

MEMORANDUM

Agenda Item No. 11(A)(17)

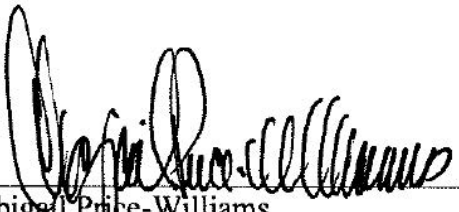
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution directing the County Mayor to issue a solicitation for a disparity study of Black, Hispanic, and Women owned business participation in County contracting for contracts issued for construction and architectural and engineering services; and directing the County Mayor to use all legally available funding sources to accomplish the purposes of this resolution or alternatively to include in the recommendation to award recommendations for obtaining any additional funding required

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



Abigail Price-Williams
County Attorney

APW/smm

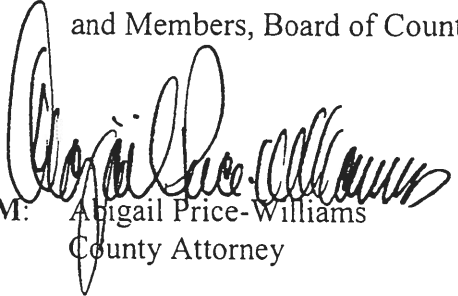


MEMORANDUM

(Revised)

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

DATE: October 6, 2020

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County Attorney

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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. 11(A)(17)
10-6-20

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO ISSUE A SOLICITATION FOR A DISPARITY STUDY OF BLACK, HISPANIC, AND WOMEN OWNED BUSINESS PARTICIPATION IN COUNTY CONTRACTING FOR CONTRACTS ISSUED FOR CONSTRUCTION AND ARCHITECTURAL AND ENGINEERING SERVICES; AND DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO USE ALL LEGALLY AVAILABLE FUNDING SOURCES TO ACCOMPLISH THE PURPOSES OF THIS RESOLUTION OR ALTERNATIVELY TO INCLUDE IN THE RECOMMENDATION TO AWARD RECOMMENDATIONS FOR OBTAINING ANY ADDITIONAL FUNDING REQUIRED

WHEREAS, the Miami-Dade County is a multi-ethnic community; and

WHEREAS, the County is an important economic engine in the growth and development of Miami-Dade County; and

WHEREAS, the County wishes to continue to ensure equal opportunity to be awarded County contracts for all members of the community; and

WHEREAS, the Board of County Commissioners desires to obtain information to evaluate the continued equality of opportunity in County contracting and to ensure that no improper disparity exists in the award of County contracts; and

WHEREAS, on February 15, 2001, the Board adopted Resolution No. R-171-01 directing the County Manager to conduct a competitive RFP process for the selection of a consultant to perform a disparity study of Black, Hispanic, and Women owned business participation in County contracts; and

WHEREAS, on June 19, 2001, the Board adopted Resolution No. R-730-01 directing the County Manager to engage said consultant to evaluate the County's data in support of a disparity study of Black, Hispanic, and Women owned business participation in County contracts; and

WHEREAS, pursuant to Resolution No. R-730-01, the County engaged MGT of America, Inc. ("MGT"), and on March 4, 2005, MGT issued a final report which (i) evaluated the County data, (ii) concluded based on a sampling of County departments that no uniformity existed among County departments in the gathering of relevant data and severe limitations in data and record keeping existed which resulted in no reliable or accessible data that permitted a reliable analysis which would support a disparity study, and (iii) contained specific recommendation to improve the availability and retrieval of data for purposes of supporting a disparity study (the "MGT Report"); and

WHEREAS, federal courts reviewing legislation addressing improper disparity in government contracting look at data collected to assess the constitutionality of such legislation; and

WHEREAS, the County's failure to collect this information at the time of contracting presented a significant obstacle and an extraordinary cost in the County's prior defense of its race and gender based contracting programs; and

WHEREAS, on July 7, 2011, the Board adopted Resolution No. R-564-11 directing the County Mayor or County Mayor's designee to prepare a feasibility report regarding actions taken to address data limitations identified in the MGT Report, in an effort to evaluate the feasibility of conducting a study to determine if racial, ethnic or gender disparities exist in County contracting; and

WHEREAS, on November 15, 2011, the Board adopted Ordinance No.11-90 relating to the collection of data for a disparity study in connection with race, gender and ethnic based contracting programs; and

WHEREAS, on January 20, 2012, the County Mayor issued the feasibility report stating that “the County adopted policies and implemented operational enhancements to address over 90% of [the identified] data limitations, in whole or in part”; and

WHEREAS, the County collected and compiled data relating to primes, subcontractors, awards, payments and bidder information identified by the MGT Report; and

WHEREAS, on September 18, 2012, the Board adopted Resolution No. R-751-12 authorizing an agreement with Mason Tillman Associates, Ltd. (“MTA”), for a comprehensive disparity study of Black, Hispanic, and Women owned business participation in County contracts issued by the Department of Public Works and Waste Management, and Water and Sewer Department; and

WHEREAS, on June 13, 2013, the Board adopted Resolution No. R-456-13 expanding the disparity study to include the County departments of Internal Services, Public Housing and Community Development, and Parks, Recreation, and Open Spaces; and

WHEREAS, on May 2015, MTA issued its Draft Disparity Study Final Report (the “MTA Study”), which provided a series of both race- and gender-based, and race- and gender-neutral recommendations; and

WHEREAS, on October 6, 2015, the Board adopted Resolution No. R-888-15 directing the County Mayor to adopt certain race- and gender-neutral recommendations of the MTA Study; and

WHEREAS, the MTA Study identified a number of factors that would affect the ability of the study to survive the strict scrutiny imposed on any County race-conscious contracting policies by the Equal Protection Clause of the United States Constitution; and

WHEREAS, the County has implemented a web-based system to gather, track and retrieve the types of data necessary for purposes of supporting a disparity study; and

WHEREAS, this Board desires to utilize this data to conduct a disparity study of Black, Hispanic and Women owned business participation in County contracting for contracts issued for construction and architectural and engineering services,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the County Mayor or County Mayor's designee is hereby directed to create and issue a solicitation for a disparity study of Black, Hispanic and Women owned business participation in County contracting for contracts issued for construction and architectural and engineering services within 30 days of the adoption of this resolution and to recommend the award of a contract resulting from this solicitation within 120 days of the adoption of this resolution. This Board further directs the County Mayor or County Mayor's designee to use all legal available funding sources to accomplish the actions set forth herein to the maximum extent possible, or alternatively to include in the recommendation of award the disparity study contract recommendations for obtaining any additional funding required to complete the disparity study as set forth herein.

The Co-Prime Sponsors of the foregoing resolution are Chairwoman Audrey M. Edmonson and Commissioner Barbara J. Jordan. It 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.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of October, 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:

dsh

David Stephen Hope