

# MEMORANDUM

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<b>TO:</b>	Honorable Chairman Oliver G. Gilbert, III and Members, Board of County Commissioners	<b>DATE:</b>	Agenda Item No. 7(B) (Second Reading: 9-4-24) June 18, 2024
<b>FROM:</b>	Geri Bonzon-Keenan County Attorney	<b>SUBJECT:</b>	Ordinance relating to Miami-Dade Aviation Department Capital Improvement Projects; amending section 2- 285.2 of the Code; providing for additional reporting requirements for the Aviation Capital Program Report; authorizing the County Mayor to apply for, receive, and expend federal or state grants without need for ratification

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Kevin Marino Cabrera.

  
Geri Bonzon-Keenan  
County Attorney

GBK/gh

MDC001

# Memorandum



**Date:** September 4, 2024

**To:** Honorable Chairman Oliver G. Gilbert III  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

**Subject:** Fiscal Impact Statement for Ordinance Relating to Report of Innovate Activities at Miami International Airport

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The implementation of this Ordinance will not have a fiscal impact to Miami-Dade County, the reporting requirements outlined in the ordinance can be accomplished with existing staff.

A handwritten signature in blue ink, appearing to read "Jimmy Morales".

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Jimmy Morales  
Chief Operating Officer

# Memorandum



**Date:** September 4, 2024

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**From:** Daniella Levine Cava  
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

**Subject:** Legistar No. 241070: Social Equity Statement for Ordinance Amending Section 2-285.2 of the Miami-Dade County Code Related to Miami-Dade Aviation Department Capital Improvement Projects

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The proposed Ordinance amends the reporting requirements of the monthly Aviation Capital Program Report and the ratification requirement for all federal and state grants applied for or received inclusive of any amendments or supplemental agreements as set forth in Section 2-285.2 of the Miami-Dade County Code related to Miami-Dade Aviation Department (MDAD or Aviation Department) Capital Improvement Projects.

The reporting requirements are being enhanced to provide the Board of County Commissioners (Board) with a comprehensive overview of ongoing and upcoming activities at Miami International Airport (MIA) and the General Aviation Airports (GAA) including improvements, infrastructure investments and capital projects along with any other relevant airport activities, accomplishments, and awards that promote the modernization of MIA and the GAA, and contributes towards making them innovative, future-ready airports. In addition, in lieu of placing fully executed federal and state grants applied for or received by the County (inclusive of any amendments or supplemental agreements to previously awarded grants) on a Board agenda for ratification, they will be reported in MDAD's monthly Aviation Capital Program Report. By removing the ratification requirement and delegating this authority to the County Mayor, MDAD's grant approval path will mirror PortMiami's current approval path. This change was requested by the Florida Department of Transportation (FDOT) in order to standardize the language in the grant agreements and provide for the timely execution of MDAD's grant agreements. At the same time, the proposed change in the approval path benefits the County because it accelerates the implementation of airport projects that are currently subsidized by federal and state grants.

The provisions of the proposed Ordinance serve to better inform Board members as well as Miami-Dade residents and visitors of the County's "Modernization in Action" Program that is in underway at MIA and the GAA, as well as the capital projects that are expanding/upgrading certain airport facilities, including but not limited to: public parking garages, baggage handling systems, terminal buildings, gate capacities, hold rooms, ticket counters, public restrooms, connecting corridors, passenger loading bridges, ramps, and retail areas. The provisions of the proposed Ordinance also deliver the anticipated benefits of MDAD's airport projects to the public faster by deleting the Board ratification requirement of fully executed federal and state grants.

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A handwritten signature in blue ink that reads "Jimmy Morales".

Jimmy Morales  
Chief Operating Officer

MDC003



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** September 4, 2024

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 7(B)

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. 7(B)  
9-4-24

ORDINANCE NO. \_\_\_\_\_

ORDINANCE RELATING TO MIAMI-DADE AVIATION DEPARTMENT CAPITAL IMPROVEMENT PROJECTS; AMENDING SECTION 2-285.2 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING FOR ADDITIONAL REPORTING REQUIREMENTS FOR THE AVIATION CAPITAL PROGRAM REPORT; AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO APPLY FOR, RECEIVE, AND EXPEND FEDERAL OR STATE GRANTS WITHOUT NEED FOR RATIFICATION; PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, this Board desires to enhance the monthly reporting requirements provided for under section 2-285.2(5) of the Code of Miami-Dade County so this Board has a more complete picture of ongoing activities at Miami International Airport (MIA); and

**WHEREAS**, the State of Florida has also requested that the Miami-Dade County Aviation Department ("MDAD") be granted the authority to apply for and receive state grant funds without need for subsequent action of this Board; and

