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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(12)

TO:	Honorable Chairwoman Rebeca Sosa and Members, Board of County Commissioners	**DATE:**	December 2, 2014
FROM:	R. A. Cuevas, Jr. County Attorney	**SUBJECT:**	Resolution approving Third Amendment to Joinder to Interlocal Agreement between Florida Development Finance Corporation and Orange County, Florida to permit Florida Development Finance Corporation to exercise its power and authority within jurisdictional limits of Miami-Dade County for purpose of financing capital projects in amount not to exceed $30,000,000.00 on behalf of Miami Country Day School Resolution No. R-1077-14

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

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MEMORANDUM

(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: December 2, 2014

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

SUBJECT: Agenda Item No. 11(A)(12)

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 Mayor'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)(12)
12-2-14

RESOLUTION NO. R-1077-14

RESOLUTION APPROVING THIRD AMENDMENT TO JOINDER TO INTERLOCAL AGREEMENT BETWEEN FLORIDA DEVELOPMENT FINANCE CORPORATION AND ORANGE COUNTY, FLORIDA TO PERMIT FLORIDA DEVELOPMENT FINANCE CORPORATION TO EXERCISE ITS POWER AND AUTHORITY WITHIN JURISDICTIONAL LIMITS OF MIAMI-DADE COUNTY FOR PURPOSE OF FINANCING CAPITAL PROJECTS IN AMOUNT NOT TO EXCEED $30,000,000.00 ON BEHALF OF MIAMI COUNTRY DAY SCHOOL

WHEREAS, pursuant to Chapter 93-187, *Laws of Florida,* (1993) the Legislature of the State of Florida ("State") adopted the Florida Development Finance Corporation Act of 1993, Chapter 288, Part IX, Florida Statutes ("Act"); and

WHEREAS, pursuant to the provisions of the Act and, in particular, Section 288.9604 of the Act, the Florida Development Finance Corporation ("FDFC") was created as a body corporate, and politic of the State upon a finding of necessity by Orange County, Florida ("Orange County"), a county of the State, which county was selected to activate FDFC by a search committee of the Board of Directors of Enterprise Florida Capital Partnership, Inc., pursuant to Resolution No. 94-M·21 of the Board of County Commissioners of Orange County; and

WHEREAS, the Act further provides that, to efficiently and effectively achieve the purposes of the Act, it is necessary and in the public interest that the FDFC cooperate and act in conjunction with public agencies and local governments of the State through interlocal agreements pursuant to the Florida Interlocal Cooperation Act of 1969, as amended ("Interlocal Act"); and

WHEREAS, Orange County and the FDFC entered into that certain Interlocal Agreement, dated as of April 12, 1994 ("Interlocal Agreement"), pursuant to which Orange County granted the FDFC full right, power and authority to exercise any and all powers set forth in the Act and under the Interlocal Act (to the extent that the exercise of such powers is consistent with the purpose of the Act) within the jurisdictional limits of Orange County; and

WHEREAS, the Interlocal Agreement provides that any other public agency (as defined in the Act) may join in the Interlocal Agreement at any time for the purpose of granting FDFC the full right, power, and authority to exercise any and all powers set forth in the Act and under the Interlocal Act (to the extent that the exercise of such powers is consistent with the purposes of the Act) within the jurisdictional limits of such public agency by the execution of an addendum to the Interlocal Agreement; and

WHEREAS, in order to grant FDFC full right, power and authority to exercise any and all powers set forth in the Act and under the Interlocal Act (to the extent that the exercise of such powers is consistent with the purposes of the Act) within the jurisdiction limits of Miami-Dade County ("County") including without limitation the issuance of Bonds to finance projects, the County previously approved (i) a Joinder to Interlocal Agreement in 1998, as amended ("Joinder"), in which the County granted FDFC the authority to operate within the jurisdictional boundaries of the County for the purpose of financing projects in an amount not to exceed $1.7 million and with a termination date of three years from its date unless renewed by the County in writing; (ii) a First Amendment to Joinder to Interlocal Agreement in July of 2003 which increased the amount of bonds that FDFC is authorized to issue to $2.0 million and extended the termination date to any date on which the County delivered a written termination to FDFC; and (iii) a Second Amendment to Joinder to Interlocal Agreement in October 2014

which increased the amount of indebtedness that FDFC is authorized to issue to $325 million for the sole purpose of permitting FDFC to fund that portion of the All Aboard Florida Passenger Rail Project located in the County; and

WHEREAS, Miami Country Day School ("Country Day") is an independent, coeducational, nondenominational school founded in 1938 and located at 601 NE 107 Street, Miami with an enrollment of 1200 students from pre-school through grade 12 and 120 fulltime faculty members; and

WHEREAS, Country Day is proposing to construct on campus (i) a Center for the Arts of approximately 45,000 square feet which will include visual art, drama, dance, music classrooms and a 650 seat performing arts auditorium; and (ii) a three-story parking deck with 350 parking spaces (collectively, "Project"); and

WHEREAS, the new parking structure will improve traffic flow in the surrounding community and the Center for the Arts will be available for student performances as well as performances open to the local community and for programs such as Breakthrough Miami which is currently utilizing the County Day campus serving 200 students from under-served communities; and

WHEREAS, Country Day has applied to FDFC for financing in an amount not to exceed $30.0 million to fund the costs of the Project which include construction (estimated to be $23.0 million), land acquisition ($3.350 million), design fees, and financing expenses; and

WHEREAS, since the not to exceed $30.0 million requested by Country Day exceeds the $2.0 million limit in the Joinder, FDFC has requested that the County enter into a Third Amendment to Joinder for sole purpose of allowing FDFC to finance such amount on behalf of Country Day; and

WHEREAS, the County shall have no obligation with respect to the repayment of any financing, including the issuance of bonds, utilized by FDFC to fund the Project,

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

Section 1. The foregoing clauses are incorporated in this resolution. This Board finds that it is in the best of the County and its citizens to assist FDFC in the financing of the Project which will have a positive impact on the community where Country Day is located by entering into a Third Amendment to the Joinder as permitted under the Interlocal Act.

