

MEMORANDUM

Amended
Agenda Item No. 11(A)(8)

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

DATE: June 3, 2010

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

SUBJECT: Resolution requesting that the Commission on Ethics and Public Trust conduct conflict of interest checks related to contract lobbyists and provide to the Board a report and recommendation on any County contract lobbyist conflict of interest

Resolution No. R-632-10

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

R. A. Cuevas, Jr.
County Attorney

RAC/jls



MEMORANDUM
(Revised)

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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 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 _____

Amended
Agenda Item No. 11(A)(8)
6-3-10

RESOLUTION NO. R-632-10

RESOLUTION REQUESTING THAT THE COMMISSION ON ETHICS AND PUBLIC TRUST CONDUCT CONFLICT OF INTEREST CHECKS RELATED TO COUNTY CONTRACT LOBBYISTS AND PROVIDE TO THE BOARD A REPORT AND RECOMMENDATION ON ANY COUNTY CONTRACT LOBBYIST CONFLICT OF INTEREST

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 that 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 being voidable by the county; and
- (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 November 3, 2009, the Board approved Ordinance No. 09-98, which provided that all contract lobbyist conflict waiver requests are exempt from committee review and would be heard directly by the full board; and

WHEREAS, on January 21, 2010, the Board approved Resolution No. 56-10, which required all county contract lobbyists to obtain a conflict waiver from the Board of County Commissioners prior to representing any client in any forum that is adverse to county's interests, whether or not such county interest is expressly set forth in the county's legislative package; and

WHEREAS, Resolution No. 56-10 also requires 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; and

WHEREAS, Resolution No. 56-10 further required all County contract lobbyists to obtain a waiver from the Board for any actual or perceived conflicts of interest or provide a statement that the contract lobbyist has no conflicts prior to award or renewal of a contract, subcontract or work order, and placed all County contract lobbyists 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 for any conflict of interest prior to representing any entity in any forum; 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 contract 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 also place all County contract lobbyists including both the prime consultants and subconsultants under an obligation to disclose all clients to the County and to advise the County immediately when any actual, possible or perceived conflict may arise; and

WHEREAS, the federal and state agreements impose these obligations on County contract lobbyists on a continuing basis throughout the term of the contract and any extensions or renewal terms; 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, the Commission on Ethics and Public Trust can play an important role in ensuring that County contract lobbyists do not work in conflict to the interests of the County by:

(1) Conducting a conflicts check of all clients that County contract lobbyists represent;

(2) Reviewing all conflict waiver requests submitted to the County by County contract lobbyists, and providing the Board a report and recommendation on such conflict waiver requests; and

(3) Providing the Board a report and recommendation on whether a conflict is presented in any situation in which it comes to the attention of the County that a conflict of interest may have arisen,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board requests that the staff of the Commission on Ethics and Public Trust:

Section 1. With respect to the particular lobbying contract, conduct conflict checks related to the lobbying clients of County contract lobbyists within 45 days of the effective date of this resolution and annually thereafter, along with checks of any new clients or issues that may arise.

Section 2. Review all conflict waiver requests submitted to the County by County contract lobbyists, and provide the Board a report and recommendation on whether a conflict is

presented related to such requests, when the conflict waiver request goes before the Board at the next Board meeting.

Section 3. Provide the Board a report and recommendation on whether a conflict is presented in any situation in which it comes to the attention of the County that a conflict of interest may have arisen.

Section 4. 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 contract renewals.

The Prime Sponsor of the foregoing resolution is Commissioner Katy Sorenson and the Co-Sponsors are Commissioner Sally A. Heyman and Commissioner Rebeca Sosa. It was offered by Commissioner **Katy Sorenson**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

	Dennis C. Moss, Chairman	absent
	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 aye
Dorrin D. Rolle	absent	Natacha Seijas nay
Katy Sorenson	aye	Rebeca Sosa aye
Sen. Javier D. Souto	aye	

The Chairperson thereupon declared the resolution duly passed and adopted this 3rd day of June, 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: **DIANE COLLINS**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

A handwritten signature in black ink, appearing to read "JMM", is written over a horizontal line.

Jess M. McCarty

A small, handwritten mark or signature in black ink, possibly a stylized letter or symbol, is located at the bottom center of the page.