

## **ARTICLE 7. PARKS, AQUATIC PRESERVES, AND PRESERVATION LANDS**

Note(s)—This Article does not apply to municipal property in Coral Gables, Hialeah, Hialeah Gardens, Miami, Sweetwater and West Miami. See Section 7.04.

### **SECTION 7.01. POLICY.**

Parks, aquatic preserves, and lands acquired by the County for preservation shall be held in trust for the education, pleasure, and recreation of the public and they shall be used and maintained in a manner which will leave them unimpaired for the enjoyment of future generations as a part of the public's irreplaceable heritage. They shall be protected from commercial development and exploitation and their natural landscape, flora and fauna, and scenic beauties shall be preserved. In lands acquired by the County for preservation and in parks along the Ocean or the Bay the public's access to and view of the water shall not be obstructed or impaired by buildings or other structures or concessions which are in excess of 1,500 square feet each. Adequate maintenance shall be provided.

### **SECTION 7.02. RESTRICTIONS AND EXCEPTIONS.**

In furtherance of this policy parks shall be used for public park purposes only, and subject to the limited exceptions set forth in this Article, there shall be no permanent structures or private commercial advertising erected in a public park or private commercial use of a public park or renewals, expansions, or extensions of existing leases, licenses, or concessions to private parties of public park property, unless each such structure, lease, license, renewal, expansion, extension, concession or use shall be approved by a majority vote of the voters in a County-wide referendum. Nothing in this Article shall prevent any contract with federally tax-exempt not-for-profit youth, adult, and senior cultural, conservation and parks and recreation program providers. To ensure aquatic preserves, lands acquired by the County for preservation, and public parks or parts thereof which are nature preserves, beaches, natural forest areas, historic or archeological areas, or otherwise possess unique natural values in their present state, such as Matheson Hammock, Greynolds Park, Redlands Fruit and Spice Park, Castellow Hammock, Crandon Park, Trail Glades Park, Deering Estate Park, Pine Shore Park, Old Cutler Hammock, Chapman Field, Tamiami Pinelands, Wainright Park, Larry and Penny Thompson Park, Whispering Pines Hammock, Mangrove Preserve, Owaissa Bauer Park, Fuchs Hammock, Black Point Marina, Simpson Park, Sewell Park, Barnes Park, Virginia Key, mangrove preserves, and all other natural or historical resource based parks do not lose their natural or historical values, any structure, lease, license, renewal, extension, concession or use in any of this class of public parks or in aquatic preserves and preservation lands must be approved by an affirmative vote of two-thirds of the voters in a County-wide referendum. No park shall be designed to be used beyond its appropriate carrying capacity and to the extent required by law all parks and facilities and permitted special events and concessions operating in the parks shall be fully accessible to persons with disabilities. Nothing in this Article shall prevent the maintenance of existing facilities, the maintenance, operation, and renovation of existing golf course and marina restaurants at their existing square footage by government agencies or private operators, provided such private operators are chosen as a result of competitive selection and their initial contract terms are limited to no more than ten years, or the construction, operation, maintenance, and repair by government agencies or private operators of or issuance of temporary permits for the following, provided that there be no adverse impact to natural resources on lands acquired or designated for preservation by the Board of County Commissioners:

- A. Appropriate access roads, bridges, fences, lighting, flag poles, entrance features, picnic shelters, tables, grills, benches, irrigation systems, walls, erosion control devices, utilities, trash removal, parking and security and fire facilities for the primary use of the park system;

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- B. Food and concession facilities each not in excess of 1,500 square feet of enclosed space, with any complementary outdoor or covered areas needed to service park patrons;
  - C. User-participation non-spectator recreation and, playground facilities, golf courses and golf-course related facilities, and bandstands and band shells containing less than 1,000 spectator seats and athletic facilities, sports fields and arenas containing less than 3,000 spectator seats;
  - D. Facilities for marinas, sightseeing and fishing boats, visiting military vessels, and fishing;
  - E. Park signage and appropriate plaques and monuments;
  - F. Rest rooms;
  - G. Fountains, gardens, and works of art;
  - H. Park service facilities, senior, day care and preschool facilities, small nature centers with not more than one classroom;
  - I. Film permits, temporary fairs, art exhibits, performing arts, concerts, cultural and historic exhibitions, regattas, athletic contests and tournaments, none of which require the erection of permanent structures;
  - J. Advertising in connection with sponsorship of events or facilities in the park, provided however all such facilities and uses are compatible with the particular park and are scheduled so that such events do not unreasonably impair the public use of the park or damage the park;
  - K. Programming partnerships with qualified federally tax exempt not-for-profit youth, adult, and senior cultural, conservation, and parks and recreation program providers;
  - L. Agreements with cable, internet, telephone, electric or similar service providers or utilities, so long as any installations are underground or do not adversely impact natural resources, or parks facilities and uses;
  - M. Campgrounds and limited overnight camping accommodations in cabins/lodges only for park patrons at Camp Matecumbe; and
  - N. Miami-Dade County Public Library System facilities providing library services to the public so long as such library facilities are established within recreation facilities, are compatible within the surrounding park and do not unreasonably impair the public use of the park.

