

Memorandum



Date: September 2, 2014

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

From: Carlos A. Gimenez
Mayor 

Subject: Additional Information Regarding Alternate Options to Build/Finance a New Courthouse

In response to numerous inquiries regarding alternate options to build/finance a new courthouse, I have instructed staff to summarize the options that we have been exploring and continue to explore, and to highlight issues as to the feasibility of implementing any of them.

Public-Private Partnerships

As stated in my memorandum of August 21, 2014, the Internal Services Department (ISD) has been working with the private development community since January 2013 to find an appropriate site and develop a new civil courthouse to replace the current courthouse located at 73 West Flagler Street. ISD has been engaged in discussions with All Aboard Florida (AAF), the owner of the site for the future rapid rail system station adjacent to the Stephen P. Clark Center, as a possible developer of a new courthouse as part of their development. Additionally, ISD researched several other sites, including some owned by the County in the downtown core, and engaged in discussions with two other private developers that might be interested in partnering with the County.

ISD has estimated the cost to renovate the current courthouse at \$25 million to allow for an operational lifespan of up to five years or \$47 million for a lifespan of up to ten years. As the space needs of the Civil Court cannot be accommodated by the current courthouse, these estimated capital expenses primarily focused on safely maintaining the current courthouse for employees and visitors and did not include all costs associated with completing a 40-year recertification, which is unknown at this time. It is anticipated that once the Court moves to a new courthouse, the County will sell the 73 West Flagler facility for an appropriate re-use in keeping with the building's historic designation.

To this point, AAF has been the most active developer, holding several meetings with ISD and the Courts to determine the scope of the project, as well as the cost of constructing such a building. Several different methods have been explored including AAF providing the financing and the County buying the building over a 30 year period (i.e. an installment purchase). They have additionally developed a price for the building that the County could pay if AAF were strictly the developer (\$368 million). We have also held preliminary discussions with the owners of 54 West Flagler (vacant land) and the soon to be vacated Macy's as potential sites.

Capacity of Existing Countywide Resources

It is worth mentioning that regardless of which party provides the funding, the County would have to find the funds within the Countywide General Fund budget for the installment purchase payments, "rent" or debt service obligations necessary for this new facility. Also, the annual operating expense of the current courthouse is approximately \$3 million and due to its much larger size (620,000 square feet versus the current courthouse's 273,884 square feet), annual operational and maintenance cost for the new courthouse is estimated at \$8 million.

Building Better Communities

Question 4 of the 2004 Building Better Communities General Obligation Bond (BBC-GOB) Program includes project number 180, "Additional Courtrooms and Administration Facilities," with an allocation of \$90 million, to be used for the "expansion of court facilities in accordance with the master plan." Of the

original allocation of \$90 million, \$11.8 million has been allocated for the Joseph Caleb Center Tower Renovation to include court functions, leaving \$78 million for any other eligible project.

Filing fees, Traffic Surcharges

When the Florida Constitution was changed to clarify that the State was financially responsible for court system operations and counties must provide for court facilities and communications infrastructure, implementing legislation initially swept all court revenues including filing fees into the County Clerks' budgets and State general revenue. Miami-Dade County lost a significant amount of revenue from both the Countywide General Fund budget (counties previously received one-third of all fines to support the Court system, as well as a portion of court filing fees) and the UMSA budget (municipalities and UMSA, as the initiating jurisdictions, received two-thirds of all fines they charged to support public safety). However, counties were successful in getting two separate traffic surcharges authorized to mitigate a portion of the cost of providing for court facilities and communications needs. One of the surcharges replaced filing fee revenues that had been used as a pledge for bonds issued to build court facilities. As of today, the County has already implemented the maximum allowed surcharge of \$30.00 under Florida Statute 318.18(13)(a)1, which is applied to every civil and criminal traffic violation in Miami-Dade County. State implementing legislation limits the use of these revenues to be employed for state court facilities. This revenue has been pledged to the County's existing court facility bonds. Any revenue collected in excess of that which is necessary for annual debt service payments will be used either to defease the outstanding bonds or for annual court facility needs.

A second surcharge up to \$15 was authorized to be levied countywide to offset the loss of county fine revenues. This second surcharge is also used to support court facility operations and specifically cannot be used as a pledge on bonds. Municipalities were successful in getting initiating jurisdiction revenues returned, but unincorporated areas of counties were specifically exempted from this legislation in final form.

However, under the same state statute, provision 318.18(13)(a)3 allows the county to impose a traffic surcharge for any infraction or violation for the exclusive purpose of securing payment for principal and interest for bonds issued by the county on or after July 1, 2009, to fund court facilities. The surcharge is calculated by dividing the maximum annual payment of the principal and interest on the bonds, including the refinancing of the currently outstanding bonds, divided by the number of traffic citations paid as certified annually by the Clerk of the Courts. This provision allows the County to remove itself from the \$30 surcharge cap under 318.18(13)(a)1; however, it is more limited in what can be funded after annual principal and interest payments have been made should there be any excess beyond projected collections. Under 318(13)(a)3, the County is required to refund the currently outstanding bonds. In order to use this particular surcharge to finance this project in combination with a public private partnership (i.e. an installment purchase), changes to State statute would be necessary. If the County issues the debt, no statutory changes would be required.

