MEMORANDUM

Agenda Item No. 5(F)

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

DATE: December 7, 2010

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

SUBJECT: Resolution approving significant modifications to Building Better Communities General Obligation Bond Program Project Nos. 47 – "Miami Metrozoo" and 46 – "Miami Metrozoo"

This item differs from the original in that the $3,409,298 in bond proceeds will now be divided among the next two bond sales and the language in the original item that prohibits the County Mayor from making any adjustments to the funding, including cash flow revisions, has been removed.

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/cp

MEMORANDUM
(Revised)

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

DATE: December 7, 2010

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

SUBJECT: Agenda Item No. 5(F)

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. 5(F)
12-7-10

RESOLUTION NO. _____

RESOLUTION APPROVING SIGNIFICANT MODIFICATIONS TO BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NOS. 47 – "MIAMI METROZOO" AND 46 – "MIAMI METROZOO", BOTH AS IDENTIFIED IN APPENDIX A TO RESOLUTION NO. R-913-04 AND AS MODIFIED IN RESOLUTION NO. R-120-07; AND DIRECTING COUNTY MAYOR OR MAYOR'S DESIGNEE TO LIST PROJECT NO. 47 IN SERIES RESOLUTION AS ELIGIBLE FOR FUNDING IN NEXT TWO SERIES OF BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BONDS AND TO FUND $2,909,298 FROM BOND PROCEEDS FROM FIRST BOND SALE AND $500,000 FROM SECOND BOND SALE IN ORDER TO COMPLETE THE DESIGN PHASE

WHEREAS, pursuant to Resolution No. R-913-04 (the "Parks Facilities Resolution"), the voters approved the issuance of general obligation bonds in a principal amount not to exceed $680,258,000 to construct and improve neighborhood and regional parks and other recreational areas; and

WHEREAS, Appendix A to the Parks Facilities Resolution lists projects eligible for funding from the Building Better Communities General Obligation Bond ("BBC GOB") 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 Parks Facilities Resolution and approved by the voters for funding is BBC GOB Program Project No. 46 – "Miami MetroZoo" ("Project No. 46") and, after a significant modification approved pursuant to Resolution No. R-120-07 (attached hereto as Exhibit "A") to include the Amazon and Beyond project, has a modified project description of "Construction of Amazon and Beyond and Phase IV – Lakes and Australia Exhibit" and an allocation of $31 million; and

WHEREAS, $18,718,870 of Project No. 46 funds were spent to complete the Amazon and Beyond project and therefore $12,281,130 of Project No. 46 funds remain allocated to, and unused in, Project No. 46; and

WHEREAS, another one of the projects listed in Appendix A to the Parks Facilities Resolution and approved by the voters for funding is BBC GOB Program Project No. 47 – "Miami MetroZoo", ("Project No. 47") with a project description of "Construction of Phase V – Florida Exhibit" and with an original allocation of $31 million; and

WHEREAS, Project No. 47 provides for a major new exhibit that will enhance the Zoo's storefront appeal, will abut the designated Zoo Miami Entertainment District, will improve visitors' enjoyment of Zoo Miami's entry exhibit as a result of the additional components, and therefore have a positive impact on Zoo Miami revenue; and

WHEREAS, currently Project No. 47 has a budget shortfall and is a project that, once completed, will spur economic development in the project area due to the concurrent development of the Water Park at the Zoo Miami Entertainment District by a development partner; and

WHEREAS, because this Board finds that Project No. 47 (the Florida Exhibit project) is a higher priority project for Zoo Miami than the Lakes and Australia Exhibit, this Board desires to approve another significant modification to Project No. 46 in order to modify the project description to delete the Lakes and Australia Exhibit from Project No. 46 and to read as follows: "Construction of Amazon and Beyond"; and

WHEREAS, the $12,281,130 in funds remaining in Project No. 46 are therefore surplus funds that may be allocated to fund a budget shortfall in another BBC GOB Program project(s), pursuant to Implementing Order 3-47; and

