



To: Diana Gomez, Finance Director

From: Craig E. Leen, City Attorney for the City of Coral Gables

A handwritten signature in blue ink, appearing to be "CL", is written over the name of the City Attorney.

RE: Legal Opinion Regarding Piggyback Authority

Date: October 14, 2017

You have asked me a question regarding the scope of piggybacking authority, and whether this is on a yearly basis for a particular contract. I agree with your summary of my analysis in your email below.

The relevant provision is section 2-978 of the City Code. The issue ultimately is how much can be obliged by the procurement officer in any specific piggyback "purchase." The "purchase" is what is limited to \$600,000 under the plain language of the provision, which is clear and unambiguous. The plain language is what governs. See *DMB Investment Trust v. Islamorada*, No. 3D16-2895, 2017 WL 3045466, at *3-4 (Fla. 3d DCA July 19, 2017).

(Please note, there is no limit to piggybacking authority when the piggyback purchase is approved by the Commission. The \$600,000 limit only applies to administratively approved purchases pursuant to piggybacking authority.)

A multiyear piggyback agreement could be approved administratively if a new purchase order (or an equivalent, such as the exercise of a yearly renewal in the City's discretion) would be issued for each "purchase" of services under the piggyback, and no such purchase order or renewal would be for more than \$600,000. This interpretation would meet both the plain meaning and intent of the provision (as the procurement officer could not commit the City to over \$600,000 for any specific "purchase").

Accordingly, a \$500,000 per year piggyback could be approved administratively if the City is never obliged more than the administrative limit (i.e., the City would not have to renew or continue the contract in the second year, or in subsequent years, if it decided it no longer wanted to). A yearly purchase order for \$500,000 or equivalent (such as a discretionary yearly renewal) would be acceptable

From: [Leen, Craig](#)
To: [Paulk, Enga](#)
Subject: FW: Piggyback Authority
Date: Saturday, October 14, 2017 6:21:06 PM
Attachments: [image004.png](#)
[image006.png](#)
[image001.png](#)

Please publish.

Craig E. Leen, City Attorney

*Board Certified by the Florida Bar in
City, County and Local Government Law*
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com



Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Saturday, October 14, 2017 6:21 PM
To: Gomez, Diana <dgomez@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Walker, Celeste <cwalker@coralgables.com>;
Suarez, Cristina <csuarez@coralgables.com>; Throckmorton, Stephanie
<sthrockmorton@coralgables.com>
Subject: RE: Piggyback Authority

Here is my final opinion:

You have asked me a question regarding the scope of piggybacking authority, and whether this is on a yearly basis for a particular contract. I agree with your summary of my analysis in your email below.

The relevant provision is section 2-978 of the City Code. The issue ultimately is how much can be obliged by the procurement officer in any specific piggyback "purchase." The "purchase" is what is limited to \$600,000 under the plain language of the provision, which is clear and unambiguous. The plain language is what governs. See *DMB Investment Trust v. Islamorada*, No. 3D16-2895, 2017 WL 3045466, at *3-4 (Fla. 3d DCA July 19, 2017).

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Accordingly, a \$500,000 per year piggyback could be approved administratively if the City is never obliged more than the administrative limit (i.e., the City would not have to renew or continue the contract in the second year, or in subsequent years, if it decided it no longer wanted to). A yearly purchase order for \$500,000 or equivalent (such as a discretionary yearly renewal) would be acceptable.

Craig E. Leen, City Attorney

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CORAL GABLES
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Celebrating 90 years of a dream realized.

From: Gomez, Diana
Sent: Tuesday, October 03, 2017 4:38 PM
To: Leen, Craig <cleen@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Walker, Celeste <cwalker@coralgables.com>;
Suarez, Cristina <csuarez@coralgables.com>; Throckmorton, Stephanie
<sthrockmorton@coralgables.com>
Subject: RE: Piggyback Authority

Thanks Craig,

I understand. Going forward, when the piggyback limit could potentially be exceeded in a multi-year contract, we will be sure to have your office review language to insure we are not obliging ourselves for more than the administrative limit (if not taken to the City Commission).

