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

MEMORANDUM Agenda Item No. 14(A)(5)

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

DATE: January 24, 2012

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

SUBJECT: Resolution extending the sunset date of Implementing Order 3-47 relating to BBC GOB program surplus funds, premium funds and unspent bond proceeds

Resolution No. R-104-12

The accompanying resolution was prepared by the Office of Management and Budget Department and placed on the agenda at the request of Prime Sponsor Vice Chairwoman Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/up

Memorandum

MIAMI-DADE COUNTY

Date: January 24, 2012

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

From: Carlos A. Gimenez
Mayor

Subject: *Building Better Communities* General Obligation Bond Program - Extension of Implementing Order 3-47 Relating to the Use of Surplus Funds, Premium Funds and Unspent Bond Proceeds

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Recommendation
It is recommended that the Board of County Commissioners (Board) adopt the attached resolution extending the sunset date for Implementing Order (IO) 3-47 relating to the use of *Building Better Communities* General Obligation Bond (BBC-GOB) Program Surplus Funds, Premium Funds and Unspent Bond Proceeds (collectively known as "BBC-GOB Funds") through January 31, 2018.

Scope
This item impacts all Commission districts since BBC-GOB projects are located throughout the County.

Fiscal Impact/Funding Source
There is no fiscal impact from the implementation of this recommendation. The funding source for affected projects is BBC-GOB Funds.

Track Record/Monitor
The responsible party for monitoring BBC-GOB funds is the Office of Management and Budget (OMB).

Delegation of Authority
There is no additional delegation of authority related to this item.

Background
The BBC-GOB program is a $2.9 billion, multi-year capital improvement program funded by the periodic issuance of general obligation bonds. BBC-GOB surplus and premium funds may be generated as part of the program and may become available at any given time. It is important to have guidelines in place to administer these funds.

On March 17, 2009, through Resolution R-290-09, the Board approved IO 3-47 relating to the administrative process for the use of surplus funds, premium funds and unspent bond proceeds. On January 21, 2010, through Resolution R-49-10, the Board approved an extension to the sunset date for the IO to January 30, 2012.

A primary responsibility of administering the program is to apply bond proceeds to projects that are ready to move forward. The underlying premise of the IO is that BBC-GOB Surplus Funds, Premium Funds and Unspent Bond Proceeds will be used primarily to fund budget shortfall in projects, subject to Board approval, and to accelerate projects, through the process described in the IO. The status of Surplus and Premium Funds will continue to be detailed in the BBC-GOB Quarterly reports to the Board.

The process delineated in the IO and approved by the Board has been working effectively in keeping the program moving forward. We recommend the IO be extended through January 31, 2018 to assure the program's continued success.

Deputy Mayor

Mayor03312

MEMORANDUM

(Revised)

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

DATE: January 24, 2012

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

SUBJECT: Agenda Item No. 14(A)(5)

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)(5)
1-24-12

RESOLUTION NO. R-104-12

RESOLUTION EXTENDING THE SUNSET DATE OF IMPLEMENTING ORDER 3-47 RELATING TO BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM SURPLUS FUNDS, PREMIUM FUNDS AND UNSPENT BOND PROCEEDS

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum and implementing order, copies of which are incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves extending the sunset provision for Implementing Order (IO) 3-47 to January 31, 2018; the IO details the administrative process relating to the allocation of surplus and other funds from Building Better Communities General Obligation Bond Program and authorizes the Mayor or Mayor's designee to exercise any and all rights conferred therein.

The foregoing resolution was offered by Commissioner **Barbara J. Jordan**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman			**aye**
Audrey M. Edmonson, Vice Chairwoman			**absent**
Bruno A. Barreiro	**aye**	Lynda Bell	**absent**
Esteban L. Bovo, Jr.	**aye**	Jose "Pepe" Diaz	**absent**
Sally A. Heyman	**aye**	Barbara J. Jordan	**aye**
Jean Monestime	**aye**	Dennis C. Moss	**aye**
Rebeca Sosa	**aye**	Sen. Javier D. Souto	**aye**
Xavier L. Suarez	**absent**		

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The Chairperson thereupon declared the resolution duly passed and adopted this 26th day of January, 2012. 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.