WHEREAS, this Board desires to allocate these surplus funds to Project No. 47 and to approve a significant modification to Project No. 47 to change its allocation from $31,000,000 to $43,281,130; and

WHEREAS, while these surplus funds are being allocated from Project No. 46 to Project No. 47, both of these projects are for improvements within Zoo Miami and thus all of the funds are to remain for improvements within Zoo Miami; and

WHEREAS, on September 7, 2010, the GOB Citizens' Advisory Committee considered this item and the use of surplus funds for Project No. 47 and voted to favorably recommend this item to the Board of County Commissioners; and

WHEREAS, this Board wishes to direct the County Mayor or Mayor's designee to list Project No. 47 in the next >>two<<[1] series resolution>>s<< as a project eligible for funding in the amount of [[~~$3,409,298~~]] >>$2,909,298<< from bond proceeds generated from the [[~~next~~]] >>first<< BBC GOB Program bonds >>sold after the adoption of this resolution<< (scheduled to be issued in the Fall of 2010) >>and $500,00 from the second BBC GOB Program bonds sold after the adoption of this resolution (scheduled to be issued in the Fall of 2012)<<, which represents the amount>>s<< needed to complete the design phase of the Florida Exhibit [[~~by the end of 2011, and not to make any adjustments to said funding for any reason, including cash flow revisions by the County Mayor or Mayor's designee authorized by Implementing Order No. 3-47, without this Board's prior approval~~]],

[1] The differences between the substitute and the original item are indicated as follows: words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< constitute the amendment proposed.

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. This Board hereby approves the significant modifications to (i) Project No. 46, as identified in Appendix A to Resolution No. R-913-04 and modified by Resolution No. R-120-07, to change its project description to "Construction of Amazon and Beyond" and to reduce its allocation from $31 million to $18,718,870, and (ii) Project No. 47, as identified in Appendix A to Resolution No. R-913-04, to increase its allocation from $31 million to $43,281,130 through the allocation of $12,281,130 of surplus funds.

Section 3. This Board hereby directs the County Mayor or the County Mayor's designee (i) to list Project No. 47 in the next >>two<< series resolution>>s<< as a project eligible for funding, (ii) to fund Project No. 47 from bond proceeds generated from the [[~~next~~]] >>first<< BBC GOB Program bonds >>sold after the adoption of this resolution<< (scheduled to be issued in the Fall of 2010) in the amount of [[~~$3,409,298~~]] >>$2,909,298 and from the second BBC GOB Program bonds sold after the adoption of this resolution (scheduled to be issued in the Fall of 2012) in the amount of $500,000<<, representing the amount>>s<< needed to complete the design phase of Project No. 47 [[~~by the end of 2011, and (iii) not to make any adjustments to said funding for any reason, including cash flow revisions authorizing by Implementing Order 3-47, without this Board's prior approval~~]].

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	Lynda Bell
Audrey M. Edmonson	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Natacha Seijas	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 7h day of December, 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.

Monica Rizo

EXHIBIT "A"

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(D)

02-06-07

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

RESOLUTION NO. R-120-07

RESOLUTION APPROVING SIGNIFICANT MODIFICATION TO BUILDING BETTER COMMUNITIES BOND PROGRAM PROJECT NO. 46-"MIAMI METROZOO" IDENTIFIED IN APPENDIX A TO RESOLUTION NO. R-913-04 AFTER A PUBLIC HEARING; AND APPROVING TERMS OF AND AUTHORIZING THE COUNTY MANAGER TO EXECUTE A GRANT AGREEMENT BETWEEN MIAMI-DADE COUNTY AND THE ZOOLOGICAL SOCIETY OF FLORIDA FOR A MIAMI METROZOO PROJECT AND EXERCISING CANCELLATION PROVISIONS THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated in this Resolution by this reference,

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

Section 1. The significant modification to Building Better Communities Bond Program Project No. 46-"Miami Metrozoo" identified in Appendix A to Resolution No. R-913-04 after a public hearing to add the Amazon and Beyond project, all as more particularly described in the accompanying memorandum, is approved.

