

Memorandum



Date: (Public Hearing 4-7-09)
March 23, 2009

To: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

Agenda Item No. 5(F)

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "G. Burgess", written over the printed name of George M. Burgess.

Subject: Ordinance Authorizing Issuance of Subordinate Special Obligation Bonds (Convention Development Tax Bonds)

Recommendation

It is recommended that the Board of County Commissioners (Board) enact the attached Ordinance (Series 2009 CDT Ordinance) authorizing the issuance, in one or more series, of Subordinate Special Obligation Bonds (Convention Development Tax), in an aggregate principal amount not to exceed \$130,000,000 (Series 2009 CDT Bonds).

This Series 2009 CDT Ordinance provides for the authorization of bond proceeds to be utilized towards the County's obligation to pay a portion of the costs for the development, construction and related public infrastructure, including LEED Certification, of a new publicly owned professional baseball stadium to be owned by the County and operated by the Florida Marlins (Baseball Stadium). Even though the preliminary Plan of Finance includes \$69.119 million in project costs to be covered with the issuance of the Series 2009 CDT Bonds, this Series 2009 CDT Ordinance allows the County to increase the amount of the CDT Bonds (where the County has more capacity) to address the possibility that there is less capacity to issue Professional Sports Franchise Facilities Tax (PST) Revenue Bonds, at the time of sale, than what is contemplated under the Plan of Finance. The Plan of Finance anticipates \$237.5 million in PST for Project costs, which is also on this same agenda for Board consideration. The Plan of Finance is structured to allow the County to increase the size of the CDT Bonds and to reduce the PST Bonds by the same amount.

Scope

While the Baseball Stadium will be located in Commission District 5, the impact of this project funded with the proceeds of the Series 2009 CDT Bonds is countywide.

Fiscal Impact/Funding Source

The principal and interest, when due on the Series 2009 CDT Bonds, will be secured by a lien solely upon and a pledge of the Pledged Funds as provided in the 1997 Ordinance (defined below). Pledged Funds are defined under the 1997 Ordinance as the sum of:

- Designated Conventional Development Tax (defined below);
- Omni Tax Increment Revenues (pledged **only** to the Series 1997A Bonds or any refunding of the Series 1997A Bonds and **not** pledged to any other bonds, including the Series 2009 CDT Bonds);
- Funds held under the 1997 Ordinance;
- Investment Earnings; and
- Available Sales Tax deposited in the Debt Service Fund, if any, to the extent that payment from such source is necessary to meet principal and interest requirements. This secondary pledge has never been used in the past.

Designated CDT Revenues are the net CDT Revenues after meeting obligations under the Senior Lien Ordinance (as defined further in this memorandum). Those obligations are: (i) the debt service on the

outstanding Series 1996 Bonds (or refunding bonds issued under the Senior Lien Ordinance); (ii) payments to Miami Beach, pursuant to the June 6, 1996 Interlocal Agreement, as amended; (iii) Prior Payments, which included the AA Arena Subsidies, Cultural Affairs grants and PAC Operating Subsidies; and (iv) Hedge Payments on the Series 1996 Bonds.

The Proposed FY 2009-2010 Budget will include any necessary appropriations depending on the final structure of the Series 2009 CDT Bonds.

Plan of Finance

Pursuant to the underlying stadium agreements among the County, the City of Miami and Florida Marlins, the County is obligated to fund \$347.5 million prior to construction of the Baseball Stadium and up to \$12.587 million in related public infrastructure, including LEED Certification, of which up to \$9.119 million will be financed by the Series 2009 CDT Bonds. The remaining balance of infrastructure costs will be covered by County water and sewer funds and available CDT Cash Carryover, as illustrated in the Revised Exhibit K to the Construction Administration Agreement. The County will satisfy these obligations on the assumption that the maximum amount of PST revenues possible will be leveraged to meet the County's obligations. Included in that Plan are: (i) Building Better Communities General Obligation Bonds (GO Bonds) in an aggregate principal amount of not to exceed \$55 million; (ii) bonds secured by a primary pledge of PST receipts and a secondary pledge of TDT receipts and Covenant Revenues (PST Bonds); and (iii) bonds secured by a primary pledge of Convention Development Tax receipts and a secondary pledge of sales tax (CDT Bonds); and (iv) bonds secured by the County's pledge to budget and appropriate legally available non ad valorem revenues (Covenant Revenues). The goal at the time of pricing and marketing of the GO Bonds, the PST Bonds and the CDT Bonds is to achieve the following:

