Memorandum

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To: Honorable Carlos Gimenez, Mayor, Miami-Dade County
Honorable Esteban L. Bovo, Jr., Chairman, Board of County Commissioners
Honorable Xavier L. Suarez, Chairman, Economic Prosperity Committee
and Members of the Board of County Commissioners

From: Mary T. Cagle, Inspector General

Date: January 17, 2017

Subject: **Economic and Prosperity Committee Meeting, January 19, 2017, Agenda Item 3B –** OIG Observations, Comments and Recommendations on the Grant Agreement between CCRE Meek, LLC and Miami-Dade County for the Carrie Meek International Business Park; Ref. IG15-04

As you may recall, in July 2016, the Office of the Inspector General (OIG) issued a memorandum regarding its observations, comments and recommendations on the Building Better Communities General Obligation Bond (BBC GOB) – Economic Development Funds (EDF) grant awards to Village of Palmetto Bay and Oak Plaza, LLC, from Projects 124 and 320, respectively. These were the first negotiated EDF grant agreements that were presented to the Board of County Commissioners (BCC) for final approval. At that time, the OIG advised that it would continue monitoring negotiations with the remaining grantees and would provide additional comments, as appropriate.

Negotiations were conducted with CCRE Meek, LLC (CCRE) for a $5,000,000 EDF Project No. 124 grant that will be used to reimburse costs for public infrastructure improvements in connection with the creation of a Distribution Project located on land at the Opa-Locka Executive Airport. The OIG was present at each of the negotiation meetings, which were scheduled and publicly noticed pursuant to Resolution No. R-510-15. Over the past several months, OIG representatives have also met and exchanged comments with County staff concerning the proposed CCRE grant, as well as on several other grants whose negotiations have not yet been finalized.

As to the instant proposed grant agreement, as explained in the Mayor's Memorandum, the final negotiated agreement deviates from the Distribution Project's initial terms as approved by the BCC. The Distribution Project's physical size and its intended business uses have changed. Important to the purpose behind the EDF incentives, the number of new jobs and the wages associated with these new jobs have changed too. And while we recognize that this project is not the only project (out of the many projects earmarked with an initial funding allocation) whose target numbers have been reduced, the new terms, presented in the instant agreement, represent significant reductions.

Throughout this process, both County staff and CCRE representatives have been receptive to many of our observations and suggestions, which are already incorporated herein. Other suggestions voiced by the OIG were not accepted; however, we believe these areas may warrant further consideration by the BCC. During the negotiations process, OIG representatives advised County staff and CCRE representatives that, similar to our July 2016 memorandum, we would present these issues, in addition to any other observations, in a memorandum to the BCC. As such, this memorandum contains four (4) issues, resulting in eight (8) recommendations, for the BCC's consideration. These four (4) issues are:

1. Eliminate two-tiered "new jobs" certification – in other words, have only one classification of qualifying "new jobs"

2. Link the grant agreement's average annual wage threshold to annual changes in the County's Living Wage and require the hourly wage rate to be the County's Living Wage rate

3. Revise definition of "new jobs" to be consistent with other grant agreements to exclude relocation of jobs within Miami-Dade County

4. Increase target area employment opportunities

Brief Project Background

As originally presented to the BCC in November 2014, the Carrie Meek Foundation, in partnership with a commercial real estate developer, described an industrial business park project on land located at the Opa-Locka Executive Airport. That land is presently leased to the Carrie Meek Foundation through a separate County lease agreement. The project was to involve several distribution and warehouse facilities, and house approximately 60 aviation-related and non-aviation businesses. The project was approved by the BCC to receive an allocation of $5 million from EDF Project 124 to be used for public infrastructure costs. (See Resolution No. R-986-14) The industrial business park project is now conceived as a singular warehouse and distribution facility to be occupied by a single employer (the Distribution Project).[1]

As with both Project No. 124 and Project No. 320 EDF grants, all non-governmental grantees, in consideration for the grant of public funds, will be required to create a specified minimum number of new jobs at a pre-agreed minimum rate of pay. The actual requirements (number of new jobs and their salaries) vary with each grant.