**WHEREAS**, state grants subsidize construction activities at MDAD properties; and

**WHEREAS**, the County has previously approved similar grants of authority to the Port of Miami,

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

**Section 1.** Section 2-285.2 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

**Sec. 2-285.2. - Acceleration of Miami-Dade Aviation Department Capital Improvement Projects.**

- (1) The Capital Improvement Program consists of those projects, whether funded through capital or other funds, which are (a) specifically identified as a "Capital Improvement Project" in the budget adopted by the Board for the then current or any previous fiscal year, or (b) otherwise designated as Capital Improvement Projects pursuant to a resolution of the Board.
- (2) The County Mayor or Mayor's designee is authorized, subject to funding limitations set forth in the annual budget adopted by the Board, to accelerate the processing, procurement, award, and administration of any contract or agreement of the County necessary for the successful completion of the capital improvement program and to maintain the operational effectiveness and commercial viability of the County airport system during the capital improvement program, including any contracts related to the purchase of goods and services, construction or professional services. The authority delegated under this section applies to any contract whose funding source is in whole or in part airport revenue bonds, so long as the use of such contract is in support of the capital improvement program, and irrespective of whether such contract was awarded pursuant to this section.
- (3) All actions taken pursuant to this section shall be subject to review by the Office of Management and Budget or its successor department with budget oversight authority to ensure adequate funding for each project and that appropriate operational and maintenance funding is in place for the foreseeable future and to ensure compliance with contract documents and all applicable resolutions, ordinances, and statutes.
- (4) With respect to any project included in the capital improvement program, the County Mayor or Mayor's designee is authorized to do any or all of the following:
  - (a) Draft, issue and advertise invitations to bid, requests for proposals, requests for qualifications, notices to professional consultants, or any other competitive procurement document without Board approval;

- (b) Award and reject bids, proposals, or other offers received in connection with any competitive procurement. However, in the event that any proposed award of a contract is protested, the Board shall award such contract as provided for in section 2-8.4 of the Code and Implementing Order 3-21 governing the bid protest process. Unless otherwise authorized and delegated, the County Mayor or Mayor's designee may not waive competitive bids in the award of a contract without the prior approval of the Board. The authority to award or reject is granted where the following circumstances are present:
  - i. The base value of a recommended award does not exceed the base estimate by more than ten percent; and
  - ii. The contractor or consulting firm receiving the award has a rating of 2.5 or higher in the Capital Improvement Information System (CIIS) database and has no outstanding debts or goal deficits, and, by the time of award, has submitted required insurance, bonds, affidavits and documentation required; and
  - iii. None of the bidders have filed a timely bid protest;
- (c) Appoint selection evaluation committees to obtain professional services in accordance with section 2-10.4 of the Code and section 287.055, Florida Statutes, and any applicable implementing orders. Where the potential for a conflict of interest may arise between a potential selection committee member and a potential proposer, the County Mayor or County Mayor's designee shall consult with the Commission on Ethics and Public Trust prior to making such appointment, and shall not appoint any such member where the potential for a conflict exists;
- (d) Amend contracts and extend the time for completion of any contract for construction, materials or professional services, including waivers of liquidated damages and other compensable or non-compensable time extensions;

- (e) Negotiate and settle claims, and issue settlement agreements or change orders for additional work under contracts and amendments when:
  - i. The individual change order or claim does not exceed ten percent of the base contract amount; and
  - ii. The contingency allowance is utilized to ensure minimal disruption in work flow and is documented on the appropriate contingency authorization draw. Change orders shall be submitted to replenish the contingency account in a timely manner;

Notwithstanding, the foregoing limitations shall not apply to any change order or amendment related to emergency actions impacting remediation, public safety, health requirements or recovery from natural disaster;

- (f) Reallocate unspent monies among projects within the approved Multi-Year Capital Plan;
- (g) Apply for, execute, and receive any federal or state grant in connection with any capital project, and execute any ancillary documents required to effectuate such grant>>, without need for subsequent ratification by the Board<<;
- (h) Apply for, execute and enter into joint participation agreements with (i) any local, state or federal government entity for the completion of a Capital Project or (ii) with the owner of any utility whose facilities traverse airport property, in order to accommodate the relocation of any existing utility as may be necessary to advance a Capital Project;
- (i) Issue and evaluate Requests for Qualifications (RFQs) for Professional Services, provided the RFQs and evaluation process are otherwise consistent with section 2-10.4 of the Code. In the event that the County Mayor or Mayor's designee is unable to negotiate a contract with the most qualified firm, the County Mayor or Mayor's designee is authorized to negotiate, sequentially, with the remaining firms in order of qualifications. Alternately, the County Mayor or Mayor's designee may at any time reject all qualifications received. Except as noted herein, nothing contained in this section shall otherwise modify



the substantive or procedural requirements of section 2-10.4 of the Code.

