

MEMORANDUM

Agenda Item No. 11(A)(6)

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

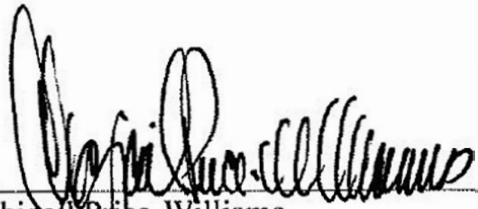
DATE: May 5, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving
amendment to Implementing
Order 8-4 pertaining to
Guidelines and Procedures for
the Sale or Lease of County Real
Property to remove review by
Planning Advisory Board and
require responsibility review of
prospective tenants and
purchasers

Resolution No. R-419-20

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairwoman Audrey M. Edmonson.



Abigail Price-Williams
County Attorney

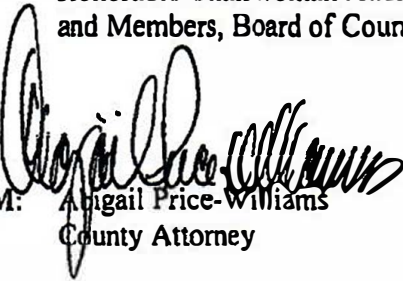
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MEMORANDUM
(Revised)

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

DATE: May 5, 2020

FROM: 
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County Attorney

SUBJECT: Agenda Item No. 11(A)(6)

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

Agenda Item No. 11(A)(6)

Veto _____

5-5-20

Override _____

RESOLUTION NO. R-419-20

RESOLUTION APPROVING AMENDMENT TO IMPLEMENTING ORDER 8-4 PERTAINING TO GUIDELINES AND PROCEDURES FOR THE SALE OR LEASE OF COUNTY REAL PROPERTY TO REMOVE REVIEW BY PLANNING ADVISORY BOARD AND REQUIRE RESPONSIBILITY REVIEW OF PROSPECTIVE TENANTS AND PURCHASERS

WHEREAS, Administrative Order 8-4 sets forth guidelines and procedures for the sale or lease of County-owned real property; and

WHEREAS, Administrative Order 8-4 was last revised in 1981; and

WHEREAS, since that time, there have been changes to the manner in which the County processes requests and proposals for the lease or sale of County-owned real property; and

WHEREAS, one of those changes is that the County rarely presents proposed conveyances and leases to the Planning Advisory Board and instead waives this requirement for items presented to the Board; and

WHEREAS, in addition, it is important that the County set forth policy similar to policy in place for the purchase of construction, goods and services that the County will contract and sell or lease County-owned real property to responsible entities; and

WHEREAS, accordingly, this Board desires to amend and update Administrative Order 8-4 to convert it into an Implementing Order and as otherwise reflected in the attached,

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

Section 1. The foregoing "Whereas" recitals are incorporated in this resolution and are approved.

3

Section 2. This Board approves Implementing Order 8-4 pertaining to Guidelines and Procedures for the Sale or Lease of County Real Property, as amended and shown in the attached.

The Prime Sponsor of the foregoing resolution is Chairwoman Audrey M. Edmonson. It was offered by Commissioner **Audrey M. Edmonson**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

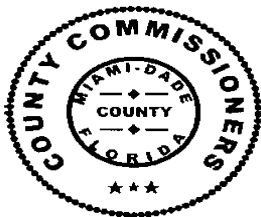
Audrey M. Edmonson, Chairwoman	aye		
Rebeca Sosa, Vice Chairwoman	aye		
Esteban L. Bovo, Jr.	absent	Daniella Levine Cava	aye
Jose "Pepe" Diaz	aye	Sally A. Heyman	aye
Eileen Higgins	aye	Barbara J. Jordan	aye
Joe A. Martinez	aye	Jean Monestime	aye
Dennis C. Moss	aye	Sen. Javier D. Souto	aye
Xavier L. Suarez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

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of May, 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: Melissa Adames
Deputy Clerk



Approved by County Attorney as to form and legal sufficiency.

