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Agenda Item #:

6C-1

**PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY**

Meeting Date: 9/11/2007

Consent             Regular  
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

**I. EXECUTIVE BRIEF**

**Motion and Title: Staff recommends motion to adopt:** a resolution authorizing the issuance of up to \$9,500,000 Tax-Exempt Adjustable Mode Revenue Bonds (Caron Foundation of Florida, Inc. Project) Series 2007 (the "Bonds") for the purpose of financing a portion of the cost of acquisition and construction of office and outpatient treatment facilities to be owned and operated by Caron Foundation of Florida, Inc. and the costs of leasehold improvements to certain apartment facilities leased by such corporation; approving the form of and authorizing the execution of a loan agreement, indenture of trust and a bond purchase agreement; awarding the sale of the Bonds by a negotiated sale; approving a trustee for the Bonds; authorizing certain officials and employees of the County to take all actions required in connection with the issuance of the Bonds; making certain other covenants and agreements in connection with the issuance of the Bonds and providing an effective date.

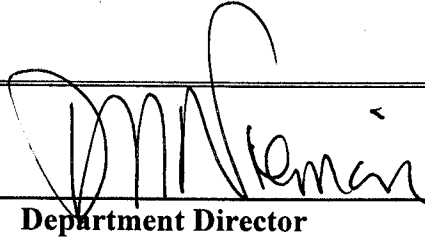
**Summary:** On August 21, 2007, the Board of County Commissioners approved the application of Caron Foundation of Florida, Inc.(the "Company") for the issuance of the Bonds. Proceeds of the Bonds will be used to (i) pay the costs of acquisition, construction, installation and furnishing of certain leasehold improvements to the apartment facilities known as Fairways on the Green located at 2101 Lowson Boulevard, Delray Beach, Florida; (ii) pay the costs of the acquisition, build-out, installation and furnishing of an office and outpatient treatment facility known as Beacon Square located at 8051 Congress Avenue, Boca Raton, Florida and (iii) pay the costs of issuance of the Bonds. The Bonds will be payable solely from revenues derived from the Company. **Neither the taxing power nor the faith and credit of the County, nor any County funds, shall be pledged to pay principal or redemption premiums, if any, or interest on the Bonds.** District 4. (PFK)

**Background and Justification:** The resolution authorizes the issuance of the Bonds and approves the form of and authorizes the execution of the documents required for this project. The Bonds will be credit-enhanced by a letter of credit issued by Wachovia Bank, National Association.

**Attachment:**

- 1. Resolution

Recommended by: \_\_\_\_\_



Department Director

8/23/07

Date

Approved by: \_\_\_\_\_

N/A

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2007	2008	2009	2010	2011
Capital Expenditures	—	—	—	—	—
Operating Costs	—	—	—	—	—
External Revenues	<u>(\$10,000)</u>	—	—	—	—
Program Income (County)	—	—	—	—	—
In-Kind Match (County)	—	—	—	—	—
<b>NET FISCAL IMPACT</b>	<b><u>(\$10,000)</u></b>	—	—	—	—
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	—	—	—	—	—

Is Item Included in Current Budget? Yes \_\_\_ No

Budget Account No.: Fund \_\_\_ Department \_\_\_ Unit \_\_\_ Object \_\_\_

Reporting Category \_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** All costs to be borne by Applicant. No fiscal impact cost to Palm Beach County. Palm Beach County will receive \$10,000 in industrial development revenue bond fees as well as legal fees for services rendered in reviewing this project.

