

MEMORANDUM

Agenda Item No. 11(A)(6)

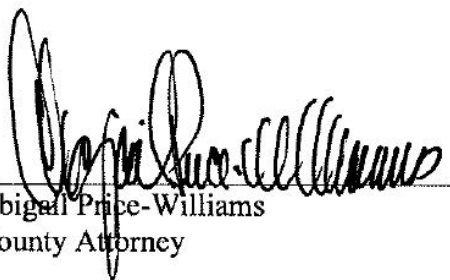
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving first amendment to an agreement between Miami-Dade County and 13 Pista, LLC originally approved by Resolution No. R-237-18 to lease and develop County land at 20000 NW 47th Avenue and to develop the North Dade Government Center, a community center, and three facilities to be leased to nonprofit agencies; providing extension to development deadlines and adding provision relating to unavoidable delays; authorizing County Mayor to execute amendment and exercise all rights contained therein

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Barbara J. Jordan.


Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 6, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 11(A)(6)

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
- ☐ Statement of social equity 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 present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ 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)(6)

10-6-20

RESOLUTION NO. _____

RESOLUTION APPROVING FIRST AMENDMENT TO AN AGREEMENT BETWEEN MIAMI-DADE COUNTY AND 13 PISTA, LLC ORIGINALLY APPROVED BY RESOLUTION NO. R-237-18 TO LEASE AND DEVELOP COUNTY LAND AT 20000 NW 47TH AVENUE AND TO DEVELOP THE NORTH DADE GOVERNMENT CENTER, A COMMUNITY CENTER, AND THREE FACILITIES TO BE LEASED TO NONPROFIT AGENCIES; PROVIDING EXTENSION TO DEVELOPMENT DEADLINES AND ADDING PROVISION RELATING TO UNAVOIDABLE DELAYS; AUTHORIZING COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXECUTE AMENDMENT AND EXERCISE ALL RIGHTS CONTAINED THEREIN

WHEREAS, under Resolution No. R-237-18, the County entered into a Lease and Development Agreement (the “Agreement”) with 13 Pista, LLC (“Developer”) to develop a multiphase commercial mixed-use entertainment, amusement and recreational facility, to include a precision driving course, hotel, club facilities, and ancillary uses (“Project”) at a cost of no less than \$75,000,000.00; and

WHEREAS, under the Agreement, the Developer would develop the Project on 140 acres of undeveloped County land located at 20000 NW 47th Avenue in unincorporated Miami-Dade County (“Demised Property”) and an additional 10-15 acres of land adjacent to the Demised Property that presently housed buildings with three community social service nonprofit agencies—His House, Inc., the Association of Retarded Citizens of South, Florida, Inc., and the Center for Family and Child Enrichment (collectively referred to as the “Nonprofits”)—as tenants; and

WHEREAS, in addition to the Project, the Agreement also required the Developer to (a) develop the North Dade Government Center and a 16,000 square foot community center on land

adjacent to the Demised Property and (b) fund, design, develop, and construct new facilities to be leased to the Nonprofits in order to make the land currently leased by the Nonprofits available for the Developer's use for the Project; and

WHEREAS, Developer has been diligently working with both the Nonprofits to develop plans for their new facilities and also with the County for the development of the North Dade Government Center, the community center, and the necessary public infrastructure to support these facilities; and

WHEREAS, the approvals by the Nonprofits for the design plans for their new facilities took longer than anticipated and the Developer's due diligence uncovered that much of the public infrastructure that will service the North Dade Government Center, the community center, and the Project is all interconnected and located beneath the land currently leased to the Nonprofits; and

WHEREAS, consequently, it is necessary for the phasing and timelines for the development of the Project, the community center, the North Dade Government Center, the public infrastructure, and the new facilities for the Nonprofits to be modified and extended so as to address the need to relocate the Nonprofits before the infrastructure work to support all of the other proposed development at the Demised Property and land adjacent thereto can take place; and

WHEREAS, in addition, the Developer has requested modifications to the section in the Agreement concerning unavoidable delays in order to provide for future negotiations on any amendments to the Agreement necessitated by unavoidable delays that arise after the initial phases of development of the Project have been completed; and

WHEREAS, this Board desires to approve the first amendment to the Agreement ("Amendment") to effectuate the necessary revisions set forth herein,

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

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

Section 2. This Board approves the Amendment in substantially the form attached hereto and authorizes the County Mayor or County Mayor's designee to execute the Amendment and exercise all rights contained therein.

