

MEMORANDUM

Agenda Item No. 11(A)(2)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to use lump sum or cost plus a fixed fee payment structure for contracts for construction engineering and/or inspection services and directing that County contracts require lump sum or cost plus fixed fee payments for any subcontracted construction engineering and/or inspection services in contracts where the County is not in direct privity with the subcontractor providing such services

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December 1, 2021

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Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(2)

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)(2)
12-1-21

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO USE LUMP SUM OR COST PLUS A FIXED FEE PAYMENT STRUCTURE FOR CONTRACTS FOR CONSTRUCTION ENGINEERING AND/OR INSPECTION SERVICES AND DIRECTING THAT COUNTY CONTRACTS REQUIRE LUMP SUM OR COST PLUS FIXED FEE PAYMENTS FOR ANY SUBCONTRACTED CONSTRUCTION ENGINEERING AND/OR INSPECTION SERVICES IN CONTRACTS WHERE THE COUNTY IS NOT IN DIRECT PRIVITY WITH THE SUBCONTRACTOR PROVIDING SUCH SERVICES

WHEREAS, Miami-Dade County (the "County") enters into hundreds of millions of dollars of construction contracts a year; and

WHEREAS, as part of those construction jobs, the County also enters contracts for related services, including engineering and inspection services; and

WHEREAS, Florida's Consultant's Competitive Negotiation Act ("CCNA") governs procurement and contracting for professional services relating to the County's construction projects; and

WHEREAS, the Miami-Dade County Code (the "Code") similarly governs the County's procurement and contracting for professional services relating to construction projects; and

WHEREAS, the CCNA and the Code applies to professional services such as architecture, professional engineering, landscape architecture, and registered surveying or mapping; and

WHEREAS, this Board desires to ensure that entities or individuals entering into contracts for construction engineering services and/or inspection services do not delay the completion of contracted work to run the proverbial, and actual, clock and bill more hours to the job than are required by the task; and

WHEREAS, this Board believes that utilizing lump sum or cost plus fixed fee payments for professional services under the CCNA and the Code (for both the total contract value and for any per task items issued after the agreement is authorized) will decrease delays in County construction contracts and provide greater certainty regarding the costs associated with such engagements; and

WHEREAS, the County often enter into a contract with a developer or vendor and does not directly contract for construction engineering and/or inspection services and thus has no privity of contract with the entity providing construction engineering and/or inspection services for County construction projects; and

WHEREAS, in those instances where the County is contracting with an entity that subcontracts out construction engineering and/or inspection services, this Board would like County staff to include language in the contract (and any related solicitation documents) requiring such entities to only enter construction engineering and/or inspection services contracts for a lump sum amount or for a cost plus a fixed-fee amount (for both the total contract value and for any per task items issued after the agreement is authorized); and

WHEREAS, this Board does not intend for this resolution to be applied to existing contracts or to contracts retroactively or for contracts in which solicitations have already been advertised,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Directs the County Mayor or County Mayor's designee to utilize lump sum and/or cost plus fixed-fee amount payments in future solicitations and contracts for construction engineering services and/or inspection services for County construction projects.

Section 2. Directs the County Mayor or County Mayor’s designee to require in future contracts and solicitations for contracts where the County does not directly contract for construction engineering and/or inspection professional services that lump sum and/or cost plus fixed-fee amount payments be used for payment of such professional service subcontracts.

Section 3. The provisions contained in sections 1 and 2 shall not apply to current County contracts or any solicitation that was publicly advertised by the County before the effective date of this resolution.

The Prime Sponsor of the foregoing resolution is Chairman Jose “Pepe” Diaz. 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:

Jose “Pepe” Diaz, Chairman	
Oliver G. Gilbert, III, Vice-Chairman	
Sen. René García	Keon Hardemon
Sally A. Heyman	Danielle Cohen Higgins
Eileen Higgins	Joe A. Martinez
Kionne L. McGhee	Jean Monestime
Raquel A. Regalado	Rebeca Sosa
Sen. Javier D. Souto	

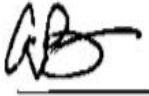
The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of December, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override 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.



A handwritten signature in black ink, appearing to be 'AB', is written over a horizontal line.

Angela F. Benjamin