NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY

ATTACHMENT 1

ORDINANCE NO. 2009- 013

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 17-116 OF THE CODE OF LAWS AND ORDINANCES; AS CODIFIED IN THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY, ORDINANCE 95-30, AS AMENDED; PROVIDING FOR AN AMENDMENT TO THE TOURIST DEVELOPMENT PLAN TO AUTHORIZE THE EXPENDITURE OF ADDITIONAL REVENUES FOR THE PROMOTION AND MARKETING OF PALM BEACH COUNTY TOURISM AND FOR THE REPAIR AND MAINTENANCE OF A PROFESSIONAL SPORTS FACILITY AND CONVENTION CENTER; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the "Local Option Tourist Development Act" set forth in Section 125.0104, Florida Statutes, (hereinafter "statute"), authorizes the Board of County Commissioners (hereinafter "Board") to levy and impose a tourist development tax on the exercise within the County boundaries of the privilege of renting, leasing, or letting for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park or condominium for a term of six (6) months or less; and

WHEREAS, pursuant to the authority established in that statute, the Board enacted Ordinance 95-30 which has been amended from time to time and codified in Sections 17-113 through 17-116 of the Code of Laws and Ordinances relating to the Palm Beach County Government (hereinafter "Ordinance"), which levied a five (5) percent tourist development tax (also known as the "bed tax") for certain permissible uses as set forth in the statute; and

WHEREAS, the Ordinance established a Tourist Development Plan (hereinafter "Plan") which sets forth the specific uses and allocation of the revenues of the "bed tax"; and

WHEREAS, the TDC has determined that there is a need to infuse additional monies into the County's tourism promotional program ("promotional program") to support a multi-prong marketing campaign to promote increased usage of the County's tourist

WHEREAS, the Board hereby finds that the expenditure of revenues from the bed tax for the promotional program and for the repairs and maintenance for the Stadium and

WHEREAS, the Board wishes to amend the Plan to provide for the funding of such projects from the operating reserve fund of the first (1st) percent of bed tax revenues.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. *Section 17-116. Tourist development plan* is hereby amended to read as follows:

Sec. 17-116. Tourist development plan.

The tax revenues received pursuant to this article shall be used to fund the Palm Beach County Tourist Development Plan which is hereby adopted as follows:

PALM BEACH COUNTY TOURIST DEVELOPMENT PLAN

(a) *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, this tourist development plan (hereinafter the "plan") establishes the uses of the tax revenue by specific project or special use as authorized in Florida Statutes, § 125.0104(5). The plan also includes the expense allocation by the percentage for each specific project or special use.

(b) *Use and allocation of tax revenues.* The following categories of use of each individual percent of the bed tax are set forth below in subsection (1) with the percentage of the total amount of yearly revenue to be expended for, or credited to, each category, subject to the provisions of subsection 3 of this section 17-116, as set forth in subsection (2):

(1) *Categories of use:*

a. Category A: Promote and advertise county tourism in the state and nationally and internationally, including the provision of a convention and visitors bureau.

b. Category B: Provide for cultural and fine and non-fine arts entertainment, festivals, programs, and activities which directly promote county tourism.

c. Category C: Provide for beach improvement, maintenance, renourishment, restoration, and erosion control with an emphasis on dune restoration where possible.

d. Category D: Provide for film and television marketing and development activities which directly promote county tourism.

e. Category E: Provide for special major projects and events which directly further, advance, improve, promote and generate county tourism: To be selected and funded pursuant to subsection 3 of this section.

f. Category F: Provide for the operation and maintenance of a convention center. To be funded pursuant to subsection 3 of this section.

g. Category G: Attract, stimulate, market, and execute sports events and activities in order to promote the county nationally and internationally as a sports destination, including the financing of the construction of Blum Stadium, a sports stadium all which directly promote county tourism.

h. Category H: Construct, extend, enlarge, remodel, repair, and/or improve a convention center.

i. Category I: Provide payment on:

1. debt service relating to bonds issued to finance the construction of professional sports franchise facilities and a convention center;

2. the planning and design costs incurred prior to the issuance of such bonds; and

3. the operation and maintenance cost of a convention center for ten (10) years.

