

MEMORANDUM

Agenda Item No. 7(B)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: February 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Ordinance relating to the Affordable Housing Trust Fund; amending section 17-132.1 of the Code; providing that, subject to Board approval, the Department of Public Housing and Community Development or its successor department be the administrator for the Revolving Loan Fund and, in that event, removing administrator's obligation to financially commit its own funds

Ordinance No. 22-12

This item was amended at the 1-13-22 Public Housing and Community Services Committee.

This substitute differs from the original version by clarifying the County Mayor's role in selecting the outside administrator, placing the recommendation for the outside administrator before the Board of County Commissioners, and identifying the County department to serve as the outside administrator in the event that no outside administrator is selected.

Additionally, this substitute was amended in committee to clarify that the department that administers the revolving loan fund must have expertise in affordable housing.

Rules 5.06(i) of the Board's Rules of Procedure provides that where double underlining and double strike-through would not clearly show the differences between an original item and the substitute, comments may instead be provided. Pursuant to this rule, the preceding comprehensive description of the differences between the original item and the substitute is provided in lieu of double underlining and double strike-through for this item.

The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Eileen Higgins.


Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: February 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Fiscal Impact Statement for Ordinance Relating to Affordable Housing Trust Fund
Administrator for the Revolving Loan Fund – File No. 212252

The implementation of the ordinance will have a minimal fiscal impact to the Public Housing and Community Development Department (PHCD). Departmental staff will provide administrative support for the Revolving Loan Fund.

A handwritten signature in blue ink that reads "Morris Copeland".

Morris Copeland
Chief Community Services Officer

Date: February 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava 
Mayor

Subject: Social Equity Statement for Ordinance Relating to Affordable Housing Trust Fund
Administrator for the Revolving Loan Fund – File No. 212252

The proposed ordinance amends the Affordable Housing Trust Fund's use of an Administrator for its revolving loan fund and provides that the Miami-Dade County Public Housing and Community Development Department (PHCD) shall perform the functions of the Administrator in the event that an outside Administrator is not selected, and the Board approves.

The proposed ordinance is expected to provide a social benefit to residents of Miami-Dade County. PHCD has extensive experience in managing loan funds (e.g., Surtax, Community Development Block Grant, HOME, NOAH, etc.) and works daily with affordable housing developers on projects currently worth over \$2 billion. PHCD is the largest housing agency in Florida, and sixth largest public housing authority in the United States. PHCD has the capacity to effectively initiate funding of projects in a timely manner which is especially important in a period of fast escalating costs of construction due to massive supply chain disruptions and labor shortages. These conditions only exacerbate the affordable housing crisis in Miami-Dade County, which ranks as the most cost burdened housing market among large metro areas in the United States. This means that the majority of families are paying more than 30% of their incomes for housing.

Increasing and preserving the supply of affordable and workforce housing is critical to assuring equitable access to safe and healthful living environments for all residents of Miami-Dade, and especially for those of low and moderate incomes.

A handwritten signature in blue ink, appearing to read "Morris Copeland".

Morris Copeland
Chief Community Services Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: February 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 7(B)

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
- ☐ Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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. 7(B)
2-1-22

ORDINANCE NO. _____ 22-12

ORDINANCE RELATING TO THE AFFORDABLE HOUSING TRUST FUND; AMENDING SECTION 17-132.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING THAT, SUBJECT TO BOARD APPROVAL, THE DEPARTMENT OF PUBLIC HOUSING AND COMMUNITY DEVELOPMENT OR ITS SUCCESSOR DEPARTMENT BE THE ADMINISTRATOR FOR THE REVOLVING LOAN FUND AND, IN THAT EVENT, REMOVING ADMINISTRATOR'S OBLIGATION TO FINANCIALLY COMMIT ITS OWN FUNDS; AND PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

