Memorandum

MIAMI-DADE COUNTY

Date: February 21, 2008

To: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Special Item No. 2

Subject: Ordinance Exempting the New Baseball Stadium for the Florida Marlins at the Orange Bowl Site from Application of the Requirements of Sections 9-71 to 9-75 of the Code Relating to the Sustainable Buildings

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RECOMMENDATION

It is recommended that the Board exempt the new baseball stadium for the Florida Marlins at the Orange Bowl site from application of the requirements of Sections 9-71 to 9-75 of the Code of Miami-Dade County relating to the Sustainable Buildings Program.

SCOPE

The scope of the Sustainable Buildings Program applies countywide to County-owned, financed, leased, and operated buildings.

FISCAL IMPACT / FUNDING SOURCE

The fiscal impact to the County to achieve Leadership in Energy and Environmental Design (LEED) "Silver" rating designation for the proposed ballpark, as required under the Sustainable Buildings Program, is unknown at this time.

TRACK RECORD / MONITORING

The County Executive Office will be responsible for managing and monitoring this project.

BACKGROUND

Section 4.05 of the Baseball Stadium Agreement (BSA) relating to Design and Construction professionals provides that the Stadium Developer, County, and City work in good faith to comply with the provisions of the Sustainable Buildings Program, and, that the parties shall make reasonable efforts to achieve a LEED or comparable certification for the Baseball Stadium. From the outset of the stadium design phase, efficient and cost effective approaches to achieve LEED certification will be applied by the Design and Construction professionals.

While an exemption from application of these requirements is being requested at this time, the exemption is being requested as a preventative measure to avoid possible incremental costs that are not included in the approved stadium construction budget that may result from a design alternative that would allow the stadium to achieve LEED certification, and, to prevent delays in the construction schedule that may result from incorporation of LEED certification measures. The BSA provides the County would ultimately be responsible for any incremental costs or delays in the construction schedule resulting from the application of this ordinance if the exemption from application of the provisions of the Sustainable Buildings Program is not approved by May 30, 2008.

Nevertheless, by June 30, 2008, the BSA states the Stadium Developer will provide the County with an analysis of the incremental costs necessary to achieve the various levels of LEED certification. At that time, the County Mayor or his designee will evaluate such costs and determine which, if any, LEED certification level is desirable or fiscally achievable.

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: February 21, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Special Item No. 2

Please note any items checked.

_____ "4-Day Rule" ("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

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Special Item No. 2
2-21-08

ORDINANCE NO. _____

ORDINANCE EXEMPTING NEW FLORIDA MARLINS BALLPARK FROM APPLICATION OF PROVISIONS OF SUSTAINABLE BUILDINGS PROGRAM SET FORTH IN SECTIONS 9-71 THROUGH 9-75 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, EXCLUSION FROM THE CODE AND EFFECTIVE DATE

WHEREAS, Sections 9-71 through 9-75 of the Code of Miami-Dade County, entitled the Sustainable Buildings Program ("Sustainable Buildings Program"), mandates, where practical, green building practices into the planning, design, construction, management, renovation, maintenance and decommissioning of buildings owned, financed and/or operated by the County; and

WHEREAS, the County, the City of Miami, the Florida Marlins, L.P. (the "Florida Marlins") have entered into an agreement for the development of a new ballpark for the Florida Marlins (the "Florida Marlins Baseball Stadium"); and

WHEREAS, the County will own and provide a portion of the financing for the Florida Marlins Baseball Stadium which will, absent an exemption or waiver, subject the Florida Marlins Baseball Stadium project to the requirements of the Sustainable Buildings Program; and

WHEREAS, the Florida Marlins Baseball Stadium agreement provides that, notwithstanding this exemption, the Stadium Developer, County, and City will work in good faith to comply with the provisions of the Sustainable Buildings Program, and, that the parties shall make reasonable efforts to achieve a LEED or comparable certification for the Baseball Stadium; and

WHEREAS, the County has determined that, in order to ensure the timely completion of the Florida Marlins Baseball Stadium project, that it is in the best interest of the County to exempt the Florida Marlins Baseball Stadium project from the requirements of the Sustainable Buildings Program,

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

Section 1. The foregoing recitals are incorporated in this Ordinance by this reference.

Section 2. Notwithstanding and prevailing over any other provision in the Code of Miami-Dade County, Florida to the contrary, Sections 9-71 through 9-75 of the Code of Miami-Dade County shall not apply to contracts for the development, design and construction of the Florida Marlins Baseball Stadium and such contracts shall be exempt from the requirements thereof.

Section 3. 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 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: RAC

Prepared by: JA

Juliette Antoine