

Agenda Item # 5B1

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

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2012	2013	2014	2015	2016
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$23,000)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<b><u>(\$23,000)</u></b>	_____	_____	_____	_____
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____

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 Applicant. No fiscal impact costs to Palm Beach County. Palm Beach County will receive \$23,000 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 Development and Control Comments:

11/1/11 RQJ 11/1/11 OFMB 11/2/11  
11/1/11 11/1/11 11/1/11 11/1/11

Dr. J. Jacob 11/13/11  
Contract Development and Control

### B. Legal Sufficiency:

Paul F. J. 10/31/11  
Assistant County Attorney

### C. Other Department Review:

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

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

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

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF THE COUNTY'S INDUSTRIAL DEVELOPMENT REVENUE BOND, SERIES 2011 (CLASSICAL SOUTH FLORIDA INC. PROJECT) IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$4,600,000 FOR THE PURPOSE OF PROVIDING FUNDS TO MAKE A LOAN TO CLASSICAL SOUTH FLORIDA INC. (THE "BORROWER") TO PROVIDE FUNDS TO REFINANCE DEBT INCURRED BY THE BORROWER TO ACQUIRE CERTAIN OF THE ASSETS NECESSARY TO THE OPERATION OF RADIO STATION WPBI (90.7 FM), INCLUDING THE LICENSES AND PERMITS NECESSARY TO OPERATE SUCH STATION, AND TO REFINANCE AND FINANCE RELATED FACILITIES LOCATED AT THE SAME LOCATIONS, ALL SUCH FACILITIES TO BE OWNED AND OPERATED BY THE BORROWER AND TO PAY THE COSTS OF ISSUING THE BOND; APPROVING THE FORM OF A TRUST INDENTURE AND LOAN AGREEMENT AND AUTHORIZING THE EXECUTION THEREOF; AWARDING THE SALE OF THE BOND BY A NEGOTIATED SALE TO U.S. BANK NATIONAL ASSOCIATION; AUTHORIZING OFFICIALS OF THE COUNTY TO TAKE CERTAIN ACTION IN CONNECTION WITH THE ISSUANCE OF THE BOND; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF THE BOND; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, Classical South Florida Inc. (the "Borrower") has requested Palm Beach County, Florida (the "County") to assist the Borrower by the issuance by the County of its Industrial Development Revenue Bond, Series 2011 (Classical South Florida Inc. Project) in a principal amount of not exceeding \$4,600,000 (the "Bond") and the loan (the "Loan") of the proceeds of the Bond to the Borrower to provide funds to refinance debt incurred by the Borrower to acquire certain of the assets necessary to the operation of radio station WPBI (90.7 FM), including the licenses and permits necessary to operate such station, and to refinance and finance related facilities located at the same locations owned and operated and to be owned and operated by the Borrower, and to pay a portion of the costs of issuing the Bond (collectively, the "Project"); and

WHEREAS, the facilities of the Borrower to be financed with proceeds of the Bond are located at:

6075 S.R. 7, Lake Worth, 3401 South Congress Ave., Boynton Beach, and 525 South Flagler Drive, West Palm Beach; and

**WHEREAS**, the Borrower has received a proposal from U.S. Bank National Association (together with its successors and assigns as registered owner of the Bond, the "Bank") to purchase the Bond; and

**WHEREAS**, it is necessary and desirable to authorize the execution of a Loan Agreement (the "Agreement") and a Trust Indenture between the County and U.S. Bank National Association as trustee (the "Indenture"), and to specify the terms of the Bond;

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

**SECTION 1. AUTHORITY FOR THIS RESOLUTION.** This resolution, hereinafter called the "Resolution," is adopted pursuant to Part II, Chapter 159, Florida Statutes and other applicable provisions of Florida law.

**SECTION 2. FINDINGS.** Upon consideration of the documents described herein and the information presented to the County at or prior to the date hereof, it is hereby ascertained, determined and declared as follows:

A. The Project will improve the education and living conditions of residents of the County and will serve a public purpose by advancing the economic prosperity, education and the general welfare of the County, the State, and the people thereof. As of the date hereof, the Borrower has represented and shown that it is financially responsible and fully capable of and willing to fulfill any obligations which it may incur in connection with the Bond as contemplated by this Resolution. Local government will be able to cope satisfactorily with the impact of the facilities included in 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 such facilities and on account of any increases in population or other circumstances resulting therefrom.

