

MEMORANDUM

Agenda Item No. 14(A)(3)

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

DATE: May 6, 2014

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

SUBJECT: Resolution approving Right-Of-
First-Refusal Extension
Agreement between Miami-Dade
County; The Haven Center, Inc.;
and Kendall Health Care
Properties; and authorizing the
Mayor to execute such
Agreement and exercise all
authority delegated therein

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.



R. A. Cuevas, Jr.
County Attorney

RAC/Imp



MEMORANDUM
(Revised)

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

DATE: May 6, 2014

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

SUBJECT: Agenda Item No. 14(A)(3)

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. 14(A)(3)
5-6-14

RESOLUTION NO. _____

RESOLUTION APPROVING RIGHT-OF-FIRST-REFUSAL EXTENSION AGREEMENT BETWEEN MIAMI-DADE COUNTY; THE HAVEN CENTER, INC.; AND KENDALL HEALTH CARE PROPERTIES; AND AUTHORIZING THE MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SUCH AGREEMENT AND EXERCISE ALL AUTHORITY DELEGATED THEREIN

WHEREAS, the County has a right of first refusal to purchase certain real property adjacent to Kendall Indian Hammocks Park (the "Property"), which Property is better described in the Declaration of Restrictions attached to the Right-of-First-Refusal Extension Agreement (the "Agreement") as Exhibit 1; and

WHEREAS, the County's right of first refusal affords the County a 30-day window in which to exercise its right to purchase the Property, which 30-day window runs from the date the County receives notice of a bona fide purchase offer; and

WHEREAS, the County received notice on April 3, 2014, of an offer from Kendall Health Care Properties ("Palace"), the prospective purchaser of the Property, to The Haven Center, Inc. ("Haven"), the owner of the Property, under which Palace would purchase the Property for \$7.45 million; and

WHEREAS, the County, Palace, and Haven desire to extend the right-of-first-refusal window to July 11, 2014, on the terms and conditions set forth in the Agreement; and

WHEREAS, the Board otherwise desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the Board approves the

Agreement and authorizes the County Mayor or County Mayor's designee to execute the Agreement and exercise all authority delegated therein.

The Prime Sponsor of the foregoing resolution is Commissioner Javier D. Souto. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

Rebeca Sosa, Chairwoman
Lynda Bell, Vice Chair

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Jean Monestime
Sen. Javier D. Souto
Juan C. Zapata

Esteban L. Bovo, Jr.
Audrey M. Edmonson
Barbara J. Jordan
Dennis C. Moss
Xavier L. Suarez

The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of May, 2014. 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: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MAG

Miguel A. Gonzalez

Date: May 6, 2014

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

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Authorizing County's Right of First Refusal Extension Agreement for
Purchase of Land Adjacent to Kendall Indian Hammocks Park

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution approving the Right of First Refusal Extension Agreement (Agreement) and authorizing the County Mayor or the County Mayor's designee to execute the Agreement and exercise any rights conferred therein. The Agreement (Attachment A) will allow the County additional time to negotiate an acquisition of a portion of the land adjacent to Kendall Indian Hammocks Park (KIH) with Kendall Health Care Properties (Palace), a prospective purchaser of the property. The Agreement is a tri-party agreement between the County; the owner of the property, Haven Center, Inc. (Haven); and Palace. On April 3, 2014, Palace notified the County that Palace and Haven had entered into an Agreement of Sale and Purchase, triggering the County's right of first refusal to purchase the entire property. Unless extended by the Agreement, the County would have thirty (30) days from the April 3rd notice to exercise its right of first refusal. The Board had one scheduled meeting for the month of April, on the 8th of the month. The next scheduled Board meeting is May 6th, however, the parties have agreed to extend the right of first refusal time period to July 11th with this item.

Scope

KIH and the adjacent Haven property are located within Commission District 10, Commissioner Javier D. Souto's district. The impact of this agenda item is countywide, as KIH is a regional park for residents and visitors throughout Miami-Dade County.

Fiscal Impact/Funding Source

As the Agreement does not require or authorize the County to exercise its right of first refusal, but merely provides additional time for the County to negotiate a division of the subject property with Palace, there is no fiscal impact associated with the Agreement. To the extent that the County exercises its right of first refusal to purchase the property, the County would seek separate authorization from the Board. To the extent that the County does not exercise its right of first refusal to purchase the property, there would be a positive fiscal impact to the County in the amount of \$372,500.

Track Record/Monitor

There are no known performance issues with Palace or Haven. The agreement will be monitored by Joe Webb, the Parks, Recreation and Open Spaces Department's (PROS) Park Planning Section Supervisor.

