinances, rules, orders, regulations, and requirements of the federal, state and county governments.

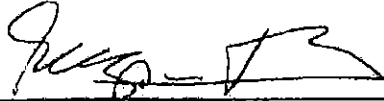
VIII. Subordination: This agreement is subordinate in all its respect to any mortgage(s) encumbering the Service Building at any time or from time to time. This agreement is not a lease, does not create any interest or estate in real property, and does not create any lien on the Emergency Facility or any other portion of the Service Building. Neither this agreement nor any memorandum or copy hereof shall be recorded in the Public Records of Miami-Dade County.

IX. Modification; Assignment; Termination: Any modification of this agreement must be made in writing and shall not be effective unless signed by both Owner and the County. Neither party may assign this agreement. This agreement shall automatically terminate if the ownership of the Service Building is transferred to any person other than MBCB. Either Owner or the County may terminate this agreement by giving sixty (60) days notice of such termination to the other party; if not so terminated, this agreement shall continue in force until the tenth (10th) anniversary of the date of this agreement.

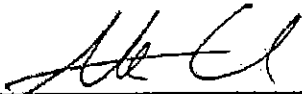
X. Execution: This agreement may be executed in one or more counterparts, and shall become effective when each Owner and the County has executed and delivered to the other at least one such counterpart.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective and duly authorized officers on the day and year written below.

Bill Ussery Motors of Cutler Bay, LLC d/b/a Mercedes-Benz of Cutler Bay, a Florida limited Liability Company

By: 
Greg Barnes, President


APPROVED AS TO FORM AND LEGAL SUFFICIENCY:


Name Alex Kurkin Date 01/17/2020
Attorney

STATE OF)
COUNTY OF) SS:

On this 17 day of 1 2020 before me personal came Greg Barnes
Of the _____, to me known, and known to me to be the person described in, and who executed the foregoing agreement, and acknowledge to me that he executed the foregoing as such for the purposes therein mentioned.




NOTARY PUBLIC

MIAMI-DADE COUNTY

Carlos A. Gimenez, Mayor

Date

Alfredo Ramirez III, Director
Miami-Dade Police Department

Date

ATTEST:

Harvey Ruvin, County Clerk
Miami-Dade County, Florida

Date

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Anita Viviana
Assistant County Attorney
Miami-Dade County, Florida

Date