PRELIMINARY PLAN OF FINANCE – SOURCES AND USES OF BOND PROCEEDS (\$ in thousands)

<u>Category</u>	<u>PST ⁽¹⁾</u>	<u>CDT ⁽¹⁾</u>	<u>GO</u>	<u>TOTAL</u>
Project	237,500	60,000	50,000	347,500
Public Infrastructure	0	9,119	0	9,119
Subtotal	237,500	69,119	50,000	356,619
Debt Service Reserve Fund ⁽²⁾	23,750	6,912	0	30,662
Cost of Issuance/ Underwriter's Fee	10,960	2,640	5,000	18,600
TOTAL	272,210	78,671	55,000	405,881

(1) Depending on market conditions, any shortfall in PST will be funded through additional CDT Bonds.

(2) This is part of bond issuance and not included in separately funded tourist tax Shortfall Reserve.

The Plan of Finance, as detailed above, does not include a County obligation to fund \$35 million for the Baseball Stadium plus \$2 million for the County project soft costs which will be financed in 2011 from bonds likely secured by the County's covenant to budget and appropriate legally available non ad valorem revenues in the Capital Outlay Reserve Fund (CORF). It is anticipated that debt service payments will be structured to be equal to or less than the annual rent payments to be received from the Team.

Even though the above preliminary Plan of Finance anticipates the issuance of CDT Bonds in the amount of \$78.671 million, the attached Series 2009 CDT Ordinance authorizes up to \$130 million in CDT Bonds. The Plan of Finance is structured to allow the County to increase the size of the CDT Bonds and reduce the PST Bonds by the same amount. This is because an unfavorable shift in interest rates by the time of sale, which is not expected to occur for a few months, could reduce the amount that can be leveraged through the issuance of PST Bonds by a significant amount. However, in no event will the total issuance amount of the PST and CDT Bonds in the aggregate exceed the amount necessary to satisfy the County's obligations of \$347.5 million for the construction of the Baseball Stadium and \$9.119 million for the related public infrastructure, including LEED Certification. In addition, no other projects will

be funded pursuant to these Ordinances and/or Series Resolutions without Board approval. The Series 2009 CDT Ordinance also provides that any authorization remaining after the issuance of the CDT Bonds terminates. The purpose of that clause is to restrict the amount of bonds that can be issued from the various sources to only the amount necessary to meet the stadium funding requirements. As capacity becomes available, this clause by no means precludes the County from issuing additional bonds for new eligible projects, such as the New World Symphony and others. Another item on the special meeting agenda approves an agreement between the City of Miami and the County that allows the County to issue up to \$100 million of CDT bonds which will have a priority lien over any CDT payments to the City. If it is necessary to issue CDT bonds in excess of \$100 million, with a priority lien over the CDT payment to the City, an amendment to the agreement with the City of Miami will be necessary. If in the future the County decides to finance additional eligible projects, secured by CDT Revenues, a subsequent ordinance will be presented to the Board for consideration and approval.

Additional Considerations for the Plan of Finance

It should be noted that there are fundamental components that comprise the overall plan of finance that will be present regardless of the final amount of PST and CDT Bonds issued.

