

# Memorandum



**Date:** June 15, 2010

Supplement #2 to  
Agenda Item No. 12 (A) 2

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

**From:** George M. Burgin  
County Manager

**Subject:** Supplemental Report on the General Obligation Bond Economic Development Fund

The following report is to provide the Board of County Commissioners (Board) with information for consideration and incorporation into the administrative rules as they relate to the Economic Development Fund (EDF) under the Building Better Communities General Obligation Bond (GOB) program.

The accompanying item that is before the Board sets the policy on how the County will use the \$75 million in GOB funds under Project 124 (for Countywide public infrastructure economic development projects) and the \$15 million in GOB funds under Project 320 (for public infrastructure economic development projects in the Targeted Urban Areas).

The recommended changes for consideration are as follows and are incorporated accordingly in the following attached pages of the administrative rules. Each specific recommended change is highlighted in the attached pages for the Board's reference.

## **Areas for Consideration under GOB Project 124**

The use of funds under Project 124 is clear; Project 124 funds can only be used for public infrastructure projects that encourage economic development and create jobs. The recommended item currently encourages the funding of public infrastructure projects that incentivize real property investments by innovative businesses willing to relocate to Miami-Dade County but are unlikely to occur without such an incentive. The innovative businesses sought are those likely to be catalysts for the growth of an existing or emerging high technology cluster or likely have a significant impact on long-term regional growth. The administrative rules currently recommend focusing on strategic locations that are consistent with established land use planning and transportation goals, and as such five strategic areas were identified (Opa-locka Executive Airport, Civic Center/Medical District, Port of Miami, Kendall-Tamiami Executive Airport, and the Homestead Air Reserve Base areas).

It is not, and has never been, the intent of County staff to exclude any economic development game-changing projects that create jobs outside of these five strategic areas. As such, County staff is willing to adjust the language in the proposed administrative rules before the Board to indicate that any projects meeting the criteria set in the administrative rules are eligible, regardless of location. Staff still encourages the further development of industry clusters, and those five strategic areas referenced in the administrative rules are to be used as examples of such potential clusters for aviation, global logistics, life science, maritime, homeland security and defense, and clean energy companies.

## **Maximum Funding Cap Under GOB Project 124**

In concert with the recommendation above to consider game-changing projects in any location of the County that meet the eligibility requirements in the administrative rules, there is no need for funding caps by strategic area. Staff further recommends amending the proposed administrative rules to increase the funding cap amount per project from \$15 million to \$25 million under Project 124.

## **Clawback Provision**

Although the recommended changes to administrative rules clearly state that GOB "grant funds would be disbursed on a reimbursement basis only after verified completion of the public infrastructure project

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upon receipt of an audited financial accounting of infrastructure development costs," staff also included language in the administrative rules that states that for Project 124 "A clawback provision in the event that established benchmarks are not met subsequent to disbursement of grant funds may be included in the Grant Agreement." Staff would like to change the language from "may" to "shall" be included in the Grant Agreement.

Staff would like to include the same language regarding the clawback provision under Project 320, which was inadvertently not included, and also add language for both Project 124 and Project 320 to further state "The Grant Agreement shall require that the grant recipient provide collateral securing the clawback provision. The collateral may include, but shall not be limited to, any instrument such as a personal guarantee, performance bond, restrictive covenant, or any other collateral as appropriate."

#### **Evaluation of Projects**

The item before the Board includes language that the County Mayor or the County Mayor's designee shall consult with certain entities in the review of the funding application packages under Project 124. Likewise, under Project 320 the County Mayor or the County Mayor's designee shall convene a committee of members of the Task Force on Urban Economic Revitalization, and community leaders and/or economic development experts to assist in the review of Project 320 grant applications.

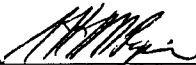
Staff recommends that the language be changed to "may" rather than "shall" under both Project 124 and Project 320. It is staff's intent to work with all the appropriate stakeholders on each project on a case by case basis and as such is asking for the appropriate amount of flexibility to work with these groups.

#### **Compliance with Prevailing Wages**

Concerns have been raised about the application of the County's prevailing wage ordinance to future GOB-funded public infrastructure projects funded from the GOB EDF. A specific reference to Section 2-11.16 of the County Code of Ordinances (Code), which relates to County construction contracts, was included in a letter from Mr. Bill Riley, President of the South Florida Building and Construction Trades Council.