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Dev. and Control Comments:**

*John A. Long* 8/22/07  
OFMB CN 8/15/07

N/A  
Contract Dev. and Control

**B. Legal Sufficiency:**

*Paul E. Jones* 8/14/07  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

**THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.**

RESOLUTION NO. R-2007-\_\_\_\_\_

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF ITS \$9,500,000 VARIABLE RATE DEMAND REVENUE BONDS, SERIES 2007 (CARON FOUNDATION OF FLORIDA, INC. PROJECT) FOR THE PURPOSE OF FINANCING A PORTION OF THE COST OF (1) ACQUISITION, BUILD-OUT, INSTALLATION AND FURNISHING OF AN OFFICE AND OUTPATIENT TREATMENT FACILITY OWNED AND OPERATED BY CARON FOUNDATION OF FLORIDA, INC. AND (2) ACQUISITION, CONSTRUCTION, INSTALLATION AND FURNISHING OF CERTAIN LEASEHOLD IMPROVEMENTS TO CERTAIN APARTMENT FACILITIES LEASED BY CARON FOUNDATION OF FLORIDA, INC.; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A LOAN AGREEMENT, INDENTURE OF TRUST AND BOND PURCHASE AGREEMENT; AWARDED THE SALE OF THE BONDS BY A NEGOTIATED SALE; APPROVING A TRUSTEE FOR THE BONDS; AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF THE COUNTY TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE ISSUANCE OF THE BONDS; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County, Florida (the "Issuer") is a political subdivision of the State of Florida and is empowered by the provisions of the Florida Constitution and Chapter 159, Part II, Florida Statutes (the "Act"), to issue obligations for the purpose of financing and refinancing healthcare facilities; and

WHEREAS, on August 21, 2007 the Board of County Commissioners (the "Governing Body") of the Issuer approved the application of Caron Foundation of Florida, Inc., (the "Borrower") for the issuance of industrial development revenue bonds to finance the cost of (i) acquisition, construction, installation and furnishing of certain leasehold improvements to the apartment facilities known as Fairways on the Green located at 2101 Lawson Boulevard, Delray Beach, Florida; (ii) acquisition, build-out, installation and furnishing of an office and outpatient treatment facility known as Beacon Square located at 8051 Congress Avenue, Boca Raton, Florida and (iii) issuance of the Bonds (hereinafter defined), conditioned upon the adoption of this resolution and certain other conditions; and

WHEREAS, the Issuer has determined to issue its Variable Rate Demand Revenue Bonds, Series 2007 (Caron Foundation of Florida, Inc. Project) in the principal amount of not exceeding \$9,500,000 (the "Bonds") as further provided herein; and

WHEREAS, an August 21, 2007 the Issuer conducted a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, with respect to the issuance of the Bonds; and

WHEREAS, the Issuer and the Borrower have received a proposed form of Bond Purchase Agreement (the "Bond Purchase Agreement") from Wachovia Bank, National Association (the "Underwriter") to purchase the Bonds on the basis of the terms and provisions therein; and

WHEREAS, the Issuer agrees to such terms and provisions; and

WHEREAS, it is necessary and desirable to approve the form of an Indenture of Trust, a Loan Agreement and the Bond Purchase Agreement in connection with the issuance of the Bonds, and to provide a method to specify the interest rate(s), maturity date(s), redemption provisions and other details for the Bonds; and

WHEREAS, the issuance of the Bonds and the sale thereof to the Underwriter will, in the judgment of the Issuer, serve the intended public purpose and in all respects conform to the provisions and requirements of the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY THAT:

SECTION 1. Definitions. Unless the context otherwise requires, terms used herein in capitalized form and not otherwise defined herein shall have the meanings specified therefor in the Indenture of Trust attached hereto as Exhibit "A" (the "Indenture"). Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

SECTION 2. Authority for this Resolution. This resolution, herein called the "Resolution," is adopted pursuant to the Act.