Section 2. The grant agreement between Miami-Dade County and the Zoological Society, substantially in the form attached to this Resolution as Exhibit A ("Grant Agreement"), is approved and the County Manager is authorized to execute it, subject to proper execution by all parties and review by the County Attorneys' Office, and to exercise the cancellation provisions contained in the Grant Agreement.

The foregoing resolution was offered by Commissioner Dennis C. Moss, who moved its adoption. The motion was seconded by Commissioner Dorrin D. Rolle and upon being put to a vote, the vote was as follows:

Bruno A. Barreiro, Chairman aye
Barbara J. Jordan, Vice-Chairwoman aye

Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Joe A. Martinez	aye	Dennis C. Moss	aye
Dorrin D. Rolle	aye	Natacha Seijas	aye
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of February, 2007. 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: KAY SULLIVAN
Deputy Clerk

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

Geri Bonzon-Keenan

Memorandum

MIAMI-DADE COUNTY

Date: February 6, 2007

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

From: George M. Burgess
County Manager

Agenda Item No. 5(D)

Subject: Resolution Approving a Significant Modification to Building Better Communities General Obligation Bond ("BBC GOB") Program Project Description for Project No. 46-"Miami Metrozoo" after a Public Hearing and Authorizing the County Manager to Execute a Grant Agreement between Miami-Dade County and the Zoological Society of Florida ("ZSF") to use BBC GOB Funds for the *Amazon and Beyond* Project

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RECOMMENDATION

It is recommended that the Board adopt the attached resolution approving a Significant modification to the BBC GOB project description and scope for Project No. 46-"Miami Metrozoo" after a public hearing pursuant to Resolution No. R-913-04 (the "Authorizing Resolution") to add the Metrozoo *Amazon and Beyond* project and approving the terms of, and authorizing the County Manager to execute, a grant agreement between Miami-Dade County and the ZSF to use BCC GOB funds for its construction.

BACKGROUND

Appendix A to the Authorizing Resolution lists park and recreation projects eligible for funding from the BBC GOB program by number, name and size. All additions, deletions and significant modifications to individual projects or to Appendix A require a majority vote of the Board after a public hearing.

One of the projects included in the BBC GOB program is Project No. 46-"Miami Metrozoo" with an allocation of $31 million. The original description and scope of this project, as included in Appendix A to the Authorizing Resolution, states: "Construction of Phase IV – Lakes and Australia Exhibit." It is recommended the project description and scope be modified after a public hearing to include the *Amazon and Beyond* project (formally called "Hidden Treasures of Tropical America") as follows: "Construction of Amazon and Beyond project and Phase IV – Lakes and Australia Exhibit" so the cost of the *Amazon and Beyond* project may be funded from the BBC GOB.

The total project cost for *Amazon and Beyond* is estimated to be $50 million. To date, the following funding sources have been pledged to the project: $13 million from BBC GOB Project No. 313; $7,702,130 from the Safe Neighborhood Parks Bond Program (Resolution No. R-664-05); $500,000 from a State of Florida Grant; and $10.079 million in private funds secured by the ZSF. Because of the escalating cost of materials, labor and insurance there remains a funding shortfall. The scope modification to Project No. 46 to add the *Amazon and Beyond* project, will allow the County to fund the remaining balance of $18,718,870 from the BBC GOB. Prior Board