Although the prevailing wage ordinance does not apply to the construction or improvement of public infrastructure improvements by private entities on private property as a matter of law, staff recommends amending the administrative rules to provide that as a condition of the grant award of GOB Project 124 or Project 320 funds for public infrastructure improvements, the grant recipient agrees as a matter of contract to the application of Section 2-11.16 of the Code on the portion of the project that consists of GOB EDF-funded public infrastructure improvements.

Attachment

  
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Irene Taylor-Wooten  
Special Assistant to the County Manager

**"Public Agency"** or **"Public Agencies"** means an agency or agencies or administrative division or divisions of the United States government, the State of Florida, the County, or any ~~municipality~~ Municipality within the County.

**"Recipient"** means an entity receiving a Funding Allocation.

**"REMI Model"** means a simultaneous equations econometric model developed by REMI Inc. and suitable for estimating the dynamic economic impacts of real property and other capital investments in Miami-Dade County.

**"Soft Costs"** means real and verifiable expenditures for administration, project management (not related to construction supervision), indirect costs (accounting/purchasing/personnel, etc.), imposed fees (e.g., permit processing fees) and those costs NOT related to construction material, labor, equipment or construction sub-contractors. Soft Costs for the purpose of this Program are classified by the following three areas:

- Project Administration - administration, project management (not related to construction supervision), indirect costs (accounting/purchasing/personnel, etc.) and imposed fees (e.g., Professional Services Agreement selection/permit processing fees). Project management related to construction supervision is not considered a soft cost; and
- Planning Services - Master Plan development and approval and feasibility studies; and
- Design Services - schematic design, design development, construction documents, bidding or negotiation and as built drawings.

Construction supervision and/or inspection are not considered ~~sSoft e~~Costs. All costs associated with land acquisition such as: appraisals, due diligence, cost of land, project administration related to land purchase, legal fees, etc. are not part of the ~~sSoft e~~Costs.

**"Strategic Area"** means geographic areas ~~[[eligible for Economic Development Fund grants from Project No. 124]]~~ identified as the Opa-locka Executive Airport property and designated adjacent areas, the Civic Center/Medical District area, the Port of Miami, the Kendall-Tamiami Executive Airport and designated adjacent areas, and the Homestead Air Force Reserve Base and designated adjacent areas. The boundaries of these areas are identified in Exhibit L to these Administrative Rules .

**"Targeted Urban Areas"** or **"TUA"** means the geographical communities which have been designated by the Board of ~~County Commissioners~~ and defined in the County Code of Ordinances Article VI Sec.30A-129(2).

**"UMSA"** means Unincorporated Municipal Service Area of the County, for which the County provides municipal services. Projects occurring within areas defined as UMSA are subject to the same administrative rules as any other project seeking Building Better Communities General Obligation Bond funding, regardless of the entity involved in the ~~p~~Project.

## B) Fund Projects

### 1. Funds Objectives

The Economic Development Fund (the “EDF”) is a component of the Building Better Communities Bond Program and is available for the purpose of providing infrastructure improvements to spur economic development and attract new businesses to the community in order to create jobs. The EDF includes \$75 million that is available countywide and \$15 million that is specifically focused on the County’s designated Targeted Urban Areas. Eligible uses of the EDF include but are not limited to: infrastructure funding for road construction, water and sewer lines, fencing, sidewalks, entryways, lighting, and handicap accessibility; acquisition of land or buildings subject to certain limitations and to be evaluated on a case-by-case basis; ~~and new construction or renovation of buildings subject to certain limitations and to be evaluated on a case-by-case basis~~; ~~renovation of buildings~~; ~~and construction or acquisition of parking lots and structures subject to certain limitations and to be evaluated on a case-by-case basis~~. Ineligible uses of the EDF include but are not limited to: working capital; furniture and fixtures; office equipment; and other non-capital related expenses.

