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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

Memorandum

MIAMI-DADE COUNTY

(Public Hearing 4-8-08)

Date: March 4, 2008

Agenda Item No. 5(D)

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

From: George M. Burgess
County Manager

Ordinance No. 08-39

Subject: Ordinance regarding Port of Miami Tunnel Project Letter of Credit for Geotechnical & Relief Contingency Reserve

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Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the accompanying ordinance (i) approving a covenant to budget and appropriate annually from legally available non-ad valorem revenues of Miami-Dade County (County) amounts sufficient to pay any repayment obligations with respect to an irrevocable letter of credit (LOC) in an amount of $75 million in favor of the Florida Department of Transportation (FDOT) for the Seaport tunnel (Port Tunnel) project and (ii) providing that the selection of the letter of credit provider and related financial terms be presented to the Board for consideration and approval in a subsequent resolution.

Scope

The Port Tunnel, which will connect seaport traffic between Watson Island and the Port of Miami is located in Commission District 5, however, the economic impact of this project, when completed, is countywide in nature.

Fiscal Impact/Funding Source

The Master Agreement delineated the financial contributions to be made to the Port Tunnel project by FDOT, the City of Miami, and the County. One of the financial commitments by the County was to the fund a Geotechnical & Relief Contingency Reserve in the amount of $75 million toward the construction of the Port Tunnel. Rather than pay debt service on $75 million worth of borrowed funds while on deposit in a reserve account, the County successfully negotiated an option to provide a $75 million LOC instead. Under LOC, the County will pay a fee to secure the LOC and an annual fee while the LOC is outstanding which is estimated to be no longer than five years. The County will also be required to reimburse the LOC provider for any draws on the LOC plus accrued interest (Repayment Obligations). The fees and any Repayment Obligations on the LOC shall be paid from the Seaport Department's budget, however, the County's pledge for repayment is from non ad valorem revenues of the County.

The amount of the fees to be assessed by the LOC provider and the interest rate to be assessed on draws on the LOC, if any, will be presented to this Board for consideration and approval in a subsequent Resolution. The Background section further in this cover memorandum explains how the County will obtain a LOC provider.

Track Record/Monitor

The Seaport Tunnel Project will be managed by FDOT pursuant to an agreement with a concessionaire, Miami Access Tunnel. As a result, the LOC will be in favor of FDOT which will enable it to request a draw on the LOC to pay the County's share of any cost associated with the Geotechnical & Relief Contingency Reserve and certain other agreed upon relief events described below.

Background

The Board adopted Resolution R-889-07 approving the Master Agreement, which requires the County to participate in the development of the Port Tunnel. One of the County's commitments towards the Port Tunnel project was the funding of a $75 million Geotechnical & Relief Contingency Reserve. The Geotechnical & Relief Contingency Reserve is to be used first to pay any unforeseen geotechnical costs associated with the digging of the tunnel and then to fund certain other relief events. As stated above, the County successfully negotiated an option to provide a LOC rather than issue $75 million in debt. The LOC, however, must be delivered at the time FDOT and the concessionaire enter into the concession agreement.

It is anticipated that FDOT will formally award the contract to the concessionaire in the next few weeks, and the concession agreement would be effective 60 days later. For that reason, the County needs to secure an LOC as soon as possible in order to deliver the LOC at that time as required by the Master Agreement.

Staff has solicited bids from interested providers and a companion Resolution to this Ordinance is being presented at the Budget and Finance Committee and the Board for final approval during second reading. The accompanying Resolution will recommend a provider and related financial terms such as upfront and annual fees, the interest rate on any draw and the repayment terms.

Assistant County Manager

MEMORANDUM

(Revised)

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

DATE: April 8, 2008

FROM: R. A. Cuevas, Jr. 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**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 5(D)
4-8-08

ORDINANCE NO. 08-39

ORDINANCE APPROVING COVENANT TO BUDGET AND APPROPRIATE ANNUALLY FROM LEGALLY AVAILABLE NON-AD VALOREM REVENUES OF COUNTY AMOUNTS SUFFICIENT TO PAY REPAYMENT OBLIGATIONS WITH RESPECT TO IRREVOCABLE LETTER OF CREDIT IN AMOUNT OF $75,000,000 IN FAVOR OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR SEAPORT TUNNEL PROJECT; PROVIDING THAT SELECTION OF LETTER OF CREDIT PROVIDER AND RELATED LOAN DETAILS AND AGREEMENTS SHALL BE APPROVED BY SUBSEQUENT RESOLUTION; AND PROVIDING SEVERABILITY AND EFFECTIVE DATE

WHEREAS, this Board wishes to secure the repayment obligations with respect to an irrevocable letter of credit in an amount of $75,000,000 in favor of the Florida Department of Transportation ("LOC") for the Seaport tunnel project through a covenant to annually budget and appropriate sufficient funds to pay such repayment obligations from non-ad valorem revenues of the County for the reasons set forth in the County Manager's memorandum ("County Manager's Memorandum"), which accompanies this ordinance and is incorporated in this ordinance by reference; and

WHEREAS, the Board wishes to approve the selection of the LOC provider and the terms of the LOC, including any related agreements, in a subsequent resolution,

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

Section 1. This Board approves a covenant to annually budget and appropriate sufficient funds to pay any draw on the LOC, plus accrued interest ("Repayment Obligations"),

from non-ad valorem revenues of the County in the manner set forth in the LOC and related agreements which will be presented to this Board in a subsequent resolution.

Section 2. The selection of the LOC provider and the terms of the LOC, including any related agreements, shall be considered and approved by this Board in a subsequent resolution.

Section 3. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED: April 8, 2008

Approved by County Attorney as
to form and legal sufficiency: APW

Prepared by: GTH

Gerald T. Heffernan