action (R-346-06), accelerated $2.71 million of BBC GOB Project No. 313 (Miami Metrozoo Improvements) toward construction of the *Amazon and Beyond* project with the balance of $10.3 million to also be allocated toward the project and accelerated. It is understood that the start of other GOB projects may be impacted. All BBC GOB projects associated with Miami Metrozoo are part of the Miami Metrozoo Master Plan as approved by the Board of County Commissioners. The construction and inclusion of these projects in any sequence as resources are made available, will add to the public's overall zoo experience. The ZSF Board of Directors recognizes their role in the development of Miami MetroZoo and their commitment to the *Amazon and Beyond* project. As such, they have prioritized their fundraising efforts for this project and on September 21, 2006, passed a resolution that commits the ZSF to raise $18.7 million in private funds to repay the County. The target date of 2014 is when the ZSF funding would need to be available to assure that other Miami Metrozoo BBC GOB projects remain viable and funded.

ZSF is acting as Agent for the County and the Park and Recreation Department under the authority authorized by the Board of County Commissioners with the creation of the Miami Metrozoo Oversight Board, (Ordinance No. 98-168). In November 2003 the Zoological Society of Florida entered into a Construction Manager at Risk Contract with PCL Construction Services, Inc. for construction of the *Amazon and Beyond* project. The ZSF and the Parks Department have been negotiating a Guaranteed Maximum Price (GMP) with PCL not to exceed $42 million. With the approval of this item, the final GMP contract can be executed. The contract between ZSF and PCL complied with County procurement and Department of Business Development procedures that were in effect at the time the contract was executed.

On May 17, 2005, the Board approved Resolution No. 595-05 delegating to the County Manager the authority to execute grant agreements in the form attached to that resolution (the "Grant Agreement Template"). Because there is an existing construction contract that pre-dates the Grant Agreement Template and because of the unique working relationship between the County and the ZSF, it is necessary to modify the Grant Agreement Template to avoid conflicts and contradictions with the pre-existing contract and contend with other contingencies in the following ways:

1. Bank Accounts and Bonding will not be required of the ZSF because all BBC GOB funds will be issued to ZSF through the Park and Recreation Department on a requisition and reimbursement basis, not funding advances.

2. Liability and Indemnification: The ZSF is serving as Agent for the County and the Department administering the GOB funding allocation, therefore ZSF is not an independent contractor solely responsible for the project.

3. Payment and Performance Bond: In addition to PCL, the contractor providing payment and performance bonds in the full amount of the construction contract naming the County as dual oblige, the ZSF, which is the entity in privity with the County, must provide a payment and performance bond or alternative form of security in accordance with the provisions of Section 255.05, Florida Statutes. Unlike construction contractors, community based organizations ("CBOs") acting as developers do not have the bonding capacity that permits them to provide the payment and performance bond directly. In lieu of a payment and performance bond, the County may in certain circumstances allow for an alternative form of

security for the payment and performance obligations, the value of which is determined by the County. In determining the sufficiency and value of the alternative security the nature, history and financial capabilities of the ZSF, the contractual obligations secured by the alternative security and the contractual safeguards in place to protect payments to persons performing the work were considered.

Based on the County's exposure for fees and services under the existing ZSF-PCL contract and work completed to date, the maximum value of the bond is calculated at $4 million at the start of the contract should it be necessary to call in the surety. It has been County policy and practice to reimburse ZSF for payments made on previous construction projects undertaken on behalf of the County rather than to issue advance payments. The recommendation is made that we continue this policy and, as additional protection request releases of liens from PCL as fee payments are made through the reimbursement process. This will further reduce the potential liability to the County and is the basis for recommending the alternative form of security from the ZSF in the form of cash, bond or letter of credit in an amount equal to $2 million. Nothing in this recommendation affects the obligation of the ZSF to require PCL, the general contractor, to post a payment and performance bond in the full amount of the construction contract naming the County as dual obligee.

After hearing an explanation of the item at their meeting of November 15, 2006, there was a consensus among the members of the Building Better Communities Citizens' Advisory Committee that the item should be considered by the Board after committee review.

Alex Muñoz,
Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: February 6, 2007

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No. 5(D)

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**