SECTION 3. Findings. It is hereby ascertained, determined and declared as follows:

A. The Project is appropriate to the needs and circumstances of, and will make a significant contribution to the economic growth of the Issuer, will provide and preserve gainful employment, and will serve a public purpose, consistent with Article VII, Section 10(c) of the Florida Constitution, by advancing the economic prosperity and the general welfare of the Issuer, the State, and the people thereof, and in particular, the issuance of the Bonds is in the common interest of the people of Palm Beach County, Florida. The Borrower is financially responsible and fully capable of and willing to fulfill any obligations which it may incur in connection with the financing of the Project as contemplated by this Resolution. The Issuer will be able to cope satisfactorily with the impact of the Project and will be able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, that will be necessary for the construction, operation, repair and maintenance of the Project and on account of any increases in population or other circumstances resulting therefrom.

B. The Issuer hereby finds that the Agreement makes adequate provision for the operation, repair and maintenance of the Project at the expense of the Borrower and for the payment of the principal and interest on the Bonds and all other costs incurred by the Issuer in connection with the Bonds and the Project.

SECTION 4. Authorization of Bonds. The Issuer hereby approves the Bonds for purposes of Section 147(f) of the Code. Subject and pursuant to the provisions hereof and of the Indenture, for the purpose of financing the Project, the issuance of revenue bonds of the Issuer under the authority of the Act in the principal amount of not to exceed \$9,500,000 is hereby approved. The Chairperson is hereby authorized to award the sale of the Bonds in an aggregate principal amount sufficient, together with other available funds, to finance the Project and to pay the costs associated with issuance of the Bonds, as requested by the Borrower, provided that the aggregate principal amount of the Bonds shall not exceed \$9,500,000, the interest rate on the Bonds shall not exceed the maximum rate permitted by law, and the maturity date of the Bonds shall not be later than 2037.

Subject to the foregoing, the Bonds shall be dated, shall bear interest at such rates, mature on such dates, be subject to redemption on such dates and in such amounts and at such price and have such other details, terms and conditions all as set forth in the Indenture.

SECTION 5. Authorization of Execution and Delivery of the Indenture. As security for the payment of the principal of and interest on the Bonds, the Indenture, in substantially the form thereof attached hereto as Exhibit "A," with such changes, alterations and corrections as may be approved by the Chairperson, such approval to be presumed by the execution thereof by the Chairperson, is hereby approved by the Issuer, and the Issuer hereby authorizes and directs the Chairperson to execute the Indenture and the Clerk to attest thereto under the official seal of the Issuer, and to deliver the Indenture to the Trustee all of the provisions of which, when executed and delivered by the Issuer as authorized herein, shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 6. Authorization of Execution and Delivery of the Loan Agreement. The Loan Agreement, in substantially the form thereof attached hereto as Exhibit "B," with such changes, alterations and corrections thereto as may be approved by the Chairperson, such approval to be presumed by the execution thereof by the Chairperson, is hereby approved by the Issuer, and the Issuer authorizes and directs the Chairperson to execute the Loan Agreement and the Clerk to attest thereto under the official seal of the Issuer, and to deliver the Loan Agreement to the Borrower, all of the provisions of which, when executed and delivered by the Issuer as authorized herein shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein.

SECTION 7. Sale of Bonds: Execution and Delivery of the Bond Purchase Agreement. The Bonds are hereby awarded to the Underwriter upon the terms and conditions set forth in the Bond Purchase Agreement. The Bond Purchase Agreement, in substantially the form thereof attached hereto as Exhibit "C," with such changes, alterations and corrections thereto as may be approved by the Chairperson, such approval to be presumed by the execution thereof by the Chairperson, is hereby approved by the Issuer, and, upon execution thereof by the Borrower,

the Issuer authorizes and directs the Chairperson to execute the Bond Purchase Agreement and the Clerk to attest thereto under the official seal of the Issuer, and to deliver the Bond Purchase Agreement to the Underwriter, all of the provisions of which, when executed and delivered by the Issuer as authorized herein shall be deemed to be a part of this Resolution as fully and to the same extent as if incorporated verbatim herein. The Issuer hereby determines that a negotiated sale of the Bonds is in the best interest of the Issuer, the Borrower and the citizens and inhabitants of Palm Beach County by reason of the limited market for bonds such as the Bonds (due, among other reasons, to the fact that the Bonds are limited obligations of the Issuer payable only from the sources provided therefor in the Indenture) and because revenue bonds such as the Bonds are typically sold by negotiated sale. The Underwriter has filed with the Issuer the disclosure required by Section 218.385, Florida Statutes, and competitive bidding for the Bonds is hereby waived.