Monica Rizo

I.O. No.: 3-47
Ordered:
Effective:

MIAMI-DADE COUNTY
IMPLEMENTING ORDER

PROCESS FOR ALLOCATION OF SURPLUS AND OTHER FUNDS FROM BUILDING BETTER COMMUNITIES-GENERAL OBLIGATION BOND (BBC-GOB) PROGRAM

AUTHORITY

Section 5.02 of the Miami-Dade County Home Rule Amendment and Charter.

POLICY

Resolution No. R-67-08, approved by the Board of County Commissioners (the "Board" or "BCC") on January 10, 2008, directed the Mayor or his/her designee to recommend a process to allocate surplus, premium, and other bond funds received from the sale of Building Better Communities General Obligation Bonds ("BBC-GOB"). This resolution also directed the Mayor or his/her designee to submit quarterly reports to the Board regarding such premium, interest earnings and surplus bond funds.

By the Board's approval of this IO, the Board acknowledges that: 1) the implementation of BBC-GOB projects is of paramount importance to the community's economy and quality of life, 2) the priority of the Board is to create a process that will accomplish the will of the voters by ensuring the timely completion of the projects and serve the County as a whole and 3) it is in the County's best interest to advance the BBC-GOB program as quickly as possible and minimize the risk of arbitrage by applying bond proceeds to those projects that are ready to move forward.

PURPOSE

The BBC-GOB Program is a multi-year capital improvement program which will generate $2.9 billion to fund more than 360 capital improvement projects at thousands of sites throughout the County over the next 15 to 18 years. Funding for these projects is secured through the periodic sale of general obligation bonds on an as-needed basis. This program is being administered by the Miami-Dade [[~~Office of Capital Improvements (OCI)~~]] >>Office of Management and Budget (OMB) <<. The following is the procedure for the allocation of the aforementioned BBC-GOB Program funds:

DEFINITIONS

A. *Building Better Communities – General Obligation Bond Funds ("BBC-GOB Funds")*

1) Surplus Funds mean: Net Interest Income and Unused Proceeds;

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2) Net Interest Income means: interest earnings on unspent bond proceeds that accrue from the time bonds are sold to the time the bond proceeds are spent, less administrative expenses and any arbitrage liability set-asides[[~~;~~]] >>.<<

3) Premium Funds mean: the amount by which the price paid for a bond exceeds the bond face value.

4) Unspent Bond Proceeds mean: bond proceeds available because funded Projects for which the bond proceeds were allocated are not ready to move forward.

5) Unused Proceeds mean: bond proceeds or allocation not used because a project is completed for less than the authorized allocation or from the deletion or "significant modification" of a project by the Board.

The sources of funds described in 1-5 above shall be collectively referred to as "BBC-GOB Funds". [[~~(See Attachment 1, a matrix explaining these sources of funds.)~~]]

Other Definitions -

1) Acceleration means: the addition of a new project to the list of projects approved by the Board for funding from a specific bond sale. All accelerations shall require Board approval.

2) Budget Shortfall means: An estimated or actual deficiency in the funds required to complete a Project. The deficiency may be caused by a variety of reasons including, but not limited to, an underestimation in the original cost estimate, an increase in scope, unforeseen conditions, steep escalation in cost of materials or services or other increase in costs during project implementation.

3) Cash Flow Revision means: a revision to the cash-flow of a Project approved by the Board for funding from a particular bond sale, provided such Cash-Flow Revision does not increase the total allocation approved by the voters for that Project. Any such increase shall be approved by the Board. The subtotal of a bond question to be funded from a particular bond sale may be increased or decreased as a result of a Cash-Flow Revision >>.<< The Mayor or his/her designee is authorized to approve Project Cash-Flow Revisions which will be reported to the Board quarterly. In the event that a Project is expected to be de-funded or delayed as a result of a Project Cash-Flow Revision, prior Board approval is required before a Cash-Flow Revision is implemented.

4) New Project means: a project not included in Appendix A to the Authorizing Resolutions as of the effective date of this IO.

