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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(16)

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

DATE: June 4, 2013

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

SUBJECT: Resolution establishing County policy to require inclusion of a reverter or lease termination provision in conveyance documents when conveying County-owned property by sale or lease under Florida Statute Section 125.38
Resolution No. R-461-13

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

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM
(Revised)

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and Members, Board of County Commissioners

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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)(16)
6-4-13

RESOLUTION NO. R-461-13

RESOLUTION ESTABLISHING COUNTY POLICY TO REQUIRE INCLUSION OF A REVERTER OR LEASE TERMINATION PROVISION IN CONVEYANCE DOCUMENTS WHEN CONVEYING COUNTY-OWNED PROPERTY BY SALE OR LEASE UNDER FLORIDA STATUTE SECTION 125.38

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

WHEREAS, conveyances to governmental entities may include portions of roadways to be utilized by such entities for transportation purposes; and

WHEREAS, as a condition of such conveyances, governmental entities and 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 ensuring the continuation of the public use for which the property was conveyed, including ensuring that any roads conveyed shall not be closed by the governmental entity; and

WHEREAS, it is in the County's best interest to develop a means by which such property may be returned to the County in the event that such use is not maintained or roads are closed; and

WHEREAS, inclusion of a reverter provision if conveyed by deed or easement, or a lease termination provision if conveyed by lease, would assist the County in regaining control and ownership of property in the event that the public use is not maintained,

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 or to governmental entities for the public benefit under Florida Statute Section 125.38, 1) in the event of a lease, to include a lease termination provision if such public use is not maintained, and 2) in the event of conveyance, including but not limited to conveyance by deed or easement, to include a reverter provision to the County if the public use is not maintained, and 3) in the event of a conveyance of a road or portions thereof to a governmental entity, including a specific provision that such road cannot be closed without approval by this Board.

The Prime Sponsor of the foregoing resolution is Chairwoman Rebeca Sosa. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Esteban L. Bovo, Jr.** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of June , 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: Christopher Agrippa
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Debra Herman