(2) Percent of yearly revenue:

Category	1st percentage Tax	2nd percentage tax	3rd percentage tax	4th percentage tax	5th percentage tax	Total 2nd,3rd and 5th
A		16.05	16.05		20.37	52.47
B		6.89	6.89		8.73	22.51
C		7.05	7.05			14.10
D		1.20	1.20		1.52	3.92
E	See subsection (c)(1) of this section 17-116					
F	See subsection (c)(1) of this section 17-116					
G		2.14	2.14		2.72	7.00
H	100					
I				100		

(c) *Special Allocations*:

(1) *Allocations for convention center operations and maintenance and special major projects and events.*

Notwithstanding the percentages allocating the initial three (3) percent of the bed tax revenues to the various categories of uses as set forth above in subsection (b), each year a total of two hundred fifty thousand dollars ($250,000.00) of the second and third percent of bed tax revenues shall be allocated for the operation and maintenance costs of a convention center (Category F) and a total of one hundred fifty thousand dollars ($150,000.00) of the second, third and fifth percent of the bed tax revenues shall be transferred into an account (Category E) which shall be reserved for special major projects and events which may arise from time to time offering the county the opportunity to further, advance, improve, promote, and generate county tourism. The TDC shall authorize expenditures for such projects upon review and assurance that the project or event is a use authorized under *Florida Statutes*, § 125.0104(5), and is consistent with the plan. The Category E reserve account shall not exceed one million dollars ($1,000,000.00). In the event the account balance does exceed one million dollars ($1,000,000.00), the excess

revenues shall revert to Categories A, B, C, D, and G in the percentages allocated in subsection (b).

(2) *Special allocations from the operating reserve fund of the (1st) percent tax:* Notwithstanding the allocation of the first (1st) percent of bed tax revenues to the use provided for in Category H:

(a) Three million dollars ($3,000,000.) of the operating reserve fund of the first (1st) percent of the bed tax shall be immediately allocated for the promotion and marketing of Palm Beach County tourism; and

(b) Ten million dollars ($10,000,000.) of the operating reserve fund of the first (1st) percent of the bed tax shall be transferred into a reserve account to pay the costs for repairs and maintenance of a convention center and a professional sports stadium which funds may be expended upon approval in the amounts set forth in a budget approved by the Board.

(c) Upon fulfillment of the funding obligations set forth above in subsections 2 (a) and (b), revenues from the first (1st) percent of the bed tax shall be allocated for Category H uses.

(d) *Sports franchise facilities and convention center.* A tourist development plan for professional sports franchise facilities and/or a convention center must be approved by resolution of the board for the purpose of advancing, promoting, and furthering county tourism. The facilities and/or convention center identified in the plan(s) may be amended by resolution of the board. The levy of the fourth cent shall automatically expire upon the retirement of all bonds issued to pay the debt service for the financing of a professional sports franchise facilities and/or a convention center.

(e) *Retirement of debt for construction of Blum Stadium.* The provision of Category G of subsection (b) of this section authorizing the use of revenues to finance the construction of a sports stadium shall sunset upon the retirement of all debt incurred to finance the construction of Blum Stadium.

(f) *Administrative expenses.* There shall be an annual amount established for administrative expenses which shall not exceed nine (9) percent of the total budget. Administrative expenses shall include administrative staff salaries, benefits, administrative

travel, indirect costs, and all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, except that funds for contractual services from the administrative budget may be expended upon the express approval of the council.

(g) *Annual review of plan*. The council and the board shall annually review the plan. On or before September 1 of each year the council shall forward to the board its recommendation for revisions, if any, to the plan. The board shall review the plan and determine the most effective use of the revenues derived from the tax.

(h) *Amendment of plan*. Except as provided in *Florida Statutes*, § 125.0104, *Florida Statutes*, to the contrary, the above tourist development plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the board of county commissioners.

Section 2. Repeal of Laws in Conflict.

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 3. Savings Clause:

Notwithstanding anything to the contrary, all provisions of Palm Beach County Code Section 17.111 through 17.116, codifying Palm Beach County Ordinance No. 95-30, as amended, are specifically preserved and remain in full force and effect for the limited purpose of enforcing any alleged violations of said Code which occurred prior to its repeal or amendment.

Section 4. Severability:

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 5. Inclusion in the Code of Laws and Ordinances:

The provisions of this Ordinance shall become and be made a part of the Palm Beach County Code. The sections of this Ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 6. Enforcement:

This Ordinance is enforceable by all means provided by law. Additionally, the County may choose to enforce this Ordinance by seeking injunctive relief in the Circuit Court of Palm Beach County.

Section 7. Penalty:

Any violation of any portion of this Ordinance shall be punishable as provided by law.

Section 8. Captions:

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 9. Effective Date:

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 2009.

SHARON R. BOCK,
CLERK & COMPTROLLER
PALM BEACH COUNTY

By:_____
Deputy Clerk

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

By:_____
John F. Koons, Chairman

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By:_____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of _____, 2009.

FLORIDA COUNTY ORDINANCE DATA RETRIEVAL SYSTEM (CODRS) CODING FORM

Instructions: Florida's Department of State, Bureau of Administrative Code has developed the County Ordinance Data Retrieval System (CODRS) to facilitate the tracking of County ordinances in Florida's 67 Counties. CODRS' data base is composed of over 25,000 county ordinances enacted since 1974.

We request your cooperation in completing this coding form. It is to be completed whenever your county enacts a new ordinance. Simply complete this form and include it with other pertinent ordinance information that is submitted to the Bureau of Administrative Code.