- (5) The County Mayor or Mayor's designee shall prepare a monthly report to be known as the Aviation Capital Program Report which shall include the following information:
  - (a) A list of all procurement activities advertised or placed for public notice under the authority of this section including upcoming advertisements for contracts, their estimated contract value, qualifications for award beyond requisite licensing, and the proposed contract measures, including Small Business Enterprise goals and Community Business Enterprise goals or Disadvantaged Business Enterprise goals, as may be applicable; and
  - (b) A listing of all active capital projects by project number, project title, project phase, estimated completion date including i) adopted budget amount, ii) current budget amount, iii) previous month-to-date expenditures, iv) current month-to-date expenditures, and v) cumulative total expenditures. The Aviation Capital Program Report shall include indicators informing the members of the Board when project expenditures reach 30 percent, 60 percent and 90 percent of the approved current budget amount and a comment section to explain variances. The Aviation Capital Program Report shall be made available for placement on the Tourism and the Ports Committee agenda or the applicable committee agenda to which Miami-Dade Aviation Department matters are assigned and then on the next available Board agenda. The first Aviation Capital Program Report shall be made available for placement on a committee agenda no less than 60 days after the first contract is awarded under the authority of this section. Upon review of the Aviation Capital Program Report by the Board, any Board member shall have the authority to require that specific capital improvement projects or contracts be removed from the authority granted under this section and that the award of such projects or contracts be subject to future Board approval, and the Board may by resolution limit or condition the advertisement, award or other authority delegated to the County Mayor to Mayor's designee under this section for specific capital improvement projects.

- >>(c) Any information that highlights the improvements, infrastructure investments and capital projects at Miami International Airport or the County's General Aviation Airports, in addition to any other relevant airport activities, accomplishments, and awards that contribute to making Miami International Airport a more efficient, innovative, and avant-garde airport.
- (d) All federal or state grants applied for or received, inclusive of any amendments or supplemental agreements to previously awarded grants.<<
- (6) Any award, change order, settlement, modification, adjustment, or amendment undertaken pursuant to the authority of subsection (4)>>(a)-(f), or (i)<< above is subject to ratification by the Board and shall be brought to the Board for ratification and will not be subject to the 4-Day Rule. Any contract, change order, settlement, modification, adjustment, or extension granted pursuant to any authority herein shall contain a termination for convenience clause or such other provision as necessary to specify that the action is revocable if not ratified by the Board. The specifications shall also include a sufficient release such that, in the event that the Board does not ratify such item, the contractor is not entitled to lost profits or other consequential or indirect damages; however, the contractor is eligible for payment for any work done prior to failure of the ratification. Acts subject to ratification shall, within sixty days of the effective date of such act, be submitted to the Office of the Chair for placement on an agenda of the Board.
- (7) The County Mayor or Mayor's designee is authorized to enter into leases for a term which shall not exceed 20 years, or authorize the conveyance of licenses and easements to, the following entities: the Federal Aviation Administration, the Department of Homeland Security, including, but not limited to, the Transportation Security Administration and Customs and Border Protection, and any other federal or state agency whose presence at an airport is necessary for the efficient and effective functioning of that airport.
- (8) The County Mayor or Mayor's designee is authorized to enter reimbursement agreements providing for County funding of agency services with the Federal Aviation Administration,

the Transportation Security Agency, Customs and Border Protection, the Department of Homeland Security, and any other Federal or State agency whose presence at an airport is necessary for the efficient and effective functioning of that airport. Such Agreements must contain a termination for convenience clause and shall be presented to the Board for ratification pursuant to subsection (6) above, regardless of the duration or cost of such agreement.

- (9) The Aviation Director, with respect to any airport contract, is authorized to exercise all authority granted or delegated to the Internal Services Director or their successor pursuant to any current or future Implementing Order, resolution, or ordinance, as may be applicable to such contract or class of contract.
- (10) The powers conferred in this section shall be supplemental to, and not in derogation of, any other powers or authority granted elsewhere in any statute, ordinance, or resolution. The provisions of this section shall be broadly construed to effectuate its goals.

**Section 2.** If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

**Section 3.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**Section 4.** This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

GKS for GBK

Prepared by:

DMM

David M. Murray

Prime Sponsor: Commissioner Kevin Marino Cabrera