The Historical Preservation Fund, the Primary Healthcare Facilities Fund and the Not-for-Profit Community Organization Capital Fund are a component of the Building Better Communities General Obligation Bond initiative for the purpose of funding projects that support the County’s historic preservation, primary healthcare, and community agency infrastructure needs. These are capital projects that improve the quality of life for the County’s citizens, enhance medical facilities, rehabilitate historic properties, save irreplaceable historic venues, and serve as a catalyst for preserving and protecting Miami-Dade County’s future. Medical institutions, historically and culturally significant properties, and Community-Based Organizations needing capital funds for construction, renovation, and expansion of facilities within the community that meet the criteria for the following programs may be eligible for assistance from these funds.

### 2) Program Descriptions and Criteria

#### a) Economic Development Fund.

~~This program includes \$75 million that is available for countywide and \$15 million that is specifically focused on the County’s designated Target Areas to spur economic development and attract new businesses in order to create jobs.~~

The Economic Development Fund includes \$75 million that is available for >>“game changing”<< projects [[in areas designated by the Board of County Commissioners pursuant to Resolution R — 10 as strategic areas]]. The primary objectives of this program are to provide infrastructure improvements to spur economic development and attract new businesses to the community in order to create jobs by providing incentives that catalyze private sector investments, accelerate job creation, and attract capital investments with a strong potential to transform the local economy in ways that strengthen the economy’s capacity for innovation and commercialization of scientific advancements, expand leadership in local industry clusters such as Aviation and Aerospace, Financial and Professional Services, Homeland Security and Defense, Information Technology, Life

Sciences, and International Trade and Global Commerce, and/or produce job opportunities. >>These industry clusters exist in the Strategic Areas (see Exhibit L attached to these Administrative Rules).<< This component of the Economic Development Fund is referred to as Project No. 124. ~~[[No more than \$15 million from Project 124 may be allocated to any one strategic area, and]]~~ No more than ~~[[ \$15]]~~ >>\$25<< million ~~[[within each strategic area]]~~ may be allocated to any single entity or project.

The Economic Development Fund also includes \$15 million that is specifically available for projects in the County's designated Targeted Urban Areas to spur economic development and attract new businesses in order to create jobs. This component of the Economic Development Fund is referred to as Project No. 320. No more than \$3 million from Project 320 may be allocated to any single Targeted Urban Area.

#### Eligibility Requirements for Applicants:

Notwithstanding eligibility requirements for applicants set forth in any other section of these administrative rules, the eligible applicants for the Economic Development Fund are:

- Active and duly registered Florida not-for-profit 501(c)(3) corporation.
- Active and duly registered Florida for-profit corporation or recognized business entity.
- ~~Municipal entity or agency based on Miami-Dade County.~~
- Owner or lessee of residential or commercial property located within Miami-Dade County on which the Economic Development Fund Project will be situated.
- Demonstrated financial capacity and ~~Financially stable including~~ financial commitments using other non-County sources to complete the Economic Development Fund Project Designated Project.
- ~~Those listed in any Request for Proposal's related to this Fund.~~

#### b) Historic Preservation Fund

This program includes \$10 million and is intended to provide matching funds to private property owners, private nonprofit organizations, and municipal government agencies for the acquisition, relocation and rehabilitation of designated historic properties, or properties eligible for designation as a historic property or as a contributing historic district property, which has applied for such a designation within Miami-Dade County.

#### Eligibility Requirements for Applicants:

Notwithstanding eligibility requirements for applicants set forth in any other section of these administrative rules, the eligible applicants for the Historic Preservation Fund are:

- Active and duly registered Florida not-for-profit 501(c)(3) corporation.
- Active and duly registered Florida for-profit corporation or recognized business entity.
- Municipality entity or Public Agency ~~agency~~ based in Miami-Dade County.
- Owner of residential or commercial property located within Miami-Dade County.

- Legally incorporated 501(c)(3) not-for-profit organization lacking access to government sources of capital funding.
- Demonstrable financial stability.
- Organization's mission is consistent with goals identified in the Miami-Dade County Strategic Plan.
- Demonstrate ownership of or intent to purchase a facility.
- Letter of Commitment confirming the resources necessary to accomplish the project.
- Architectural/engineering study and/or equipment specifications and professional cost estimate.
- Two (2) year management and budget plan for the facility.
- Those listed in any Request For Proposal's related to this Fund.