No park facilities, golf courses, or County lands acquired for preservation shall be converted to or used for non-park offices, purposes, or uses. The County, the municipalities, and agencies or groups receiving any public funding shall not expend any public money or provide any publicly funded services in kind to any project which does not comply with this Article. No building permit or certificate of occupancy shall be issued for any structure in violation of this Article. The restrictions applying to parks in this Article shall not apply to the Dade County Youth Fair site at Tamiami Park and to any expansion of Florida International University onto no more than 64 acres therein upon the relocation of the Miami-Dade County Fair & Exposition, Inc. No County funds shall be used for the University's expansion and for the required relocation of the Miami-Dade County Fair & Exposition, Inc. The restrictions applying to parks in this Article shall also not apply to Metro Zoo, Tamiami Stadium, Haulover Fishing Pier, the Dade County Auditorium, the Museum of Science, the Gold Coast Railroad Museum, Vizcaya Museum and Gardens, Trail Glade Range, the Orange Bowl, the Commodore Ralph Munroe Marine Stadium, the Seaquarium, Curtis Park track and stadium, Fairchild Tropical Gardens, the Miami-Dade County Regional Soccer Park on NW 58th Street, and mini and neighborhood parks except that no mini or neighborhood park may be leased or disposed of unless a majority of the residents residing in voting precincts any part of which is within 1 mile of the park authorize such sale or lease by majority vote in an election.

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### **SECTION 7.03. ENFORCEMENT AND CONSTRUCTION.**

All elections required by this Article shall be held either in conjunction with state primary or general elections or as part of bond issue elections. The provisions of this Article may be enforced by a citizen alleging a violation of this Article filed in the Dade County Circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the Court. The provisions of this Article shall be liberally construed in favor of the preservation of all park lands, aquatic preserves, and preservation lands. If any provision of this Article shall be declared invalid it shall not affect the validity of the remaining provisions of this Article. This Article shall not be construed to illegally impair any previously existing valid written contractual commitments or bids or bonded indebtedness.

### **SECTION 7.04. JURISDICTION.**

Except as otherwise provided herein the provisions of this Article shall apply to all County and municipal parks, aquatic preserves, and lands acquired by the County for preservation now in existence or hereafter acquired, provided that if this Article was not favorably voted upon by a majority of the voters voting in any municipality at the time of the adoption of this Article the municipal parks of such municipality shall be excluded from the provisions of this Article.

### **Sec. 18C-8. Requirements related to golf courses, athletic fields, specialized turf, and parks.**

- (A) *New and Renovated Golf Courses.* All new golf courses, all existing golf courses, where more than 50 percent of the total golf course turf has been renovated or redesigned after January 1, 2022; and all portions of golf course turf which are renovated or redesigned after January 1, 2022, shall meet all the following requirements. These requirements shall apply to both public and private golf courses.
- (1) Best management practices are encouraged to be incorporated, as provided in "Best Management Practices for the Enhancement of Environmental Quality on Florida Golf Courses," published by the Florida Department of Environmental Protection, as may be amended.
  - (2) Golf courses shall submit design plans to the Department that minimize areas that require golf course turf and maximize the use of (i) native trees, shrubs, or groundcover landscaping; (ii) Florida-friendly trees, shrubs, or groundcover landscaping, or (iii) wetlands or other stormwater retention areas.
  - (3) A certified turfgrass species, such as Bermuda, Paspalum, St. Augustine, or Zoysia, or other certified turfgrass species, in consultation with the Director, that requires a comparably low amount of fertilization and water consumption, shall be used for all golf course turf areas.
  - (4) Green infrastructure elements or low impact development (LID) design shall be incorporated into the design of the golf course's drainage system and in allowing ample, uncompacted areas for tree root growth.
  - (5) Fertilizer shall not be applied within 10 feet of any of the following, which area shall be referred to as a "fertilizer-free zone":
    - (i) From the top of the bank of any pond, stream, watercourse, lake, surface waterbody, stormwater drain, or canal;
    - (ii) Any wetland as defined in accordance with Chapter 62-340 of the Florida Administrative Code;
    - (iii) From the top of a seawall; or
    - (iv) Biscayne Bay.