MRP

Monica Rizo Perez

4

Administrative >> Implementing << Order

Administrative >> Implementing << Order No.: >> IO << 8-4

Title: >> Guidelines and Procedures for the << Sale or Lease of County Real Property

Ordered: 5/5/1981 >> 5/5/2020 <<

Effective: 5/5/1981]] >> 5/15/2020 <<

AUTHORITY:

~~[[Chapter]] >> Sections 125.045, 125.35, 125.379, and << 125.38, Florida Statutes. [[Section 4.02 of the Metropolitan Dade County Charter. Resolution Number 5671 of the Board of County Commissioners. Resolution Number 10832 of the Board of County Commissioners. Resolution Number 1161-79 of the Board of County Commissioners.]]~~

SUPERSEDES:

This ~~[[administrative]] >> implementing << order~~ supersedes previous Administrative Order No. 8-4, dated ~~[[July 14, 1970 (effective July 30, 1970)]] >> and effective May 5, 1981 <<.~~

POLICY:

~~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. Should a recommendation not be received from the Planning Advisory Board within the time period provided within this administrative order, the Planning Department Director will provide a recommendation on the proposal.]] >> All contracts, leases, and agreements, except those with other governmental entities, must be executed by the other party before submission to the Board of County Commissioners.~~

It is the policy of this County that it desires to contract and sell or lease County-owned real property to responsible entities. The term "responsible entity" relates to said entity's financial condition, capability, experience and past performance, and includes honesty and integrity, skill and business judgment, experience and capacity for performing under the contract, and previous conduct, including but not limited to, satisfaction of its financial obligations to the County. Determinations on responsibility are ultimately made by the Board of County Commissioners and, where the delegated authority exists to contract, by the County Mayor, and are fundamentally issues of business judgment and policy. The County Mayor or Mayor's designee shall include this policy in any notice or solicitation issued for the sale or lease of County-owned real property.

Nothing in this Implementing Order shall be construed as limiting the authority of County Commissioners from sponsoring items for consideration by the Board of County Commissioners for the sale or lease of County-owned real property as otherwise permitted by applicable law.<<

OTHER PUBLIC AGENCIES:

If property owned by the County is desired by another public agency for the same public purposes as held by the County and it is determined by the Board of County Commissioners that the property is not needed by the County for such use, it may be conveyed at a nominal cost. In the event that another public agency requires the property for the purpose of providing a public service available to the general public, the County may convey the property to the agency for its appraised value or for equivalent value in real property or a combination thereof.

[[EXCLUSIONS:

~~The provisions of this order relating to processing through the Planning Advisory Board shall not apply to the lease of County property in the following categories: (1) the use of property prescribed by deed restrictions which establishes the general use thereof; (2) developed property to be transferred under conditions of the same or similar use; (3) property leased on a proprietary or profit making basis; (4) the use or lease extension of County property for less than one year.]]~~

PROCEDURE INITIATING ACTION:

Any Department Director or other official or any private party >> government entity<< or corporation proposing the sale, lease or other disposition of County-owned real property shall abide by the procedures as set forth herein.

The Department Director, other official, private party >> government entity<< or corporation is required to submit a memorandum to the County ~~[[Manager]]~~ >> Mayor<< detailing all pertinent information regarding the proposal >>or request<<.

The County ~~[[Manager]]~~ >> Mayor or Mayor's designee<< will, in turn, review the request and determine if there is a need to refer this request to the ~~[[General Services Administration]]~~ >> Internal Services Department or other successor department with the responsibility over property conveyances<<. The ~~[[General Services Administration]]~~ >> Internal Services Department<<, upon direction from the County ~~[[Manager]]~~ >> Mayor or Mayor's designee<<, will forward to appropriate departments and public agencies a questionnaire to determine if there is a planned use or anticipated need for the subject property or if it could be declared surplus >>and will determine whether there are any restrictions or limitations contained in the deed, restrictive covenants, or other contracts that would preclude the conveyance of the County-owned real property or that would result in a significant financial impact to the County as the result of such conveyance (e.g.. result in the repayment of grant funds)<<.