5) Projects mean: unless otherwise noted, "Projects" refers to projects identified as of the effective date of this IO in Appendix A

to Resolution Nos. R-912-04, R-913-04, R-914-04, R-915-04, R-916-04, R-917-04, R-917-04 and R-919-04 (the "Authorizing Resolutions"), as each may be amended from time to time by the Board after a public hearing, respectively. Once a new project is approved for BBC-GOB funding as provided in this IO, this definition shall be deemed to include such new project.

USE OF FUNDS

A. Premium Funds – Premium Funds are part of the total $2.9 billion authorized proceeds. They do not represent "new" funds to the bond program. Therefore, Premium Funds shall only be used to accelerate Projects and not to fund Budget Shortfalls in Projects, retire debt or fund New Projects.

B. Unspent Bond Proceeds - Unspent Bond Proceeds shall be used to accelerate Projects as set forth in this IO.

C. Surplus Funds - Surplus Funds may be used to accelerate Projects, fund Budget Shortfalls, fund New Projects but only after all Projects have been completed or when all the necessary funding for completion of all Projects has been identified to the satisfaction of the Board and retire bond debt, subject to BCC approval, as set forth in this IO.

PROCEDURE

A. Accelerating Projects using BBC-GOB Funds

1) [[~~OCI~~]] >>OMB<< shall work with stakeholders when a Project has been identified that was not included in the list of Board approved projects for a particular bond sale but are ready to move forward.

2) No Project will be de-funded or delayed as a result of an acceleration of another Project, if such Project is ready to proceed.

3) All accelerations shall require Board approval.

4) In the event that there are multiple Projects ready to proceed that exceed the available BBC-GOB Funds, [[~~OCI~~]] >>OMB<< shall apply the evaluation factors included in Section E below.

5) The use of Surplus Funds to accelerate Projects shall be presented to the BBC/GOB Citizens' Advisory Committee (the "CAC") so it may advise the Mayor or his/her designee regarding such use of Surplus Funds as provided in Ordinance No. 05-70. If the CAC recommends the use of Surplus Funds for acceleration, such acceleration shall be approved by a majority vote of the Board members present. However, if the CAC does not recommend the use of Surplus Funds for acceleration, a two-thirds (2/3) vote of the Board members present shall be required to approve use of Surplus Funds to acceleration the Project(s).

6) The status of Net Interest Income and Premium Funds shall be reported to the BCC as part of each BBC/GOB Quarterly Report.

7) Project Cash Flow revisions will be done administratively. (see definition)

B. Funding Budget Shortfalls in Projects using Surplus Funds

1) Throughout the year [[~~OCI~~]] >>OMB<< may become aware of Budget Shortfalls in Projects.

2) [[~~OCI~~]] >>OMB<< will work with stakeholders of the Projects [[~~and the Office of Strategic and Business Management (OSBM)~~]] to determine if the application of Surplus Funds, complemented by other available non-bond related funds, as necessary, may be used to eliminate the Budget Shortfall.

3) [[~~OCI~~]] >>OMB<< shall prepare recommendations to the Mayor or his/her designee on the application of Surplus Funds and other non-bond related funds to cover Budget Shortfalls in Projects.

4) In the event the need for Surplus Funds to cover Budget Shortfalls for multiple Projects exceeds the available funds, [[~~OCI~~]] >>OMB<< shall apply the evaluation factors included in Section E below. The application of the evaluation factors shall be explained in the Mayor's or his/her designee's recommendation to the BCC on the use of Surplus Funds.

5) The Mayor's or his/her designee's recommendation regarding which Projects will use Surplus Funds to cover Budget Shortfalls shall be presented to the CAC so it may advise the Board regarding such use of Surplus Funds as provided in Ordinance No. 05-70. The advice of the CAC shall be included in the agenda item submitted to the BCC. In accordance with the Ordinance, all requests for the use of Surplus Funds shall be presented to the CAC prior to committee and BCC consideration.

6) The Mayor or his/her designee shall make recommendations to the BCC on the use of Surplus Funds for Budget Shortfalls on a case-by-case basis.