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- (B) *New and Renovated Athletic Fields.* All new athletic fields and all existing athletic fields, where more than 50 percent of the total athletic field has been renovated or redesigned after January 1, 2022, shall meet all the following requirements:
- (1) Best management practices shall be incorporated for landscaping through the use of native and Florida-friendly trees, shrubs and ground cover landscaping.
  - (2) Green infrastructure elements or low impact development (LID) design shall be incorporated into the design of the athletic field's drainage system and in allowing ample, uncompacted areas for tree root growth.
  - (3) Fertilizer shall not be applied within 10 feet of any of the following, which area shall be referred to as a "fertilizer-free zone":
    - (i) From the top of the bank of any pond, stream, watercourse, lake, surface waterbody, stormwater drain, or canal;
    - (ii) Any wetland as defined in accordance with Chapter 62-340 of the Florida Administrative Code;
    - (iii) From the top of a seawall; or
    - (iv) Biscayne Bay.
- (C) *Renovated Parks.* All existing parks, where more than 50 percent of the total park has been renovated or redesigned after January 1, 2022, shall meet all the following requirements:
- (1) Best management practices for landscaping shall be incorporated through the use of native and Florida-friendly trees, shrubs and ground cover landscaping.
  - (2) Green infrastructure elements or low impact development (LID) design shall be incorporated into the design of the park's drainage system and in allowing ample, uncompacted areas for tree root growth.
  - (3) Fertilizer shall not be applied within 10 feet of any of the following, which area shall be referred to as a "fertilizer-free zone":
    - (i) From the top of the bank of any pond, stream, watercourse, lake, surface waterbody, stormwater drain, or canal;
    - (ii) Any wetland as defined in accordance with Chapter 62-340 of the Florida Administrative Code;
    - (iii) From the top of a seawall; or
    - (iv) Biscayne Bay.
- (D) *Fertilizer management plan for renovations.* All renovations to any golf course, athletic field, or park shall require preparation of a management plan with fertilization strategies, chemical-mixes and distribution/utilization regimes to reduce nitrogen, and phosphorus-related nutrient load, and said management plan shall be provided to the Department upon request. Said management plans may be modified, with notice to the Department, and modified management plans shall be provided to the Department upon request.
- (E) Fertilizers applied to parks and athletic fields shall be formulated and applied in accordance with requirements and directions provided by rule 5E-1.003(3)(b), Florida Administrative Code, as may be amended.
- (F) Fertilizers applied to turf and landscape plants shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(4), Florida Administrative Code, Labeling Requirements For Urban Turf Fertilizers, as may be amended.
- (G) Fertilizers labeled for sports turf at golf courses, parks, and athletic fields shall:

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- (1) Have directions for use not to exceed rates recommended in the document titled SL 191 "Recommendations for N, P, K, and Mg for Golf Course and Athletic Field Fertilization Based on Mehlich III Extractant," dated March 2007, as may be amended; and
  - (2) Have directions for use in accordance with the recommendations in "BMPs for the Enhancement of Environmental Quality of Florida Golf Courses" published by the Florida Department of Environmental Protection, dated October 2012. This does not exempt applicators at these sites from the required basic Green Industry BMP training.
- (H) *Soil tests and records.* All public and private golf courses, public athletic fields, public parks with specialized turf, and public parks with high-impact areas shall administer a nutrient soil test at least once every six months and shall maintain records of monthly fertilizer usage. For the required nutrient soil tests, golf courses shall test at least three greens and three fairways, and if a golf course abuts or is intersected by a water body, at least one test shall be from the area abutting or intersected by the water body. Nutrient soil test results and monthly fertilizer-use for the preceding 12-month period shall be provided to the Director, upon request.
- (I) *Quarterly reports for golf courses.* Beginning on January 1, 2022, all public and private golf courses are required to submit quarterly reports to the Department, in a form approved by the Director, which shall address fertilizer usage, low-maintenance landscaping, compliance with the requirements of this chapter, fertilizer-related training, actions taken to voluntarily reduce fertilizer usage beyond the requirements of this chapter, and incidents such as algae blooms or fish kills.
- (J) All public and private golf courses are encouraged to follow the provisions of the Florida Department of Environmental Protection document, titled "BMPs for the Enhancement of Environmental Quality on Florida Golf Courses, January 2012," as may be amended.
- (K) High impact areas in public parks and athletic fields are encouraged to follow the provisions of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, December 2008," as may be amended.
- (L) *Waivers.* The Director may approve limited waivers of the requirements set forth in this section in accordance with all of the following:
- (1) The request is submitted in writing.
  - (2) The request details the project's design and details and what unnecessary hardship or practical difficulty the applicant would incur from compliance with the requirements.
  - (3) The Director determines that the applicant made a good faith effort to achieve substantial compliance with the applicable requirements, that the applicant would incur an unnecessary hardship or practical difficulty from compliance with the requirements.

(Ord. No. 21-26, § 2, 4-20-21)

### **ARTICLE III. SAFE NEIGHBORHOOD PARKS ORDINANCE<sup>1</sup>**

#### **Sec. 25B-20. Findings.**

The Board finds that:

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<sup>1</sup>Cross reference(s)—General obligation bonds, ch. 16.

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- (a) The purposes described in the Whereas clauses are incorporated in the body of this article by reference. This article shall hereafter be known as the "Safe Neighborhood Parks Ordinance" and referred to herein as the "article".
  - (b) It is critical that neighborhood and regional parks are restored and improved throughout the County to improve the overall quality of life of our communities, provide safe places for children to play and alternatives to gangs and gang activities, increase recreation opportunities for senior citizens, and provide pleasant places for all residents to enjoy relief from congestion and urban stress.
  - (c) The improvement, restoration, expansion, and enhanced safety of park, open space and recreation lands and facilities will help reduce crime, increase the attractiveness of the County as a place in which to live and locate businesses, maintain sound economic conditions and a high standard of livability in the County by increasing property values, economic activity, employment opportunities and tourism throughout the County.
  - (d) The protection of beach, park, recreation and natural areas is vital to the quality of life in the County, providing important recreation opportunities to all residents of the County, especially children and senior citizens, and helping to protect air and water quality.
  - (e) The Board finds that the distribution of the funds for qualified projects must be done in a fair and organized manner.

