

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: 6/21/2011

Consent       Regular  
 Public Hearing

Department

Submitted By: COUNTY ATTORNEY

Submitted For:

I. EXECUTIVE BRIEF

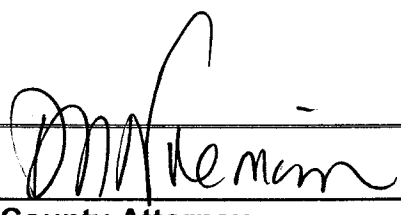
**Motion and Title:** Staff recommends motion to (A) conduct a public hearing required by the Internal Revenue Code regarding the request of Caron Foundation of Florida, Inc. (the "Company") to modify the existing bond financing documents executed in connection with the issuance of the Tax-Exempt Adjustable Mode Revenue Bonds (Caron Foundation of Florida, Inc. Project) Series 2008 (the "Original 2008 Bonds"); and (B) adopt a resolution (i) approving a request of Caron Foundation of Florida, Inc. to modify the existing bond financing documents executed in connection with the issuance of the Original 2008 Bonds to add a new interest rate mode and make other necessary amendments in connection therewith; and (ii) authorizing the execution and delivery of the documents necessary to accomplish the amendment of the Original 2008 Bonds.

**Summary:** On January 10, 2008, Palm Beach County, Florida issued the Original 2008 Bonds to finance a project on behalf of Caron Foundation of Florida, Inc. consisting of (A) payment of 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 Lawson Boulevard, Delray Beach, Florida; (B) payment of 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 (C) payment of the costs of issuance of the Original 2008 Bonds. The Original 2008 Bonds are payable solely from revenues derived from the Company. In connection with the modification of the Original 2008 Bonds, it is necessary that the County conduct the TEFRA public hearing required by the Internal Revenue Code. **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 Policy Issues:** The resolution authorizes the execution and delivery of the Amended and Restated Bonds and approves the form of and authorizes the execution of the documents required for this project. The Amended and Restated Bonds will be initially purchased directly by Wells Fargo Bank, National Association.

**Attachments:**

- 1. Resolution.

Recommended by:       6/11/11  
County Attorney      Date

Approved by: N/A      \_\_\_\_\_  
Date

**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2011	2012	2013	2014	2015
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	_____	_____	_____	_____	_____
# ADDITIONAL FTE	_____	_____	_____	_____	_____
POSITIONS (Cumulative)*	_____	_____	_____	_____	_____

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

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

Reporting Category \_\_\_\_\_

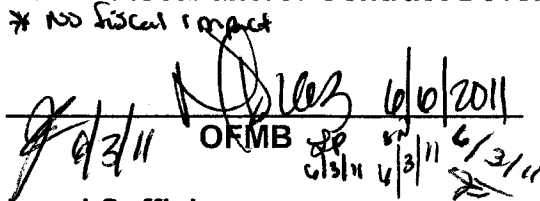
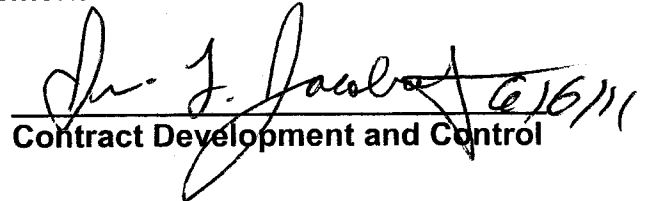
**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

**C. Departmental Fiscal Review:** All costs to be borne by Applicant. No fiscal impact cost to Palm Beach County.

**III. REVIEW COMMENTS**

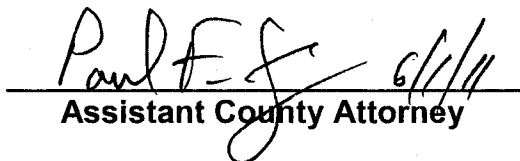
**A. OFMB Fiscal and/or Contract Development and Control Comments:**

\* No fiscal impact

6/3/11 ORMB 6/10/2011  
 6/3/11 6/3/11  
 Contract Development and Control 6/16/11

**B. Legal Sufficiency:**

  
 Assistant County Attorney 6/1/11

**C. Other Department Review:**

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

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

RESOLUTION NO. R-2011-\_\_\_\_\_

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE AMENDMENT AND RESTATEMENT OF ITS TAX-EXEMPT ADJUSTABLE MODE REVENUE BONDS, SERIES 2008 (CARON FOUNDATION OF FLORIDA, INC. PROJECT) TO ADD A NEW INTEREST RATE MODE AND MAKE OTHER NECESSARY CHANGES; AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED LOAN AGREEMENT AND AN AMENDED AND RESTATED INDENTURE OF TRUST; AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF THE COUNTY TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE AMENDED AND RESTATED BONDS; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE EXECUTION AND DELIVERY OF THE AMENDED AND RESTATED 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 January 10, 2008, the Issuer issued its Tax-Exempt Adjustable Mode Revenue Bonds, Series 2008 (Caron Foundation of Florida, Inc. Project) in the original principal amount of \$9,500,000 (the "Original 2008 Bonds") to finance a project of Caron Foundation of Florida, Inc. (the "Borrower") consisting of (i) the 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) 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) the payment of the costs of issuance of the Original 2008 Bonds (the "Project"); and

