

MEMORANDUM

Agenda Item No. 11(A)(4)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: February 4, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to: (1) negotiate, enter into, and implement an agreement with BENCOR to provide certain retirement benefits through a Special Pay Plan for County employees by accessing a competitively solicited contract between BENCOR and another public entity; (2) implement procedures and amend the Miami-Dade County Leave Manual to effectuate Special Pay Plan; and (3) negotiate inclusion of Special Pay Plan with collective bargaining units

Resolution No. R-135-25

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator René García.



Geri Bonzon-Keenan
County Attorney

GBK/jp



MEMORANDUM (Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: February 4, 2025

FROM: 
Glen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(4)

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 ____, majority plus one ____, 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) ____, 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)(4)
2-4-25

RESOLUTION NO. R-135-25

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO: (1) NEGOTIATE, ENTER INTO, AND IMPLEMENT AN AGREEMENT WITH BENCOR TO PROVIDE CERTAIN RETIREMENT BENEFITS THROUGH A SPECIAL PAY PLAN FOR COUNTY EMPLOYEES BY ACCESSING A COMPETITIVELY SOLICITED CONTRACT BETWEEN BENCOR AND ANOTHER PUBLIC ENTITY; (2) IMPLEMENT PROCEDURES AND AMEND THE MIAMI-DADE COUNTY LEAVE MANUAL TO EFFECTUATE SPECIAL PAY PLAN; AND (3) NEGOTIATE INCLUSION OF SPECIAL PAY PLAN WITH COLLECTIVE BARGAINING UNITS

WHEREAS, the County's employees are its greatest asset, and providing these employees a secure retirement is of vital importance to this Board; and

WHEREAS, many County employees enter the Deferred Retirement Option Program (also known as "DROP") and/or retire from the County with accumulated leave that they were unable to use during their employment with the County; and

WHEREAS, when paid out to qualified employees at their retirement, such accumulated leave pay is subject to taxation, including the payment of income tax and up to 7.65 percent of Social Security and Medicare taxes; and

WHEREAS, BENCOR, a company which specializes in the design, implementation and administration of retirement plans for public employees across the United States, offers a Special Pay Plan, which is a retirement program approved by the Internal Revenue Service and consisting of three parts: the first part satisfying the requirements under section 401(a) of the Federal tax law, the second part following the dictates of section 403(b), and the third part meeting the rules of section 457(b); and

WHEREAS, the Special Pay Plan allows for employees' unused leave pay to be transferred as non-elective employer contributions into a retirement account at BENCOR, where such contributions are 100 percent vested in the employee participant, and can either be withdrawn from the plan upon retirement, total disability or death of the employee, or invested by the employee in an array of investment options made available under the plan by BENCOR; and

WHEREAS, for any leave pay invested through the Special Pay Plan, income taxes are imposed only upon withdrawal from the participant's plan account; and

WHEREAS, contributions to the Special Pay Plan would not affect employees' ability to make voluntary contributions to other retirement accounts, such as a 457(b) plan, within limits specified by the Internal Revenue Code; and

WHEREAS, other local government agencies such as the Miami-Dade County School Board offer the benefits of the BENCOR Special Pay Plan to their employees; and

WHEREAS, on June 1, 2022, this Board adopted Resolution No. R-543-22, sponsored by Senator René Garcia, directing the County Mayor or County Mayor's designee to (1) negotiate a Special Pay Plan Agreement with BENCOR for all non-bargaining County employees and for all other County employees within collective bargaining units, provided that written consent of the applicable collective bargaining agents is obtained to provide this benefit to bargaining unit employees, and (2) to present a written report to the Board including a recommendation as to whether the County should enter into such agreement; and

WHEREAS, on July 6, 2023, this Board accepted the County Mayor's report (the "Report") submitted pursuant to R-543-22; and

WHEREAS, the second recommendation in the Report is to proceed to negotiate and enter into a contract with BENCOR by accessing, also known as "piggybacking," another governmental competitively solicited agreement with BENCOR; and

