107.07-17.A

MEMORANDUM

Alternate
Agenda Item No. 2 (k)

TO Hon. Mayor and Members,
Board of County Commissioners

DATE October 16, 1979

SUBJECT Alternate Ordinance
Public Health Facilities

FROM Robert A. Ginsburg
First Assistant County Attorney

This alternate ordinance was prepared and placed on the agenda at the request of Commissioner Oesterle. It differs from the original agenda item in the following respects:

1. eliminates the requirement that the bond issue be assigned an "A" rating from bond rating houses;

2. provides the Authority with power to promulgate administrative procedures;

3. identifies the jurisdiction of the Public Health Trust;

4. provides a priority for institutions which provide or present a plan to provide indigent care or uncompensated service;

5. eliminates the provision that personnel gainfully employed by the Authority on a permanent basis be approved by the Manager and the Board.

Robert A. Ginsburg

RAG/rk

Alternate
Agenda Item No. 2 (k)
10-16-79

ORDINANCE NO. 79-92

ORDINANCE CREATING DADE COUNTY HEALTH FACILITIES AUTHORITY; FINDING AND DECLARING NEED THEREFOR; PROVIDING DEFINITIONS; DESIGNATING MEMBERSHIP; PROVIDING RESPONSIBILITIES AND POWERS; PROVIDING FOR THE ISSUANCE OF REVENUE BONDS AND REFUNDING BONDS; PROVIDING TAX EXEMPTIONS; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, adequate medical care and health facilities must be available to the citizens of Dade County; and

WHEREAS, a Health Facilities Authority would provide additional means to assist in the development and maintenance of the county's health facilities, and

WHEREAS, the Health Systems Agency of South Florida has recommended that there is a need for a Health Facilities Authority in Dade County, and

WHEREAS, the Dade County Medical Association and the South Florida Hospital Association endorse the establishment of such an authority,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1. Declaration of Need.

The Board of County Commissioners hereby finds and declares that there is a need for a Dade County Health Facilities Authority to function in Dade County so as to assist in the development and maintenance of the health facilities of Dade County.

Section 2. Definitions.

The following terms, whenever used in this ordinance, shall have the following meanings unless a different meaning clearly appears from the context:

(A) "Authority" means the Dade County Health Facilities Authority.

(B) "Bonds" or "revenue bonds" mean revenue bonds of the Authority issued under the provisions of this ordinance including revenue refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of a health facility.

(C) "Certificate of need" means a written advisory statement issued by the Department of Health and Rehabilitative Services, having as its basis a written advisory statement issued by an areawide council and, where there is no council, by the Department of Health and Rehabilitative Services, evidencing community need for a new, converted, expanded, or otherwise significantly modified health facility.

(D) "Enabling Act" means Part III, Chapter 154, Florida Statutes, as may be amended from time to time.

(E) "Health Facility" means any private corporation organized not for profit and authorized by law to provide hospital or nursing home care services in accordance with Florida law.

(F) "Project" means any structure, facility, machinery, equipment, or other property suitable for use by a health facility in connection with its operations or proposed operations, including without limitation, real property therefor; a clinic, computer facililty, dining hall, firefighting facility, fire prevention facility, food service and preparation facility, health-care facility, long-term care facility, hospital, interns' residence, laboratory, laundry, maintenance facility, nurses' residence, nursing home, nursing school, office, parking area, pharmacy, recreational facility, research facility, storage facility, utility, or X-ray facility, or any combination of the foregoing; and other structures or facilities related thereto or required or useful for health-care purposes, the conducting of research,

or the operation of a health facility, including facilities or structures essential or convenient for the orderly conduct of such health facility and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended. "Project" shall not include such items as fuel, supplies, or other items which are customarily deemed to result in a current operating charge.

(G) "Real Property" includes all lands, including buildings, structures, improvements, and fixtures thereon; any property of any nature appurtenant thereto or used in connection therewith; and every estate, interest, and right, legal or equitable, therein, including any such interest for a term of years.

Section 3. Creation of the Dade County Health Facilities Authority.

The Dade County Health Facilities Authority is hereby created and established and in accordance with Section 154.207, Florida Statutes, is constituted a public instrumentality. The exercise by said Authority of the powers conferred by Section 154.201 to 154.246, inclusive, Florida Statutes, shall be deemed and held to be the performance of an essential public function. The Authority shall consist of five persons who are residents of Dade County, appointed by the Board of County Commissioners.