#### **SECTION 4. ELIGIBILITY DETERMINATION AND EVALUATION**

~~Following closure of an Application Submission Period, the County Manager will review and evaluate each Funding Application Package for funding eligibility or ineligibility. The County Manager may use these entities such as the following to assist him in the review of and to create Project Review Committees:~~

##### **Economic Development Fund**

- ~~Empowerment Zone Trust Board~~
- ~~Miami Dade Empowerment Trust~~
- ~~Office of Community and Economic Development~~
- ~~Coalition of Chambers of Commerce~~
- ~~Task Force on Urban Revitalization~~
- ~~Metro Miami Action Plan Trust~~
- ~~Beacon Council~~
- ~~Greater Miami Chamber of Commerce~~
- ~~Dade League of Cities~~

##### **A) Economic Development Fund – Project 124**

The County Mayor or the County Mayor's designee will review and evaluate each Funding Application Package for funding eligibility or ineligibility. The County Mayor or the County Mayor's designee ~~[[shall]]~~ >>may<< consult with the following entities to assist in the review of the Funding Application Package:

- Department of Housing and Community Development
- Coalition of Chambers of Commerce
- Task Force on Urban Revitalization
- Miami-Dade Economic Advocacy Trust
- Beacon Council
- Greater Miami Chamber of Commerce
- Dade League of Cities

## 1. Eligibility Requirements for Projects

- Grant awards under Project 124 must be used for public infrastructure, including parking structures, public facilities and other improvements subject to certain limitations and evaluated on a case by case basis, and support economic development activities and attract new businesses having the potential to create a significant number of permanent jobs in Miami-Dade County; and
- Economic development projects supported with Project 124 funds must demonstrate long-term economic benefits to Miami-Dade County in spurring future economic growth through an analysis of local economic and County fiscal impacts over a 20-year time period using a Miami-Dade County REMI model or an equivalent economic impact model widely available and professionally accepted among economists for economic and fiscal impact analysis.

Development projects that are LEED certified will receive additional consideration in the evaluation process commensurate with the level of LEED certification in order to provide an incentive to build energy efficient facilities and reduce CO<sub>2</sub> emissions.

## 2. Special Conditions Regarding Reimbursements

- ~~[[No more than \$15 million of reimbursements can be allocated under Project 124 within any one strategic area.]]~~
- The grant may reimburse up to 100 percent of public infrastructure costs per project, but subject to a cap of >>\$25 million<< ~~[[the lesser of \$15 million or the total amount of grant funding available within such strategic area]]~~.
- Actual grant funds would be disbursed on a reimbursement basis only after verified completion of the public infrastructure project upon receipt of an audited financial accounting of infrastructure development costs and subject to funding availability and compliance with federal tax laws.
- Grants in excess of \$5 million would be disbursed over no more than a 5 year period from the date the public infrastructure improvements are completed when taxable bonds are issued to fund such public infrastructure improvements. If tax-exempt bonds are issued for the public infrastructure improvements reimbursements for such public infrastructure improvements will be disbursed over no more than a three year period from the date of the expenditure but in no case later than 18 months from the date the public infrastructure project is placed in service.
- Annual benchmarks for required non-infrastructure capital investments in a Project will be established and specified in the Grant Agreement, and disbursement of grant funds would be subject to attainment of said benchmarks in accordance with IRS rules and regulations governing the issuance of tax exempt bonds. A clawback provision in the event that established benchmarks are not met subsequent to disbursement of grant funds >>shall<< ~~[[may]]~~ be included in the Grant Agreement. >>The Grant Agreement shall require that the grant recipient provide collateral securing the clawback provision. The collateral may include, but shall not be limited to, any instrument such as a personal guarantee, performance bond, restrictive covenant, or any other collateral as appropriate.<< A prorated grant disbursement may be allowed when actual project investment falls short of benchmarks.

- >>As a condition of the grant award for public infrastructure improvements, the grant recipient agrees as a matter of contract to the application of Section 2-11.16 of the Code on the portion of the project that is specifically tied to EDF-funded public infrastructure improvements.<<

### 3. Determination and Evaluation

The County Mayor or the County Mayor's designee will review and evaluate each Funding Application Package and may recommend to the Board an award of a Funding Allocation, by submitting a resolution seeking award of grant funds, and approval of the terms of a Grant Agreement or Interlocal Agreement, as the case may be.