WHEREAS, the proceeds of the Original 2008 Bonds were loaned to the Borrower pursuant to a Loan Agreement dated as of January 1, 2008 (the "Original Loan Agreement") by and between the Borrower and the Issuer to pay a portion of the costs of the Project; and

WHEREAS, the Original 2008 Bonds were issued under and secured by an Indenture of Trust dated as of January 1, 2008 (the "Original Indenture") by and between the Issuer and Manufacturers and Traders Trust Company, as trustee; and

WHEREAS, the Borrower has requested the Issuer to amend and restate the Original 2008 Bonds to add a new interest rate mode and make other necessary amendments in

connection therewith, and has requested the Issuer to execute and deliver its Amended and Restated Tax-Exempt Adjustable Mode Revenue Bonds (Caron Foundation of Florida, Inc. Project), Series 2008 (the "2008 Bonds"); and

WHEREAS, the 2008 Bonds will be issued pursuant to the Original Indenture, as amended and supplemented by an Amended and Restated Indenture of Trust between the Issuer and Wells Fargo Bank, National Association, as trustee (the "Trustee") (the "Indenture"); and

WHEREAS, in connection with the execution and delivery of the 2008 Bonds, the Issuer and the Borrower will also enter into an Amended and Restated Loan Agreement (the "Loan Agreement") to make certain necessary amendments and supplements to the Original Loan Agreement; and

WHEREAS, it is necessary and desirable to authorize the execution and delivery of the Indenture and the Loan Agreement in connection with the execution and delivery of the 2008 Bonds; and

WHEREAS, the execution and delivery of the 2008 Bonds 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. 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. Amendment and Restatement of Original 2008 Bonds. Subject and pursuant to the provisions hereof and of the Indenture, for the purpose of adding a new interest rate mode and making other necessary amendments in connection therewith, the execution and delivery of the 2008 Bonds of the Issuer under the authority of the Act is hereby approved, provided that the interest rate on the 2008 Bonds shall not exceed the maximum rate permitted by law. The maturity date of the 2008 Bonds will remain January 1, 2028 and the principal amount of the Bonds will not increase.

Subject to the foregoing, the 2008 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.

The Issuer conducted a public hearing regarding the transaction described herein prior to the adoption of this Resolution. The Issuer hereby approves the transaction described herein for purposes of Section 147(f) of the Internal Revenue Code of 1986.

SECTION 4. Authorization of Execution and Delivery of the Indenture. The Issuer is authorized to enter into the Indenture, in such form as may be approved by the Chair, such approval to be presumed by the execution thereof by the Chair, and the Issuer hereby authorizes and directs the Chair 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 5. Authorization of Execution and Delivery of the Loan Agreement. The Issuer is authorized to enter into the Loan Agreement, in such form as may be approved by the Chair, such approval to be presumed by the execution thereof by the Chair, is hereby approved by the Issuer, and the Issuer authorizes and directs the Chair 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 6. Trustee. Wells Fargo Bank, National Association is appointed as initial Trustee under the Indenture.

SECTION 7. No Personal Liability. No covenant, stipulation, obligation or agreement herein contained or contained in the Loan Agreement, the Indenture, the 2008 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 2008 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 8. 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 2008 Bonds, the Bank 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 9. 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 10. 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 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 2008 Bonds, the Loan Agreement, the Indenture and this Resolution.

SECTION 11. General Authorizations. The Chair, 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 and the Loan Agreement.

SECTION 12. 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 2008 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 2008 Bonds.

SECTION 13. Severability. If any one or more of the covenants, agreements, or provisions contained herein or in the 2008 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 2008 Bonds.

SECTION 14. 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 15. 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 Karen T. Marcus – Chair \_\_\_\_\_
- Commissioner Shelley Vana - Vice Chair \_\_\_\_\_
- Commissioner Paulette Burdick \_\_\_\_\_
- Commissioner Steven Abrams \_\_\_\_\_
- Commissioner Burt Aaronson \_\_\_\_\_
- Commissioner Jess R. Santamaria \_\_\_\_\_
- Commissioner Priscilla A. Taylor \_\_\_\_\_

The Chair thereupon declared the Resolution duly passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

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