

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

Meeting Date: 01/12/2010 ☒ Consent ☐ Regular
☐ Public Hearing
 Department
 Submitted By: COUNTY ATTORNEY
 Submitted For: Housing Finance Authority of Palm Beach County, Florida

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve the execution, delivery and performance by the Housing Finance Authority of Palm Beach County, Florida (the “Authority”) of that certain Interlocal Agreement to be entered into by and between the Authority and the Housing Finance Authority of Manatee County, Florida (the “Manatee Authority”) in substantially the form attached hereto, with such changes as deemed necessary and appropriate by the Authority and its general counsel for furtherance of the purposes thereof (the “Interlocal Agreement”) as required by Section 159.603(3), Florida Statutes (the “Statute”).

Summary: Pursuant to its authority under Section 163.01, Florida Statutes and the Florida Housing Finance Authority Law encoded in Part IV, Chapter 159, Florida Statutes (the “Act”), the Authority may enter into interlocal agreements with other governmental bodies to make the most efficient use of their respective powers, resources and capabilities in the exercise of those powers common to them. The Authority plans to enter into the Interlocal Agreement with the Manatee Authority to authorize the Manatee Authority to finance qualifying single family mortgage loan programs within the territorial limits of Palm Beach County, Florida (the “County”) and Manatee County, Florida, which will be financed from the proceeds of the \$16,610,000 Housing Finance Authority of Manatee County, Florida Single Family Mortgage Revenue Bonds, Series 2009 (New Issue Bond Program - Small Issue)(the “Manatee Bonds”) issued by the Manatee Authority. Pursuant to the Statute, the governing body of the County must provide approval for the use of proceeds of the Manatee Bonds pursuant to the Interlocal Agreement for the financing of single family mortgage loans within the County. Countywide (PFK)

Background and Policy Issues: The adoption of this motion by the Board of County Commissioners would constitute the approval required under the Statute.

Attachments:

1. Interlocal Agreement by and between the Housing Finance Authority of Palm Beach County, Florida and the Housing Finance Authority of Manatee County, Florida.

**Recommended
by:**

County Attorney

Date _____

Approved by:

N/A

Date _____

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	<u>0</u>	<u>0</u>	_____	_____	_____
Operating Costs	<u>0</u>	<u>0</u>	_____	_____	_____
External Revenues	<u>0</u>	<u>0</u>	_____	_____	_____
Program Income (County)	<u>0</u>	<u>0</u>	_____	_____	_____
In-Kind Match (County)	<u>0</u>	<u>0</u>	_____	_____	_____
NET FISCAL IMPACT	<u>0</u>	<u>0</u>	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	<u>0</u>	<u>0</u>	_____	_____	_____

Is Item Included in Current Budget? Yes _____ No X

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 Housing Finance Authority.
No fiscal impact to Palm Beach County.

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:

Jim Dahl 12-30-09 Don. J. Jacobson 12/30/09
OFMB Contract Development and Control

B. Legal Sufficiency:

Paul F. J. 12/29/09
Assistant County Attorney

PBC BCC is not a party
to this contract.

C. Other Department Review:

Department Director

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

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INTERLOCAL AGREEMENT

THIS AGREEMENT made and entered into by and between the HOUSING FINANCE AUTHORITY OF MANATEE COUNTY, FLORIDA, a public body corporate and politic organized and existing under the laws of the State of Florida (hereinafter referred to as the "Manatee Authority"), and the HOUSING FINANCE AUTHORITY OF PALM BEACH COUNTY, FLORIDA, a public body corporate and politic organized and existing under the laws of the State of Florida (hereinafter referred to as the "Palm Beach Authority").

WITNESSETH:

WHEREAS, Chapter 159, Part IV, Florida Statutes, as amended, authorizes the creation of Housing Finance Authorities within the State of Florida (the "State") for the purpose of issuing revenue bonds to assist in relieving the shortage of housing available at prices or rentals which many persons and families can afford; and

WHEREAS, the Manatee Authority has determined to issue its \$16,610,000 Housing Finance Authority of Manatee County, Florida Single Family Mortgage Revenue Bonds, Series 2009 (New Issue Bond Program - Small Issue), as one series (the "Manatee Bonds"); and

WHEREAS, pursuant to and subject to the limitations set forth in this Agreement, the Palm Beach Authority will originate qualifying single family housing mortgage loans (the "Palm Beach Loans") within the territorial boundaries of Palm Beach County, Florida ("Palm Beach County" and, together with the territorial boundaries of Manatee County, Florida, the "Area of Operation"); and

WHEREAS, pursuant to and subject to the limitations set forth in this Agreement, the Palm Beach Authority will delegate its authority to purchase the Palm Beach Loans or securities backed by the Palm Beach Loans to the Manatee Authority; and

WHEREAS, the issuance of the Manatee Bonds by the Manatee Authority for use in the Area of Operation will result in a wider allocation of fixed expenses and achieve certain other economies of scale that will have the effect of reducing the interest on mortgage loans that otherwise would have to be charged; and

WHEREAS, Sections 163.01, 159.603 and 159.608, Florida Statutes, as amended, authorize the Manatee Authority and the Palm Beach Authority to enter into this Interlocal Agreement in order to make the most efficient use of their respective powers, resources and capabilities by authorizing the Manatee Authority to exercise those powers which are common to them for the purpose of issuing the Manatee Bonds to finance qualifying single family mortgage loan programs for the entire Area of Operation.