(Ord. No. 96-115, § 1, 7-16-96)

### **Sec. 25B-21. Definition.**

As used in this article, the following terms mean:

*Administrative expenses* means all direct expenses incurred in administering the development and completion of any of the projects authorized and approved under the terms of this article. Administrative costs shall not include those administrative expenses incurred in the everyday operation of any not-for-profit organization and public agency, which administer a project funded pursuant to this article.

*Beaches* means beaches open to use by all of the residents of the County.

*General fund* means those funds raised, primarily through ad valorem taxes, fees and transfers, that are used to account for the general operations of the County or municipal governments and all transactions which are not accounted for in other funds or account groups.

*Natural area* means an environmentally sensitive area usually containing a natural forest community, freshwater or coastal wetland and managed to maintain and enhance biological values.

*Not-for-profit organization* means any legally incorporated not-for-profit organization created under the laws of the State of Florida (the "State") and designated as a tax exempt entity by the United States Internal Revenue Service, which has among its purposes the provision of park and recreation services, gang prevention and intervention, tree-planting, or the conservation and preservation of lands for park, natural areas, scenic, historic, or open spaces.

*Parks* mean those areas of public land set aside for aesthetic, educational, recreational, or cultural use by the citizens of the County.

*Park and recreation department* means the Miami-Dade County Park and Recreation Department.

*Public agency or public agencies* means an agency or agencies or administrative division or divisions of the United States government, the State of Florida, the County, or any municipality within the County.

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*Recreation and heritage facilities* mean those facilities that are managed by a public agency or agencies that focus their programming on cultural, historical, educational and recreational activities.

*State park* means a park owned or operated by the Florida Department of Environmental Protection, Division of Recreation and Parks.

*Trust account* means the separate interest bearing account into which proceeds of the bond program, as outlined in this article, shall be deposited.

*UMSA* means Unincorporated Municipal Service area of the County, for which the County provides municipal services.

(Ord. No. 96-115, § 2, 7-16-96)

## **Sec. 25B-22. Bonds.**

In accordance with the provisions of the Miami-Dade County Home Rule Charter and the general laws of the State of Florida, including Chapters 125, 159, and 166, Florida Statutes, there is authorized to be issued, subject to the approval of the electorate pursuant to the Special Election, general obligation bonds of the County, in one (1) or more series, in an aggregate principal amount not to exceed two hundred million dollars (\$200,000,000.00) outstanding at any one (1) time (the "bonds"). This article also authorizes the issuance of other evidences of indebtedness in the form of anticipation notes or bonds in anticipation of the issuance of the bonds. The bonds shall be payable from unlimited ad valorem taxes levied on all taxable property in the County without limit as to rate or amount, the full faith and credit of the County being pledged to the payment of principal of, redemption premium, if any, and interest on the bonds. The bonds shall bear interest at such rate or rates, not exceeding the maximum rate of interest permitted by law at the time of their sale, shall be stated to mature on a date or dates not exceeding forty (40) years from the date of issue, shall be subject to redemption and shall have such other terms, covenants and provisions as shall be determined by the Board by one (1) or more subsequent ordinances or resolutions. The purpose of the bonds shall be (i) to pay the costs of issuance of bonds, (ii) to pay eligible administrative costs, and (iii) to finance the acquisition of and capital improvements to parks, beaches, natural areas and recreational and heritage facilities, in the manner set forth in this article, in amounts not to exceed the following:

- (a) *Municipal per capita allocation and direct grants for specific projects:* One hundred seven million nine hundred and fifty thousand dollars (\$107,950,000.00) for grants to public agencies and not-for-profit organizations for the development, improvement, rehabilitation, restoration or acquisition of real property for parks and park safety, youth, adult and senior citizens' recreation facilities, beaches, greenways, trails, and natural areas in accordance with the following schedule:
  - (1) Nineteen million nine hundred fifty thousand dollars (\$19,950,000.00) for grants to all incorporated municipalities and UMSA (Unincorporated Municipal Service Area) within the County, in accordance to the following schedule:
    - (i) Nine million seven hundred thousand dollars (\$9,700,000.00) to divide on a per capita basis among the municipalities duly incorporated on the effective date of this article.
    - (ii) Ten million two hundred fifty thousand dollars (\$10,250,000.00) to UMSA as its municipal share.
  - (2) Direct grants for specific projects: Eighty-eight million three hundred and fifty thousand dollars (\$88,350,000.00) for direct grants to municipalities and UMSA, in accordance with the schedule attached as Exhibit "A" [which can be found in the County Clerk's office attached to Ordinance No. 96-115] and incorporated in this article by reference. Any project changes in UMSA from the

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schedule attached as Exhibit "A" shall require approval by a unanimous vote of the County Commissioners present at the time the Board considers any such project changes.

