MEMORANDUM

Agenda Item No. 11(A)(9)

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

DATE: July 8, 2010

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

SUBJECT: Resolution approving allocation for District 9 from Building Better Communities GOB Program 249 to fund construction of portion of multi-family affordable rental units to be located on County owned Caribbean Boulevard site

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairman Dennis C. Moss.

R. A. Cuevas, Jr.
County Attorney

RAC/up

MEMORANDUM

(Revised)

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DATE: July 8, 2010

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SUBJECT: Agenda Item No. 11(A)(9)

Please note any items checked.

_____ **"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**

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

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(9)
7-8-10

RESOLUTION NO. _____

RESOLUTION APPROVING ALLOCATION FOR DISTRICT 9 FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NUMBER 249 – "PRESERVATION OF AFFORDABLE HOUSING UNITS AND EXPANSION OF HOME OWNERSHIP" OF $5,000,000 TO DEVELOPER TO BE SELECTED BY COUNTY AS LOAN OR GRANT TO FUND CONSTRUCTION OF PORTION OF MULTI-FAMILY AFFORDABLE RENTAL UNITS TO BE LOCATED ON COUNTY OWNED CARIBBEAN BOULEVARD SITE AND LEASED TO DEVELOPER

WHEREAS, pursuant to Resolution No. R-918-04 (the "Affordable Housing Resolution"), the voters approved the issuance of general obligation bonds in a principal amount not to exceed $194,997,000 to construct and improve affordable housing for the elderly and families; and

WHEREAS, Appendix A to the Affordable Housing Resolution lists projects eligible for funding from the Building Better Communities General Obligation Bond Program (the "BBC Program") by project number, municipal project location, BCC district, project name, project description, street address and allocation; and

WHEREAS, one of the projects listed in Appendix A to the Affordable Housing Resolution and approved by the voters for funding is Project No. 249 – "Preservation of Affordable Housing Units and Expansion of Home Ownership" with an original allocation of $137,700,000 ("Project No. 249") in the amount of $5,000,000; and

WHEREAS, there is a need for the development of affordable housing in District 9; and

WHEREAS, this need shall be satisfied in part through a loan or grant in the amount of $5,000,000 to a developer to be selected by the County ("Developer") to fund a portion of the construction of approximately 170 affordable rental units on a site owned by the County and to be leased to the Developer located between SW 110th Court and SW 200th Drive on the north side of SW 200 Street adjacent to the bus way transit station ("Caribbean Boulevard Project"); and

WHEREAS, this Board wishes to approve an allocation from Project No. 249 for District 9 to the Caribbean Boulevard Project,

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

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. The allocation of $5,000,000 for District 9 from Project No. 249 as a loan or grant to the Developer for the Caribbean Boulevard Project is approved subject to Board approval of all necessary agreements, including a covenant regarding affordability.

The Prime Sponsor of the foregoing resolution is Chairman Dennis C. Moss. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairman thereupon declared the resolution duly passed and adopted this 8th day of July, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Gerald T. Heffernan

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	**8(K)1(A) and 11(A)9**
File Number:	**101468 and 093408**
Committee(s) of Reference:	**Board of County Commissioners**
Date of Analysis:	**June 7, 2010**
Type of Item:	**8(K)1(A)- Resolution Approving the Selection of Developers for the Building Better Communities General Obligation Bond (GOB) Invitation to Negotiate for Northside Station and Caribbean Boulevard Sites** **11(A)9-Resolution Approving GOB Program 249 Allocation for District 9 for Caribbean Boulevard Project**

Summary

This resolution, once again, waives the Competitive Bidding and Bid Protest procedures and approves the selection of the developers Carlisle Development Group, LLC (Carlisle) for Northside Station and Caribbean Village Ltd. for the Caribbean Boulevard site.

Item 11(A)9 relates to the approval of GOB Program 249 Allocation for District for the Caribbean Boulevard Project.

Background and Relevant Legislation

Below is a timeline for the Northside & Caribbean Boulevard Programs:

- On January 15, 2008, a Request for Proposals for Northside Station and Caribbean Projects was advertised pursuant to R-872-08;
- On February 15, 2008, eight (8) proposals were received through RFP#249 and the Evaluation Criteria of the RFP caused the selection Committee to score applicants more than once. Subsequently, the County Attorney's Office along with technical staff determined that inconsistencies in the criteria does not allow for a true and open competitive process and that all bids be rejected, competitive bid and bid protest be waived and negotiations be authorized with all eight proposers;
- On June 2, 2009, Pursuant to R-678-09, the Board of County Commissioners authorized rejections of all eight bids received in RFP#249, waive competitive bidding and bid protest

procedures and for the Mayor (or designee) to conduct and Invitation to Negotiate (ITN) with the responsive bidders;

- On July 31, 2009, the Department of Housing and Community Development (DHCD) advertised the ITN only to the original bidders, there were only 7 respondents (RCDG I, LLC not included);
- On January 25, 2010, the Negotiation Committee conducting the ITN selected Carlisle for the Northside Stations and Caribbean Village, Ltd for the Caribbean Boulevard site;
- A bid protest was filed by one of the original bid respondents, Biscayne Holding Group (BHG) before the final recommendation was presented to the Housing Community Development Committee on March 25, 2010.
- A final recommendation to award Carlisle and Caribbean Village, Ltd was deferred at the March 25, 2010 Committee.

Claims Addressed by the County Attorney's Office

According to the County Attorney's Office (CAO), the claims that have been addressed by BHG and RCDG-I, have been reviewed and are provided in 3(A) Substitute supplement for full disclosure. The claims and CAO responses to those claims include the following:

- Primary objections by BHG were related to the original process and improper notification of the ITN. According to the CAO, these claims carry no legal effect since the first objection was based on the old bidding process which was thrown out pursuant to R-678-09 and an improper notification claim is not substantiated since DHCD has provided sufficient evidence demonstrating it was compliant with the sunshine law;
- Primary objections raised by RCDG-I involve the exclusion from the original ITN process only to be invited to a subsequent presentation and negotiation process months later with one (1) of the four (4) committee members absent. Additionally, RCDG-I objects to not being properly notified in a timely fashion when final scores were distributed;
- The CAO maintains that the missing committee member reviewed the RCDG-I proposal, listened to audio tapes of the RCDG-I presentation, ranked all the projects and proper demonstration of due diligence was performed prior to submittal of final recommendation on January 25, 2010, which was advertised and conducted in the "sunshine";
- The CAO further maintains that both BHG and RCDG-I bid protest does not constitute a "real" bid protest since both have not formally filed a bid protest with the Clerk of the Board nor have they paid a filing fee as required by County Code.

Fiscal Impact

The developers selected for the respective sites have been awarded GOB funds but will only be used as "gap financing". The selected developers will be responsible for securing Low Income Housing Tax Credits (LIHTC), housing bond equity and other required financing for the projects.

Prepared By: Mia B. Marin