



**MEMORANDUM**

Agenda Item No. 11(A)(17)

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

**DATE:** July 21, 2009

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

**SUBJECT:** Resolution regarding a conflict  
waiver request by Becker &  
Poliakoff pursuant to its state  
lobbying contract with Miami-  
Dade County

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice-Chairman Jose "Pepe" Diaz.

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R. A. Cuevas, Jr.  
County Attorney

RAC/cp




# MEMORANDUM

(Revised)

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**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 Mayor'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 \_\_\_\_\_

Agenda Item No. 11(A)(17)  
7-21-09

RESOLUTION NO. \_\_\_\_\_

RESOLUTION REGARDING A CONFLICT WAIVER  
REQUEST BY BECKER & POLIAKOFF PURSUANT TO ITS  
STATE LOBBYING CONTRACT WITH MIAMI-DADE  
COUNTY

**WHEREAS**, Becker & Poliakoff is a member of the Miami-Dade County (the “County”) state contract lobbying team; and

**WHEREAS**, Becker & Poliakoff has submitted a written request, a copy of which is attached, that the County provide a conflict waiver and consent to its representation of Fidelity & Deposit Company of Maryland (hereinafter “Fidelity”) to serve as separate surety counsel in the case of Miami-Dade County v. Miri Construction, Inc. and Fidelity & Deposit Company of Maryland, Miami-Dade Circuit Court – Case No. 090-04493 CA 23 (hereinafter referred to as the “Miri Lawsuit”); and

**WHEREAS**, the County’s lobbying contracts provide that the Board may take, in its sole discretion, any action regarding a waiver of request, including but not limited to the following:

1. Grant a waiver and allow Becker & Poliakoff to continue to represent both the County and the other party;
2. Refuse to grant a waiver and void its contract with Becker & Poliakoff; and
3. Grant a limited waiver, allow Becker & Poliakoff 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,

**WHEREAS**, Fidelity is a party to the Miri Lawsuit solely by virtue of being a surety; and

**WHEREAS**, Becker & Poliakoff indicates that it will assert no affirmative counterclaims against the County on behalf of Fidelity, but will merely assert Fidelity's surety defenses, if any; and

**WHEREAS**, Zurich's bonded principal, Miri Construction, Inc. (hereinafter "Miri"), is represented by separate counsel who will assert Miri's primary factual defenses, if any; and

**WHEREAS**, Becker & Poliakoff is not seeking a waiver to represent the interests of Miri, and will not represent the interests of Miri in the Miri Lawsuit,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board grants the request by Becker & Poliakoff for a limited conflict waiver pursuant to its state lobbying contract with the County related to Becker & Poliakoff's representation of Fidelity in connection with the Miri Lawsuit. Becker & Poliakoff may represent the interests of Fidelity in the Miri Lawsuit, but this limited waiver does not extend in any way beyond the Miri Lawsuit.

The Prime Sponsor of the foregoing resolution is Vice-Chairman Jose "Pepe" Diaz. 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 July, 2009. 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.



Jess M. McCarty

Reply To:  
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June 9, 2009

Via E-Mail: [JRasco@Miamiidade.com](mailto:JRasco@Miamiidade.com)  
& Via U.S. Mail

Mr. Joe Rasco  
Director of Intergovernmental Affairs  
Miami-Dade County  
111 N.W. 1<sup>st</sup> Street, Suite 1032  
Miami, Florida 33128

*Re: Miami-Dade County v. Miri Construction, Inc. and Fidelity & Deposit Company of Maryland Miami-Dade County Circuit Court - Case No. 090-04493 CA 23*

**REQUEST FOR A DETERMINATION OF NO CONFLICT OR IN THE ALTERNATIVE, A CONFLICT WAIVER**

FLORIDA OFFICES  
BOCA RATON  
FORT MYERS  
FORT WALTON BEACH  
HOLLYWOOD  
HOMESTEAD  
LARGO  
MELBOURNE \*  
MIAMI  
NAPLES  
ORLANDO  
SARASOTA  
TALLAHASSEE  
WEST PALM BEACH

Dear Mr. Rasco:

We are writing with regard to the above-referenced case. We have been requested by Defendant, Fidelity & Deposit Company of Maryland ("F&D"), to serve as its separate surety counsel in the above-referenced case. We have not been requested to represent the interest of Miri Construction, Inc. ("Miri"), and do not intend to do so. Rather, Miri is represented by Brian Wolfe, Esq. of Smith Currie Hancock, P.A.. We do not believe that there is a conflict of interest with Miami-Dade County arising from our potential representation of F&D and our representation of the County on State Legislative lobbying matters. Specifically, we do not represent the County in connection with any construction or surety matters. We value our relationship with the County, consequently, in an abundance of caution, we are making full disclosure and seeking the following: (1) A written determination that there is no conflict of interest; or (2) That you grant us a conflict waiver.

As always, please do not hesitate to contact me if you have any questions or comments. Thank you very much for your assistance with this matter.

Best regards,



Miguel A. Diaz de la Portilla  
For the Firm

MDP/mh

cc: Mr. Robert A. Cuevas, Jr. (via e-mail: [RAC1@miamidade.gov](mailto:RAC1@miamidade.gov))  
Mr. Jess McCarty (via email: [JMM2@miamidade.gov](mailto:JMM2@miamidade.gov))

\* by appointment only