- (b) *Grants for specific regional projects:* Seventy-six million seven hundred thousand dollars (\$76,700,000.00) to the County Park and Recreation Department for the development, improvement, restoration, rehabilitation or acquisition of real property for Regional Parks, Beaches and Biscayne Bay access, specific regional projects, Heritage Facilities, Natural Area Preserves and greenways and trails, in accordance with the schedule described in Exhibit "B" [which can be found in the County Clerk's office attached to Ordinance No. 96-115]. Any project changes in UMSA from the schedule attached as Exhibit "B" shall require approval by a unanimous vote of the County Commissioners present at the time the Board considers any such project changes.
- (c) *Challenge grants:* Fifteen million (\$15,000,000.00) for challenge grants to public agencies and not-for-profit organizations in accordance with the following schedule:
  - (1) Seven million dollars (\$7,000,000.00) for challenge grants to public agencies and not-for-profit organizations for land acquisition, construction and development of youth recreation and service facilities.
  - (2) Eight million dollars (\$8,000,000.00) for challenge grants to public agencies and not-for-profit organizations for natural areas, recreation and open space land acquisition and development.

(Ord. No. 96-115, § 3, 7-16-96; Ord. No. 98-58, § 1, 5-5-98; Ord. No. 01-160, § 1, 9-25-01; Ord. No. 02-253, § 1, 12-3-02; Ord. No. 03-138, § 1, 6-3-03; Ord. No. 03-139, § 1, 6-3-03; Ord. No. 05-18, § 1, 1-27-05; Ord. No. 10-79, § 1, 11-4-10)

## **Sec. 25B-23. Administration.**

- (a) *The Citizens' Oversight Committee.* A Citizens' Oversight Committee ("Committee") will be formed to oversee the disbursement of the proceeds from the sale of the bonds. The Committee will have thirteen (13) members; one (1) residing in each of Miami-Dade County's thirteen (13) commission districts. Members of the Committee shall be residents of Miami-Dade County who possess outstanding reputations for civic pride, integrity, responsibility and business or professional ability and experience or interest in the fields of recreation, conservation of natural resources or land use planning. The Committee, as defined below, will be comprised of members who are representative of the geographic, ethnic, racial and gender make-up of the County. The Committee shall be automatically dissolved as of October 18, 2010, ("Dissolution Date"). After the Dissolution Date, all duties or responsibilities of the Committee shall be handled administratively by the Mayor or Mayor's designee until all available funds have been expended.
  - (1) *Selection.* Each member of the Board of County Commissioners shall appoint one representative to the Committee. Each representative shall reside in the appointing commissioner's district.
  - (2) *Term.* The Committee members shall serve two-year terms, and may be reappointed. The terms shall be staggered, with the representatives of the evenly-numbered districts scheduled for replacement or reappointment after the first year. Members of the Committee shall not be compensated for their services. Notwithstanding Section 2-11.38.2, Committee members may be reappointed for more than eight (8) consecutive years without a two-year hiatus.
  - (3) *Powers and duties.* The Committee shall have the following powers and duties:
    - (i) To oversee the deposit and disbursement of the bond proceeds in accordance with the terms of this article;
    - (ii) To issue solicitations for all grants, to evaluate, disqualify, and rank challenge grant proposals, and to recommend the award of grants in accordance with the terms of this article;

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- (iii) To identify funding to reimburse the County for the reasonable costs of providing staff to the Committee, in the process of the oversight and grant management of this article, which funding may include amounts available under this Bond program if the costs of staffing are related to individual projects authorized by this article;
  - (iv) To promulgate rules consistent with this article for the conduct of its meetings and the discharge of its responsibilities;
  - (v) To perform such other functions as are set forth for the Committee in this article.
- (4) *Deposit of bond proceeds.* All proceeds of the sale of the bonds shall be delivered to the Director of the Finance Department of Miami-Dade County who shall deposit those proceeds in the Trust Account, not to be commingled with other funds of the County, to be disbursed solely for the purposes set forth in this article. Miami-Dade County, itself or through independent auditors, shall have the right at all times to audit the books and records of the Committee.
- (5) *Staff.* The County Manager and the County Attorney shall provide to the Committee adequate staff and support services to enable the Committee to carry out its duties and responsibilities.