- The PST and CDT financing structures are based on projected revenue estimates. The actual results will be different (better or worse) than the estimated projections. If significantly worse, it may necessitate the use of the secondary pledge to meet debt service in the future. However, with that understanding, the County has taken additional measures to address the uncertainty that exists with any revenue projection. In order to mitigate the risk of lower than expected revenues, the County will build and maintain a \$45 million internal shortfall reserve (funded from existing and future excess PST/TDT/CDT revenues) while the bonds are outstanding. The purpose of this internal shortfall reserve is to protect the County from having to utilize the secondary revenue pledge in the event that revenues under perform.
- The CDT and PST financings will have terms of up to 40 years and the structure is anticipated to be comprised of fixed rate bonds sold as Current Interest Bonds and/or Capital Appreciation Bonds (where interest is not paid periodically but instead interest accrues and a total payment of principal and accrued interest is due upon maturity), and variable rate demand bonds. This debt structure enables the County to generate the necessary proceeds for the project. If a debt structure comprised of 30-year Current Interest Bonds (CIBs) was utilized, the anticipated revenue stream would not yield sufficient proceeds to meet the Project requirements. It should be noted that the bonds will be structured in the most cost-effective manner, while at the same time, meeting the Project requirements. While there is additional cost, the proposed debt structure has been utilized to fund other projects within the County and around the country. This type of debt structure makes it possible for the County to make current-day investments in capital projects that will benefit the County for several decades into the future.
- Due to the pending litigation, the County had to secure a clean "no-merit" opinion from Bond Counsel prior to proceeding with the Plan of Financing. Without such an opinion, the bonds would not be marketable. In a typical bond transaction, the investors rely solely on an unqualified tax exempt opinion rendered by nationally recognized bond counsel. At the current time, the County's bond counsel has completed its analysis and is willing to issue a "no merit" opinion in connection with the issuance GO Bonds, the PST Bonds and CDT Bonds, provided, there are no adverse changes in the law or in the case between now and the date on which each of the Bonds are issued. The County Attorney's office will issue a similar opinion. The Finance Department through the County's Financial Advisor will determine what effect a no merit opinion will have on the sale of the bonds and report such findings to the Board.

Background

On October 4, 1983, the Board enacted Ordinance No. 83-91, as supplemented and amended, without limitation, by Ordinance No. 84-83, enacted by the Board on June 5, 1984 (CDT Ordinance). Pursuant to

the CDT Ordinance, the Board levied and imposed the Convention Development Tax at a rate of three percent on the privilege of leasing or letting transient rental accommodations (CDT) located in within Miami-Dade County.

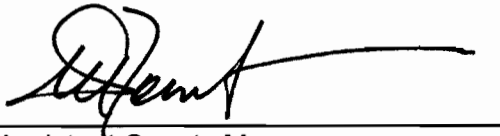
The Board enacted Ordinance No. 96-85 (Senior Lien Ordinance) on June 4, 1996 which authorized the issuance of Special Obligation and Refunding Bonds. Due to certain priority uses for the CDT receipts established in Resolution No. R-121-97, adopted by the Board on October 21, 1997, a new ordinance authorizing bonds secured by CDT receipts on a subordinate basis to the Series 1996 Bonds was necessary. As a result, the Board enacted Ordinance No. 97-210 (1997 Ordinance) on November 18, 1997 which authorized the issuance, from time to time, of special obligation bonds secured by CDT receipts and other funds which are subordinate to the Series 1996 Bonds.

Pursuant to the 1997 Ordinance, as amended, the County has issued (in original principal amount)

- \$86,570,856.20 in Subordinate Special Obligation Refunding Bonds, Series 1997A;
- \$170,008,377.10 in Subordinate Special Obligation Bonds, Series 1997B;
- \$41,961,440.05 in Subordinate Special Obligation Bonds, Series 1997C;
- \$138,608,939.55 in Subordinate Special Obligation Bonds, Series 2005A; and
- \$45,703,308.00 in Subordinate Special Obligation Bonds, Series 2005B.

The Series 2009 CDT Bonds will be issued as Additional Bonds under the provisions of Section 208 of the 1997 Ordinance.

The Series 2009 CDT Ordinance provides that the terms, maturities, interest rates and other details of the series 2009 CDT Bonds will be determined in subsequent resolution(s) adopted by the Board prior to the issuance of such Series 2009 CDT Bonds. The Series 2009 CDT Bond Resolution will accompany this Ordinance at second reading. As previously stated, the attached Series 2009 CDT Ordinance also provides that any authorization remaining after the issuance of the CDT Bonds terminates.



Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: April 7, 2009

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

SUBJECT: Agenda Item No. 5 (F)

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 Mayor'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 _____

Agenda Item No. 5(F)

4-7-09

ORDINANCE NO. _____

ORDINANCE AUTHORIZING ISSUANCE OF NOT TO EXCEED, SUBJECT TO THE LIMITATIONS IN THIS ORDINANCE, \$130,000,000 AGGREGATE ORIGINAL PRINCIPAL AMOUNT OF MIAMI-DADE COUNTY, FLORIDA SUBORDINATE SPECIAL OBLIGATION BONDS, IN ONE OR MORE SERIES, PURSUANT TO SECTION 208 OF ORDINANCE NO. 97-210, ENACTED ON NOVEMBER 18, 1997, AS AMENDED, FOR PURPOSE OF PAYING COSTS OF BASEBALL STADIUM; PROVIDING THAT DETAILS, TERMS AND OTHER MATTERS RELATING TO SERIES 2009 BONDS BE DETERMINED IN SUBSEQUENT RESOLUTION(S); AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE

WHEREAS, Miami-Dade County, Florida (the "County"), pursuant to Ordinance No. 97-210 enacted by the Board of County Commissioners of Miami-Dade County, Florida (the "Board") on November 18, 1997, as amended by Ordinance No. 05-99 enacted by the Board on May 17, 2005 (collectively, the "1997 Ordinance"), has previously issued (i) \$86,570,856.20 original principal amount of Miami-Dade County, Florida Subordinate Special Obligation Refunding Bonds, Series 1997A, of which \$156,268,193.54 Compounded Amount as of October 1, 2008 are currently Outstanding (as such terms are defined in the 1997 Ordinance), (ii) \$170,008,377.10 original principal amount of Miami-Dade County, Florida Subordinate Special Obligation Bonds, Series 1997B, of which \$213,800,766.72 principal amount (Compounded Amount as of October 1, 2008 with respect to the Capital Appreciation Bonds) are currently Outstanding, (iii) \$41,961,440.05 original principal amount of Miami-Dade County, Florida Subordinate Special Obligation Bonds, Series 1997C, of which \$33,730,416.08 Compounded Amount as of October 1, 2008 are currently Outstanding, (iv) \$138,608,939.55 original principal amount of Miami-Dade County, Florida Subordinate Special Obligation Bonds, Series 2005A, of

which \$161,420,670.07 Compounded Amount as of October 1, 2008 are currently Outstanding, and (v) \$45,703,308.00 original principal amount of Miami-Dade County, Florida Subordinate Special Obligation Bonds, Series 2005B, of which \$51,996,102.90 Compounded Amount as of October 1, 2008 are currently Outstanding (collectively, the “Outstanding Bonds”); and

WHEREAS, all terms used in capitalized form and not defined in this Ordinance (the “Series 2009 Ordinance”) have the meanings assigned to such terms in the 1997 Ordinance, unless the context otherwise clearly requires a different meaning; and

WHEREAS, Section 208 of the 1997 Ordinance authorizes the County to issue Additional Bonds payable from the Pledged Funds on a parity with the Outstanding Bonds; and

WHEREAS, the Board has determined at this time that it is in the best interests of the County and its citizens to authorize the issuance of Additional Bonds in an aggregate original principal amount not to exceed, subject to the limitations contained in Section 2 of this Ordinance, \$130,000,000 under the provisions of Section 208 of the 1997 Ordinance for the purpose of paying Costs of the Project with respect to the development and construction of a new professional baseball stadium to be owned by the County and used by the Florida Marlins and the related infrastructure (the “Baseball Stadium”); and

WHEREAS, the Baseball Stadium is a project permitted to be funded under the Convention Development Tax Act and the expenditure of funds by the County in connection with the Baseball Stadium constitutes a “countywide program” for purposes of Section 218.64, Florida Statutes; and

WHEREAS, the Board desires to accomplish the purposes outlined in the accompanying memorandum (the “County Manager’s Memorandum”), a copy of which is incorporated in this Series 2009 Ordinance by reference,

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

Section 1. Incorporation of Recitals. The matters set forth in the foregoing recitals to this Series 2009 Ordinance are incorporated as part of this Series 2009 Ordinance.