Background

Under a Declaration of Restrictions (Declaration) recorded on or about July 28, 1987, at Official Records Book 13359 Page 1986, the County has a right of first refusal to purchase the real property described in the Declaration. The County's right to purchase that real property runs from the date on which the County receives written notice of a "bona fide offer pursuant to a contract" to purchase the real property. The County has thirty (30) days from the date on which it receives written notification of the purchase offer in which to exercise its right of first refusal. To the extent that the County exercises its right of first refusal, it must do so "on the same terms and conditions" as the offer presented to the County.

If the County does not exercise its right of first refusal, the Declaration entitles the County to a payment of 5% of the "gross proceeds of the land value of the sale." In this case, Haven has agreed to sell the entire property to Palace for \$7.45 million. Accordingly, based on the purchase price, the County should anticipate a payment of \$372,500.

Regardless of whether the County exercises its right of first refusal, the Declaration limits the permissible uses of the property to certain institutional uses specifically identified in the Declaration and further provides that the property shall not be used for "business, commercial, retail, manufacturing or non-institutional residential uses." Removal of these restrictions requires separate Board action.

The real property in question is vacant land adjacent to KIH. The property consists of 21.06 acres of land just south and adjacent to KIH. Acquisition of this property would be consistent with Board Resolution No. R-953-12 (Attachment B) that directed the Mayor to consider and analyze whether a vacant parcel of land that is for sale and is adjacent to a park should be purchased by the County, and Resolution No. R-719-12 (Attachment C) that directed the Mayor to take action to amend the KIH General Plan to accommodate expansion of KIH and to explore opportunities for future development of the park.

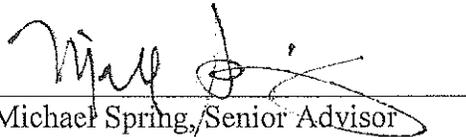
On April 3, 2014, the County received a document titled "Notice to County of Bona Fide Offer to Purchase Property," which included a signed Agreement of Sale and Purchase between Haven and Palace. The purchase agreement concerns the land covered by the Declaration. Accordingly, under the Declaration, the County has 30 days in which to exercise its right of first refusal to purchase the property.

Approving the Agreement extends the time for the County to exercise its right of first refusal to July 11, 2014. The County intends to use the additional time afforded by the Agreement to negotiate a mutually agreeable division of the subject property with Palace on mutually agreeable terms and conditions. Any agreement reached as a result of those negotiations would be brought to the Board for separate approval. If the County and Palace are unable to reach an agreement for the division of the subject property, the Agreement preserves the County's right to purchase all of the property.

Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
Page 3

Acquiring all or a portion of the property will allow PROS to expand this very popular park in the heart of Kendall. PROS expects this area to be used for much needed athletic fields that can be used for soccer, lacrosse, field hockey and flag football.

Attachments

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

Michael Spring, Senior Advisor
Office of the Mayor

Attachment A

RIGHT-OF-FIRST-REFUSAL EXTENSION AGREEMENT

This Right-of-First-Refusal Extension Agreement (the "Agreement") is entered into between Miami-Dade County (the "County"), Kendall Health Care Properties (the "Palace"), and The Haven Center, Inc. ("Haven") (each are a "Party" and, collectively, the "Parties") on this ___ day of May, 2014.

WHEREAS, on or about April 3, 2014, Palace delivered to the County notice (the "ROFR Notice") of a bona fide offer made by the Palace to Haven to purchase, for \$7.45 million, the property (the "Property") described in Exhibit A of the Agreement of Sale and Purchase dated April 1, 2014 (the "Purchase Agreement") attached to the ROFR Notice; and

WHEREAS, before Haven may sell the Property to Palace pursuant to the Purchase Agreement, the County has a right of first refusal under the Declaration of Restrictions recorded at Official Records Book 13359 at Page 1986 and attached hereto as Exhibit 1, whereby the County may purchase the Property "at the same price and on the same terms and conditions as a bona fide offer" (the "ROFR"); and

WHEREAS, the ROFR grants the County thirty (30) days to exercise its purchase rights thereunder from the date of delivery of the ROFR Notice (the "ROFR Period"), and the County is prepared to exercise its rights under the ROFR within the ROFR Period; and

WHEREAS, before the County exercises its rights under the ROFR, the Parties desire to extend the ROFR Period to allow the County and Palace an opportunity to negotiate a conveyance agreement between them (the "County-Palace Conveyance Agreement"), whereunder it is contemplated that the Palace would complete and consummate the purchase of the Property from Haven pursuant to the Purchase Agreement, and thereafter convey a portion of the Property to the County, all on terms and conditions acceptable to and approved by the County and the Palace and set forth in a fully executed County-Palace Conveyance Agreement; and

WHEREAS, Haven has determined that it will agree to the request of Palace and County to extend the ROFR period as set forth in this Agreement provided, always and notwithstanding any provisions of this Agreement or the Purchase Agreement to the contrary, that the deadlines in the Purchase Agreement are not extended except as set forth in Section (2) of this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

(1) **Incorporation by Reference.** The recitals set forth in this Agreement are incorporated by reference as though set forth in full herein. The parties acknowledge that the recitals set forth in this Agreement are true and correct. All capitalized terms used but not defined herein shall have the meanings ascribed to them in the Purchase Agreement.