(Ord. No. 96-115, § 4, 7-16-96; Ord. No. 06-70, § 1, 5-9-06; Ord. No. 09-09, § 1, 1-22-09; Ord. No. 10-79, § 3, 11-4-10)

### **Sec. 25B-24. Grant proposals.**

- (a) Any adjustments to the amount available from the bond proceeds which are required to be made to satisfy the costs of providing staff or other services to administer the bonds shall be made to the amounts available under this bond program, not to exceed one (1) percent.
- (b) The following provisions of this Section 25B-24(b) shall apply to all grants to be awarded pursuant to this article:
  - (1) Individual applications for grants or per capita allocations pursuant to Section 25B-22 shall be submitted to the Committee for approval as to conformity with the requirements of this article and for Committee review and recommendation. The application shall be accompanied by an authorizing resolution from the governing body of the applicant public agency that the project (or projects) for which the grant or allocation is sought is an important park and recreation project (or projects) which will benefit all residents of Miami-Dade County and that operating, management and programming funds are included in budget.
  - (2) Not more than seventeen (17) percent of monies awarded under any grant may be utilized for project planning, design and administration.
  - (3) The interest earned on proceeds of the bonds which have been sold but not allocated shall be used for acquisition of park, open space and natural areas to meet the future needs of the growing population of Miami-Dade County. Requests for use of these interest funds may be made to the Committee by public agencies and not-for-profit organizations, with all title vesting in a public agency.
  - (4) After approval of this article by special election, administrative rules governing the implementation of the Ordinance shall be prepared by the County Manager. Such rules shall include a timeline for the grant programs identified in Section 25B-22 of this article, criteria and procedures for evaluating such grants, notification of affected public agencies and not-for-profit organizations of the proposed criteria and procedures and of the dates of public workshops to be held throughout the County for the purpose of receiving public input on the proposed criteria and procedures. After at least one (1) public workshop for each of the grant programs referenced in Section 25B-22, the Committee shall adopt final criteria and procedures for evaluating grants for each program, and shall notify affected public

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agencies and not-for-profit organizations as to the application timeline, criteria and procedures for evaluating challenge grants for each program. Grants shall be awarded by the Board of County Commissioners upon recommendation of the Committee in accordance with this article and the rules adopted in accordance with this provision.

- (5) A public agency may enter into an agreement with one (1) or more not-for-profit organizations for the purpose of carrying out a grant pursuant to this article, subject to the requirements of Section 25B-28.
- (6) Each public agency shall make every effort to employ local residents, and particularly youth, from the area in which proposed projects are located.
- (7) Each public agency shall make every effort to work with not-for-profit organizations with a demonstrated history of youth employment and training, gang prevention and intervention, and environmental preservation and land conservation.
- (8) Funds that are granted pursuant to Section 25B-22 for the purposes of development, improvement, rehabilitation or restoration shall be expended for these purposes only on lands owned or leased by a public agency. Funds may also be utilized for projects on lands for which the public agency holds a lease or other use agreement for an unexpired minimum term of twenty-five (25) years.
- (9) In projects where funds are allocated pursuant to Section 25B-22 for park and facility development, every effort shall be made to use non-invasive, drought-resistant, or xeriscape landscape material, water-conserving irrigation systems and energy-efficient fixtures, except when such use can be shown to be unfeasible. When projects involve the rehabilitation of existing irrigation systems or the creation of new irrigation systems, reclaimed water should be used whenever possible and priority shall be given to development of reclaimed water irrigation systems.
- (10) The minimum amount that an applicant may request for any individual project is ten thousand dollars (\$10,000.00). Any agency may allocate all or a portion of its per capita share to a regional or state project or another neighboring city, and all agencies shall be encouraged to form partnerships to leverage other available funds with the Miami-Dade County School Board, other public agencies, and not-for-profit organizations for park and recreation purposes.
- (11) Funds made available for approved projects from grants shall be expended or encumbered by the recipient within three (3) years of the date when such funds are first made available unless an extension is authorized pursuant to the express terms of this article. Any such grant funds that are not expended or encumbered by the recipient within such period, shall be made available for award for one (1) or more of the classes of expenditures specified in Section 25B-22 that the Committee deems to be of the highest priority.
  - i. Upon deposit into the Trust Account, the original recipient of the ends shall have no further claim to the funds.
  - ii. Trust Account funds shall be made available pursuant to the programs outlined in Section 25B-22, and shall be prioritized for heavily used parks and recreation facilities in underserved areas of the County or municipalities. When funds are to be used for the acquisition of property, priority shall be given to acquiring land for park, recreation or natural areas purposes in densely populated, underserved areas with documented deficiencies in park, recreation or open space opportunities.
- (12) The scope of each per capita project, shall remain as defined in the application for bond funds and this article. If there are required modifications to the scope of the specific project, the recipient may alter the scope of the specific project, as defined by the administrative rules. The modifications shall be subject to approval by the Committee. The full amount allocated for a specific project as detailed within the application and this article shall be used for the designated project and not transferred to another project.

