Approved _____ Mayor

Veto _____

Override _____

Agenda Item No. 8(D)(1)(I)

01-25-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-31-07

RESOLUTION AUTHORIZING NEGOTIATION OF AND DELEGATING AUTHORITY TO EXECUTE AN AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE U.S. DEPARTMENT OF THE ARMY RELATING TO ADVANCED FUNDING FOR THE MIAMI RIVER DREDGING PROJECT

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 hereby authorizes negotiation of and delegation of authority to execute an Agreement between Miami-Dade County and the Department of the Army (ACOE) relating to advance funding of not more than $1.0 million from the County general fund for the Miami River Dredging Project (Project), subject to approval by the County Attorney's Office and ratification by the Board of County Commissioners; authorizing execution of amendments to said agreement and to existing agreements with the non-Federal funding partners to further the purposes described in the accompanying memorandum; to accept additional funding that may be received for this Project; to execute same for an on behalf of Miami-Dade County, Florida; and to exercise the provisions contained therein.

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: January 25, 2007

FROM: Murray A. Greenberg, County Attorney

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

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

3

The foregoing resolution was offered by Commissioner Sally A. Heyman, who moved its adoption. The motion was seconded by Commissioner Dennis C. Moss and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	absent		

The Chairperson thereupon declared the resolution duly passed and adopted this 25th day of January, 2007. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: KAY SULLIVAN
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. PST

Peter S. Tell

ATTACHMENT 1

Memorandum

MIAMI-DADE COUNTY

Date: November 3, 2006

To: Honorable Chairman Joe A. Martinez and Members,
Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Status Report on the Miami River Dredging Project

Attached for your information is a status report on the Miami River Dredging Project.

Attachment

Cc: Roger M. Carlton, Assistant County Manager
Cc: Jennifer Glazer-Moon, OSBM Director

Memorandum

MIAMI-DADE COUNTY

Date: January 25, 2007

To: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

Agenda Item No. 8(D)(1)(I)

From: George M. Burgess, County Manager

Subject: Resolution Authorizing Negotiation of and Delegating Authority to Execute an Agreement Between Miami-Dade County and the U.S. Department of the Army Relating to the Miami River Dredging Project

RECOMMENDATION

It is recommended that the Board approve the attached Resolution authorizing the negotiation of and delegation of authority to execute an agreement between Miami-Dade County (County) and the U.S. Department of the Army (Army Corps of Engineers, ACOE) relating to the Miami River Dredging Project (Project). As stated in the November 3, 2006, "Status Report on the Miami River Dredging Project" (Attachment 1), dredging of the Miami River is at a critical juncture. An agreement for "Advanced Funds" has been proffered to the County by the ACOE that would allow the County and its non-Federal funding partners (City of Miami, State of Florida, and Florida Inland Navigational District – FIND) to advance fund already allocated local monies for the remainder of the Project to be used prior to additional Federal funding becoming available. Approval of this Resolution would authorize the County to negotiate and make changes to this agreement and allow for execution by the County, subject to approval by the County Attorney's Office and ratification by the Board. No funding beyond the original 20 percent agreed to by the County and the non-Federal partners would be obligated as part of this agreement.

BACKGROUND

In the November 3, 2006, Status Report that was transmitted to the Mayor, Chairman, and Board of County Commissioners; several important points were made relating to the Project. Specifically, dredging of the Miami River has been at a standstill since November 2005 due to inadequate Federal appropriations to keep the project moving forward. The current amount of additional Federal funding required to complete the project is approximately $26 million. Forty (40) percent of the project is currently completed (See Attachment Two – Map), and the current dredging contract expires in April 2009. As mentioned in that Status Report, staff has been directed to begin development of alternative measures that could be implemented to complete the Project. Staff has been working with the ACOE, staff from the Miami River Commission, and our non-Federal funding partners to review options that are available to complete the Project.

The proposed option would allow the use of remaining non-Federal funding, coupled with existing Federal dollars, to expedite as many of the remaining sections of the Project as possible. Since no additional non-Federal funding is being provided as part of such a proposed agreement, it is recognized that a significant Federal-funding shortfall will remain that is vital to completion of the Project. Pursuit of this Federal funding, as well as efforts to obtain additional funding from the State, is included in our Legislative Packages.

As an interim measure, if the County is able to negotiate an "Advanced Funds" agreement in a timely manner it will provide several benefits as follows:

- Reduces the number of de-mobilizations by the contractor, established under ACOE's contract at $196,000 per de-mobilization.
- As many as four additional dredging sections could be completed by the contractor using the remainder of the non-Federal funding match. This means that approximately 65 percent of the Project (10 of 15 Sections) could be completed by the end of 2007.
- The status of fiscal year 2008 Federal appropriations as well as any additional funding received from the State of Florida during the 2007 Legislative Session will be known and/or in place later in 2007, thus possibly allowing even more sections to be completed without another de-mobilization
- Completion of additional sections may also improve the cost/benefit ratio of the Project used by the ACOE to determine future year funding

It is estimated that the contractor will restart dredging sometime in May or June 2007. At this time, the funding available from the ACOE would only allow for approximately 3 months of dredging (1 or 2 sections) until another stoppage would occur. With the approval of an "Advanced Funding" agreement at least 4 sections, and possibly more, could be completed.