[1] The initial project was also conceived as consisting of 1,750,000 square feet at a project investment of $127.4 million, including public infrastructure costs estimated at $14.4 million. As presented now, the project involves a minimum of 885,000 square feet and project investment of $92 million, which includes public infrastructure costs estimated at $5 million.

The initial grant application, which was approved by the BCC, required the Grantee to create 2,300 new full-time jobs with an average annual salary of $37,000. At present, the Grantee will only have to create 1,000 new jobs. Half of those new jobs (500) will be certified as having an annual average salary of $27,499.68 (without benefits) or $24,017.76 (including benefits).

OIG Issue 1. **<u>Eliminate two-tiered "new jobs" certification – in other words, have only one classification of qualifying "new jobs"</u>**

As mentioned above, the original proposal—that was approved by the BCC—aimed to create 2,300 new full-time jobs with an annual average salary of $37,000. While the reduction in the number of new jobs alone is not uncommon—several other projects receiving allocations have also negotiated reductions—we note that these reductions for the CCRE grant are significant, as depicted below:

OIG Table 1: Reductions in New Jobs and Annual Average Salaries

Grant Criteria	Original Proposal	As Negotiated and Proposed		Percent Reduction
New Jobs	2,300	Certified New Jobs	1,000	56%
		• Certified Qualifying Wage Jobs	500	78%
Average Annual Salary	$37,000	$27,499.68 (w/o benefits) or $24,017.76 (w/benefits) ***applies only to the 500 qualifying wage jobs – not all 1,000 jobs***		26%

As proposed, the minimum number of new jobs to be created is reduced by 56 percent (2,300 new jobs to 1,000 new jobs) and 78 percent (2,300 to 500 new qualifying wage jobs), depending if they are "qualifying wage" jobs. Moreover, the minimum average salary for only 500 new jobs is 26 percent less (from $37,000 to $27,499) than what was offered previously to all 2,300 employees.

In 2014 and 2015, as several projects were approved by the BCC for EDF grant allocations, not one involved a two-tiered jobs certification. It is this two-tiered certification, one for "Certified New Jobs" and the subset of "Certified Qualifying Wage Jobs" that we find problematic. First, given the 56 percent reduction (from 2,300 to 1,000), we believe that a requirement that all 1,000 jobs meet the annual average salary threshold is not unreasonable. This is especially true when combined with the reduction in average annual salary from $37,000 to approximately $24,000 - $27,000 (depending on benefits).[2] Second, having two-tiers of certification (one being a subset of the larger) allows the Grantee to select the higher paying wages as qualifying. A very high percentage of the 1,000 new jobs could be at the federal minimum wage, so long as the salaries of executives and management are included in the mathematical calculation for the minimum average annual salary (see further discussion below).

The OIG also foresees other compliance issues and complications that could arise because of the two-tiered job certifications. On page 2 of the Mayor's Memorandum, under Payment of the Grant, it explains that through the negotiations process, the Administration has recommended that in lieu of a one-time lump sum grant reimbursement payment, which would require keeping a bond or other irrevocable letter of credit in place for four years, the grant proceeds could be split into five consecutive equal annual payments (the first occurring 365 days after the Certificate of Occupancy is obtained). It is further explained that if:

> . . . the Grantee fails to meet its employment requirements, then a deduction will be made at the time of each annual payment for any percentage of uncertified employment in an amount commensurate with the percentage of uncertified employment. For instance, if only 80 percent of the employment requirement is certified, then that year's payment will be reduced by 20 percent.

While this seems to be a practicable solution, this methodology is not clearly laid out in Section 5 of the Grant Agreement entitled *Payment of Grant.* While articulating the payment policy of five (5) equal annual payments, Section 5 refers to the Section 18(c)(2) for adjustments to the annual payment.[3]

Next, when examining the requirements of Section 18(c)(2) of the proposed grant, we find that it has been specifically amended for the two-tiered job certification reporting requirement. First, default occurs when "The Grantee fails to maintain at least ninety percent (90%) of both the number of New Jobs and the number of Certified Qualifying Wage Jobs during each year of the Job Maintenance Period."[4] For example, if the Distribution Project only maintained 900 new jobs and 450 qualifying wage jobs, it would not be in default, and the annual payment would not be reduced. Second, the remedy applies to the greater of either the shortage of new jobs or shortage of certified qualifying wage jobs—but not both. If only 825 new jobs and 400 qualifying wage jobs were maintained, only 20 percent would be reduced from the annual payment.