Section 2. The Third Amendment to the Joinder in substantially the form attached to this resolution as Exhibit "A" is approved and the County Mayor or County Mayor's designee is authorized, after consultation with the County Attorney's office, to execute and deliver such Third Amendment on behalf of the County.

Section 3. The execution of the Third Amendment to Joinder shall be solely for the purpose of satisfying the requirements of the Act in order to grant the FDFC the full right, power, and authority to exercise any and all powers set forth in the Act and under the Interlocal Act (to the extent that the exercise of such powers is consistent with the purposes of the Act) within the jurisdictional limits of the County solely for the purpose of financing the Project and shall not be construed as an approval of any zoning, building or other developmental or regulatory permit, and the County shall not be construed by virtue of its adoption of this resolution to have waived, or be estopped from asserting, any rights or responsibilities it may have in that regard.

Section 4. The County shall not be liable or responsible for any of the indebtedness, liabilities, costs, or expenses of FDFC. All debts, liabilities, costs, and expenses incurred by FDFC shall be paid solely by the FDFC as permitted under the Act.

Section 5. Bonds, notes or other indebtedness issued or insured by FDFC shall not constitute a debt, liability, or obligation of the County, or the State, or any political subdivision of each or a pledge of the faith and credit or any taxing power of the County or the State or any political subdivision, but shall be limited obligations of the FDFC.

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman **aye**

Bruno A. Barreiro	**aye**	Esteban L. Bovo, Jr.	**aye**
Daniella Levine Cava	**aye**	Jose "Pepe" Diaz	**aye**
Audrey M. Edmonson	**aye**	Sally A. Heyman	**aye**
Barbara J. Jordan	**aye**	Jean Monestime	**aye**
Dennis C. Moss	**absent**	Sen. Javier D. Souto	**absent**
Xavier L. Suarez	**aye**	Juan C. Zapata	**aye**

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of December, 2014. 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Gerald T. Heffernan

Exhibit A

THIRD AMENDMENT TO JOINDER TO INTERLOCAL AGREEMENT

THIS THIRD AMENDMENT TO JOINDER TO INTERLOCAL AGREEMENT, is between Miami-Dade County (the "County"), a political subdivision of the State of Florida (the "State"), and the Florida Development Finance Corporation (the "FDFC"), a public body corporate and politic organized under the laws of the State.

WITNESSETH

WHEREAS, Orange County, Florida, and the FDFC have entered into that certain Interlocal Agreement, dated as of April 12, 1994 (the "Interlocal Agreement"), providing for the activation of the FDFC, pursuant to the provisions of the Florida Development Finance Corporation Act of 1993, as amended (the "Act"); and

WHEREAS, the Act and the Interlocal Agreement provide that any other public agency (as defined in the Act) may enter into an Interlocal Agreement in order to permit FDFC to function within the corporate limits of such public agency; and

WHEREAS, the County is a public agency as defined in the Act and has previously entered into (i) a Joinder to Interlocal Agreement on or about December 1, 1998 (the "Original Joinder") to permit FDFC to operate within the jurisdictional limits of the County for the purpose of financing projects in amounts that do not exceed $1.7 million per borrower or project for a period of three years unless extended by the County in writing; and (ii) a First Amendment to Joinder to Interlocal Agreement which increased the cap from $1.7 million to $2.0 million and extended the termination date to any date selected by the County upon delivery of a written notice of such termination to FDFC; and

WHEREAS, the County and FDFC have agreed to enter into a Second Amendment to the Original Joinder (the "Second Amendment") that increased the cap from $2.0 million to $325.0 million for the All Aboard Florida Passenger Rail Project to be developed by All Aboard Florida through AAF Holdings LLC; and

WHEREAS, FDFC has requested that the County enter into this Third Amendment to the Original Joinder (the "Third Amendment") for the sole purpose of increasing the cap from $2.0 million to $30.0 million specifically for debt to be issued by FDFC to fund a capital project to be owned by Miami Country Day School (the "Project"),

NOW, THEREFORE, the County and FDFC agree as follows:

1. FDFC may issue up to $30.0 million in bonds or other form of indebtedness specifically for the Project approved by FDFC and located within the jurisdictional limits of the County.

2. The County shall file an executed copy of this Third Amendment with the Clerk of the Circuit Court of the County, provided, however, that the cost of such filing shall be the responsibility of FDFC.

3. Except as amended in Section 1 above and the Second Amendment, the terms of the Joinder and the First Amendment to the Joinder, including specifically the $2.0 million cap for all other borrowers or projects, shall remain in full force and effect and shall be binding on the County and FDFC.

IN WITNESS WHEREOF, the County and FDFC have caused this Third Amendment to Joinder to Interlocal Agreement to be executed by its officers and shall become effective on the latest date set forth below.

MIAMI DADE COUNTY, FLORIDA

Attest:

By: _____
Name:
Title:
Date:

_____
Deputy Clerk_

(Seal)

Approved for form
and legal sufficiency:

By:_____
Assistant County Attorney

FLORIDA DEVELOPMENT FINANCE CORPORATION
By:_____
Name:
Title:
Date:

Attest:

_____
Secretary

(Seal)