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- (13) If bond proceeds have not been expended or encumbered within the periods allowed, the recipient agencies may submit to the Committee for review and approval in its discretion a plan for expenditure or encumbrance of the funds in accordance with the purposes of this article within the municipality or area of the County in which the funds were originally authorized to be expended.
- (c) *Challenge grants.* In addition to those provisions contained in Section 25B-24(b) above, the following provisions shall apply to challenge grants to be awarded pursuant to Section 25B-22(c) of this article.
- (1) The funds authorized in Section 25B-22(c) shall be available as grants on a challenge basis to public agencies and not-for-profit organizations.
  - (2) An extension not to exceed two (2) years beyond the three-year time limit for expenditure or encumbrance of grant funds may be authorized by the Committee for reasonable cause.
  - (3) These grants shall be limited for acquisition of lands for public use, and improvements or development to publicly owned lands and facilities.
  - (4) Pursuant to Section 25B-22(c)(1), an amount not to exceed seven million dollars (\$7,000,000.00), shall be dedicated to park, recreation and open space acquisition and development in areas which: (i) are identified as economically and/or socially disadvantaged consistent with Federal guidelines, where at least fifty-one (51) percent of residents live at or below 80 percent of the County's median income, and (ii) which possess a documented deficiency in recreation and open space opportunities defined as the difference between area supply and area demand for facilities, programs and services.
  - (5) In the evaluation of grant applications pursuant to Section 25B-22(c)(i), priority shall be given first to correct vestiges of past discrimination and second to those which meet one (1) or more of the following criteria: (i) joint application by a public agency and a not-for-profit organization whose primary focus is working with youth; (ii) application by a not-for-profit organization with a demonstrated history of gang intervention, gang prevention, ability to work with at-risk youth, and prior experience in such activities through grants from public agencies; (iii) application by not-for-profit organization which agrees to and can demonstrate the ability to operate and maintain the facility to be constructed or developed on a long-term basis; (iv) application by a not-for-profit organization with experience in park and open space acquisition and preservation.
- (d) *Grants for specific county and municipal projects.* In addition to those provisions contained in Section 25B-24(b) above, the following provisions shall apply to the grants for specific County and municipal projects to be awarded pursuant to Sections 25B-22(a)(2) and (b) of this article.
- (1) These grants shall be limited for acquisition of lands for public use, and improvements or development to publicly owned lands and facilities for the purposes set forth in Sections 25B-22(a)(2) and (b) of this article.
  - (2) An extension not to exceed two (2) years beyond the three-year time limit for expenditure or encumbrance of grant funds may be authorized by the Committee for reasonable cause.

(Ord. No. 96-115, § 5, 7-16-96)

### **Sec. 25B-25. Disbursement of funds.**

- (a) No funds authorized under Section 25B-22 may be disbursed to any recipient unless the recipient agrees:
- (1) That grants for all programs in Section 25B-22 shall be made available at least once every twelve (12) months with public notice from the County.
  - (2) To maintain and operate in perpetuity the property acquired, developed, improved, rehabilitated or restored with the funds, except where leases are in effect. The recipient or its successors in interest in

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the property may transfer the responsibility to maintain and operate the property to another public agency or another not-for-profit organization in accordance with this section. The recipient agency must provide adequate programming for any new facilities constructed with proceeds of the bonds.

- (3) To use the property only for the purposes of this article and to make no other use, sale, or disposition of the property, except as provided in subdivision (b) of this section.
- (4) Any beach, park or other public facility acquired, developed, rehabilitated or restored with funds from this act shall be open and accessible to the public without discrimination as to race, color, gender, age, religious belief, residence, national origin, marital status, or disability.
- (5) In order to maintain the exclusion from gross income for federal income tax purposes of the interest on any bonds, notes or other evidences of indebtedness issued for purposes of this article, each recipient of funds pursuant to this article covenants to comply with each applicable requirement of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended. Each recipient of funds shall agree in writing to the conditions specified in paragraphs (2), (3), and (4) of this section.

The conditions specified in paragraphs (2), (3), (4) and (5) of this section shall not prevent the transfer of property acquired, developed, improved, rehabilitated or restored with funds authorized pursuant to Section 25B-22 of this article from the recipient to any other public agency, to a not-for-profit organization authorized to acquire, develop, improve or restore public real property for park, wildlife, recreation, open space or gang prevention and intervention purposes, to the State of Florida or to the National Park Service, provided that any such successor to the recipient assumes the obligations imposed by such conditions.

- (b) Any changes in use of any property acquired through grants pursuant to this article must be maintained in perpetuity for public park and recreation purposes. If the use of the property acquired through grants pursuant to this article is changed to one (1) other than a use permitted under the category from which the funds were provided, or the property is sold or otherwise disposed of, an amount equal to the (1) amount of the grant, (2) the fair market value of the real property, or (3) the proceeds from the portion of such property acquired, developed, improved, rehabilitated or restored with the grant, whichever is greater, shall be used by the recipient, subject to subdivision (a) of this section, for a purpose authorized in that category or shall be reimbursed to the Trust Account and be available for appropriation only for a use authorized in that category.

If the property sold or otherwise disposed of is less than the entire interest in the property originally acquired, developed, improved, rehabilitated or restored with the grant, an amount equal to the proceeds or the fair market value of the property interest sold or otherwise disposed of, whichever is greater, shall be used by the grantee, subject to subdivision (a) of this section, for a purpose authorized in that category or shall be reimbursed to the general fund and be available for appropriation only for a use authorized in that category. Nothing in this Section 25B-25 shall limit a public agency from transferring property acquired pursuant to this article to the National Park Service or the State Park System, with or without consideration.

