MEMORANDUM

Agenda Item No. 11(A)(7)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: January 21, 2010

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

SUBJECT: Resolution setting policy for Miami-Dade County that all contract lobbyists shall obtain a conflict waiver from the Board prior to representing any client in any forum that is adverse to the County

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Katy Sorenson.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

RESO\2078

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: January 21, 2010

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

SUBJECT: Agenda Item No. 11(A)(7)

Please note any items checked.

_____ "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

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

_____ No committee review

_____ Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous _____) to approve

_____ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(7)
1-21-10

RESOLUTION NO. _____

RESOLUTION SETTING POLICY FOR MIAMI-DADE COUNTY THAT ALL CONTRACT LOBBYISTS SHALL OBTAIN A CONFLICT WAIVER FROM THE BOARD OF COUNTY COMMISSIONERS PRIOR TO REPRESENTING ANY CLIENT IN ANY FORUM THAT IS ADVERSE TO THE COUNTY; DIRECTING THE MAYOR OR DESIGNEE TO IMPLEMENT THE POLICY IN ALL FUTURE CONTRACTS FOR LOBBYING; REQUIRING ALL CONFLICT OF INTEREST WAIVER REQUESTS TO BE SUBMITTED DIRECTLY TO THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS, WHO SHALL PLACE THE CONFLICT WAIVER REQUEST ON THE NEXT AVAILABLE BOARD OF COUNTY COMMISSIONERS AGENDA

WHEREAS, on November 11, 1999, the Board approved Resolution No. 1236-99, which provided that no County contract lobbyist or subconsultant shall represent any client and/or issue that may be adverse to the County without first requesting and obtaining permission from the County; and

WHEREAS, on May 9, 2000, the Board passed Ordinance No. 00-64, which provided that no person or entity, whether an individual, firm, partnership or corporation, which received compensation from the county for lobbying on behalf of the county or any of its agencies or instrumentalities at either the state, national or municipal level shall represent any entity in any forum to support a position in opposition to a position of the county unless the Board grants a specific waiver for a specific lobbying activity; and

WHEREAS, the failure of any county contract lobbyist to comply with the provisions of Ordinance No. 00-64 shall result in either or both of the following:

(1) That lobbyist's contract with the county is voidable by the county;

(2) A prohibition, for a period of up to three years, as determined by the Board of County Commissioners, on the lobbyist's entering into a lobbying contract with the county; and

WHEREAS, on January 24, 2006, the Board approved Resolution No. 133-06, which authorized the County Manager to execute one-year agreements that included three one-year renewal options in the County's sole discretion with Greenberg Traurig, P.A., Alcalde & Fay, and Tew Cardenas LLP for governmental representation before the U.S. Congress and the federal executive branch as prime consultants, along with various subconsultants; and

WHEREAS, on September 26, 2006, the Board approved Resolution No. 1070-06, which authorized the County Manager to execute one-year agreements that included three one-year renewal options in the County's sole discretion with Ronald L. Book, P.A. and Rutledge, Ecenia, Purnell, & Hoffman, P.A. for governmental representation before the Florida Legislature and the State of Florida executive branch as prime consultants, along with various subconsultants; and

WHEREAS, the federal and state agreements require all County lobbyists including both the prime consultants and subconsultants to comply with the provisions of Resolution No. 1236-99 and Ordinance No. 00-64, as well as the County's general Conflict of Interest Ordinance, Ordinance No. 72-82, as amended; and

WHEREAS, the federal and state agreements provide that the Board may take, in its sole discretion, any action regarding a conflict waiver request, including but not limited to the following:

(1) Grant a waiver and allow the lobbying firm to continue to represent both the County and the other client on all issues, including the issue on which a conflict or potential conflict exists;

(2) Refuse to grant a waiver and require the lobbying firm to choose between representing either the County or the other party, requiring the lobbying firm to entirely give up its representation either of the County or the other party;

(3) Refuse to grant a waiver and void the County's contract with the lobbying firm;
(4) Grant a limited waiver and allow the lobbying firm to continue to represent both the County and the other party under whatever limitations or restrictions the County, in its sole discretion, determines to be appropriate; and

WHEREAS, conflict waiver requests should be submitted directly to the Chairman of the Board of County Commissioners and go directly to the Board of County Commissioners to expedite processing of these requests,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:

Section 1. It is the policy of Miami-Dade County that no person or entity, whether an individual, firm, partnership or corporation, that receives compensation from the county for lobbying on behalf of the county or any of its agencies or instrumentalities at the federal, state or local level shall represent any entity in any forum to support a position in opposition to a position of the County unless this Board first grants a specific waiver for the representation. A position in opposition to a County position is not limited to a position that conflicts with an express provision of the County's legislative package. An actual or perceived conflict may also arise in other areas. All County contract lobbyists shall be under an affirmative duty to remain mindful of the County's policy and fiscal interests and positions with regard to the contract lobbyists' other clients.

Section 2. To effectuate this policy, no contract or work order for lobbying shall be awarded or payment made until the contract lobbyist, including all subcontractors and lobbyists hired under work orders pursuant to the contract, seeks in writing and obtains a waiver from the Board of County Commissioners for any actual or perceived conflicts of interest. If the contract lobbyist has no conflicts, then the lobbyist shall provide a written statement that the contract lobbyist has no conflicts prior to award.

Section 3. To further effectuate this policy, no renewal of a contract or work order for lobbying shall be entered or payment made until the contract lobbyist, including all subcontractors and lobbyists hired under work orders pursuant to the contract, seeks in writing and obtains a waiver from the Board of County Commissioners for any actual or perceived conflict of interest. If the contract lobbyist has no conflicts, then the lobbyist shall provide a written statement that the contract lobbyist has no conflicts prior to renewal.

Section 4. Contract lobbyists, including all subcontractors and lobbyists hired under work orders, are under a continuing, affirmative duty during the term of the lobbying contract and any renewal terms to promptly seek in writing and obtain a waiver from the Board of County Commissioners for any conflict of interest prior to representing any entity in any forum, including but not limited to lobbying activity, that is adverse to the County or that could be perceived to be adverse to the County.

Section 5. All conflict waiver requests shall be submitted directly to the Chairman of the Board of County Commissioners who shall place the item on the agenda of the next available Board of County Commissioners meeting.

Section 6. The Mayor or Designee is directed to include language reflecting the policies set forth in this resolution in all future federal and state lobbying requests for qualifications, other procurement documents as applicable, contracts and renewals.

The Prime Sponsor of the foregoing resolution is Commissioner Katy Sorenson. It 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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of January, 2010. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

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

Jess M. McCarty

7