B. The Loan Agreement will make provision for the operation, repair and maintenance of the financed facilities at the expense of the Borrower and for the payment of the principal and interest on the Bond and all other costs incurred by the County in connection with the Bond and such facilities.

C. The County has been advised that due to the desire to coordinate the sale of the Bond and due to the limited market for tax-exempt obligations such as the Bond, it is in the best interest of the Borrower to sell the Bond by negotiated sale, and the County, wishing to obtain the best interest rate on the Bond for the benefit of the Borrower, has determined to sell the Bond by negotiated sale to the Bank, permitting the County to enter such market at the most advantageous time, rather than at a specified advertised date, and accordingly it is in the best interest of the County that a negotiated sale of the Bond be authorized.

**SECTION 3. AUTHORIZATION OF BOND.** For the purpose of making the Loan to the Borrower, there is hereby authorized to be issued under this Resolution the Bond in the

aggregate principal amount of not to exceed \$4,600,000 and to be designated "Palm Beach County, Florida Industrial Development Revenue Bond, Series 2011 (Classical South Florida Inc. Project). The Bond shall be issued as a fully registered Bond, shall be dated as of the date of issuance, shall mature, shall bear interest at a rate not in excess of the maximum lawful rate and shall have such other terms and conditions, and shall be in such form of as may be approved by the Chair, Vice-Chair or any other member of the Board of County Commissioners of the County (the "Authorized Signatory"), such approval to be conclusively presumed by the execution thereof by the Authorized Signatory. The Bond shall be issued on such date as shall be mutually agreed upon by the Bank, the Borrower and the Authorized Signatory. The County hereby authorizes and directs the Authorized Signatory to execute the Bond and to deliver the same to the Bank, upon payment of the purchase price thereof.

SECTION 4. BOND REGISTER. The Bond shall be registered as to principal and interest in the name of U.S. Bank National Association provided that the Bond may be transferred at the office of the Bond Registrar by surrender of such Bond for cancellation, accompanied by a written instrument of transfer, in form satisfactory to the County, duly executed by the registered owner in person or by his duly authorized agent, and thereupon the County will issue and deliver to the owner thereof at his expense, in the name of the transferee or transferees, a new registered Bond, having the same terms as the Bond so surrendered. The Bond, unless the interest thereon is a Weekly Rate or Fixed Rate (as provided in the Indenture), may not be transferred to any transferee other than (a) to a person who the Transferee reasonably believes is a "qualified institutional buyer" that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that the resale, pledge or transfer is being made in reliance on Rule 144A, or (b) pursuant to another exemption from registration under the 1933 Act, or (c) to a person who the seller reasonably believes is a sophisticated institutional investor and an accredited investor that purchases for its own account; or (d) pursuant to another exemption from registration under the 1933 Act.

SECTION 5. LIMITED OBLIGATION. The Bond will not be a general obligation of the County but will be a limited obligation payable solely from the loan payments received from or on behalf of the Borrower. The Bond shall not be an obligation of the State of Florida or of any political subdivision thereof, other than the County (limited as aforesaid), and any and all payments of any nature thereunder shall be payable only from amounts provided for such purpose under the Bond Documents (as hereinafter defined) and not from other funds of the County.

SECTION 6. LIMITED LIABILITY OF ISSUER. Anything in this Resolution or the Bond Documents to the contrary notwithstanding, the performance by the County of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements and promises made by it hereunder, and the liability of the County for all warranties and other covenants hereunder, shall be limited solely to the loan payments made by the Borrower and other revenues and receipts derived from the Borrower under the Bond Documents, and the County shall not be required to effectuate any of its duties, obligations, powers or covenants hereunder except to the extent of such loan payments and other revenues and receipts.