Community Redevelopment Areas

Questions have been asked as to the possibility to locate the future courthouse within the boundaries of the area of an existing community redevelopment agency (CRA), and use proceeds from such CRA to pay for the construction of the new facility. As it pertains to the area in downtown Miami, there are two CRAs located in this area, the Southeast Overtown/Park West (SEOPW) and Omni CRAs. Both CRAs have prior financing commitments and limited if any remaining bonding capacity. Any other strategic location within a CRA outside downtown Miami, simply does not have the financing capacity to pay for a project of this size. In addition, Florida Statutes Section 163.370, as noted below, sets restrictions as to what type of projects can be financed by a CRA. Amongst the limitations, a project must be agreed upon by both taxing authorities (City of Miami and Miami-Dade County), and, if the project has been part of a public capital improvement schedule, it cannot be funded unless three years have passed since the removal of the project from that plan.

Financing Options

The County does not have undesignated revenues available to be used to fund a new courthouse in its entirety. The aforementioned \$78 million of BBC-GOB Program availability may partially offset the cost of a new courthouse but that comes at the expense of other court-related needs such as renovations at the Richard E. Gerstein Criminal Courthouse and at the Coral Gables courthouse, among others. The options for financing the new courthouse are summarized as follows:

- *General Obligation Bonds*

As stated in my memorandum of August 21, 2014, the overall financing strategy contemplated the issuance of \$540 million of general obligation debt, which equates to a property tax increase of approximately 0.09 mills or \$18 per year for the average homesteaded property with a taxable value of \$200,000. The bonds would provide for up to \$368 million of proceeds for the construction of the new courthouse, \$25 million for renovation costs at the old courthouse to allow the courts to remain in the facility for up to five years and also allow for the refunding of the current outstanding \$132 million of court-related debt (issued under F.S. 318(13)(a)1) in order to free up approximately \$13 million annually of proceeds from the existing \$30 traffic surcharge, which then could be used for the increased operational costs of the new courthouse as well as for pay-as-you-go capital improvements for the courts system in order to enhance the remaining \$78 million of BBC-GOB Program availability, as the needs of the system will surpass that amount.

A variation of the general obligation bond option is to not refund the existing court-related debt. This will lower the amount of the required bond referendum to \$398 million from the contemplated \$540 million. This scenario will not free up any additional funds that can be used for operational purposes. If this option is implemented, it is estimated the Countywide debt service millage would increase an average of 0.07 mills over the life of the bonds using current roll growth assumptions. For the average homesteaded property with a taxable value of \$200,000, the 0.07 mills equates to \$14 annually.

- *Covenant to Budget and Appropriate Non-Ad valorem Revenues (CB&A) Debt*

The County's General Fund has the capacity to issue up to \$4.1 billion of CB&A debt. However, as a practical matter, since the General Fund currently uses all of its non-ad valorem revenues to fund operations, pay-as-you-go capital projects and certain debt service payments, new revenues sources must be identified in order to issue new debt. As stated earlier, State statute permits the traffic surcharge to generate the revenues necessary for the new courthouse and the \$25 million of renovations to the 73 West Flagler facility. However, this will require the County to refund the current outstanding debt.

In 2013, approximately 481,000 traffic tickets were paid. Assuming that the number of paid tickets remains the same every year, the net increase in traffic fines over and above the existing \$30.00 traffic surcharge to fund the new courthouse, including the required renovations and refunding of debt, is estimated to range between \$37.00 and \$48.00 depending on whether the remaining \$78 million of BBC-GOB Program availability is applied to the funding of the new courthouse and how the debt is structured.

It should be noted that this alternative does not provide funding for the increasing operational and maintenance costs of the court system. Also in regards to the refunding of the currently outstanding debt, under this and the general obligation bond alternative discussed above, the refunding will require a waiver of existing County Code provisions regarding debt service saving thresholds as these transactions will only restructure debt and are not being done for economic benefits.

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- *Installment Purchase*

In regards to public-private-partnerships, we have not been able to get a quote on installment purchase payments to have the private sector fund the construction costs of the new facility. It is expected the third party's cost of money for construction would be greater, and in order to access traffic ticket surcharges for this option, State statute needs to be amended.

This additional information supplements my August 21, 2014 memorandum that is currently on the September 3, 2014 Board meeting agenda as item 2B2 (Legistar 141871).

If you have any questions or concerns, please feel free to contact Deputy Mayor Edward Marquez at 305-375-1541.

c: Honorable Chief Judge Bertila Soto
Robert A. Cuevas, Jr., County Attorney
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