

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

Agenda Item #:

6A-2

AGENDA ITEM SUMMARY

Meeting Date: August 18, 2009 [] Consent [x] Regular
[] Workshop [] Public Hearing

Department: County Administration
Submitted By: County Administration
Submitted For: Economic Development Office

I. EXECUTIVE BRIEF

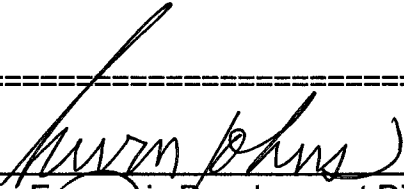
Motion and Title: Staff recommends motion to adopt: A Resolution authorizing the issuance of American Recovery and Reinvestment Act (ARRA) Federal Recovery Zone Facility Bonds and providing for the legal process, including application, fees, policy and procedures consistent with Federal Treasury Department regulations.

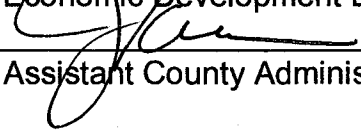
Summary: On February 17, 2009, the American Recovery and Reinvestment Act (ARRA) authorizing the issuance of Recovery Zone Facility Bonds was signed into law. On June 12, 2009, the Treasury Department allocated \$15 Billion for Recovery Zone Facility Bonds, which includes Palm Beach County's allocation of \$53,988,000. These bonds were specifically created to foster economic development in distressed areas. Recovery Zone Facility Bonds are tax exempt private activity bonds that can be used for qualified private business, but must be used to finance "recovery zone property" in a Recovery Zone. The Treasury defined a Recovery Zone as any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures or general distress. The County Administrator, in consultation with the Economic Development Office, will designate areas of Palm beach County as Recovery Zones in conformance with the purpose of the ARRA. A qualified business is defined as any trade or business except residential rental property or certain businesses such as private golf courses, massage parlors, hot tub facilities, suntan facilities, racetracks and other gambling facilities or liquor stores. The bond allocation expires on December 31, 2010. Federal law requires the Board of County Commissioners to approve each project prior to issuance of such Bonds. **These bonds are the sole obligation of the private business and not a financial obligation of the County. They require no guarantees of the County and are not assessed against the bonded indebtedness of the County.** Countywide (PK)

Background and Policy Issues: On February 17, 2009, the ARRA Section 1401 of Title I of Division B (ARRA) of 2009, Pub. L. No. 111-5, 123 Stat. 115(2009) ("ARRA"), added §§ 1400U-12 through 1400U-3 to the Code authorizing State and local governments to issue Recovery Zone Bonds; and provides Federal income tax incentives for obligations issued to finance the construction, renovation, or acquisition of Recovery Zone property to be used to qualified business in the Recovery Zone (Recovery Zone Facility Bonds); and defined in Section 1400U-1 as (1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress; (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA

Attachments:

1. Resolution

Recommended by:  8-6-09
Economic Development Director Date

Approved by:  8/13/09
Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Operating Costs	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
External Revenues	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Program Income (PBC)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
In-Kind Match (PBC)	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
NET FISCAL IMPACT	<u>0</u>	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget? Yes _____ No _____

Budget Account No: Fund _____ Agency _____ Org. _____ Object _____

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

C. Departmental Fiscal Review: N/A

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Administration Comments:

MO
8/10/09
 OFMB
 8/10/09
 21719

Jim J. Jacobson
8/12/09
 Contract Development and Control

B. Legal Sufficiency:

Paul F. J.
8/13/09
 Sr. Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

RESOLUTION No. R-2009-_____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF RECOVERY ZONE FACILITY BONDS; ESTABLISHING AN APPLICATION FEE, A FINANCING FEE, AND AN ATTORNEY FEE FOR RECOVERY ZONE FACILITY BONDS IN PALM BEACH COUNTY; DIRECTING COUNTY ADMINISTRATION, ATTORNEY'S OFFICE AND ECONOMIC DEVELOPMENT OFFICE TO ADMINISTER THE BOND PROGRAM; DELEGATING TO THE COUNTY ADMINISTRATOR AUTHORITY TO DESIGNATE RECOVERY ZONES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("ARRA"), added §§ 1400U-12 through 1400U-3 to the Code authorizing State and local governments to issue Recovery Zone Bonds, signed into law on February 17, 2009; and

WHEREAS, ARRA provides Federal income tax incentives for obligations issued to finance the construction, renovation, or acquisition of Recovery Zone property to be used by qualified businesses in Recovery Zones (Recovery Zone Facility Bonds); and

WHEREAS, a Recovery Zone is defined in Section 1400U-1 as (1) any area designated by an issuer of Recovery Zone Bonds as having significant poverty, unemployment, rate of home foreclosures, or general distress; (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA, which effective date is February 17, 2009; and