SECTION 7. NO PERSONAL LIABILITY. No recourse under or upon any obligation, covenant or agreement contained in this Resolution, the Bond, any other Bond Document or under any judgment, or by the enforcement of any assessment or by legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Resolution, shall be had against any member, agent, employee or officer, as such, past, present or future, of the County, either directly or through the County, or otherwise, for the payment for or to the County or any receiver thereof, or for or to the holder of the Bond or otherwise of any sum that may be due and unpaid by the County upon the Bond. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any member or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the County or any receiver thereof, or for or to the holder of the Bond or otherwise, of any sum that may remain due and unpaid upon the Bond is hereby expressly waived and released as a condition of and in consideration for the execution of this Resolution and the issuance of the Bond.

SECTION 8. BOND NOT A DEBT OF STATE OR ISSUER. None of the State of Florida, the County or any political subdivision thereof shall in any event be liable for the payment of the principal of or interest on the Bond, except that the County has provided for payment from the special and limited sources as provided herein and in the Indenture. The Bond shall never constitute an indebtedness of the State of Florida or of any political subdivision of the State of Florida or of the County within the meaning of any state constitutional provisions or statutory limitation and shall never constitute or give rise to the pecuniary liability of the State of Florida or any political subdivision thereof, or of the County or a charge against their general credit. The holder of the Bond shall not have the right to compel any exercise of the ad valorem taxing power of the State of Florida or of any political subdivision of said State to pay the Bond or the interest thereon.

SECTION 9. LAWS GOVERNING. This Resolution shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Florida.

SECTION 10. THE BOND DOCUMENTS. As used herein, the term "Bond Documents" means any and all documents necessary or desirable to complete the transaction described herein, including but not limited to (i) the Agreement between the County and the Borrower, (ii) the Indenture and (iii) the Bond, all in such form and content as may be approved by the Authorized Signatory, such approval to be conclusively presumed by the execution of such documents by the Authorized Signatory. The County hereby authorizes and directs the Authorized Signatory to execute the Bond Documents, simultaneous with the issuance of the Bond. It is not necessary for the seal of the County to be impressed upon any Bond Document. Notwithstanding any other provision hereof, no Bond Document shall be issued unless and until the same shall have been approved as to form and legal sufficiency on behalf of the County by the legal counsel for the County.

SECTION 11. NEGOTIATED SALE OF BOND. A negotiated sale of the Bond to the Bank is hereby authorized. Prior to the delivery of the Bond which is the sale date for the Bond, the Bank shall file with the County the disclosure and truth-in-bonding statements required by Section 218.385, Florida Statutes, and competitive bidding for the Bond is hereby waived.

SECTION 12. 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 County, the Bank and the Borrower 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 13. GENERAL AUTHORIZATION. The Authorized Signatory and the other officers and employees of the County are hereby authorized to do all acts and things required of them by this Resolution and the other Bond Documents 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 Bond, this Resolution and the other Bond Documents.

SECTION 14. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

SECTION 15. LIMITED APPROVAL. The approval given herein shall not be construed as (i) an endorsement of the creditworthiness of the Borrower or the financial viability of the Project, (ii) a recommendation to any prospective purchaser of the Bond, (iii) an evaluation of the likelihood of the repayment of the debt service on the Bond, or (iv) any necessary governmental approval relating to the Project, and the County shall not be construed by reason of its adoption of this resolution to have made any such endorsement, finding or recommendation or to have waived any of the County's rights or estopping the County from asserting any rights or responsibilities it may have in that regard.

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 vote was as follows:

Commissioner	_____	_____
Commissioner	_____	_____
Commissioner	_____	_____
Commissioner	_____	_____
Commissioner	_____	_____
Commissioner	_____	_____
Commissioner	_____	_____

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

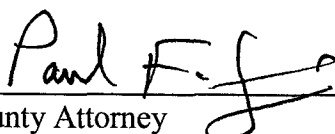
PALM BEACH COUNTY, FLORIDA  
BY ITS BOARD OF COMMISSIONERS

Sharon R. Bock, Clerk & Comptroller

[SEAL]

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

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

  
\_\_\_\_\_  
County Attorney