

MEMORANDUM

Agenda Item No. 11(A) (25)

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

DATE: December 2, 2014

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

SUBJECT: Resolution approving
Third Amendment to the
Phase I Ground Lease
with Mourning Family
Foundation, Inc., a Florida
not-for-profit corporation,
providing for a six month
extension for Mourning
Family Foundation, Inc.
to obtain financing for the
project and a six month
project completion extension

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/Imp



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
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)(25)
12-2-14

RESOLUTION NO. _____

RESOLUTION APPROVING THIRD AMENDMENT TO THE PHASE I GROUND LEASE WITH MOURNING FAMILY FOUNDATION, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, PROVIDING FOR A SIX MONTH EXTENSION FOR MOURNING FAMILY FOUNDATION, INC. TO OBTAIN FINANCING FOR THE PROJECT AND A SIX MONTH PROJECT COMPLETION EXTENSION; AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN; AND DIRECTING COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO PROVIDE EXECUTED COPY OF THE THIRD AMENDMENT TO THE PROPERTY APPRAISER'S OFFICE

WHEREAS, the County entered into two ground leases for development of this property ("the Property") by the Mourning Family Foundation, Inc. (formerly "Alonzo Mourning Charities, Inc.") on December 2, 2008 by Resolution No. R-1369-08 for a term of 65 years; and

WHEREAS, on September 18, 2012 pursuant to Resolution No. R-750-12 (the First Amendment) and on June 18, 2013 pursuant to Resolution No. 481-13 (the Second Amendment), this Board approved certain amendments to the Ground Leases; and

WHEREAS, Mourning Family Foundation, Inc. desires to amend the ground lease for Phase I to provide for a six month extension to close out its financing for the project and a six month extension for completion of the project due to unanticipated delays associated with receipt of the Southeast/Overtown Park West Community Redevelopment Agency funds,

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

Section 1. This Board hereby approves the Third Amendment to the Phase I Ground Lease between Miami-Dade County and Mourning Family Foundation, Inc., a Florida not-for-profit corporation (formerly known as Alonzo Mourning Charities, Inc.), in substantially the form attached hereto as Exhibit 1 and made a part hereof (“the Third Amendment”) and authorizes the County Mayor or the County Mayor’s designee to execute the Third Amendment for and on behalf of Miami-Dade County and to exercise any and all other rights conferred therein.

Section 2. The County Mayor or the County Mayor’s designee is hereby directed to provide to the Property Appraiser’s Office an executed copy of the Third amendment within 30 days of its execution.

The Prime Sponsor of the foregoing resolution is Commissioner Audrey M. Edmonson. 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	
Bruno A. Barreiro	Esteban L. Bovo, Jr.
Daniella Levine Cava	Jose "Pepe" Diaz
Audrey M. Edmonson	Sally A. Heyman
Barbara J. Jordan	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	Juan C. Zapata

The Chairperson thereupon declared the resolution duly passed and adopted this 2nd day of December, 2014. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County 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: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency _____

Shannon Summerset-Williams

Exhibit 1

THIRD AMENDMENT TO GROUND LEASE
PHASE I (Family Units)

This Third Amendment to Ground Lease ("Third Amendment") is made as of _____, 2014, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, herein sometimes designated or referred to as the "COUNTY" or the "LESSOR" and MOURNING FAMILY FOUNDATION, INC., a Florida not-for-profit corporation, hereinafter called the "LESSEE."

WHEREAS, LESSOR and Alonzo Mourning Charities, Inc. ("AMC"), entered into that certain Ground Lease dated December 19, 2008 (the "Ground Lease") authorized pursuant to Resolution R-1369-08; and

WHEREAS, AMC changed its name to Mourning Family Foundation, Inc. on July 5, 2012; and

WHEREAS, LESSOR and LESSEE entered into that certain Amendment to Ground Lease dated December 13, 2012 (the "Amendment") authorized pursuant to Resolution R-750-12 and that certain Second Amendment to Ground Lease dated August 26, 2013 (the "Second Amendment") authorized pursuant to Resolution R-481-13; and

WHEREAS, LESSOR and LESSEE desire to enter into this Third Amendment to amend the Ground Lease.

NOW THEREFORE, for good and sufficient mutual consideration, the receipt and sufficiency of which is hereby acknowledged by both parties, it is agreed to by LESSOR and LESSEE as follows:

1. The Ground Lease remains in full force and effect, and remains unmodified except as expressly amended by the Amendment, the Second Amendment, and this Third Amendment. This Third Amendment revises and replaces those certain provisions in the Ground Lease and Amendment and Second Amendment in conflict herewith. The foregoing recitals are true and correct and incorporated herein.

2. The second paragraph of Section 3.1 of the Ground Lease, as previously amended, is hereby deleted and replaced with the following:

3.1 In the event that the LESSEE fails to (i) close on Tax Exempt Bonds from the Miami-Dade County Housing Finance Authority and (ii) close on that Grant (the "Grant") from the Southeast Overtown/Park West Community Redevelopment Agency (the "CRA"), by June 15, 2015, this Lease shall terminate automatically. Evidence of the above shall be delivered to LESSOR within thirty (30) days of the date of closing. The Term of this Lease may only be extended, as allowed by the terms of this LEASE.

3. Section 3.2 of the Ground Lease is hereby deleted and replaced with the following:

3.2 LESSEE agrees to pursue the Tax Exempt Bonds from the Miami-Dade County Housing Finance Authority and the Grant from the CRA, which shall close by June 15, 2015.

4. Exhibits

a. Exhibit "B" of the Phase I Ground Lease, the Project Timeline, is hereby deleted and replaced with the attached Exhibit "B"

5. The last sentence in Section 8.1 of the Ground Lease is hereby deleted and replaced with the following:

All phases of construction required pursuant to this LEASE shall be completed by December 31, 2016 unless a later date is approved in writing by the County Mayor or his designee.

6. In the event of any conflict between the terms and provisions of this Third Amendment and the terms and provisions of the Ground Lease or the Amendment, the terms and provisions of this Third Amendment shall control. Any capitalized terms not defined in this Third Amendment shall have the meaning as set forth in the Ground Lease.

7. This Third Amendment may be executed in counterparts, each of which shall be deemed an original document, but all of which will constitute one single document. A facsimile or email copy of this Third Amendment and any signatures thereof shall be considered for all purposes as originals.

(Signatures appear on the following page)

IN WITNESS WHEREOF, the LESSOR and LESSEE have caused this Third Amendment to be executed by their respective and duly authorized officers the day and year first above written.

LESSEE:

WITNESSES:

MOURNING FAMILY FOUNDATION, INC., a Florida non-profit corporation

Print Name: _____

By: _____

Name: _____

Print Name: _____

Title: _____

(OFFICIAL SEAL)

LESSOR:

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

ATTEST:

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

By: _____
County Mayor

Approved as to form and legal sufficiency:

Assistant County Attorney

EXHIBIT "B"
PROJECT TIMELINE*

5/30/14 – Final Underwriting Process by Miami-Dade County Housing Finance Authority
6/15/14 – Entitlement and Permitting Activities
6/15/14 – Close on Construction Financing
6/15/14 – Commence Construction
12/31/16 – Certificate of Occupancy
1/31/2017 – Residents move in

*All dates are estimates only.