WHEREAS, the Recovery Zone Facility Bonds (a) are tax-exempt private activity bonds (b) have no limit as to the amount of the bond and can be used for acquisition, construction, machinery and equipment and issuance costs, and (c) are the sole obligation of the private business and not a financial obligation of the County, require no guarantees of the County and are not assessed against the bonded indebtedness of the County; and

WHEREAS, pursuant to ARRA, (a) the Federal Government has allocated fifty-three million, nine hundred ninety eight thousand dollars (\$53,998,000) of Recovery Zone Facility Bonds for Palm Beach County, and (b) the Recovery Zone Facility Bonds must be issued by December 31, 2010; and

WHEREAS the Federal Law requires the Board of County Commissioners (the Board) to approve each and every project prior to the issuance of such Bonds; and

WHEREAS, the Board has determined that there exists a need for the development and financing of business projects that will lead to the creation of new jobs in Palm Beach County so as to enhance the development of a strong and stable local economy and to provide a better quality of life for the citizens of Palm Beach County; and

WHEREAS, the Board has determined that the fees associated with the review and issuance of federally authorized Recovery Zone Facility Bonds post-closing costs and additional legal services provided by the Economic Development and County Attorney's Office in connection with such Bonds should be paid directly by the applicant; and

WHEREAS, the County Administrator, in consultation with the Economic Development Office will designate areas of Palm Beach County as a Recovery Zone in conformance with the purpose of the ARRA, as to encourage and support job creation and associated economic development activities within Palm Beach County and enable the County to fully utilize its allocation for issuing Recovery Zone Facility Bonds; and

WHEREAS, the BCC directs the Economic Development Office and the County Attorney's Office (a) screen and select eligible private businesses, including developers who wish to secure private funding through the ARRA Recovery Zone Facility Bonds, and (b) charge appropriate application and financing fees.

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

The foregoing recitals are true and correct and are expressly incorporated herein by reference and made a part hereof.

Section I: Application Fee – Upon formal application for review and issuance of a Recovery Zone Facility Bond, the applicant shall pay to Palm Beach County a non-reimbursable application fee for each such application in the amount of \$1,000 to cover processing expenses.

Section II: Financing Fee – At closing of the Recovery Zone Facility Bond issue a financing fee will be paid to Palm Beach County by the applicant equal to one hundred basis points of the principal amount of the Bond up to \$6 million and fifty basis points of the principal amount of the Bond over \$6 million. The intent is to utilize Recovery Bond financing fees to underwrite a portion of Economic Development Office activities in lieu of ad valorem taxes.

Section III: Attorney Fee – A fee shall be paid to Palm Beach County by the applicant of \$200 per hour for attorney time, \$60 per hour for paralegal time, with travel time at one-half the above hourly rates, for legal services in connection with the issuance of a Recovery Zone Facility Bond provided by the County Attorney's Office, up to a maximum of \$15,000. All expenses incurred by the County Attorney's Office in connection with providing such legal services, post-closing and any additional legal services provided in excess of 1 hour per month thereafter shall also be paid by the applicant to Palm Beach County. These fees are in addition to other costs of issuance, including but not limited to, bond counsel and underwriting fees.

Section IV: Program Administration – The Program shall be administered by the County Administrator, the County Attorney and the Office of Economic Development and in their review of each project, shall with the assistance of Bond Counsel, determine whether the Area in which the Project is to occur is an eligible Area under Federal Law.

Section V: Delegation -- the County Administrator, in consultation with the Economic Development Office is hereby delegated power to designate areas of Palm Beach County as a Recovery Zone in conformance with the purpose of the ARRA, as to encourage and support job creation and associated economic development activities within Palm Beach County and enable the County to fully utilize its allocation for issuing Recovery Zone Facility Bonds, subject to the provisions of this Resolution.

Section VI: Effective Date – This Resolution is effective immediately upon

its adoption.

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

COMMISSIONER JOHN F. KOONS, CHAIRMAN	_____
COMMISSIONER BURT AARONSON, VICE CHAIRMAN	_____
COMMISSIONER KAREN T. MARCUS	_____
COMMISSIONER SHELLEY VANA	_____
COMMISSIONER STEVEN L. ABRAMS	_____
COMMISSIONER JESS R. SANTAMARIA	_____
COMMISSIONER PRISCILLA A. TAYLOR	_____

The Chairman thereupon declared the Resolution duly passed and adopted this ____ day of _____, 2009.

ATTEST:
Sharon R. Bock, Clerk & Comptroller

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

APPROVED AS TO TERMS AND
CONDITIONS

By:  _____
Economic Development Director