(2) **Extension of ROFR Period.** To allow the County and Palace the time to negotiate a division of the Property and the County-Palace Conveyance Agreement, the Parties agree to extend the ROFR Period, to 5:00 p.m. on Friday, July 11, 2014, such that the County may exercise its ROFR on or before 5:00 p.m. on July 11, 2014 (the "Extended ROFR Period").

If the County does not exercise its ROFR prior to the expiration of the Extended ROFR Period, then the County shall, within 72-hours of the end of the Extended ROFR Period, deliver to Haven and Palace notice that the County is not exercising its ROFR (the "County Waiver") (as such term is defined in Section 14(D) of the Purchase Agreement and the approved form of which is attached hereto and made a part hereof as Exhibit 2) to Haven and Palace. By approving this Agreement, the Miami-Dade County Board of County Commissioners shall have delegated to the County Mayor or the County Mayor's designee the authority to execute the County Waiver.

If the County does exercise its ROFR prior to the expiration of the Extended ROFR Period, then within five (5) business days from the date on which the County exercises the ROFR, the County shall deliver the "Deposit" (as such term is defined in Section 3(A) of the Purchase Agreement) to a replacement and substitute Escrow Agent reasonably acceptable to County and Haven (the "Replacement Escrow Agent"). If a Replacement Escrow Agent has not been selected and approved by the County and Haven prior to the date that the County is obligated to deliver the Deposit, then the County shall deliver the Deposit to the current Escrow Agent, who shall hold that Deposit in accordance with the Purchase Agreement until the County and Haven have selected the Replacement Escrow Agent, whereupon the current Escrow Agent shall then deliver that Deposit to the Replacement Escrow Agent. County and Haven shall exercise good-faith efforts to then promptly select and approve the Replacement Escrow Agent. Failure of County to deliver the Deposit within the required time period shall constitute a failure

by County to exercise the ROFR and the Property shall be sold to Palace in accordance with the Purchase Agreement. Time is of the essence as to all provisions of this Agreement, especially but not limited to this paragraph.

Notwithstanding anything contained herein to the contrary, it is acknowledged and agreed that this Agreement does not constitute an agreement by the Palace to convey any portion of the Property to the County under any terms or conditions; that neither the County nor the Palace is under any obligation to agree to or otherwise enter into a County-Palace Conveyance Agreement; and that the County and/or the Palace may elect to abate or terminate negotiations of the terms and conditions of the County-Palace Conveyance Agreement at any time.

(3) **No Prejudice to ROFR County's Rights.** The County's entry into this Agreement shall not prejudice its right to exercise its ROFR for the purchase of all of the Property. Accordingly, at any time before the expiration of the Extended ROFR Period, the County shall retain the right as set forth in the ROFR and County shall abide by the procedures set forth in this Agreement and in the Purchase Agreement and the Declaration (Exhibit 1 hereto) except to the extent modified by this Agreement to purchase all of the Property.

(4) **Site Access.** To allow the County the opportunity to conduct any due diligence that the County, in its sole and absolute discretion, deems reasonably necessary regarding the condition of the Property, Haven agrees to grant to the County and any of its consultants full access to the Property during the Extended ROFR Period in exchange for County's agreement that it is bound to Haven for all inspection and indemnification obligations owed to Haven as contained in Section 4.B. of the Purchase Agreement.

(5) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the extension of the ROFR Period and supersedes any prior agreements, understandings, and arrangements, both oral and written, between the Parties with respect thereto. The Parties agree that this Agreement does not supplant the Declaration of Restrictions in any respect, except as to the date on which the County may exercise its ROFR.

(6) **Termination.** The Parties acknowledge and agree that, upon Haven and Palace's execution of this Agreement, neither Haven nor Palace shall have a right to terminate this Agreement during the Extended ROFR Period, unless the Miami-Dade County Board of County

Commissioners fails to adopt this Agreement, in substantially the form executed by Haven and Palace, at the first meeting at which the Agreement is considered on its merits.