[2] The average annual salary of $27,499.68 is derived by $14.69 per hour without benefits at 36 hours per week for 52 weeks. The Grantee may also choose to certify its wage qualifying jobs at $24,017.76, which is derived from $12.83 per hour with benefits, also at 36 hours per week for 52 weeks.
[3] For comparison, the grant agreement for Oak Plaza, LLC (Resolution No. R-740-16) had this deduction methodology stated directly within Section 5. *Payment of Grant*.
[4] See Section 18(a)(2) of the proposed grant agreement.

The OIG believes that for simplicity and uniformity, the two-tiered certification (New Jobs and Certified Qualifying Wage Jobs) should be eliminated. As such, we recommend that there only be one category of new jobs that meets the negotiated salary requirement. **[Recommendation 1]** For the proposed CCRE grant, we suggest that the BCC require that all 1,000 newly created jobs be certified at the average annual salary rate or hourly rate (see OIG Issue 2). We also suggest that the singular new jobs certification be adhered to with the remaining proposed grants. Second, we recommend that compliance (and conversely, default) be established at meeting the requirement at 100 percent—not 90 percent. **[Recommendation 2]** Likewise, we suggest that this policy be adhered to with the remaining proposed grants.[5]

OIG Issue 2. Link the grant agreement's average annual wage threshold to annual changes in the County's Living Wage and require the hourly wage rate to be the County's Living Wage rate

As mentioned earlier in this memorandum, as originally proposed the Distribution Project was to create 2,300 new jobs with an average annual salary of $37,000. As currently presented, for 500 new jobs the minimum average annual salary will be from $27,499 to $24,017, depending on whether qualifying benefits (valued at $1.86 per hour) are included. And while this salary range was derived using the current County Living Wage hourly rate,[6] compliance with this grant requirement does not mean that all the newly created jobs will actually be at the Living Wage hourly rate. In other words, of the 500 certified qualifying wage jobs, some could be at much higher salaries, and many could be at the federal minimum wage. The average rate of pay, based on 936,000 work hours per year at various hourly rates, must be $14.69 per hour or above (if no benefits) or $12.86 or above (with benefits).

Table 2: Example of Hourly Wages That Would Satisfy Annual Average Qualifying Wage Minimum of $14.69 for 500 Employees

No. of Hours	Hourly Wage	Computation
100,000 hours	@ $40 per hour	$4,000,000
200,000 hours	@ $30 per hour	$6,000,000
696,000 hours	@ $7.25 per hour (federal minimum wage)	$5,046,000
996,000 hours		$15,046,000
	Average hourly rate	$15.11

[5] Throughout all the negotiations, the OIG has advocated for uniform application of the reporting requirements. As mentioned in this memorandum, the grant to Oak Plaza, LLC, was the first of the EDF grants to be approved by the BCC. Oak Plaza did not get the benefit of a not less than 90 percent compliance requirement, nor were they aware that there could be two-levels of certification. We believe that the concessions made herein may set an untenable precedent for the remaining grant agreements to be finalized.

[6] See page 3 of the Mayor's Memorandum, enumerated paragraph (B).

Based on the BCC's discussions over the last two years regarding the end goal that these Economic Development Funds are intended to achieve, we believe that the intent is not only to create new jobs but new jobs that pay good wages. We recommend that the certified new jobs be paid at the County's Living Wage rate (for service contracts) or more. **[Recommendation 3]** We believe that this is a reasonable requirement, especially if the number of Qualifying Wage Jobs stays at 500. This will ensure that a sizeable portion of the new jobs will be good jobs that pay living wages.