NOW, THEREFORE, the parties agree as follows:

Section 1. Issuance of Manatee Bonds and Use of Proceeds. The Palm Beach Authority hereby grants authority to the Manatee Authority to issue the Manatee Bonds

to finance up to \$5,000,000 in Palm Beach Loans (the "Palm Beach Allocation") as described in the resolutions authorizing the Manatee Bonds. The Palm Beach Authority shall have one hundred and eighty (180) days (the "Allocation Expiration Date") from January 12, 2010 to utilize the Palm Beach Allocation for the origination of the Palm Beach Loans. Any unused portion of the Palm Beach Allocation shall revert to the Manatee Authority on the Allocation Expiration Date unless such Allocation Expiration Date is otherwise extended in writing by the Manatee Authority. All revenues generated by the Manatee Bonds issued pursuant to this Agreement and by the use of the proceeds thereof, will be administered by the Manatee Authority or its agents and all payments due from such revenues shall be paid by the Manatee Authority or its agents without further action by the Palm Beach Authority.

Section 2. Administration. The Manatee Authority hereby assumes responsibility for administering this Agreement by and through its employees, agents and officers; provided, however, that the Palm Beach Authority retains and reserves its right and obligation to require reasonable reporting on the single family program designed for and operated within Palm Beach County. The Manatee Authority and its agents shall provide the Palm Beach Authority with such reports as may be necessary to account for funds generated by or as a result of this Agreement.

The Manatee Authority, subject to the terms and conditions of this Agreement, shall have full authority and responsibility to negotiate, market, sell, issue and deliver its Manatee Bonds to finance qualifying single family housing mortgage loans in the Area of Operation and to take such other action as may be necessary or convenient to accomplish such purpose.

Section 3. Program Parameters. The Palm Beach Authority shall determine the methodology for establishing and shall establish initial maximum housing prices and initial maximum adjusted family income for eligible borrowers in Palm Beach County in accordance with Section 143 of the Internal Revenue Code of 1986, as amended (the "Code"), and in each subsequent year, the Manatee Authority shall adjust maximum housing prices and maximum adjusted family income for eligible borrowers in Palm Beach County using the methodology determined by the Palm Beach Authority in accordance with the Code. The Palm Beach Authority hereby consents and agrees to the establishment by the Manatee Authority of all other program parameters including the criteria and requirements for participating lenders; provided, however, that (i) the Palm Beach Authority shall select the participating lenders for origination of mortgages in Palm Beach County, which participating lenders shall meet the criteria and requirements established by the Manatee Authority and (ii) the Palm Beach Authority shall establish all parameters for any down payment assistance and/or second mortgage loan program funded by the Palm Beach Authority.

Section 4. Fees and Costs. The Palm Beach Authority shall pay for all legal fees incurred by it in connection with this Agreement. Any annual issuer fees of the Manatee Authority will belong to the Manatee Authority as issuer of the Manatee Bonds.

Section 5. Term. Subject to Section 10 hereof, this Agreement will remain in full force and effect from the date of its execution until the date when no Manatee Bonds remain outstanding; provided that any party hereto shall have the right to terminate this Agreement upon 30 days' written notice to the other party hereto. Notwithstanding the foregoing, it is agreed that this Agreement may not be terminated by any party during any period that any series of Manatee Bonds issued pursuant to the terms hereof remain outstanding, or during any period in which the proceeds of such Manatee Bonds are still in the possession of the Manatee Authority or its agents pending distribution, unless the parties to this Agreement mutually agree in writing to the terms of such termination. It is further agreed that in the event of termination the parties to this Agreement will provide continuing cooperation to each other in fulfilling the obligations associated with the issuance of Manatee Bonds pursuant to this Agreement.

Section 6. Indemnity. The Manatee Authority agrees to hold Palm Beach County, the Palm Beach Authority, and the officers, employees, agents and professionals of Palm Beach County and the Palm Beach Authority harmless, to the extent permitted by law, from any and all liability for repayment of principal of and interest or penalty on the Manatee Bonds or in connection with the approval by the Palm Beach Authority of the program parameters as required by Section 3 of this Agreement.

Section 7. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8. Amendment. This Agreement may be modified only by written agreement by both parties in accordance with their respective laws, rules and procedures.

Section 9. Assignment. Neither party shall assign this Agreement or any of its rights, interests, duties or obligations hereunder, and any such assignment (whether voluntary or by operation of law) shall be void.

Section 10. Filing with Clerks of Court; Effectiveness. In accordance with Section 163.01(11), Florida Statutes, prior to its effectiveness, this Agreement shall be filed with the clerk of the circuit court of each of Palm Beach and Manatee counties.

[Signature page follows]

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof as of _____, 2010.

HOUSING FINANCE AUTHORITY OF
MANATEE COUNTY, FLORIDA

(SEAL)

ATTEST:

By _____
Chairperson

By: _____
Secretary

HOUSING FINANCE AUTHORITY OF
PALM BEACH COUNTY, FLORIDA

(SEAL)

ATTEST:

By _____
Chairperson

By: _____
Executive Director

WPB 382130849v5 12-28-09