MEMORANDUM

Amended
Agenda Item No. 7(C)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: November 6, 2007

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Ordinance amending Chapter 25A-4 of the Code regarding the Public Health Trust

O#07-166

The accompanying ordinance was prepared and placed on the agenda at the request of Chairman Bruno A. Barreiro.

R. A. Cuevas, Jr.
County Attorney

Memorandum

MIAMI-DADE COUNTY

Date: November 6, 2007

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Ordinance amending Section 25A-4 of the Code of Miami-Dade County regarding Public Health Trust

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The ordinance amending Section 25A-4 of the Code of Miami-Dade County regarding Public Health Trust will not have fiscal impact to Miami-Dade County.

Jennifer Glazer-Moon, Director
Office of Strategic Business Management

fis03007

MEMORANDUM
(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: November 6, 2007

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Amended Agenda Item No. 7(C)

Please note any items checked.

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor

Veto _____

Override _____

Amended

Agenda Item No. 7(C)

11-6-07

ORDINANCE NO. **07-166**

ORDINANCE AMENDING CHAPTER 25A-4 OF THE CODE OF MIAMI-DADE COUNTY TO EXEMPT THE PUBLIC HEALTH TRUST FROM MIAMI-DADE COUNTY COMPETITIVE BIDDING AND OTHER CODE CONTRACTUAL REQUIREMENTS WHEN (1) ACCEPTING GIFTS OF PERSONAL PROPERTY AND SERVICES IF SUCH GIFTS ARE IN KIND AND (2) ACCEPTING GIFTS OF CONSTRUCTION PROJECTS THAT ARE NOT IN KIND FOR UP TO $5 MILLION THAT ARE FULLY FUNDED BY A NOT FOR PROFIT ENTITY WHOSE PRIMARY PURPOSE IS TO SUPPORT THE ACTIVITIES OF THE PUBLIC HEALTH TRUST, PROVIDED SUCH NOT FOR PROFIT AND ITS CONTRACTORS AGREE TO BE BOUND BY PUBLIC RECORDS LAWS; LIMITING TO TWO YEARS TRUST AUTHORITY TO ACCEPT GIFTS OF SUCH CONSTRUCTION PROJECTS; AUTHORIZING THE TRUST TO IMPOSE RULES, CONDITIONS AND TERMS ON GIFTS, INCLUDING MANDATING COMPLIANCE WITH STATE LAW REQUIRING COMPETITIVE BIDDING PROCEDURES FOR CONSTRUCTION PROJECTS AND ASSURANCE THAT DONATIONS OF SPECIFIC CONSTRUCTION PROJECTS MEET ALL LAWFUL REQUIREMENTS AND TRUST STANDARDS OF RESPONSIBILITY; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Chapter 25A-4 of the Code of Miami-Dade County, Florida, is hereby amended as follows:[1]

Sec. 25A-4. Powers and duties of the Trust.

* * *

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

25A-4 (h) *Acceptance of gifts.* The Trust shall have the authority to accept gifts of money, services, or personal property. >>All such gifts may be subject to such rules, conditions and terms as the Trust may determine.<< Subject to the prior approval of the Commission, the Trust may accept gifts of real property, the title of which shall be in Miami-Dade County. All gifts shall be held in [t]rust pursuant to the provisions of this chapter.

>>When accepting gifts of services and personal property that are "in kind," including for construction projects and related architectural, engineering, design and landscaping services, the Trust shall be exempt from all competitive bidding requirements and other programs otherwise mandated by the Code of Miami-Dade County for Public Health Trust contracts, provided additional costs, if any, are funded by a not-for-profit organization whose primary purpose is to support the activities of the Trust. An "in kind" donation is one in which the donor itself, or through an entity controlled by the donor, provides the personal property or performs the services.

In addition, in order to attract private funding for construction projects that are not in kind and that the Trust would either not otherwise undertake or would have to postpone, the Trust may accept from a not-for-profit organization whose primary purpose is to support the activities of the Trust gifts of construction projects, including the building, renovating, retrofitting, restoration, painting, altering or repairing of any Trust facility, and all services and personal property related to such construction projects, provided that each donation of such a construction project shall not exceed five million dollars ($5,000,000) and is fully funded by such not-for-profit organization. All gifts of such construction projects shall be exempt from all competitive bidding requirements and other programs otherwise mandated by the Code of Miami-Dade County for Public Health Trust contracts, provided that the not-for-profit and the contractors on the construction project agree to be bound by public records law to the same extent as a Trust contractor providing such personal property or services. The Trust's authority to accept gifts for such construction projects shall expire two years from the date of this amendment. The not-for-profit organization shall file a report with the Public Health Trust and Board of County Commissioners every six months documenting its activities pursuant to this paragraph.

The Trust by rule or contract shall implement procedures to comply with state law requirements mandating competitive

bidding for construction projects and assure that donations of specific construction projects meet all lawful requirements and Trust standards of responsibility.<<

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Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency. RAC

Prepared by: RAC for JPH

Jack P. Hartog

Sponsored by Chairman Bruno A. Barreiro