

# MEMORANDUM

Agenda Item No. 4(C)

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**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

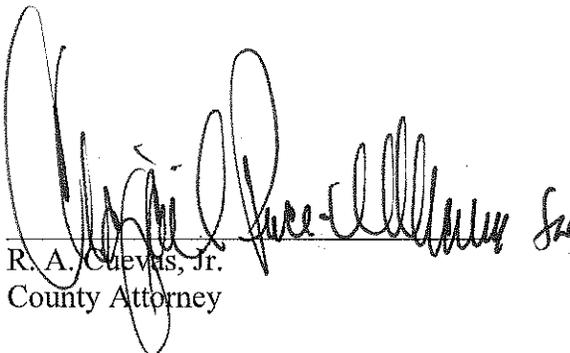
**DATE:** March 17, 2015

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

**SUBJECT:** Ordinance amending Sections  
2-8.1.1 and 10-33.02.1 of the  
Code relating to bid collusion  
to include certain familial  
relations in definition of related  
parties for the purpose of  
establishing presumption of  
collusion and pre-award  
disclosures

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The accompanying ordinance was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.



R. A. Cuevas, Jr.  
County Attorney

RAC/smm



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Jean Monestime  
and Members, Board of County Commissioners

**DATE:** March 17, 2015

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

**SUBJECT:** Agenda Item No. 4(C)

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. 4(C)

3-17-15

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTIONS 2-8.1.1 AND 10-33.02.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA RELATING TO BID COLLUSION TO INCLUDE CERTAIN FAMILIAL RELATIONS IN DEFINITION OF RELATED PARTIES FOR THE PURPOSE OF ESTABLISHING PRESUMPTION OF COLLUSION AND PRE-AWARD DISCLOSURES; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**WHEREAS**, this Board adopted Section 2-8.1.1 and Section 10-33.02.1 of the Code of Miami-Dade County to prohibit collusion among bidders or proposers on County purchases of goods, and services and on construction contracts (the "Collusion Ordinances"); and

**WHEREAS**, the Collusion Ordinances require bidders or proposers to identify, prior to award, all other "related parties" who also submitted a bid or proposal on the same solicitation; and

**WHEREAS**, the Collusion Ordinances define "related parties" as bidders or proposers or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same contract or in which a parent company or the principals thereof of one bidder or proposer have direct or indirect ownership in another bidder or proposer for the same contract; and

**WHEREAS**, the Collusion Ordinances create a presumption of collusion among "related parties" bidders that may be rebutted by an affirmative showing that such bids or proposals are not collusive; and

**WHEREAS**, this Board desires to amend the Collusion Ordinances to include the spouse, domestic partner, parents, stepparents, sibling, children or stepchildren of a bidder or

proposer or the principals, corporate officers, and managers thereof in the definition of "related parties",

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

**Section 1.** Section 2-8.1.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec. 2-8.1.1. Bids from related parties and bid collusion for the purchase of goods and services, leases, permits, concessions and management agreements.**

- (a) Notwithstanding any other provision of this Code, where two (2) or more related parties each submit a bid or proposal for any County purchases of supplies, materials and services (including professional services, other than professional architectural, engineering and other services subject to section 2-10.4 and Section 287.055, Florida Statutes), lease, permit, licensing agreement, concession or management agreement, such bids or proposals shall be presumed to be collusive. The foregoing presumption may be rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean >>the bidder or proposer; the principals, corporate officers, and managers of a bidder or proposer; or the spouse, domestic partner, parents, stepparents, sibling, children or stepchildren of a bidder or proposer<< [[bidders or proposers]] or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same agreement or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership interest in another bidder or proposer for the same agreement. Bids or proposals found to be collusive shall be rejected.

<sup>1</sup> 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.

\* \* \*

**Section 2.** Section 10-33.02.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:

**Sec. 10-33.02.1. Bids precluded from related parties and colluding bidders.**

- (a) Notwithstanding any other provision of this Code, when two (2) or more related parties each submit a bid or proposal for any construction contract subject to this article, such bid or proposal shall be presumed collusive. The foregoing presumption may be rebutted by presentation of evidence as to the extent of ownership, control and management of such related parties in the preparation and submittal of such bids or proposals. Related parties shall mean >>the bidder or proposer; the principals, corporate officers, and managers of a bidder or proposer; or the spouse, domestic partner, parents, stepparents, sibling, children or stepchildren of a bidder or proposer<< ~~[[bidders or proposers]]~~ or the principals, corporate officers, and managers thereof which have a direct or indirect ownership interest in another bidder or proposer for the same contract or in which a parent company or the principals thereof of one (1) bidder or proposer have a direct or indirect ownership in another bidder or proposer for the same contract. Bids or proposals found to be collusive shall be rejected.

\* \* \*

**Section 3.** 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 4.** It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision 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 5.** 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:

APW

Prepared by:

OR

Oren Rosenthal

Prime Sponsor: Commissioner Barbara J. Jordan