(7) **Purchase Agreement Closing Date.** Haven and Palace agree that nothing in this Agreement shall extend any time periods under the Purchase Agreement except for the thirty (30) day ROFR period. In the event the County exercises the ROFR, the closing shall occur thirty (30) days from the date on which County exercises the ROFR unless extended by mutual agreement of County and Haven and such mutual agreement shall be in the sole discretion of County and Haven. In the event County exercises the ROFR and fails to close, County and Haven shall retain such rights and obligations as contained in the Purchase Agreement as remedies under the circumstances and Palace shall have the right to close within thirty (30) days thereafter (but no later under any circumstances) on the terms in the Purchase Agreement without additional or further notice to County.

(8) **Attorneys' Fees.** Should any Party employ an attorney or attorneys to enforce any provisions hereof, or to recover damages for breach of this Agreement, the party prevailing shall be entitled to payment by the other party of all reasonable costs, charges, and expenses, including attorneys' fees through all levels of proceedings, expended or incurred in connection therewith by the prevailing party.

(9) **Pre-Suit Mediation.** Before bringing any claim for the enforcement of any provisions of this Agreement, or to recover damages for breach of this Agreement, the Parties shall mediate their dispute before a mutually agreed-upon neutral. Unless the Parties mutually agree to another timeframe, the pre-suit mediation required under this paragraph shall occur within one week of any Party's written notice to the other Parties of an intent to bring a lawsuit to enforce this Agreement and in the event mediation does not occur within one week of the notice, the Party serving the notice may bring the lawsuit without regard to this pre-suit mediation process. The Parties shall not be entitled to attorneys' fees or costs incurred before the completion of the mediation, even if such mediation occurs after the filing of a lawsuit to enforce a right or obligation under this Agreement. The County shall be responsible for one-half (1/2) of the costs of mediation, and the other on-half of such costs of mediations shall be split equally amongst the other Parties participating in the mediation.

(10) **Sovereign Rights.** It is expressly understood that notwithstanding any provisions of this Agreement and the County's status as a Party to this Agreement,

(a) the County retains all of its sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a county or city under Florida law and shall in no way be estopped from or be liable for withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations of whatever nature, which laws or regulations are or might be applicable to the planning, design, construction, development, or operation of any project on the Property;

(b) the County shall not by virtue of this Agreement be obligated to grant any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development, or operation of any project on the Property; and

(c) notwithstanding and prevailing over any contrary provision in this Agreement, any County covenant or obligation that may be contained in this Agreement shall not bind the Board, the County's Planning and Zoning Department, DERM, or their successor entities, or any other County, Federal or State department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the County or other applicable governmental agencies in the exercise of its police power.

[SIGNATURES APPEAR ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement through appropriate officials of each of them as of the date first written above:

"County"

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Carlos A. Gimenez, County Mayor

By: _____
Clerk of the Board

By: _____
County Attorney
(as to form and legal sufficiency)

"Haven"

THE HAVEN CENTER, INC., a Florida corporation

By: _____

"Palace"

KENDALL HEALTH CARE PROPERTIES, a Florida general partnership

By: *Helen Homes, of Kendall Corporation, General Partner*
By: _____
Frank Stokam, President

KATZ, BARRON, SQUITERO, FAUST,
FRIEDBERG, ENGLISH & ALLEN, P.A., as
Escrow Agent

By: _____
Marc L. Faust, Esq., Vice Pres.

IN WITNESS WHEREOF, the Parties have executed this Agreement through appropriate officials of each of them as of the date first written above:

"County"

MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS

By: _____
Carlos A. Gimenez, County Mayor

By: _____
Clerk of the Board

By: _____
County Attorney
(as to form and legal sufficiency)

"Haven"

The Haven Center, Inc., a Florida corporation

By: *Leslie N. Leech Jr.* AGENT
LESLIE N. LEECH JR

"Palace"

KENDALL HEALTH CARE PROPERTIES, a Florida general partnership

By: _____

Katz, Barron, Squitiero, Faust, Friedberg, English & Allen, P.A.
as Escrow Agent

By: _____

GA

14

1987 JUL 26 11:07

87R209278

REC. 13359PG 1986

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS that the undersigned (the "Owner") being the owner, or having some right, title or interest in the following described property (the "Property"), lying, being and situated in Dade County, Florida, to-wit:

All that part of Section 31, Township 54 South, Range 40 East described as follows:

The West half of the N.E. 1/4 of the S.W. 1/4 less the North 35 feet, the East 25 feet and the South 25 feet thereof, and less the West 25 feet of the South half thereof; and the East half of the N.E. 1/4 of the N.W. 1/4 of the S.W. 1/4 less the North 35 feet thereof.

