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

# MEMORANDUM

Agenda Item No. 14(A)(1)

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

**DATE:** July 2, 2013

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

**SUBJECT:** Resolution authorizing the Public Health Trust to designate the Indianapolis law firm of Hall, Render, Killian, Heath & Lyman, P.C. as outside legal counsel to represent the Public Health Trust for purposes of participating in a Medicare group appeal before the Provider Reimbursement Review Board

Resolution No. R-591-13

**The sponsoring Commissioner has requested that this resolution become effective upon the earlier of: (1) 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, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.**

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

# MEMORANDUM
(Revised)

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

**DATE:** July 2, 2013

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

**SUBJECT:** Agenda Item No.14(A)(1)

**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**

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 14(A)(1)
7-2-13

RESOLUTION NO. R-591-13

RESOLUTION AUTHORIZING THE PUBLIC HEALTH TRUST TO DESIGNATE THE INDIANAPOLIS LAW FIRM OF HALL, RENDER, KILLIAN, HEATH & LYMAN, P.C. AS OUTSIDE LEGAL COUNSEL TO REPRESENT THE PUBLIC HEALTH TRUST FOR PURPOSES OF PARTICIPATING IN A MEDICARE GROUP APPEAL BEFORE THE PROVIDER REIMBURSEMENT REVIEW BOARD TO CHALLENGE THE ACCURACY OF MEDICARE PAYMENTS RELATED TO PRIOR COST REPORT YEARS WITH CONTINGENCY FEES NOT TO EXCEED ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND NO/100 ($1,500,000.00)

**WHEREAS**, the Public Health Trust ("Trust") is an agency and instrumentality of Miami-Dade County that operates Jackson Health System, including Jackson Memorial Hospital, Jackson South Community Hospital, Jackson North Medical Center and multiple other County designated facilities providing health care services to all segments of the Miami-Dade County community; and

**WHEREAS**, the Trust is a Medicare provider and has entered into a service agreement with the Centers for Medicare and Medicaid Services ("CMS") to provide services to Medicare beneficiaries, including inpatient and outpatient services, and receive payment therefore from CMS; and

**WHEREAS**, CMS implemented a budget neutrality calculation as part of the Balanced Budget Act of 1997; and

**WHEREAS**, an error in the budget neutrality calculation related to the Inpatient Prospective Payment System was identified beginning in FFY 1999; and

**WHEREAS**, CMS partially fixed the budget neutrality calculation in FFY 2008 for FFY 2007 but failed to correct the cumulative error from prior years; and

**WHEREAS**, Baker Healthcare Consulting, Inc., an Indianapolis-based company, has identified the aforementioned error and desires to file a group appeal in concert with Florida Hospital Association seeking payment on the errors occurring in prior years; and

**WHEREAS**, as an affected Florida Medicare provider, the Trust could elect to participate in the group appeal which would require the Trust to designate the Indianapolis-based law firm of Hall, Render, Killian, Heath & Lyman, P.C. as the Trust's outside legal counsel with respect to the aforementioned matter; and

**WHEREAS**, Article 5, Section 5.06 of the Charter, provides that the County Attorney "shall serve as legal counsel to the Board, Mayor, and all county departments, offices, and agencies"; and

**WHEREAS**, Chapter 25A of the Code provides that the Trust shall utilize the legal services provided by the County Attorney's Office; and

**WHEREAS**, Article 5, Section 5.06 of the Charter authorizes the Board to "employ special counsel for special needs"; and

**WHEREAS,** the Trust seeks to designate Hall, Render, Killian, Heath & Lyman, P.C.as outside legal counsel to represent the Trust in the Medicare group appeal; and

**WHEREAS**, the estimated favorable adjustment for the Trust upon successful appeal is estimated at $6,800,000.00; and

**WHEREAS**, the Commission finds it would be in the best interest of the Trust to participate in said group appeal,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA,** that this Board hereby authorizes the Public Health Trust of Miami-Dade County to designate the Indianapolis law firm of Hall, Render, Killian, Heath & Lyman, P.C. as outside legal counsel solely for purposes of participating in a Medicare group appeal before the Provider Reimbursement Review Board with contingency fees not to exceed One Million Five Hundred Thousand Dollars and No/100 ($1,500,000.00).

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson. It was offered by Commissioner **Audrey Edmonson**, who moved its adoption. The motion was seconded by Commissioner **Lynda Bell** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of July, 2013. This resolution shall become effective immediately upon the earlier of (1) 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 or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the 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. for ES

Eugene Shy, Jr.
Valda Clark Christian