(A) Terms of Office. Of the members first appointed, one shall serve for 1 year, one for 2 years, one for 3 years, and two for 4 years, in each case until his successor is appointed and has qualified. Thereafter the Board shall appoint, for terms of 4 years each, a member or members to succeed those whose terms expire. The

Board shall fill any vacancy for an unexpired term. A member of the Authority shall be eligible for reappointment. Any member of the Authority may be removed by the Board for misfeasance, malfeasance, or willful neglect of duty.

(B) Responsibilities of Member. Each member of the Authority, before entering upon his duties, shall take and subscribe the oath or affirmation required by the State Constitution. A record of each oath shall be filed in the Department of State and with the clerk of the Board of County Commissioners. The members of the Authority shall receive no compensation for the performance of their duties hereunder, but each member shall be paid necessary expenses incurred while engaged in the performance of such duties. Service as a member of the Authority by a Trustee, Director, Officer, or employee of a health facility shall not, in and of itself, constitute a conflict of interest. However, any member of the Authority who is employed by, or receives income from, a health facility under consideration by the Authority shall not vote on any matter related to such facility. Members shall comply with the Dade County financial disclosure requirements.

(C) Organization of the Authority. The Authority at its initial meeting, and annually thereafter, shall elect one of its members as Chairman and one as Vice Chairman. Three (3) members of the Authority shall constitute a quorum, and the affirmative vote of a majority of the members present at a meeting of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights to perform all the duties of the Authority.

The initial meeting of said Authority shall be at 9:00 o'clock A.M., on November 13, 1979, at Office of Marvin Rosen 1 S.E. 3rd Avenue, Miami, Florida 33130 in Dade County, Florida. If fewer than three members are present at said meeting, the members who are present may adjourn the meeting from time to time until at least three members shall be present.

Section 4. Powers and Duties of the Authority.

The Dade County Health Facilities Authority shall have all the powers conferred by the enabling act, Part III of Chapter 154, Sections 154.201 through 154.245, Florida Statutes, incorporated herein by reference, as the same shall be amended from time to time, including but not limited to the following:

a. To adopt an Official Seal and alter the same at its pleasure;

b. To maintain an office at such place or places in Dade County as it may designate;

c. To sue and be sued in its own name and to plead and be impleaded;

d. To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of, any property, real or personal, improved or unimproved, for the acquisition, construction, operation or maintenance of any project;

e. To construct, acquire, own, lease, repair, maintain, extend, expand, improve, rehabilitate, renovate, furnish and equip projects and to pay all or any part of the costs thereof from the proceeds of bonds of the Authority or from any contribution, gift, or donation or other funds made available to the Authority for such purpose;

f. To make and execute agreements of lease, contracts, deeds, mortgages, notes and other instruments necessary or convenient in the exercise of the powers and functions conferred upon the Authority by this ordinance;

g. To sell, lease, exchange, mortgage, transfer, or otherwise dispose of, or to grant options for any such purposes with respect to any project, or any real or personal property or interest therein;

h. To pledge or assign any money, rents, charges, fees or other revenues and any proceeds derived from sales of property, insurance, or condemnation awards;

i. To fix, charge, and collect rents, fees, and charges for the use of any project;

j. To issue bonds for the purpose of providing funds to pay all or any part of the cost of any project and to issue refunding bonds;

k. To employ consulting engineers, architects, surveyors, attorneys, accountants, financial experts, executive director, and such other employees and agents as may be necessary in its judgment and to fix their compensation;

l. To acquire existing projects and to reimburse any health facility for the cost of such project in accordance with an agreement between the Authority and the health facility; however, no such reimbursement shall exceed the total cost of the project as determined by the health facility and approved by the Authority;

m. To acquire existing projects and to refund outstanding obligations, mortgages, or advances issued, made, or given by a health facility for the cost of such projects;

n. To charge to, and equitably apportion among, health facilities approved for loans, its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this ordinance;

o. To mortgage any project and the site thereof for the benefit of the holders of the bonds issued to finance such project;

p. To issue negotiable revenue bonds of the Authority for the purpose of paying all or any part of the cost of any project or projects for which a certificate of need has been obtained, or for the purpose of paying all or any part of the cost of acquiring existing or completed health facility projects. To issue negotiable bond anticipation notes and to renew the same from time to time. The maximum maturity of any anticipation note, including renewals thereof, shall not exceed five (5)

years from the date of issue of the original note. The revenue bonds and notes of every issue authorized and any anticipation notes issued pursuant to this subsection shall be in accordance with the terms and provisions outlined in Section 154.219, Florida Statutes.