7) If the CAC recommends the use of Surplus Funds to cover Budget Shortfalls, such use shall be approved by a majority vote of the Board members present. However, if the CAC does not recommend approval of such use, a two-thirds (2/3) vote of the Board members present shall be required to approve use of Surplus Funds to cover Budget Shortfalls.

C. Adding New Projects to the program using Surplus Funds

1) Prior to adding a New Project to be funded using Surplus Funds in accordance with the process set forth in the Authorizing Resolutions, the Board shall consider the following factors:

a) All Projects have been completed or all the necessary funding for all Projects has been identified to the satisfaction of the Board.

b) The New Project is within the general scope of one of the eight voter-approved bond questions as determined by the County Attorney's Office.

c) The New Project is ready to proceed. Project readiness is established when a stakeholder has demonstrated that the New Project scope is completely defined, all the necessary remaining resources are in place or can be obtained and the project delivery system will start within the next 270 days or less.

d) The New Project shall be fully supported with adequate operational funds as demonstrated by the proposed stakeholder through the use of a business plan, pro forma and/or other supporting documentation as the County's professional staff may reasonably require.

2) The Mayor's or his/her designee's recommendation regarding the application of Surplus Funds to fund a New Project shall be presented to the CAC so it may advise the Board regarding such use of Surplus Funds as provided in Ordinance No. 05-70. The advice of the CAC shall be included in the agenda item submitted to the BCC. In accordance with the Ordinance, all requests for the use of Surplus Funds shall be presented to the CAC prior to committee and BCC consideration. If the CAC recommends the use of Surplus Funds to fund a New Project, such use shall be approved by a majority vote of the Board members present. However, if the CAC does not recommend such use, a two-thirds (2/3) vote of the Board members present shall be required to approve the use of Surplus Funds to fund a New Project.

3) The status of Surplus Funds and Premium Funds and the addition of any New Project shall be reported to the BCC as part of each BBC/GOB Quarterly Report.

D. Retiring bond debt using Surplus Funds

In the event no uses of Surplus Funds are identified, the Board, by the affirmative vote of a majority of those members present, may authorize the Mayor or his/her designee to apply Surplus Funds and/or Unused Proceeds to retire bond debt. If the CAC recommends the use of Surplus Funds and/or Unused Proceeds to retire bond debt, such use shall be approved by a majority vote of the Board members present. However, if the CAC does not recommend such use, a two-thirds (2/3) vote of the Board members present shall be required to approve use of Surplus Funds and/or Unused Proceeds to retire bond debt.

E. Evaluation factors to apply when the need for BBC-GOB Funds exceed available funds

The following evaluation factors shall be applied whenever the need for BBC-GOB Funds exceeds the available funds for the purpose listed above.

1) Does the Project or New Project have a positive impact on crime in the project area? (in accordance with Resolution No. R-67-08)

2) Does the Project or New Project have a positive impact on the poverty in the project area? (in accordance with Resolution No. R-67-08)

3) Does the Project or New Project have positive impact on the safety of a particular facility or area?

4) Does the Project or New Project have a positive impact on the housing needs in the project area?

5) Does the Project or New Project spur economic development in the project area?

6) Does the Project or New Project have a positive impact on the healthcare of the population of Miami-Dade County?

7) Does the Project or New Project have a positive impact on the environment of the County?

F. Reporting –

1) The status of [[~~surplus and premium and unspent proceeds~~]] >>surplus funds, premium funds, and unspent bond proceeds<< will be reported to the BCC as part of each BBC/GOB Quarterly Report.

2) Acceleration of approved projects will be recommended to the BCC by resolution as often as necessary.

WAIVER PROVISION

If the CAC recommends waiver of the provisions of this implementing order, such provisions may be waived by an affirmative vote of a majority of the Board members present; provided, however, if the CAC does not recommend waiver of the provisions of this implementing order, a two-thirds (2/3) vote of the Board members present shall be required to waive the provisions of this implementing order.

SUNSET

This Implementing Order shall sunset on [[~~January 30, 2012~~]] >>January 31, 2018<< unless extended by the BCC.

This Implementing Order is hereby submitted to the Board of County Commissioners of Miami-Dade County, Florida.

Mayor