If we follow this strategy and complete at least 10 of the 15 dredging sections (from the upper reaches of the river to just above the N.W. 5 Street Bridge), and no additional Federal dollars are received for fiscal year 2008 or future years, the ACOE would still have an obligation of at least $26 million to complete the Project. That would be a formidable funding shortfall and staff is developing strategies to complete the Project.

The ACOE has stated that it could take up to six months for a proposed "Advanced Funds" agreement to be executed in Washington. Additionally, it will take time to work with our non-Federal funding partners to ensure that existing agreements are amended to allow for a funding advance. Therefore, the authority to negotiate and execute such an agreement is time-sensitive and a critical component of this strategy. It is important to reiterate that no additional funding will be required of the County or its non-Federal funding partners, and, that any agreement will be subject to approval by the County Attorney's Office and ratification by the Board.

Assistant County Manager

Memorandum

MIAMI-DADE COUNTY

Date: November 1, 2006

To: George M. Burgess
County Manager

From: Carlos Espinosa, P.E., Acting Director
Environmental Resources Management

Subject: Status Report on the Miami River Dredging Project

As was mentioned in the September 2006 Budget Hearing Change Memos, a report on the status/progress of the Miami River Dredging Project, including details on the Federal funding shortfall, would be provided. This report provides a brief funding history of the project as well as some current concerns that staff is working to solve in conjunction with our funding partners.

In 2002, the Board approved the original Project Cooperation Agreement (PCA) between the Army Corps of Engineers (Corps) and Miami-Dade County for the Miami River Dredging Project - Federal Navigation Channel portion of the project. This agreement (R-558-02) established the cost-share arrangement between the Federal government and the County (acting as Local sponsor), with subsequent cost-share agreements between the County and the other non-Federal funding partners (City of Miami, State of Florida, and Florida Inland Navigational District [FIND]). The cost-share arrangement was set at 80 percent from the Corps, 10 percent from the State of Florida, 5 percent from FIND, 2.5 percent from Miami-Dade County, and 2.5 percent from the City of Miami. On an approximate budget of $74 million, this represents a cost-share of approximately $59.2 million from the Corps, $7.4 million from the State of Florida, $3.7 million from FIND, and $1.85 million each from the County and the City. In addition to the $74 million cost-share, separate cost-share agreements exist between the non-Federal funding partners for the $12 million non-Federal ("Bank to Bank") portion of the project. The "Bank to Bank" portion is outside the Federal Navigation Channel and is therefore not funded by the Corps.

The project is currently 40 percent complete, with 7 of the 15 dredging segments fully funded, and 6 already completed on the up-river segments. Unfortunately, in November 2005, the contractor de-mobilized due to lower than anticipated funding allocations from the Federal government. To date, the Federal government has only appropriated approximately $33 million of its $59 million obligation towards this project, while the non-Federal partners have either appropriated or have funding in place to fulfill their entire obligation. This raises serious concerns as to how, at the relatively slow pace Federal dollars are being appropriated to this project, completion will occur by the April 2009 dredging contract expiration. Completion of this project in a timely manner is important for several reasons, both economic and environmental, as follows:

- Dredging of the completed segments began on the westernmost portion of the Miami River working towards the mouth of the River. If this project is not completed, the safety and maritime commerce benefits of this project will not be realized since

the remaining segments nearest the entrance of the River will remain at their current depth.

- The environmental improvements, such as water quality enhancement and improvement of fisheries habitat for Biscayne Bay from removal of accumulated, contaminated sediments, will not be fully realized.
- Should the existing contract expire and/or the current contractor fails to complete its contract due to lack of funding, a re-bid to complete the project could be required. A re-bid of the project could drive the costs for this project significantly higher.
- The private sector, including BellSouth and Florida Power and Light, as well as our Water and Sewer Department, have expended approximately $55 million relocating utilities to accommodate this project.

Looking forward, it is not anticipated that annual federal funding allocations will reach sufficient levels to complete work on the Miami River Project prior to the dredging contract expiration. As per the Corps, factors such as the cost of hurricane recovery efforts in the Gulf and competing demands for civil works funding, including the Lake Okeechobee repairs, are both limiting the likelihood of reaching sufficient Federal appropriation levels prior to April 2009.

The current estimated Federal funding shortfall is approximately $26 million. On average, since Federal fiscal year 2000, only approximately $4.5 million per year has been appropriated toward the Federal cost-share of this project. Projecting forward, we can expect appropriations by the Federal government of somewhere in the range of $3.5 to $7.0 million for the fiscal year beginning in October 2006, $6 to $10 million for the fiscal year beginning October 2007, and an estimate of approximately $4.5 million for the fiscal year beginning October 2008. An optimistic appropriations scenario would still leave a Federal funding shortfall of approximately $8 million by the April 2009 contract expiration date. This, of course, is subject to appropriation. More conservative estimates of the shortfall could fall in the range of $16 to $22 million.

While we would like to report that the Federal funding is fully available, the realities are that alternative funding solutions should be considered to complete the project if lack of Federal funding remains an issue going forward. Staff has been directed to, and has begun meeting with our non-Federal funding partners and staff from the Miami River Commission to explore back-up plans and other alternative funding measures. Staff will be working diligently on this issue with more information to be provided to the Board at a later date. In the meantime, we will continue our efforts to obtain the balance of the Federal funding shortfall during the fiscal year 2008 Congress as well as the 2007 State Legislative Session.

Attachment 2

MIAMI RIVER DREDGING PROJECT