As well as the East 1/2 of the N.E. 1/4 of the S.W. 1/4 of Section 31, Township 54 South, Range 40 East, Dade County, Florida, less the North 35 feet and the East 35 feet and the South 25 feet and the West 25 feet thereof;

in order to assure the County Commission of Dade County, Florida, that representations made to the Commission by the Owner during review of the Owner's request for a revision of restrictive covenants as set forth below will be abided by, voluntarily makes the following Declaration of Restrictions (the "Declaration") covering and running with the Property, and declares that the Property and every part thereof will be used only in accordance with the Restrictions set out in this Declaration, as follows:

1. The Property and every part of it may be used for the following institutional purposes only: schools, public or private; home for the aged and/or mentally or physically disabled; sanitarium; convalescent home; day care center; adult congregate living facility; other compatible caretaking institutional use. Neither the Property, nor any part thereof, shall be used for business, commercial, retail, manufacturing or non-institutional residential or other purposes not specifically listed above.

2. Dade County shall have the right of first refusal, at the same price and on the same terms and conditions as a

PREPARED BY: Stanley B. Price, Esq.
One CentTrust Financial Center
100 S.E. Second Street
Miami, Florida 33131

"EXHIBIT 1"

15

1982

ME. 13359PC 1987

bona fide offer pursuant to a contract contingent on the County's right of first refusal for the sale or transfer of the Property or any portion thereof by Owner as well as Owner's successors, assigns or transferees, prior to the sale of the Property or portion thereof for the purposes enumerated in Paragraph 1. In the event that the County refuses to exercise its right of first refusal within 30 days of written notification of such bona fide offer by the Owner, the Owner may sell the Property or portion thereof for the express purposes delineated in Paragraph 1, and Dade County shall receive five (5) percent of the gross proceeds of the land value of the sale; provided, however, that if Owner should sell or transfer any particular portion of the Property of less than 11 acres within one (1) year of executing this Declaration, Dade County shall receive \$55,000.00 for the express purpose of improving County-owned parks within one (1) mile of the Property and such transfer or sale and any future transfers or sales of such particular portion of the Property shall not be subject to the right of first refusal provided for herein. In no event shall Dade County be entitled to multiple payments of five (5) percent on real property for which it has previously received payment including the less-than-eleven-acre portion of the Property which may be transferred within one (1) year of the execution of this Declaration.

3. In the event payments are not made as promised, or uses are not restricted as promised, in addition to any other remedies available, the Dade County Departments, including Building and Zoning Department, are hereby authorized to withhold any further permits, and refuse any inspections or grant any approvals, until such time as this Declaration is complied with.

4. In the event of any transfer or sale pursuant to Paragraph 2 herein, the then Owner of the property shall inform in writing, each lessee, resident, renter, or user of the property of all uses within 750 feet of the property.

5. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of

REC. 13359M 1988

remedies, nor shall it preclude the party exercising the same from exercising any other additional rights, remedies or privileges.

As further part of this Declaration, it is hereby understood that any official inspector of the Dade County Building and Zoning Department, or its agents duly authorized, has the privilege at any time during normal working hours of entering and investigating the use of the Property to determine whether or not the requirements of the building and zoning regulations and the conditions herein-agreed to are being complied with.

These restrictions during their lifetime shall be for the benefit of, and limitation upon, all present and future owners of the Property and for the public welfare.

This Declaration on the part of the Owner shall constitute a covenant running with the land and may be recorded in the public records of Dade County, Florida.

These covenants contained in this Declaration are to run with the land and shall be binding on all parties and all persons claiming under them for a period of 30 years from the date this Declaration is recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument has been recorded agreeing to change the Declaration in whole, or in part.

This Declaration may be modified, amended or released as to the Property, or any portion thereof, by a written instrument executed by the then owner of the fee simple title of such lands petitioning such modification, amendment or release, provided that the same is also approved by the Board of County Commissioners of Metropolitan Dade County, Florida, after public hearing.

Should this Declaration be so modified, amended or released, the Director of the Dade County Building and Zoning Department, or the executive officer of the successor of such Department, or in the absence of such director or executive officer, by his assistant in charge of the Department in his absence, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

REC: 13359PC 1989

Enforcement shall be by action at law or in equity against any parties or persons violating, or attempting to violate, any covenants, either to restrain violation or to recover damages. The prevailing party in this action, or suit, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney. This enforcement provision shall be in addition to any other remedies available under law.

Invalidation of any one of these covenants, by judgment or Court, in no way shall affect any of the other provisions which shall remain in full force and effect.

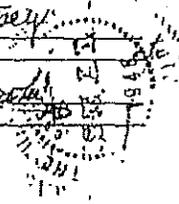
Signed, sealed, executed and acknowledged this 8th day of July, 1987.

WITNESSES:

THE HAVEN CENTER, INC.

John J. Mestepey, P.D.