## B) Economic Development in Targeted Urban Areas Fund – Project 320

### 1. Eligibility Requirements for Projects

- Grant awards under Project 320 must be used for public infrastructure, including parking structures, public facilities and other improvements subject to certain limitations and evaluated on a case by case basis, within the boundaries of the County's Targeted Urban Areas.
- The infrastructure improvements must support economic development and attract new businesses in order to create jobs in the Targeted Urban Areas.
- The project must include private sector investment and leverage public bond monies with other funding sources.
- The project must create a significant number of jobs that are available to residents of a Targeted Urban Area.

### 2. Special Conditions Regarding Reimbursements

- No more than \$3 million of reimbursements can be allocated within any one Targeted Urban Area.
- The grant may reimburse up to 100 percent of public infrastructure costs per project, but subject to a cap of the lesser of \$3 million or the total amount of grant funding available within such Targeted Urban Area.
- Actual grant funds would be disbursed on a reimbursement basis only after verified completion of the public infrastructure project upon receipt of an audited financial accounting of infrastructure development costs and subject to funding availability and compliance with federal tax laws.
- Grants would be disbursed over no more than a 5 year period from the date the public infrastructure improvements are completed when taxable bonds are issued to fund such public infrastructure improvements. If tax-exempt bonds are issued for the public infrastructure improvements reimbursements for such public infrastructure improvements will be disbursed over no more than a three year period from the date of the expenditure but in no case later than 18 months from the date the public infrastructure project is placed in service.
- Benchmarks for required non-infrastructure capital investments in a Project will be established and specified in the Grant Agreement, and disbursement of grant funds would be subject to attainment of said benchmarks. >>A clawback provision in the event that established benchmarks are not met subsequent to disbursement of grant



funds shall be included in the Grant Agreement. The Grant Agreement shall require that the grant recipient provide collateral securing the clawback provision. The collateral may include, but shall not be limited to, any instrument such as a personal guarantee, performance bond, restrictive covenant, or any other collateral as appropriate.<< A prorated grant disbursement may be allowed when actual project investment falls short of benchmarks.

- >>As a condition of the grant award for public infrastructure improvements, the grant recipient agrees as a matter of contract to the application of Section 2-11.16 of the Code on the portion of the project that is specifically tied to EDF-funded public infrastructure improvements.<<

### 3. Determination and Evaluation

The County Mayor or the County Mayor's designee will review and evaluate each Funding Application Package and may recommend to the Board an award of a Funding Allocation by submitting a resolution seeking award of grant funds and approval of the terms of a Grant Agreement or Interlocal Agreement, as the case may be. The County Mayor or the County Mayor's designee ~~[[shall]]~~ >>may<< convene a committee of members of the Task Force on Urban Economic Revitalization, community leaders and/or economic development experts to assist in the review of Project 320 grant applications. Any such entity shall adhere to protocols specified under Administrative Order No. 3-31 and Florida law.

#### C) Determination and Evaluation of Applications for Other Funds

If an Application Submission Period is established, then fFollowing closure of the an Application Submission Period, the County Mayor or the County Mayor's designee ~~Manager~~ will review and evaluate each Funding Application Package for funding eligibility or ineligibility. The County Mayor or the County Mayor's designee ~~Manager~~ may use entities such as the following to assist him in the review and may ~~to~~ create Project Review Committees.

#### Historic Preservation Fund

- Dade Heritage Trust
- Historic Preservation Board

#### Not-for-Profit Community Organization Capital Fund

- Alliance for Human Services
- Dade Community Foundation

#### Primary Healthcare Facilities Fund

- Office of Countywide Health Care Planning

Any such entity shall adhere to ~~public record~~ protocols specified under Administrative Order No. 3-31 and Florida law. Funding Allocations for eligible projects may be recommended to the County Mayor or the County Mayor's designee ~~Manager~~ by the Project Review Committee. The County Mayor or the County Mayor's designee ~~Manager~~ and the Project Review Committee may determine that a Funding Application Package be classified as:

- a) **Ineligible.** Declaration that the Project identified in a Funding Application Package is ineligible.