To code this form properly, please refer to the "keyfields" description sheet that has been given to your County Attorney's Office. If you do not have this sheet please contact the Bureau. We will be happy to fax one to you for referencing purposes. Please fill out this form as completely as is possible.

Thank you for your assistance. Should you need further assistance please contact the Bureau of Administrative Code, Department of State at (850)245-6270 or Suncom 205-6270.

COUNTY: (Palm Beach) **COUNTY ORDINANCE #** (2009 -) (e.g., 00-001)

PRIMARY KEYFIELD DESCRIPTOR: (Tourism Tax)

SECONDARY KEYFIELD DESCRIPTOR: (Tourism)

OTHER KEYFIELD DESCRIPTOR: ( )

ORDINANCE DESCRIPTION: (Tourism Tax Development) (25 characters maximum including spaces)

ORDINANCES AMENDED: (List below the ordinances that are amended by this legislation. If more than two, list the most recent two.)

AMENDMENT # 1: (2006-038) **AMENDMENT # 2**: (2005-008)

ORDINANCES REPEALED: (List below the ordinances that are repealed by this legislation.)

REPEAL # 1: ( ) **REPEAL # 3**: ( )

REPEAL # 2: ( ) **REPEAL # 4**: ( )

(Others repealed: List all that apply): _____

(FOR OFFICE USE ONLY): COUNTY CODE NUMBER: ( )

KEYFIELD 1 CODE: ( ) KEYFIELD 2 CODE: ( )

KEYFIELD 3 CODE: ( )

Rev. 4/10/04

SHARON R. BOCK
Clerk & Comptroller
Palm Beach County

May 20, 2009

The Palm Beach Post
2751 South Dixie Highway
West Palm Beach, FL 33406

Attention: Legal Ad Department

VIA FAX: (561) 820-4340

RE: NOTICE OF PUBLIC HEARING for the following items:

Ordinances:
Amending Section 17-116 of the Code of Laws and Ordinances; as codified in the Tourist Development Ordinance of Palm Beach County, Ordinance 95-30, as amended;

PUBLISH: FRIDAY, May 22, 2009

Please publish the enclosed Notice of Public Hearing wherein the Board of County Commissioners intends to consider the above referenced matter. Please furnish this office with four (4) proofs of publication along with your bill in quadruplicate, prior to the date of the **PUBLIC HEARING on June 2, 2009** and forward to the address provided below:

Sharon R. Bock
Clerk & Comptroller
P. O. Box 4036
West Palm Beach, Florida 33402-4036
Attention: Diane Brown

Should you have any questions, please contact Diane Brown at (561) 355-2951.

Very Truly Yours,
SHARON R. BOCK
Clerk & Comptroller

Grant J. Skolnick, Esq.
Board Services Administrator

GJS: db
Attachments

cc: Maureen Cullen , Chief Assistant County Attorney

301 North Olive Avenue
West Palm Beach, Florida 33401

P.O. Box 229
West Palm Beach, Florida 33402

Telephone 561-355-2996
Facsimile 561-355-6727

www.pbcountyclerk.com

NOTICE OF PUBLIC HEARINGS

PLEASE TAKE NOTICE THAT AT 9:30 A.M. on June 2, 2009, in the Palm Beach County Governmental Center, Jane Thompson Memorial Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach FL., the Board of County Commissioners of Palm Beach County, FL., intends to hold a public hearing for the purpose of considering the following proposed Palm Beach County Ordinance.

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING SECTIONS 17-116 OF THE CODE OF LAWS AND ORDINANCES; AS CODIFIED IN THE TOURIST DEVELOPMENT ORDINANCE OF PALM BEACH COUNTY, ORDINANCE 95-30, AS AMENDED; PROVIDING FOR AN AMENDMENT TO THE TOURIST DEVELOPMENT PLAN TO AUTHORIZE THE EXPENDITURE OF ADDITIONAL REVENUES FOR THE PROMOTION AND MARKETING OF PALM BEACH COUNTY TOURISM AND FOR THE REPAIR AND MAINTENANCE OF A PROFESSIONAL SPORTS FACILITY AND CONVENTION CENTER; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR ENFORCEMENT; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

A COPY OF ABOVE REFERENCED PROPOSED ORDINANCE IS AVAILABLE FOR INSPECTION IN THE MINUTES DEPARTMENT, 2ND FLOOR, ROOM 203.2, GOVERNMENTAL CENTER. ALL INTERESTED PARTIES MAY APPEAR AT THE MEETING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCE.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING THEY WILL NEED TO HAVE A RECORD OF THE PROCEEDING, AND FOR THAT, FOR SUCH PURPOSE, THEY MAY NEED TO INSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

Sharon R. Bock
Clerk & Comptroller
Board of County Commissioners

PUBLISH: May 22, 2009