By: John J. Mestepey
Its: PRESIDENT
Attest: David Gailley
Its: SECRETARY



STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

HEREBY certify that on this day before me, a Notary Public duly authorized in the state and county named above to take acknowledgements, personally appeared John MESTEPEY and DAVID GAILLEY Esq., to me known to be the persons described as President and Secretary of The Haven Center, Inc., a Florida who executed the foregoing instrument, and acknowledged before me that such persons executed the said instrument in the name of and for that corporation, affixing the corporate seal of that corporation thereto, that as such corporate officers such persons are duly authorized by that corporation to do so, and that the foregoing instrument is the act of that corporation.

WITNESS my hand and official seal in the county and state named above this 8th day of July, A.D. 1987.

* not-for-profit corporation,

Kathleen Medford
Notary Public in and for the
State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES MAY 3, 1990

D. P. ERNEST

THIS INSTRUMENT PREPARED BY:

Marc L. Faust, Esq.
Katz, Barron, Squitiero, Faust
2699 S. Bayshore Drive, 7th Floor
Miami, Florida 33133
305) 856-2444

WAIVER AND RELEASE

This Waiver and Release is made and delivered as of the ____ day of _____, 2014, by **MIAMI-DADE COUNTY**, a political subdivision of the State of Florida (the "County").

RECITALS

A. By that certain Declaration of Restrictions recorded July 28, 1987 in Official Records Book 13359, at Page 1986, of the Public Records of Miami-Dade County, Florida (the "Declaration"), the County was granted a right of first refusal (the "ROFR") with respect to the real property more particularly described therein and affecting and including the real property legally described on Exhibit "A" attached hereto and made a part hereof (the "Property"). The Property now constitutes all of the real property remaining subject to and affected by the ROFR.

B. Haven Center, Inc., a Florida corporation ("Owner"), as the owner of the Property, has contracted to sell the Property to Kendall Health Care Properties, a Florida general partnership or its assigns ("KHCP"), pursuant to that certain Agreement of Sale and Purchase dated April 1, 2014 (the "Purchase Agreement").

C. The County has received and reviewed the Purchase Agreement, and has elected NOT to exercise the ROFR.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, (i) the County acknowledges and confirms that it has elected not to exercise the ROFR, (ii) the County hereby waives the ROFR and releases the Property from the ROFR, and (iii) the County further acknowledges and confirms that upon the sale of the Property to KHCP, all real property affected

"EXHIBIT 2"

by the ROFR will have been conveyed to third parties such that the ROFR will have and be of no further force or effect.

IN WITNESS WHEREOF, the County has caused this Waiver and Release to be executed on its behalf the day and year first written above.

Signed, sealed and delivered in the presence of:

MIAMI DADE COUNTY, a political subdivision of the State of Florida

(Print name above)

(Print name above)

By: _____, County Mayor

By: _____
County Attorney
(as to form and legal sufficiency)

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me, the undersigned authority, in the County and State aforesaid, this ____ day of _____, 2014, by _____, as _____ of Miami-Dade County, a political subdivision of the State of Florida, who is [] personally known to me or who [] provided _____ as proof of identification.

Notary Public, State of Florida at Large

(Print Notary's name above)

My Commission Expires:

EXHIBIT "A"
LEGAL DESCRIPTION

All that part of Section 31, Township 54 South, Range 40 East, described as follows:

The West half of the NE 1/4 of the SW 1/4, less the North 35 feet, the East 25 feet and the South 25 feet thereof, and less the West 25 feet of the South half thereof, and the East half of the NE 1/4 of the SW 1/4 of the SW 1/4 less the North 35 feet thereof, as well as the East 1/2 of the NE 1/4 of the SW 1/4 of Section 31, Township 54 South, Range 40 East, Miami-Dade County, Florida, less the North 35 feet and the East 35 feet and the South 25 feet and the West 25 feet thereof.

AND

Together with that certain property conveyed to The Haven Center, Inc., f/k/a The Haven School Incorporated, a Florida not-for-profit corporation by Quit Claim Deed recorded in Official Records Book 13377, Page 325, described as follows:

The West 25 feet of the East 1/2 of the NE 1/4 of the SW 1/4 and the East 25 feet of the West 1/2 of the NE 1/4 of the SW 1/4 of Section 31, Township 54 South, Range 40 East, Dade County, Florida. LESS that portion thereof lying within the North 1/2 of the North 1/2 of the NE 1/4 of the SW 1/4 of said Section 31; and LESS the South 25.00 feet thereof.

Less North 1/2 of NE 1/4 of NE 1/4 of SW 1/4 and North 1/2 of NW 1/4 of NE 1/4 of SW 1/4, of Section 31, Township 54 South, Range 40 East.

