MEMORANDUM

Agenda Item No. 14(A)(8)

TO:	Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners	**DATE:**	July 19, 2011
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution waiving Building Better Communities General Obligation Bond Program's Administrative Rules for purpose of disbursing bond funds in amount of $1,277,138.00 as Local Government match to US Army Corps of Engineers relating to BBC GOB Project No. 52- "Beach Erosion Mitigation and Renourishment Project"

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez and Members, Board of County Commissioners

DATE: July 19, 2011

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

SUBJECT: Agenda Item No. 14(A)(8)

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. 14(A)(8)
7-19-11

RESOLUTION NO. _____

RESOLUTION WAIVING BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM'S ADMINISTRATIVE RULES FOR PURPOSE OF DISBURSING BOND FUNDS IN THE AMOUNT OF $1,277,138 AS LOCAL GOVERNMENT MATCH TO U.S. ARMY CORPS OF ENGINEERS RELATING TO BBC GOB PROJECT NO. 52 - "BEACH EROSION MITIGATION AND RENOURISHMENT PROJECT"; AUTHORIZING USE OF COUNTY FUNDS IN THE AMOUNT OF $1,258,376 PENDING STATE REIMBURSEMENT OF SAME OR REIMBURSEMENT WITH BBC GOB BOND FUNDS; AND AUTHORIZING MAYOR OR MAYOR'S DESIGNEE TO TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THE FOREGOING

WHEREAS, Miami-Dade County (the "County") serves as the local sponsor for the federal Miami-Dade County Beach Erosion Control and Hurricane Surge Protection Project which extends from Government Cut through Sunny Isles Beach; and

WHEREAS, under the terms of the Local Cooperation Agreement between the County and the US Army Corps of Engineers ("Corps") for this project, the County is responsible for providing local coordination of beach nourishment activities conducted by the Corps, including providing the non-federal funds needed to implement projects; and

WHEREAS, the Corps is currently initiating the federal Contract E Project with an estimated total cost of $14.3 million to renourish three critically eroded segments of Miami Beach; and

WHEREAS, the federal Contract E Project was originally intended to commence construction at the end of calendar year 2011 but on July 14, 2011, the Corps notified the County that the non-federal match of the project cost must be immediately advanced to the Corps in order

for the Corps to procure the federal construction contract by September 30, 2011, or the federal project funds may be lost (see attached demand letter); and

WHEREAS, in the July 14, 2011 letter requesting the non-federal funds, the Corps indicated that after reconciling previous County project accounts, the Corps has $4,614,486 in available non-federal funds for this project, reducing the non-federal share balance to be funded by the County and the State of Florida to $2,535,514; and

WHEREAS, the non-federal cost share will be paid by the County from the Building Better Communities General Obligation Bond Program ("BBC GOB") Project No. 52 - "Beach Erosion Mitigation and Renourishment Project" bond funds in the amount of $1,277,138 and by the State of Florida in the amount of $1,258,376; and

WHEREAS, all non-federal funds must be disbursed to the Corps prior to bidding the Contract E Project; and

WHEREAS, bond funds are immediately available for this project because BBC GOB Project No. 52 was a project listed in Resolution No. R-134-11 as a project to be funded from the BBC GOB Series 2011A bond funds; and

WHEREAS, however, the BBC GOB Administrative Rules provide that funding is to be disbursed on a reimbursement basis and only allows advances of funding of up to 90% for municipalities; and

WHEREAS, the BBC GOB funds for the County share in the amount of $1,277,138 cannot be advanced and disbursed to the Corps without a waiver of the BBC GOB Program's administrative rules to allow such a funding disbursement; and

WHEREAS, State funding was approved for this project by the 2011 State Legislature but the State funds are not yet available and the funding contract with the State of Florida for this project is currently being drafted by the State and should be provided to the County soon; and

WHEREAS, therefore, the County needs to use County funds in the amount of $1,258,376 to be funded from DERM Index Code: DE387167, Sub object 22430 Proprietary Funds in place of State funds until the County can be reimbursed under the State funding contract; and

WHEREAS, if the State reimbursement of the County funds in the amount of $1,258,376 is not received by September 30, 2011, the County funds for this capital project may be reimbursed from the BBC GOB Series 2011A Project No. 52 bond funds,

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 Board hereby (i) waives the BBC GOB Program's Administrative Rules in order to disburse BBC GOB Series 2011A bond funds in the amount of $1,277,138 from BBC GOB Project No. 52 – "Beach Erosion Mitigation and Renourishment Project" to the Corps for the Contract E Project for beach renourishments in Miami-Dade County (the "Project"), (ii) authorizes the use of $1,258,376 of the County's Department of Environmental Resources Proprietary Funds to be disbursed to the Corps for the Project in advance of a reimbursement from the State of Florida in the same amount, and (iii) if the State of Florida does not provide the reimbursement to the County on or before September 30, 2011, then this Board authorizes such funds to be reimbursed by BBC GOB Series 2011A bond funds allocated to Project No. 52.

The Prime Sponsor of the foregoing resolution is Commissioner Bruno A. Barreiro. 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:

Joe A. Martinez, Chairman
Audrey M. Edmonson, Vice Chairwoman

Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 19th day of July, 2011. 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. MR

Monica Rizo

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

JUL 14 2011

Programs and Project Management Division

Mr. Brian Flynn
Special Projects Administrator 2
Miami-Dade Department of Environmental Resources Management
701 N.W. 1st Court, 5th Floor
Miami, Florida 33136

Dear Mr. Flynn:

The purpose of this letter is to revise the amount previously requested for your agency's non-Federal cost share amount to advertise and award Contract E of the Dade County Shore Protection Project in fiscal year 2011.

The construction cost for Contract E is estimated to be $13,000,000. The overhead and administration (Engineering during Construction (EDC) & Supervision & Administration (S&A)) of this contract is estimated to be $1,300,000 which makes the grand total for Contract E $14,300,000. Your agency is responsible for 50% of this total cost which equals $7,150,000. The Jacksonville District currently has $4,614,486 in non-federal funds that will be allocated for this contract leaving a balance owed by the sponsor of $2,535,514.00. The additional funds for this project shall be sent directly to the Jacksonville District Office Attn: Mr. Jason Harrah (DP-C).

If you have any questions or need additional information please contact Jason Harrah at 904-232-1381 or Jackie Keiser at 904-232-3915.

Sincerely,

Jerry W. Scarborough, P.E.
Chief, Coastal, Navigation
and Antilles Branch