However, if an agreement cannot be reached on the above recommendation, then we would strongly recommend, at a minimum, that the computation setting the annual average salary be linked to the increases in the County's Living Wage. In other words, the average annual salary should increase with the Consumer Price Index (CPI). **[Recommendation 4]** As presently proposed, the annual average salary threshold stays the same through all five (5) years. Of course, it would be most desirable to have all the Certified New Jobs (at whatever number that might be) all paid at the County's Living Wage, as modified annually.

OIG Issue 3. Revise definition of "new jobs" to be consistent with other grant agreements to exclude relocation of jobs within Miami-Dade County

The OIG has attended numerous meetings between the County and grantees for awards from EDF Projects Nos. 124 and 320. Throughout those meetings, the OIG has repeatedly voiced the importance for consistent contract language in all the grant agreements with respect to creating new jobs in Miami-Dade County and the methodology for certifying and reporting on the maintenance of those jobs. Furthermore, the *Eligibility Requirements for Projects* (see Administrative Rules, Section 4.A.1) states that EDF Project No. 124 grants are intended to "attract new businesses having the potential to create a significant number of permanent jobs in Miami-Dade County …" In other words, the new jobs should be a net increase to the County—not the same jobs relocated from one part of the County to another. Existing jobs located elsewhere in Florida but moving to Miami-Dade County because of the new project, however, would qualify.

On July 19, 2016, the BCC approved, via Resolution No. R-740-16, the first EDF grant award to a private entity (Oak Plaza, LLC) in the amount of $2,000,000. In that agreement, *Section 2. Job Creation,* new jobs are defined as:

> " … (i) new businesses located in the Development, (ii) ***existing businesses relocating to Miami-Dade County as a result of the Development,*** and/or (iii) business expansions of businesses already located in Miami-Dade County … " ***(OIG emphasis added)***

In the proposed agreement with CCRE, the definition for "new jobs" provides a looser requirement, in that it states:

> " … (i) new businesses located in the Distribution Project, (ii) ***existing businesses <u>relocating to the Distribution Project or to the County</u> as a result of the Distribution Project***, and/or (iii) local business expansions … " ***(OIG emphasis added)***

<u>The OIG recommends that the definition of new jobs be revised to eliminate the clause "to the Distribution Project or…"</u> **[Recommendation 5]** Doing so, would ensure that the new jobs to be created are actually new to Miami-Dade County, and not merely jobs relocated from one part of the County to another part of the County.[7]

OIG Issue 4. <u>Increase target area employment opportunities</u>

While the Distribution Project will receive funds from EDF Project 124 (countywide fund), it is located in a Targeted Urban Area (TUA). This point was affirmatively recognized in CCRE's application, and stressed in the Mayor's recommendation in support of the grant allocation. That memorandum stated: "The Project has the potential to provide employment opportunities at good wages for many residents in the Opa-Locka TUA, as well as improving economic conditions for the local population. The median household income in the TUA is $21,800, the poverty rate is 32%, and the unemployment rate is 12.8% and this development could result in a considerable improvement in these socioeconomic conditions."[8]

The OIG understands the nature of the development project and that sizing is necessary to ensure its financial viability in an area of our community that is in dire need of employment opportunities. Thus, in consideration for the significant reductions in project scope, new job generation, and wages, while maintaining the initial grant allocation of $5 million, the OIG believes that every effort should be made to provide these job opportunities to residents of Miami-Dade County, and specifically, residents of the Opa-Locka area. At $14.69 per hour (without benefits), these jobs—which may not require advanced technical skills—may be attractive to residents of our neighboring counties. Residents of Miami-Dade County, and residents of Opa-Locka and its immediate surrounding areas, should have first consideration for jobs created by the assistance of County tax dollars.

[7] The OIG recognizes that the Oak Plaza, LLC, grant was from EDF Project 320, and that the CCRE grant will be from EDF Project 124. The source of the grant (i.e., the Project Fund) should not make a difference. Project 320 is actually for projects located in Targeted Urban Areas. One could actually make the reverse argument that in order to spur jobs in TUAs, it would be acceptable that the jobs are new to the TUA but not necessarily new to the County. In any event, we believe that all new jobs, regardless of whether the project is funded from either Project 320 or 124, be a net increase to the County.
[8] See Resolution No. R-986-14, handwritten page 3.