WHEREAS, pursuant to Implementing Order 3-38, section 3.2.1 of the Miami-Dade County Procurement Guidance Document and Best Practices Manual, and applicable Florida law, Miami-Dade County may competitively award a contract by accessing (aka “piggybacking”) the competitively solicited contract of any other governmental entity; and

WHEREAS, piggybacking on another governmental competitively solicited agreement with BENCOR will allow the County to quickly and efficiently begin to offer the benefits of the Special Pay Plan Agreement to County employees; and

WHEREAS, numerous other governmental agencies throughout Florida, including counties, cities, and public universities, have entered into Special Pay Plan Agreements with BENCOR after a competitive procurement process; and

WHEREAS, Palm Beach County recently issued a Request for Proposals for these retirement planning services and BENCOR was the top ranked bidder; and

WHEREAS, a contract between the Board of County Commissioners of Palm Beach County, Florida, and Bencor, Inc. for the development and implementation of a 401(a) Plan was approved by the Palm Beach County BCC on September 19, 2023; and

WHEREAS, most of the public school districts (including Miami-Dade County Public Schools) within Florida have also entered into Special Pay Plan Agreements with BENCOR; and

WHEREAS, contributing the value of all separation leave, as recommended by BENCOR, will provide the greatest benefits to both the County and its employees, and further allow a greater number of County employees to obtain the benefits of such a program; and

WHEREAS, based on current leave balances, separation leave contributions from eligible County employees would save the County and County employees an estimated \$50,746,913.00 each in cumulative FICA and MICA contributions, for a total savings of \$101,493,827.00, while separation leave contributions limited solely to the value of sick leave would limit the number of

eligible County employees to 14,128, and would reduce the savings in FICA and MICA contributions to an estimated \$24,302,023.00 each, for a total savings of \$48,604,046.00; and

WHEREAS, this Board desires to allow County employees to benefit from all of the tax savings, tax deferrals, and investment options offered by the BENCOR Special Pay Plan,

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

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

Section 2. The County Mayor or County Mayor's designee is authorized and directed to negotiate, enter into, and implement a Special Pay Plan Agreement with BENCOR for County employees by identifying and accessing a suitable competitively solicited governmental Special Pay Plan Agreement with BENCOR, such as the 2023 contract between the Board of County Commissioners of Palm Beach County, Florida, and Bencor, Inc. Such Special Pay Plan Agreement shall at a minimum provide for contributing the value of employees' sick leave. Moreover, this Special Pay Plan shall be implemented for all non-bargaining County employees and for all other County employees within collective bargaining units, provided that written consent of the applicable collective bargaining agents is obtained to provide this benefit to bargaining unit employees.

Section 3. The County Mayor or County Mayor's designee shall have full authority to implement procedures relative to the BENCOR Special Pay Plan offered pursuant to this resolution for any purpose, including but not limited to employee eligibility criteria, forms, and other required documentation. In addition, the County Mayor or County Mayor's designee shall amend the Miami-Dade County Leave Manual to include provisions consistent with the requirements of this resolution.

Section 4. The County Mayor or County Mayor's designee is directed to negotiate the inclusion of the BENCOR Special Pay Plan set forth in this resolution in the County's collective bargaining agreements during the next round of negotiations with each of the bargaining units.

The Prime Sponsor of the foregoing resolution is Senator René García. It was offered by Commissioner **Sen. René García**, who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins** and upon being put to a vote, the vote was as follows:

Anthony Rodriguez, Chairman	aye		
Kionne L. McGhee, Vice Chairman	aye		
Marleine Bastien	nay	Juan Carlos Bermudez	aye
Kevin Marino Cabrera	aye	Sen. René García	aye
Oliver G. Gilbert, III	nay	Roberto J. Gonzalez	aye
Keon Hardemon	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Raquel A. Regalado	nay
Micky Steinberg	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of February, 2025. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Marlon D. Moffett