Section 2. Authorization to Issue Series 2009 New Money Bonds. The Board authorizes the issuance of not to exceed \$130,000,000 aggregate original principal amount of Miami-Dade County, Florida Subordinate Special Obligation Bonds, in one or more Series (collectively, the "Series 2009 New Money Bonds"), pursuant to Section 208 of the 1997 Ordinance and the authority of the Act, for the purpose of paying Costs of the Project with respect to the Baseball Stadium, funding the Reserve Fund and paying the costs of issuance of the Series 2009 New Money Bonds, including the costs of a Bond Insurance Policy and a Reserve Fund Facility, if any; provided, however, that (i) in no event shall the sum of the aggregate original principal amount of the Series 2009 New Money Bonds and the aggregate original principal amount of the Miami-Dade County, Florida Professional Sports Franchise Facilities Tax Revenue Bonds (other than any refunding bonds) and Miami-Dade County, Florida General Obligation Bonds (Building Better Communities Program), Series 2009A, issued to finance the Baseball Stadium exceed \$410,000,000, and (ii) after issuance of the Series 2009 New Money Bonds, any remaining original principal amount authorization for the issuance of the Series 2009 New Money Bonds under this Section 2 in excess of the aggregate original principal amount of Series 2009 New Money Bonds issued shall be repealed.

The Series 2009 New Money Bonds shall be special and limited obligations of the County, payable from and secured by a lien solely upon and a pledge of the Pledged Funds, as more specifically provided in the 1997 Ordinance, including Section 501 of the 1997 Ordinance.

The Series 2009 New Money Bonds shall not be or constitute general obligations or indebtedness of the County within the meaning of the Constitution of the State of Florida, but shall be payable from and secured by a lien solely upon and a pledge of the Pledged Funds. No Bondholder shall ever have the right to compel the exercise of the ad valorem taxing power of the County or taxation in any form on any property to pay the principal of, any redemption premium, if any, and interest on the Series 2009 New Money Bonds, nor shall any such Bondholder be entitled to payment of such principal, redemption premium, if any, or interest from any other funds of the County except the Pledged Funds.

Section 3. Details, Terms and Other Matters Relating to Series 2009 New Money Bonds. In accordance with Section 203 of the 1997 Ordinance, all details, terms and other matters relating to the Series 2009 New Money Bonds shall be determined in the manner specified in one or more subsequent resolutions of the Board.

To the extent that the Series 2009 New Money Bonds are issued in a calendar year other than calendar year 2009, all references to “2009” contained in any defined term in this Series 2009 Ordinance and any subsequent resolutions of the Board relating to the Series 2009 New Money Bonds shall, without further action of the Board, be replaced with the calendar year in which the Series 2009 New Money Bonds are issued.

Section 4. Covenants of 1997 Ordinance. All of the material covenants of the 1997 Ordinance will be applicable to the Series 2009 New Money Bonds, and no default shall have occurred and be continuing in the performance of any of the covenants and obligations and all payments required to have been made into the accounts and funds under the terms of the 1997 Ordinance shall have been made to the full extent required before the Series 2009 New Money Bonds may be issued.

Section 5. Further Acts. The officers and agents of the County are authorized and directed to take all actions and do all things required of them by the 1997 Ordinance and this Series 2009 Ordinance for the full, punctual and complete performance of all of the terms, covenants, provisions and agreements contained in the 1997 Ordinance and this Series 2009 Ordinance.

Section 6. Headings Not Part of Ordinance. Any headings preceding the Sections of this Series 2009 Ordinance shall be solely for convenience of reference and shall not constitute a part of this Series 2009 Ordinance, nor shall they affect its meaning, construction or effect.

Section 7. Severability. In case any one or more of the provisions of this Series 2009 Ordinance shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect the legality or enforceability of any other provision of this Series 2009 Ordinance.

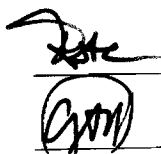
Section 8. Effective Date. This Series 2009 Ordinance shall take effect ten (10) days after its enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Gerald T. Heffernan

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