WHEREAS, this Board has enacted Ordinance No. 07-15, which is codified at Article VIII, sections 17-129 *et seq.* of the Code of Miami-Dade County (the "Code"), establishing the Affordable Housing Trust Fund of Miami-Dade County, Florida (the "Trust Fund"); and

WHEREAS, on November 1, 2016, this Board enacted Ordinance No. 16-127, which is codified at Article VIII, section 17-132.1 of the Code, establishing a separate interest-bearing account within the Trust Fund to be a Revolving Loan Fund by which short term loans are made to developers for the construction, rehabilitation, or acquisition of land or housing for sale or rental to homebuyers or renters whose household annual income does not exceed 140 percent of the area median income adjusted for family size; and

WHEREAS, the Code provides that the Revolving Loan Fund shall be administered by an outside administrator (i.e., a Community Development Financial Institution, lender, bank, or other financial institution), selected through a competitive request for proposal process, with the Trust Fund board of trustees serving as the selection committee and responsible for making a recommendation to this Board for the selection of the outside administrator; and

WHEREAS, the Code provides that the selected outside administrator will award loans to developers based on underwriting criteria set forth in the Revolving Loan Fund guidelines which are to be created by the Trust Fund’s board of trustees and approved by this Board in accordance with section 17-132.1 of the Code, and also provides that the outside administrator must financially commit to providing its own funds to leverage the funds in the Revolving Loan Fund; and

WHEREAS, on December 3, 2019, this Board approved Resolution No. R-1330-19, which set forth guidelines for the administration of the Revolving Loan Fund, as well guidelines for the distribution of funds from the General Trust Fund; and

WHEREAS, to date, the Trust Fund’s board of trustees have not recommended an outside administrator to this Board for approval; and

WHEREAS, in the past few years, the Trust Fund board of trustees issued two requests for proposals that failed to elicit any responses; and

WHEREAS, currently, there is an outstanding request for proposals for an outside administrator which may result in a recommendation to this Board; and

WHEREAS, in the event that it does not result in a recommendation to this Board, or in the event that this Board does not approve the recommended outside administrator, this Board desires to have in place an alternate entity that can carry out the purpose of the Revolving Loan Fund and effectuate the guidelines passed by this Board; and

WHEREAS, the County, through its Public Housing and Community Development Department (“PHCD”), manages a variety of programs designed to enhance affordable homeownership opportunities for individuals and families residing in the County, including the Homebuyer Loan Program, the Infill Housing Program, and the Section 8 Housing Choice Voucher Homeownership Option Program; and

WHEREAS, PHCD is also responsible for the administration of the State Housing Initiatives Partnership Program and the Documentary Stamp Surtax Program; and

WHEREAS, PHCD has been working closely with the Trust Fund's board of trustees since their initial meeting in November of 2016; and

WHEREAS, because PHCD is capable of administering the Revolving Loan Fund and because this Board does not wish the Revolving Loan Fund to continue in its current stagnant state if an outside administrator is not approved through a request for proposal process, this Board desires to have the option to assign the duties and responsibilities of administering the Revolving Loan Fund to the Department of Public Housing and Community Development, or such other department designated by the County Mayor,

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

Section 1. Section 17-132.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 17-132.1 - Revolving loan fund.

Notwithstanding any other provision of this article or the Code or resolution to the contrary, all general fund revenues as defined herein, as 50 percent of actual carryover funds in excess of the adopted budget, up to \$10,000,000.00 to the Affordable Housing Trust Fund, subject to appropriation each year, shall be placed into the Trust on an annual basis and shall be used for a revolving loan fund ("Revolving Loan Fund") to be operated as set forth in this section and section 17-132 of the Code. The general fund revenues, all repayments of general fund revenues, and all interest paid on loans made from the Revolving Loan Fund shall be deposited into a separate interest-bearing account. All funds deposited into the

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

account shall be used solely for the purposes of making eligible loans to developers and for administration of the Revolving Loan Fund, including—payment of the outside administrator. The Revolving Loan Fund shall operate as follows:

- (a) Short Term Loans, as defined in the Revolving Loan Fund guidelines, shall be made available to developers for the construction, rehabilitation, or acquisition of land or housing for sale or rental to homebuyers or renters whose household annual income does not exceed 140 percent of the area median income adjusted for family size.
- (b) Revolving Loan Fund monies may be used for single-family or multi-family housing.
- (c) Loans shall be awarded based on underwriting criteria, set forth in the Revolving Loan Fund guidelines to be created by the board of trustees and approved by the Board of County Commissioners and preference shall be given to developments located in Commission Districts with the highest need, as determined by the Board of County Commissioners after recommendations by the County Mayor or the County Mayor's designee, taking into account any statistics from the United States Department of Housing and Urban Development related to areas within Miami-Dade County that have the greatest need for affordable housing and to developments with long-term affordability. No competitive process shall be required for the award of Revolving Loan Fund monies.
- (d) The Revolving Loan Fund shall be administered by an outside administrator selected through a competitive Request for Proposals process. The Board of Trustees of the Trust shall serve as the selection committee for review of the Requests for Proposals and shall make a recommendation to the Board of County Commissioners for the selection of an outside administrator. >>Such recommendation shall be transmitted to the County Mayor who shall forward the recommendation to the Board of County Commissioners along with the County Mayor's recommendation regarding the selection of an outside administrator and a negotiated contract or contracts for consideration by the Board.<< The Board of County Commissioners shall make the final choice of outside

administrator. The administrator chosen by the Board of County Commissioners must demonstrate the ability and financially commit to provide its funds to leverage the funds in the Revolving Loan Fund, must demonstrate a proven track record of administering similar programs and must demonstrate an ability to combine the Revolving Loan Fund monies with existing affordable housing resources. Nothing herein shall prohibit the selection of a Community Development Financial Institution, lender, bank, or other financial institution from being chosen as the outside administrator for the Revolving Loan Fund. ~~[[The initial Request for Proposals shall be issued by September 30, 2017.]]~~ >>In the event that no responsive, responsible proposals are received as a result of the Request for Proposals process, this Board rejects all proposals received in response to the Request for Proposals, or otherwise at the Board's direction, the Miami-Dade Public Housing and Community Development Department (PHCD), or such other department that has expertise in affordable housing designated by the County Mayor shall perform the function of the outside administrator as set forth herein, with the exception of the requirement to financially commit to providing its own funds as leverage and contracting with the County. In the event the County performs the duties of the outside administrator, the County shall be entitled to receive reimbursement for administrative costs from The Revolving Loan Fund in the same manner as an outside administrator subject to the approval of the Board of Trustees and in accordance with Section 17-132(3)(a).<<

- (e) >>Unless served by the County.<< ~~[[The]]~~>>the<< chosen administrator shall enter into a contract with the County for the administration of the Revolving Loan Fund. Among other things, the contract shall provide that the administrator comply with all relevant County contracting provisions and shall provide the County the opportunity to terminate the contract for the administrator's breach of the contract.
- (f) The final award of all loans from the Revolving Loan Fund must be approved by the chosen administrator and shall not require approval of the Board of County Commissioners.

- (g) The chosen administrator shall make bi-annual reports to the Trust Board of Trustees and the Board of County Commissioners on the status of the Revolving Loan Fund and each of the outstanding loans.
- (h) >>If the Revolving Loan Fund is administered by an outside administrator,<< ~~[[The]]~~>>the<< County Mayor or the County Mayor's designee shall make annual reports to the Board of County Commissioners on the status of the Revolving Loan fund and on the performance of the chosen administrator.

Section 2. 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 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

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:

February 1, 2022

Approved by County Attorney as
to form and legal sufficiency:

GKS For GBK

Prepared by:

LCK

Leigh C. Kobrinski

Prime Sponsor: Commissioner Eileen Higgins