Less PALACE OF KENDALL, according to the Plat thereof, as recorded in Plat Book 137, Page 22, of the Public Records of Miami-Dade County, Florida; and

Less a portion of the NE 1/4 of the SW 1/4 of Section 31, Township 54 South, Range 40 East, Miami-Dade County, Florida, being particularly described as follows:

Begin at the Southwest corner of Tract "A" of the PALACE OF KENDALL, according to the Plat thereof, as recorded in Plat Book 137, page 22, of the Public Records of Miami-Dade County, Florida, said point lying 25.00 feet North of, as measured at right angles to the South line of the said NE 1/4 of the SW 1/4 of Section 31; thence S 89° 09' 36 " W, along the North right-of-way line of SW 84th Street, as said right-of-way was dedicated by Resolution No. R-1127-88, and recorded in Official Records Book 13863, page 446, of the Public Records of Miami-Dade County, Florida for 249.93 feet to a point that is 25.00 feet West of as measured at right angles to the West line of the said NE 1/4 of the SW 1/4 of Section 31, said point lying on the East right-of-way line of SW 114th Avenue, as said right of way was dedicated by the above Resolution No. R-1127-88; thence N. 0° 00' 58" E, along a line that is 25.00 feet East of and parallel with the said West line of the said NE 1/4 of the SW 1/4 of Section 31 and along the said East right-of-way line of SW 114th Avenue for 431.27 feet; thence N. 89° 09' 36" E, for 250.00 feet to the Northwest corner of the said Tract "A" of the PALACE OF KENDALL; thence S. 00° 01' 29" W, along the West line of the said Tract "A" of The PALACE OF KENDALL for 431.27 feet to the Point of Beginning.

MEMORANDUM

Agenda Item No. 11(A)(25)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

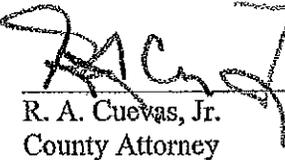
DATE: November 8, 2012

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

SUBJECT: Resolution directing County
Mayor to consider and analyze
whether vacant parcel of land
that is for sale and is adjacent
to a park should be purchased
by the County

Resolution No. R-953-12

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto and the Co-Sponsor is Vice Chairwoman Audrey M. Edmonson.



R. A. Cuevas, Jr.
County Attorney

RAC/lmp

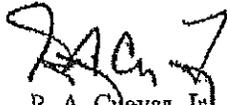


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: November 8, 2012


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

SUBJECT: Agenda Item No. 11(A)(25)

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 _____

Agenda Item No. 11(A)(25)
11-8-12

RESOLUTION NO. R-953-12

RESOLUTION DIRECTING COUNTY MAYOR OR MAYOR'S DESIGNEE TO CONSIDER AND ANALYZE WHETHER VACANT PARCEL OF LAND THAT IS FOR SALE AND IS ADJACENT TO A PARK SHOULD BE PURCHASED BY THE COUNTY TO EXPAND SUCH PARK AND, IF SO, TO ATTEMPT TO ACQUIRE THE PARCEL

WHEREAS, from 2000 to 2010, the population in Miami-Dade County increased by approximately ten percent (10%), thus increasing the need for additional parks and park and recreation facilities to serve the expanding population; and

WHEREAS, accordingly, the vision of the County's Park, Recreation and Open Spaces Department ("PROS") is that every resident should have equitable access to parks and activities and that every neighborhood within the County should be upgraded, if necessary, to meet residents' needs; and

WHEREAS, moreover, the PROS's Parks and Open Space Master Plan provides that "every park should be designed to contribute to the environmental, social and economic well-being of the surrounding neighborhood and community"; and

WHEREAS, one way to accomplish this planning and design principle as well as to ensure that the County continues to add and develop park space is to encourage the acquisition by the County, whenever feasible, practical and necessary, of land adjacent to existing parks in order to expand parks; and

WHEREAS, the County should take advantage of any opportunity to annex adjacent parcels if they become available in order to maximize the limited resources to provide recreation and sporting facilities and programs to the public at the most economical cost, as it is more

24 3

expensive to acquire and develop a new park and then provide new staffing than to expand existing park add more space for more fields, more green space and more recreational facilities, while utilizing existing operational dollars and staff,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that, anytime the County becomes aware that a parcel of vacant, undeveloped land adjacent to an existing County park is being offered for sale, this Board directs the County Mayor or Mayor's designee to consider and analyze whether such parcel could be purchased and used to expand the park and, if so, to make good faith attempts to acquire the parcel. The aforementioned consideration and analysis performed by the County Mayor or Mayor's designee should include, but not be limited to, determining whether the expansion of the park in question is necessary to serve an increased population, whether the expansion of the park in question would contribute to the environmental, social and economic well-being of the surrounding neighborhood and community, and whether funds are available to acquire the parcel.