(q) To keep a record of all its proceedings and be custodian of all books, documents, and papers filed with it and of its Minute Book or Journal and Official Seal. The Authority shall cause copies to be made of all its Minutes and other records and documents and shall give certificates under its Official Seal to the effect that such copies are true copies, and all persons dealing with said Authority may rely upon such certificates.

(r) To make a report to the Board of County Commissioners within the first 90 days of each calendar year, of the Authority's activities for the preceding calendar year. Each such report shall set forth a complete operating and financial statement covering its operations during the year.

(s) To do all things necessary to carry out the above powers and purposes of the Dade County Health Facilities Authority.

The County Commission may at its discretion amend the foregoing powers and duties of the Authority as long as the amended powers and duties do not impair the contractual obligations to the holders of any bonds theretofore issued by the Authority and then outstanding.

Section 5. Revenue Bonds.

(A) All bonds issued under the provisions of this ordinance shall have and are hereby declared to have, all the qualities and incidents, including negotiability, of investment securities under the Uniform Commercial Code, but no provision of such code respecting the filing of a financing statement to perfect a security interest shall be deemed necessary for, or applicable to, any security interest created in connection with the issuance of any such bonds.

(B) All revenue bonds issued under the provisions of this ordinance shall not be deemed to constitute a debt, liability or obligation of Dade County or the state or any political subdivision thereof, or a pledge of the faith and credit of Dade County or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such revenue bonds shall contain on the face thereof a statement to the effect that the Authority shall not be obligated to pay the same or the interest thereon except from the revenues of the project or the portion thereof for which they are issued and that neither the faith and credit nor the taxing power of Dade County or of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this ordinance shall not directly, indirectly, or contingently obligate Dade County or the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(C) The Authority is hereby authorized to provide for the issuance of revenue bonds for the purpose of refunding any of its revenue bonds then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such revenue bonds. The proceeds of any such revenue bonds issued for the purpose of refunding outstanding revenue bonds may, in the discretion of the Authority, be applied to the purchase or retirement at maturity or redemption of such outstanding revenue bonds either on their earliest or any subsequent redemption date, or upon the purchase or at the maturity thereof, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or redemption on such date as may be determined by the Authority. Any such escrowed proceeds, pending such use, may be invested

and reinvested in direct obligations of the United States, in any obligations of which the principal and interest are unconditionally guaranteed by the United States, in certificates of deposit or time deposits secured by direct obligations of the United States, or in any obligations of which the principal and interest are unconditionally guaranteed by the United States, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the Authority for use by it in any lawful manner. All such revenue bonds issued for the purposes of refunding shall be subject to the provisions of this ordinance in the same manner and to the same extent as other revenue bonds issued pursuant to this ordinance.

(D) Bonds issued by the Authority under the provisions of this ordinance are hereby made securities in which all public officers and public bodies of the state and its political subdivisions and all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereinafter be authorized by law.

(E) Bonds issued under the provisions of this ordinance shall be validated in the manner prescribed by Chapter 75, Florida Statutes.

Section 6. Administrative Procedures.

The authority shall promulgate written administrative procedures subject to final approval by the County Commission, that will be uniformly used to evaluate proposed projects. These administrative procedures shall include, but not be limited to, the following:

(A) The Authority shall require a certificate of need for all new project applications as prescribed by Section 154.245, Florida Statutes, and in addition request a review and comment from the Health Systems Agency of South Florida prior to acting on any applications for the issuance of revenue bonds for refinancing or refunding purposes. Comments received from the HSA within sixty (60) days of request shall be considered by the Authority in making its decision on the application. If such comment has not been received sixty (60) days from the date of a formal written request, the Authority may act as though the application was favorably considered by the HSA.

(B) The Authority shall request the Public Health Trust to review each project relating to any designated facilities as defined in Section 25A-2, Dade County Code,[1/] to insure that the proposed projects are consistent with goals and objectives of the Public Health Trust. The Public Health Trust's favorable recommendations, if required under this paragraph, shall be a condition to Authority approval. If recommendations are not received within sixty (60) days from the date of the request for review, the Public Health Trust shall be deemed to have rendered favorable recommendations.

1/ "Sec. 25A-2. Designated facilities and transfer of property in trust.