~~[[GENERAL SERVICES ADMINISTRATION]]~~ >> INTERNAL SERVICES DEPARTMENT AND REGULATORY AND ECONOMIC RESOURCES DEPARTMENT<<:

6

Based on the findings of the survey concerning possible use of the property >>and its review of the contracts and restrictions pertaining to the property<<, the ~~[[General Services Administration]]~~ >>Internal Services Department<< will submit its findings and recommendation to the County ~~[[Manager]]~~ >>Mayor or Mayor's designee<< within thirty (30) days. >>Where there is no proposed use by a commenting County agency or department, the Internal Service Department shall forward the request or proposal to the Regulatory and Economic Resources Department ("RER"), or any successor department that oversees the County's planning functions, for its review and determination as to whether the proposal is in the public interest and the property is zoned consistent with the proper land use planning for the area or whether there should be a change in zoning on the subject property. The recommendation of RER shall be sent to the Mayor's Office to be considered along with the recommendation of the Internal Services Department.<<

COUNTY ~~[[MANAGER'S]]~~ >>MAYOR'S<< OFFICE:

Whenever there is a valid proposed use by the commenting County agencies, the County ~~[[Manager's]]~~ >>Mayor's<< Office will inform the requesting party that the proposal has been reviewed and that sale or lease of the property in question could not, at this time, be declared surplus. In all other instances, upon receipt by the County ~~[[Manager]]~~ >>Mayor<< of the recommendations from the ~~[[General Services Administration]]~~ >>Internal Services Department<<, the County ~~[[Manager]]~~ >>Mayor<< shall >>determine whether to<< forward ~~[[said]]~~ >>a<< recommendation~~[[s]]~~ to the >>Board of County Commissioners for its approval of said conveyance without competitive process where otherwise legally allowed or, following a competitive process for the sale or lease of the property in question, a recommendation for its approval of said conveyance, or take any other action or make any other recommendation. Any recommendation to the Board of County Commissioners for sale or lease of real property shall include a disclosure of any adverse findings discovered during the responsibility review of the proposed purchaser or tenant.<< ~~[[Planning Department Director for a review to determine the land use classification most compatible with existing and immediately foreseeable recommended land uses in the surrounding area.~~

PLANNING DEPARTMENT:

Upon receipt of the survey of all County agencies' interest in the proposed property, the Planning Department Director will immediately request from the Board a recommendation, within sixty (60) days, as to whether the proposal is in the public interest and the property is zoned consistent with the proper land use planning for the area. The Planning Department Director will report the Planning Advisory Board's actions to the County Manager.

If the recommendation by the Planning Department and the Planning Advisory Board is for a change in zoning on the subject property, the Planning Department Director, prior to consideration for sale or lease, shall notify the Director of the Building and Zoning Department of the recommendation and both Department Directors shall file jointly an application for rezoning of the subject property. In this case, the provision for a recommendation from the Planning Advisory Board for sale or lease within sixty (60) days shall be waived until rezoning is approved.

GENERAL SERVICES ADMINISTRATION:

~~The General Services Administration will prepare a report based on the Planning Advisory Board's recommendation and forward to the County Manager for submittal to the Board of County Commissioners.]]~~

FINAL ACTION:

If >>the lease or conveyance of County-owned real property is<< approved by the Board of County Commissioners, the ~~[[General Services Administration]]~~ >>Internal Services Department<< will take the necessary steps to conclude the transaction >>and to undertake any necessary responsibility review for subsequently-identified purchasers or tenants<<. In those cases wherein the leasing of County property is contemplated, a draft lease agreement, with the exception of preprinted form agreements which have received blanket approval, will be reviewed by the Manager of the Insurance and Risk Management Division as to form and content.

Thereafter, ~~[[all pertinent documents, along with a memorandum of transmittal indicating compliance with those procedures, will be forwarded to the office of the County Manager for final approval. The]]~~ >>the<< fully executed documents will be returned to the Clerk of the Board for custody. The Clerk of the Board will notify the Insurance and Risk Management Division of all contracts accepting liability on behalf of the County or requiring either the County or the other party to provide insurance coverage.

PRIVATE PARTIES OR CORPORATIONS:

To insure the County against unnecessary processing expense, an earnest money deposit is to be deposited with the Clerk of the Board of County Commissioners >>or with the Internal Service Department, in each case only as and if required by the applicable solicitation documents<<, in the amount set by the Board of County Commissioners, by all private parties or corporations ~~[[requesting]]~~ >>submitting a bid or proposal in response to a solicitation for<< the sale or lease of County property. ~~[[Additional provisions regarding dispersal and reimbursement of this deposit are included in the provisions of Resolution No. R-1161-79, approved by the Board on September 18, 1979.~~

~~This administrative order is hereby submitted to the Board of County Commissioners of Dade County, Florida.~~

M. R. Stierheim
County Manager]]