

Attachment # 45

**Resolution No. R-697-13
Requiring Secured Loan
on Community
Development Funds in
Excess of \$25,000**

MEMORANDUM

Agenda Item No. 11(A)(1)

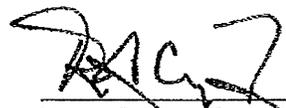
TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: September 4, 2013

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

SUBJECT: Resolution establishing a policy that any allocations of Housing and Community Development funds and Building Better Communities General Obligation Bond Program funds for the purpose of acquiring or improving real property or for paying off secured debts on real property in excess of \$25,000.00 shall be in the form of a secured loan or grant with restriction on future use of the property
Resolution No. R-697-13

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chair Lynda Bell.



R. A. Cuevas, Jr.
County Attorney

RAC/smm



MEMORANDUM
(Revised)

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

DATE: September 4, 2013

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

SUBJECT: Agenda Item No. 11(A)(1)

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)(1)
9-4-13

RESOLUTION NO. R-697-13

RESOLUTION ESTABLISHING A POLICY THAT ANY ALLOCATIONS OF HOUSING AND COMMUNITY DEVELOPMENT FUNDS AND BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM FUNDS FOR THE PURPOSE OF ACQUIRING OR IMPROVING REAL PROPERTY OR FOR PAYING OFF SECURED DEBTS ON REAL PROPERTY IN EXCESS OF \$25,000.00 SHALL BE IN THE FORM OF A SECURED LOAN OR GRANT WITH RESTRICTION ON FUTURE USE OF THE PROPERTY; AND DIRECTING THE MAYOR OR MAYOR'S DESIGNEE TO INCORPORATE THIS POLICY INTO SELECTION PROCESSES AND CONTRACTS FOR HOUSING AND COMMUNITY DEVELOPMENT FUNDS AND BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM FUNDS

WHEREAS, Miami-Dade County provides funding from state, local and federal sources for the provision of economic development, community development, and affordable housing activities throughout the County, which include but are not limited to local Documentary Surtax funds, State Housing Initiative Partnership funds, Home Investment Partnerships funds, Emergency Services Grant funds, and Community Development Block Grant funds (hereinafter "Housing and Community Development Funds") and Building Better Communities General Obligation Program ("the Bond Program") funds; and

WHEREAS, Housing and Community Development Funds and Bond Program funds are often granted to private for-profit and not-for-profit entities and governmental entities for the purpose of acquiring or improving real property or for paying off secured debts on real property; and

WHEREAS, the County's need is great but its resources are limited; and

WHEREAS, the Board desires to protect the County's limited Housing and Community Development Funds and Bond Program funds from fraud, misuse, or waste,

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

Section 1. The Board hereby establishes the policy that any allocations of Housing and Community Development Funds made to non-governmental entities for the purpose of acquiring or improving real property or for paying off debts secured by real property in excess of \$25,000 shall be in the form of a loan. These loans shall be secured by a mortgage or other security instrument which shall immediately be recorded in the public records of Miami-Dade County and may be forgivable and/or defer interest and payments so long as the obligations of the recipient are fully performed. Additionally, in the event that Housing and Community Development Funds will be allocated to a person or agency leasing real property for the purpose of improving the property, the owner of the property shall be requested to secure the loan by a mortgage or other security instrument on the subject property and upon agreement such mortgage or security interest shall immediately be recorded in the public records of Miami-Dade County. If the property owner does not agree to the securing of the loan by a mortgage or other security instrument on the subject property, the Mayor or Mayor's designee may secure the loan with a leasehold mortgage upon a determination that such a security is in the best interest of the County.

Section 2. Notwithstanding any provision of Section 1 above, in the event that a mortgage is deemed by the Mayor or Mayor's designee not to be in the best interest of the County due to prior encumbrances on the real property or other factors, the Mayor or Mayor's designee shall select an alternative form of security/collateral or restriction on the future use of the property in consultation with the County Attorney's Office. If the Mayor or Mayor's designee determines that it is not possible for the County to obtain a form of security/collateral or restriction on the future use of the property sufficient to protect the County's interest in the

Housing and Community Development Funds allocated toward a particular project, the Mayor or Mayor's designee shall submit a recommendation to the Board to either proceed with the allocation, which shall require a two-thirds (2/3) vote of the Board members present, or to rescind or otherwise modify the allocation.

Section 3. The Board hereby establishes the policy that any allocations of Bond Program Funds to a non-governmental entity for the purpose of acquiring real property, improving real property owned by the recipient, or paying off debts secured by real property in excess of \$25,000 shall be in the form of a grant, conditioned upon the execution and recordation of a restrictive covenant with a right of reverter or other restriction on the future use of the property in the public records of Miami-Dade County, and County approval of any further encumbrances of the real property.

Section 4. The Mayor or Mayor's designee is directed to incorporate the policy set forth in Sections 1 and 2, above, into the County's competitive and other processes for the selection of recipients of Housing and Community Development Funds and into contracts and agreements for Housing and Community Development Funds. The Mayor or Mayor's designee is directed to incorporate the policy set forth in Section 3 above into the County's competitive and other processes for the selection of recipients of Bond Program funds, if any, and into contracts and agreements for Bond Program funds.

Section 5. This resolution is intended to apply only to grant agreements for allocations of Bond Program Funds to a non-governmental entity for the purpose of acquiring real property, improving real property owned by the recipient, or paying off debts secured by real property in excess of \$25,000 that are entered into by the County after the effective date of this resolution, and recommendations by the Mayor or Mayor's designee for allocations of Housing and Community Development Funds for the purpose of acquiring or improving real property or

for paying off debts secured by real property in excess of \$25,000 which are submitted to the Board after the effective date of this resolution.

The Prime Sponsor of the foregoing resolution is Vice Chair Lynda Bell. It was offered by Commissioner **Lynda Bell**, 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:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of September, 2013. 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.

Brenda Kuhns Neuman