* * *

"Jackson Memorial Hospital and all related facilities and real and personal property used in connection therewith either presently existing or which may come into existence in which Dade County has a legal interest and which are located within the area bounded by NW 15 Avenue on the west, NW 20 Street on the north, NW 7 Avenue on the east, and NW 14 Street on the south; and all facilities and real and personal property which the trust may acquire pursuant to the terms of this chapter.

"By resolution, the board of county commissioners may designate additional facilities or declassify and remove from the jurisdiction of the trust facilities which have previously been designated."

* * *

(C) The Guidelines shall include a priority for those institutions who currently provide or present a plan to provide services including, but not limited to:

1. Services rendered to patients eligible for all or partial County support in County sponsored institutions; and
2. Uncompensated services rendered under County/Public Health Trust decentralization programs.

The services referred to in this paragraph shall be in addition to services mandated under the Hill-Burton program or other state or federally mandated programs.

(D) The Authority shall include the value of such services described in the previous paragraph as a part of its annual report to the County Commission as specified in Section 4 (R) of this ordinance.

(E) The applicant shall bear all costs and expenses incurred incident to the preparation of its application. The Authority shall provide for the timely review of each project by the County Manager and County Commission in such a way as to minimize the expenditure of funds by the applicant should the review prove to be unfavorable. If the initial review is favorable, the applicant shall proceed with finalizing the bond issue for final approval by the Commission.

(F) Each health facility receiving proceeds from any bonds issued hereunder shall advise the Authority in writing, within the first ninety (90) days of each calendar year during which its bonds remain outstanding of the manner in which its patients have benefited from the issuance of the bonds.

Section 7. Tax Exemption.

The exercise of the powers granted by this ordinance will be in all respects for the benefit of the people of this County, for the increase of their commerce, welfare, and prosperity, and for the improvement of their health and living conditions. Since the operation and maintenance of a project by a health facility will constitute the performance of an essential public function, neither

the Authority nor a hospital institution shall be required to pay any taxes or assessments upon or with respect to a project or any property acquired by the Authority under the provisions of this ordinance or upon the income therefrom, and any bonds issued under the provisions of this ordinance, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state, Dade County, and municipalities and other political subdivisions in the state, except that such income shall be subject to the tax imposed pursuant to the provisions of Chapter 220, Florida Statutes. Nothing in this section shall be construed as exempting from taxation or assessments the leasehold interest of any health facility organized for profit. If any project or any part thereof shall be occupied or operated by any health facility organized for profit pursuant to any contract or lease with the Authority, the property interest created by such contract or lease shall be subject to taxation to the same extent as other privately owned property.

Section 8. Approval by County Commission.

The sale of the bonds and notes authorized to be issued by the Authority pursuant to this ordinance shall be subject to the approval of the Board of County Commissioners of Dade County, Florida, prior to the validation requirements of Subsection 5 (E).

Section 9. Expenses.

The Authority shall charge each Project for all the Authority's administrative costs and expenses incurred in the exercise of the powers and duties conferred by this ordinance. No Dade County funds from any source shall be utilized by the Authority without prior approval of the Board of County Commissioners.

Section 10. Charter.

The County Clerk of this Board shall send a certified copy of this ordinance to each of the above named members of said Authority

as official notice of his appointment. This ordinance shall constitute the charter of said Authority and shall be effective on the tenth day after its enactment by this Board.

Section 11. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected thereby.

Section 12. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Metropolitan Dade County, Florida; and that 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 13. The provisions of this ordinance shall become effective ten (10) days after the date of its enactment.

PASSED AND ADOPTED: OCT 16 1979

Approved by County Attorney as to
form and legal sufficiency. RAG

STATE OF FLORIDA)
)
COUNTY OF DADE)

I, RICHARD P. BRINKER, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of ORDINANCE OR SECTION (s) of CODE of Dade County, Florida, as appears of record.

1. ORDINANCE NO. 79-92, adopted by the said Board of County Commissioners at its meeting held on October 16, 19 79.
The effective date of this ORDINANCE is:
October 26, 1979.

2. SECTION (s) of CODE of Dade County, Florida.

SAID SECTION (s) are/were in full force and effect as of:

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 20th day of May A.D. 19 80.

RICHARD P. BRINKER, Ex-Officio Clerk
Board of County Commissioners
Dade County, Florida

By Charlotte Miller
Deputy Clerk

COUNTY COMMISSIONERS DADE COUNTY
SEAL

BOARD OF COUNTY COMMISSIONERS
DADE COUNTY, FLORIDA

102.01-33