The Prime Sponsor of the foregoing resolution is Sen. Javier D. Souto and the Co-Sponsor is Vice Chairwoman Audrey M. Edmonson. It was offered by Commissioner ~~Rebeca Sosa~~ who moved its adoption. The motion was seconded by Commissioner **Lynda Bell**

and upon being put to a vote, the vote was as follows:

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

25 H

The Chairperson thereupon declared the resolution duly passed and adopted this 8th day of November, 2012. 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.

Monica Rizo

OFFICIAL FILE COPY
CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA



Attachment C

Agenda Item No. 11(A)(10)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

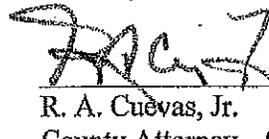
DATE: September 4, 2012

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

SUBJECT: Resolution directing the County
Mayor to take appropriate action
to amend the Kendall Indian
Hammocks Park General Plan to
accommodate expansion of Kendall
Indian Hammocks Park ("the Park")
and to explore opportunities for future
development of the park

Resolution No. R-719-12

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Senator Javier D. Souto.


R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: September 4, 2012

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

SUBJECT: Agenda Item No. 11(A)(10)

Resolution No. R-719-12

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

28 2

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(10)
9-4-12

RESOLUTION NO. R-719-12

RESOLUTION DIRECTING THE COUNTY MAYOR OR THE MAYOR'S DESIGNEE TO TAKE APPROPRIATE ACTION TO AMEND THE KENDALL INDIAN HAMMOCKS PARK GENERAL PLAN TO ACCOMMODATE EXPANSION OF KENDALL INDIAN HAMMOCKS PARK ("THE PARK") AND TO EXPLORE OPPORTUNITIES FOR FUTURE DEVELOPMENT OF THE PARK

WHEREAS, Kendall Indian Hammocks Park (the Park) is centrally located in the Kendall community; and

WHEREAS, expansion of the Park is necessary to enable the Department of Parks, Recreation and Open Spaces to meet the needs of the Kendall community for additional open-space and expanded recreational opportunities and will provide multiple public benefits, including, improved access to the Park, enhanced recreation programs, improved facilities for children, seniors, and persons with disabilities, and construction of an aquatics center; and

WHEREAS, the former Park and Recreation Department (now Department of Parks, Recreation, and Open Spaces) completed an Expansion Feasibility Study for Kendall Indian Hammocks Park (the Feasibility Study) on August 2, 2010, pursuant to Resolution R-531-10, that determined there was a need for expansion of the Park and included a number of recommendations to facilitate that expansion; and

WHEREAS, Kendall Indian Hammocks Park is adjacent to property that is either privately owned or owned by Miami-Dade County or other government entity; and

WHEREAS, it would be in the public interest to amend the Kendall Indian Hammocks Park General Plan to provide for additional land to be included in the Park; and

29
3

WHEREAS, to accommodate further expansion it may be appropriate for County-owned lands adjacent to the Park that are currently under the jurisdiction and administration of other County departments to be placed under the jurisdiction and administration of the Department of Parks, Recreation and Open Spaces; and

WHEREAS, if acquired, the abandoned Haven Center property contiguous to the Park would also be suitable for expansion of the Park; and

WHEREAS, future development of the Park may be enhanced through programming partnerships with private entities, including, without limitation, the Young Men's Christian Association (YMCA), for development of programs or facilities that will further meet the needs of the Kendall community,

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

Section 1. The foregoing recitals are incorporated into this resolution and are approved.

Section 2. This Board directs the County Mayor or the Mayor's Designee to initiate the process of amending the Kendall Indian Hammocks Park General Plan to provide for the inclusion of additional land in the Park in order to accommodate its future growth and development.

Section 3. This Board directs the Mayor or the Mayor's Designee to determine whether it is feasible to increase the acreage of the Park by transferring jurisdiction and administration of other County-owned land adjacent to the Department of Parks, Recreation, and Open Spaces.

LF

Section 4. This Board directs the Mayor or the Mayor's Designee to explore acquisition of the Haven Center property by Miami-Dade County for the purpose of further expanding the Park.

Section 5. This Board directs the Mayor or the Mayor's Designee to consider and explore the establishment of programming partnerships with the YMCA or similar entities for the development of facilities and programs to meet the recreational needs of the Kendall community.

The Prime Sponsor of the foregoing resolution is Senator Javier D. Souto. It was offered by Commissioner José "Pepe" Diaz who moved its adoption. The motion was seconded by Commissioner Audrey M. Edmonson and upon being put to a vote, the vote was as follows:

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

5

31

The Chairperson thereupon declared the resolution duly passed and adopted this 6 day of September, 2012. 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.

A handwritten signature in blue ink, appearing to be "JM", is written over a horizontal line.

John D. McInnis