Section 2 entitled *Job Creation* of the proposed grant agreement states:

> The Grantee will aspire to cause at least 700 Certified New Jobs at the Distribution Project to be available to qualified residents of Miami-Dade County, it is being understood that the employer will retain sole discretion in hiring . . . By way of example, the Grantee will be deemed to have satisfied this aspirational requirement if, in connection with the initial hiring activities for the opening of the Distribution Project, (i) at least one job fair intended to recruit Miami-Dade County residents is held, and (ii) opportunities for employment are posted or advertised at least once in a local publication or other media intended to recruit residents of Miami-Dade County.

This aspirational commitment could be strengthened, and it could be made more beneficial to the residents of Opa-Locka and the residents of the Central and North-Dade Empowerment Zones. <u>To this end, we recommend that a portion of the 700 new jobs for Miami-Dade County residents, be specially made available to the residents of the Opa-Locka TUA and Central and North-Dade Empowerment Zones.</u>[9] **[Recommendation 6]** <u>We also recommend that the job fair requirement be amended to include holding at least one job fair in Opa-Locka and actively engaging the participation and services of Career Source of South Florida, the Carrie Meek Foundation or other similar County-funded job placement agency to assist with recruitment and screening efforts</u>. **[Recommendation 7]**

Achieving these goals could also include a requirement that employment outreach be performed beyond the "initial hiring activities for the opening of the Distribution Project." As it reads now, the Grantee will have met its obligations after the Distribution Project is open for business and the aforementioned job fairs and advertisements were completed. There will be job turnover and, <u>as additional hiring is needed, we recommend that the County include requirements that direct the Distribution Project's employer to utilize the services of Career Source of South Florida, the Carrie Meek Foundation or other similar County-funded job placement agency</u>. **[Recommendation 8]** Such a collaboration would ensure maximum exposure and benefit to the residents of Opa-Locka and the surrounding empowerment zones, while saving the employer the initial expense for recruitment advertising and applicant screening. Obviously, the Distribution Project's employer would be the final hiring authority.

Last, we note that the BCC, through a previous resolution urging the State regarding its Qualified Target Industry (QTI) program, has articulated its desire to

[9] For comparison, Oak Plaza, LLC, in its EDF Project 320 grant, agreed that it "will aspire to have no less than seventy percent (70%) of the Certified Jobs offered first to residents of the Targeted Urban Area ("TUA") and to the extent any positions remain unfilled, to residents of Miami-Dade County as set forth in the hiring plan prepared by the Grantee and attached as Exhibit B to this Agreement." (See Resolution No. R-740-16, Grant Agreement, *Section 2. Payment of Grant*.)

ensure that projects receiving public subsidies employ local residents.[10] Even though a 70 percent aspirational goal is laudable, there is room to make that aspiration more concrete.

Conclusion

The OIG is appreciative of the hard work and determination of all the parties (County staff, CCRE representatives, and representatives of the Distribution Project's employer) to make this project a reality. Based on what we have learned about this project through the negotiation process, and also what has been stated publicly, the Distribution Project could really be a game changer for the Opa-Locka TUA. With that in mind, the OIG proffers these recommendations for the BCC's consideration in order to advance the goal of improving employment opportunities for all Miami-Dade County residents, but also with the specific hope that it truly benefits the residents living closest to the project.

cc: Abigail Price-Williams, County Attorney
Jack Osterholt, Deputy Mayor/Director, Regulatory and Economic Resources Dept. (RER)
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Pryse Elam, Manager, CCRE Meek, LLC
Tony Crapp, Sr., Executive Director, The Carrie Meek Foundation, Inc.

[10] On November 15, 2016, the BCC adopted Resolution R-1099-16 *that "Urges the Florida Legislature to enact legislation that, to the extent permissible by law, would require Qualified Target Industry businesses to fill not less than 20 percent of the jobs created with residents of the County in which the business will be located."*