Once the opinion is filed, please provide a copy for our records.

Regards,
Diana M. Gomez
Finance Director
City of Coral Gables
dgomez@coralgables.com
PH: 305.460.5275
FX: 305.460.5376



From: Leen, Craig
Sent: Thursday, September 28, 2017 4:42 PM
To: Gomez, Diana <dgomez@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Walker, Celeste <cwalker@coralgables.com>;
Suarez, Cristina <csuarez@coralgables.com>; Throckmorton, Stephanie
<sthrockmorton@coralgables.com>
Subject: RE: Piggyback Authority

I have considered further, and this remains my analysis. Unless you have further questions or need clarification, you may follow this analysis while we formalize it into a final opinion. Cristina or Stephanie, please assist.

Craig E. Leen, City Attorney
*Board Certified by the Florida Bar in
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Celebrating 90 years of a dream realized.

From: Leen, Craig
Sent: Wednesday, September 27, 2017 11:06 PM
To: Gomez, Diana <dgomez@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Walker, Celeste <cwalker@coralgables.com>;
Suarez, Cristina <csuarez@coralgables.com>; Throckmorton, Stephanie
<sthrockmorton@coralgables.com>
Subject: Re: Piggyback Authority

Good evening. I have reviewed and my office will issue an opinion this week. Here is my preliminary analysis after reviewing the procurement code again and the prior opinion:

The issue is how much can be obliged by the procurement officer in any specific piggyback "purchase" under section 2-978. The "purchase" is what is limited to \$600,000 under the plain wording of the provision.

(Please note, there is no limit to piggybacking authority when the piggyback purchase is approved by the Commission. The \$600,000 limit only applies to administratively approved purchases pursuant to piggybacking authority.)

A multiyear piggyback agreement could be approved administratively if a new purchase order (or an equivalent, such as the exercise of a yearly renewal in the City's discretion) would be issued for each "purchase" of services under the piggyback, and no such purchase order or renewal would be for more than \$600,000. This interpretation would meet both the plain meaning and intent of the provision (as the procurement officer could not commit the City to over \$600,000 for any specific

"purchase").

Accordingly, a \$500,000 per year piggyback could be approved administratively if the City is never obliged more than the administrative limit (ie, the City would not have to renew or continue the contract in the second year, or in subsequent years, if it decided it no longer wanted to). A yearly purchase order for \$500,000 or equivalent (such as a discretionary yearly renewal) would be acceptable.

We can discuss further tomorrow. I am asking my office to work on this further and place into a final opinion.

Sent from my iPhone

On Sep 26, 2017, at 5:59 PM, Gomez, Diana <dgomez@coralgables.com> wrote:

Hi Craig,

Following up on this question... can you please advise... thanks.

Diana M. Gomez
Finance Director
City of Coral Gables
dgomez@coralgables.com
PH: 305.460.5275
FX: 305.460.5376



From: Gomez, Diana
Sent: Monday, August 28, 2017 1:55 PM
To: Leen, Craig <cleen@coralgables.com>
Cc: Ramos, Miriam <mramos@coralgables.com>; Walker, Celeste <cwalker@coralgables.com>
Subject: Piggyback Authority

Hi Craig,

I am not sure if there is another opinion on this matter, but I could not find anything else. Could you please let me know if the \$600,000 piggyback limit is a per year limit, or a per the life of the contract limit?

The confusion is because the opinion states that the limit is per contract but then it mentions per Purchase Order... purchase orders can roll from year to year, or a new purchase order can be created each year. It further states that we can enter into a

new contract for a new \$600,000 when the first contract expires.

We are currently considering a piggyback contract for streetscape cleaning services and we would like that contract to be a multi-year contract. We anticipate it will be approximately \$500,000 per year.

Please let me know if you have any questions or need any additional information.

Thanks.

Diana M. Gomez

Finance Director

City of Coral Gables

dgomez@coralgables.com

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FX: 305.460.5376



<CAO opinon on Piggyback Limit.pdf>