

# MEMORANDUM

Agenda Item No. 11(A)(8)

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**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

**DATE:** April 2, 2013

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

**SUBJECT:** Resolution establishing County  
policy with respect to  
conveyances to not for profit  
corporations under Florida  
Statute Section 125.38

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The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Chairwoman Rebeca Sosa and Co-Sponsor Commissioner Sally A. Heyman.



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R. A. Cuevas, Jr.  
County Attorney

RAC/smm



# MEMORANDUM

(Revised)

**TO:** Honorable Chairwoman Rebeca Sosa  
and Members, Board of County Commissioners

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R. A. Cuevas, Jr.  
County Attorney

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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 Mayor'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)(8)  
4-2-13

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

RESOLUTION ESTABLISHING COUNTY POLICY WITH  
RESPECT TO CONVEYANCES TO NOT FOR PROFIT  
CORPORATIONS UNDER FLORIDA STATUTE SECTION  
125.38

**WHEREAS**, Florida Statute 125.38 allows the County to convey properties by sale or lease to not-for-profit corporations, provided that such properties are not needed for County purposes and will be utilized to promote community interest and welfare; and

**WHEREAS**, as a condition of such conveyances, the not-for-profit corporations must develop, construct, and continue to maintain such properties for the intended public use; and

**WHEREAS**, the County has an interest in balancing the promotion of community interest and welfare by conveying appropriate properties to not-for-profit corporations, while maintaining sufficient control over such properties to ensure that they are properly developed and utilized for the benefit of the public; and

**WHEREAS**, conveying property via lease, as opposed to sale, would allow the County to exercise additional control to ensure that the properties are developed and maintained for the intended purpose; and

**WHEREAS**, the price or rent for such conveyance is set by the Board, and can be for nominal or other value; and

**WHEREAS**, not-for-profit corporations can apply for tax exempt status in connection with property utilized under a long term lease or owned by such entities; and

**WHEREAS**, the County has an interest in maximizing the number of properties on the County's tax rolls; and

**WHEREAS**, in the event that a not-for-profit corporation applies for and receives a tax exempt status, payments can be made under such leases in lieu of rent,

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

**Section 1.** This Board ratifies and adopts the matters set forth in the foregoing recitals.

**Section 2.** It shall be the policy of this Board, when conveying property to not-for-profit corporations for the public benefit under Florida Statute Section 125.38 1) to lease, rather than convey property, unless other compelling circumstances justify the conveyance of same, and 2) to include lease terms requiring a rental payment in lieu of paying taxes in the event that tax exempt status is achieved by the not-for-profit corporation, unless a hardship or other substantial reason exists for foregoing such payment.

The Prime Sponsor of the foregoing resolution is Chairwoman Rebeca Sosa and the Co-Sponsor is Commissioner Sally A. Heyman. 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:

- |                      |                         |                      |
|----------------------|-------------------------|----------------------|
|                      | Rebeca Sosa, Chairwoman |                      |
|                      | Lynda Bell, Vice Chair  |                      |
| Bruno A. Barreiro    |                         | Esteban L. Bovo, Jr. |
| Jose "Pepe" Diaz     |                         | Audrey M. Edmonson   |
| Sally A. Heyman      |                         | Barbara J. Jordan    |
| Jean Monestime       |                         | Dennis C. Moss       |
| Sen. Javier D. Souto |                         | Xavier L. Suarez     |
| Juan C. Zapata       |                         |                      |

The Chairperson thereupon declared the resolution duly passed and adopted this 2<sup>nd</sup> day of April, 2013. 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.



Debra Herman