SECTION 8. Appointment of Trustee. Manufacturers and Traders Trust Company is hereby appointed Trustee to act under the Indenture.

SECTION 9. No Personal Liability. No covenant, stipulation, obligation or agreement herein contained or contained in the Loan Agreement, the Indenture, the Bond Purchase Agreement, the Bonds, or any instrument contemplated thereby shall be deemed to be a covenant, stipulation, obligation or agreement of any officer, member, agent or employee of the Issuer in his or her individual capacity, and no member of the Governing Body of the Issuer executing the Bonds or other documents herein mentioned shall be liable personally thereon or be subject to any personal accountability by reason of the issuance or execution thereof.

SECTION 10. No Third Party Beneficiaries. Except as herein or in the documents herein mentioned otherwise expressly provided, nothing in this Resolution or in such documents, express or implied, is intended or shall be construed to confer upon any Person other than the Issuer, the Borrower, the Owners of the Bonds, the Underwriter, the issuer of the Credit Facility and the Trustee any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof or of such documents; this Resolution and such documents being intended to be and being for the sole and exclusive benefit of such parties.

SECTION 11. Prerequisites Performed. All acts, conditions and things relating to the passage of this Resolution and required by the Constitution or laws of the State of Florida to happen, exist and be performed precedent to and in the passage hereof have happened, exist and have been performed as so required.

SECTION 12. General Authority. The Clerk and the members of the Governing Body of the Issuer are hereby authorized to do all acts and things required of them by this Resolution, the Agreement, the Bond Purchase Agreement, or the Indenture, or desirable or consistent with the requirements hereof or thereof, for the full punctual and complete performance of all terms, covenants and agreements contained in the Bonds, the Loan Agreement, the Bond Purchase Agreement, the Indenture and this Resolution.

SECTION 13. General Authorizations. The Chairperson, and any other member of the Governing Body of the Issuer, the Clerk, the County Attorney, and any other appropriate employee of the Issuer, are hereby each authorized to execute, publish, file and record such other

documents, instruments, notices, and records and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution, and to comply with and perform the obligations of the Issuer under the Indenture, the Loan Agreement, and the Bond Purchase Agreement.

SECTION 14. Resolution Constitutes a Contract. The Issuer covenants and agrees that this Resolution shall constitute a contract between the Issuer and the Owners from time to time of the Bonds and that all covenants and agreements set forth herein and in the Loan Agreement and the Indenture to be performed by the Issuer shall be for the equal and ratable benefit and security of all Owners of the Bonds.

SECTION 15. Severability. If any one or more of the covenants, agreements, or provisions contained herein or in the Bonds shall be held contrary to any express provisions of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements, or provisions hereof and thereof and shall in no way affect the validity of any of the other provisions of this Resolution or of the Bonds.

SECTION 16. Repealer. All resolutions or parts thereof of the Issuer in conflict with the provisions herein contained are, to the extent of any such conflict, hereby superseded and repealed.

SECTION 17. Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_ who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the motion passed as follows:

Commissioner Addie L. Greene – Chairperson	_____
Commissioner Jeff Koons - Vice Chair	_____
Commissioner Karen T. Marcus	_____
Commissioner Robert J. Kanjian	_____
Commissioner Mary McCarty	_____
Commissioner Burt Aaronson	_____
Commissioner Jess R. Santamaria	_____

The Chairperson thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

Sharon R. Bock, Clerk and Comptroller

By: \_\_\_\_\_  
Deputy Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Paul F. J.  
County Attorney