

MEMORANDUM

Agenda Item No. 11(A)(22)

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

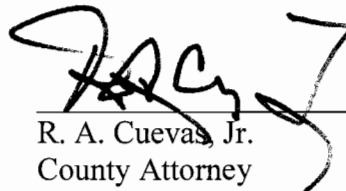
DATE: June 2, 2009

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

SUBJECT: Resolution directing the Mayor
to notify the Board of County
Commissioners when the
County waives any material
breach of a contract or extends
a contract cure period beyond
30 days

Resolution No. R-749-09

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



R. A. Cuevas, Jr.
County Attorney

RAC/up

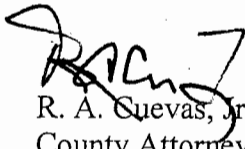


MEMORANDUM

(Revised)

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

DATE: June 2, 2009

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

SUBJECT: Agenda Item No. 11(A)(22)

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)(22)
6-2-09

RESOLUTION NO. R-749-09 _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR HIS
DESIGNEE TO NOTIFY THE BOARD OF COUNTY
COMMISSIONERS WHEN THE COUNTY WAIVES ANY
MATERIAL BREACH OF A CONTRACT OR EXTENDS A
CONTRACT CURE PERIOD BEYOND 30 DAYS

WHEREAS, the Miami-Dade County Home Rule Charter provides that the Board of
County Commissioners shall approve contracts with the County; and

WHEREAS, the Board of County Commissioners has delegated the administration of
contracts to the County Mayor or his designee; and

WHEREAS, the County Mayor or his designee exercises discretion in resolving material
breaches under the provisions of the contract and the authority of the Board pursuant to such
delegation; and

WHEREAS, timely notice to the Board of County Commissioners of the County Mayor
or his designee's exercise of delegated authority will allow the Board of County Commissioners
to provide further policy directives on contracts on an as needed basis,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, this Board directs the
County Mayor or his designee to provide notice to this Board, within 5 business days, of when
the County Mayor or his designee either waives a material breach of a contract awarded by the
Board or allows a vendor more than thirty (30) days to cure a material breach of a contract
awarded by the Board.

The Prime Sponsor of the foregoing resolution is Rebeca Sosa. It was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman	aye		
Jose "Pepe" Diaz, Vice-Chairman	aye		
Bruno A. Barreiro	aye	Audrey M. Edmonson	aye
Carlos A. Gimenez	aye	Sally A. Heyman	aye
Barbara J. Jordan	aye	Joe A. Martinez	absent
Dorrin D. Rolle	aye	Natacha Seijas	absent
Katy Sorenson	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of June, 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Oren Rosenthal

**MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR**



Legislative Notes

Agenda Item: 11(A)22

File Number: 090488

Committee(s) of Reference: Board of County Commissioners

Date of Analysis: May 18, 2009

Type of Item: Resolution Directing County Mayor to Notify Board of Waiving Material Breach of Contract

Prime Sponsor: Commissioner Rebeca Sosa

Commission District: N/A

Summary

This resolution directs the County Mayor to notify the Board of County Commissioners when the County waives any material breach of contract or extends a contract cure period beyond 30 days.

Background and Relevant Legislation

A "material breach of contract" is a substantial breach of a significant term or terms of a contract that excuses the non-breaching party from further performance under the contract and gives the non-breaching party the right to recover damages.

Currently, the County Mayor has the delegated authority to administer contracts. Under this delegated authority, the County Mayor or his designee has the discretion in resolving material breaches under the provisions of the contract.

Policy Change and Implication

N/A

Budgetary Impact

N/A

Prepared By:

Tiandra D. Sullivan