- (c) Awards pursuant to this article shall first be available during the fiscal year in which bond proceeds are initially available.

(Ord. No. 96-115, § 6, 7-16-96)

### **Sec. 25B-26. Property acquisition.**

- (a) All real property acquired pursuant to this article shall be acquired in compliance with Miami-Dade County Administrative Order 8-4 and Florida Statute 125.355, and all other applicable laws. Funds disbursed to a Public Agency other than the County in accordance with Section 3 shall be expended by that agency pursuant to an Interlocal agreement with Miami-Dade County.

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- (b) For the purposes of this article, acquisition may include gifts, purchases, leases, easements, the exercise of eminent domain, the transfer or exchange of property of like value, transfers of development rights or credits, and purchases of development rights and other interests.
  - (c) All grants, gifts, devises, or bequests to any of the qualified public agencies of this article, conditional or unconditional, for park, conservation, recreational, wildlife habitat, natural lands or other purposes for which real property may be acquired or developed pursuant to this article, shall be made in the name of the agency and accepted and received on behalf of the agency pursuant to the applicable administrative order of the County. The grants, gifts, devises or bequests shall be available for expenditure for the purposes specified in Section 25B-22 hereof.

(Ord. No. 96-115, § 7, 7-16-96)

### **Sec. 25B-27. Public access and community involvement.**

- (a) Reasonable public access to lands and facilities funded by this article shall not be denied, except where that access may interfere with resource protection.
- (b) All funds allocated pursuant to this article for projects involving the rehabilitation or restoration of beach, park, recreation, open space or natural lands shall be used to the maximum extent practical to employ residents from the surrounding community in which the particular rehabilitation or restoration project is being carried out.
- (c) To the maximum extent feasible, public agencies and not-for-profit organizations shall be encouraged and have authority to use funds received pursuant to this article to provide funding through agreements with community organizations, particularly when youth can be employed to work on restoration or rehabilitation projects being carried out in their own communities. Such agreements shall be entered into solely for the accomplishment of the purposes set forth by this article.

(Ord. No. 96-115, § 8, 7-16-96)

### **Sec. 25B-28. Environmental review.**

- (a) Prior to recommending the acquisition of lands that are located on or near tidelands, submerged lands, swamp, or other wetlands, whether or not those lands have been granted in trust to a local public agency, any agency receiving funds pursuant to this article shall submit to the Miami-Dade County Department of Environmental Resources Management (DERM) any proposal for the acquisition of those lands pursuant to this measure. DFRM may, at its discretion, within ninety (90) days of such a submission, review the proposed acquisition, make a determination as to the States existing or potential interest in the lands, and report its findings to the entity making the submittal and to the County Manager.
- (b) No wetlands or riparian habitat acquired pursuant to Section 25B-22 shall be used as a dredge spoil area or shall be subject to revetment which damages the quality of the habitat for which the property was acquired.
- (c) No provision of this article shall be construed as authorizing the condemnation of publicly-owned lands.

(Ord. No. 96-115, § 9, 7-16-96)

### **Sec. 25B-29. Bond capital.**

- (a) Pursuant to subdivision (e) of Section 5506.9 of the Public Resources Code, no proceeds from any bonds, notes or other evidences of indebtedness issued by Miami-Dade County shall be used for any operations,

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maintenance or servicing purposes, except that such proceeds may be used to pay all costs incidental to the preparation and issuance of the bonds.

- (b) The amounts of all allocations designated in Section 25B-22 are gross amounts, and shall be reduced not more than one (1) percent for the costs of the overall administrative expenses of the bond.

(Ord. No. 96-115, § 10, 7-16-96)

**Sec. 25B-30. Maintenance of effort.**

It is the intent of this article to produce a net benefit to the residents of Miami-Dade County. No substitution in capital project funding by the County and/or municipalities shall occur as a result of projects specifically funded by this bond issue.

(Ord. No. 96-115, § 11, 7-16-96)

**Sec. 25B-31. Sale of bonds.**

The bonds may be issued either all at one (1) time or in part from time to time as the Board of County Commissioners may in its discretion determine by subsequent ordinance or resolution. The sale of such bonds shall not be combined with the sale of any other bonds of the County.

(Ord. No. 96-115, § 12, 7-16-96)

**Sec. 25B-32. Independent audit.**

There shall be an annual independent audit of all proceeds of the Bonds. This audit shall examine all proceeds on hand and unexpended. The expense of the audit shall be paid from the general bond fund. All bond recipients shall cooperate fully with the program's auditors.

The Committee shall have the right, in its sole discretion, to require recipients of any grant to retain the services of an independent private sector inspector general (IPSIG) to audit, investigate, monitor, oversee, inspect and review the operations, activities and performance of the recipient and its contractor. Said audit shall include compliance with contract specifications and project costs, as well as the prevention of corruption and fraud. Grant agreements shall include an acknowledgment by the recipient that the Committee has the right to utilize an IPSIG.

(Ord. No. 96-115, § 13, 7-16-96)