The Prime Sponsor of the foregoing resolution is Commissioner Barbara J. Jordan. The motion 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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 6th day of October, 2020. 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.

MRP

Monica Rizo Perez

FIRST AMENDMENT TO LEASE AGREEMENT

This First Amendment to Lease Agreement ("**Amendment**") dated as of _____, 2020, is by and between Miami-Dade County, a political subdivision of the State of Florida, through the Internal Services Department, having its principal office and place of business at 111 N.W. 1st St., Suite 2100, Miami, Florida 33128 (hereinafter called "**County**" or "**Landlord**"), and 13 Pista LLC, a Delaware limited liability company, having its principal office and place at 21500 Biscayne Boulevard, Suite 401, Aventura, Florida 33180 (hereinafter "**13 PISTA**" or "**Tenant**").

WITNESSETH:

WHEREAS, Landlord and Tenant entered into a certain lease agreement dated as of August 1, 2018 (the "**Lease**"), relating to certain property located at 20000 NW 47 Ave, Miami, FL 33055-1257, with County Folio 30-1131-001-0030 ("**Demised Property**"); and

WHEREAS, the parties hereto mutually agree to amend the Lease to provide for the relocation of the three community agencies located on the Demised Property and the construction of the Government Center and associated Public Infrastructure as being undertaken as part of the initial phase of development, with subsequent phases to follow; and

WHEREAS, the parties wish to amend the development timeline to reflect the revised phases of development; and

WHEREAS, the parties hereto are desirous of amending the Lease to accomplish the foregoing and in certain other respects in accordance with the terms and provisions herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, Landlord and Tenant do hereby covenant and agree as follows:

1. **Defined Terms** For purposes of this Amendment, capitalized terms shall have the meanings ascribed to them in the Lease unless otherwise defined herein. Article 2 of the Lease shall be amended to include the following definition:

"**Amendment Effective Date**" shall be the first day of the first month after the date of execution of this Amendment by the County Mayor or Mayor's designee.

2. **Renumbering Section 4.1(B) of the Lease; the Development Phases.** Section 4.1(B) of the Lease shall be amended to renumber Sections 4.1(B)(i), 4.1(B)(ii) and 4.1(B)(iii) to 4.1(B)(ii), 4.1(B)(iii) and 4.1(B)(iv), respectively.

3. **Section 4.1(B)(i); Initial Development Phase** Section 4.1(B)(i) is amended to read as follows:

The Initial Development Phase of the Project ("**Phase 0**") shall consist of no less than (1) the construction of new or renovated off-site facilities for the Community Organizations, in conformance with the relocation proposals approved by the Community Organizations and provided to Landlord on October 25, 2018, as may be subsequently amended with

approval by the boards of directors of the Community Organizations, and (2) relocation of the Community Organizations to the new facilities, and (3) the Government Center, and (4) Public Infrastructure associated therewith.

4. Minimum Development, Phase I and Phase II. Section 4.3(iii) is amended to read as follows:

Minimum Development: Phase 0, Phase I and Phase II,

(iii) As part of Phase 0, Tenant shall also design and construct a Government Center on the Government Parcel and Public Infrastructure associated therewith, which shall be owned and operated by the County upon completion. The total cost for the design and construction of the Government Center shall be at the Landlord's expense, and shall not exceed a total of Seven Million Five Hundred Thousand and 00/100 Dollars (\$7,500,000.00) to be funded from an allocation of the Building Better Communities General Obligation Bond Funds Project No. 323 - North Dade Government Center, as approved on April 18, 2017, by the Miami-Dade County Board of County Commissioners, Resolution No. R-454-17 (the "GOB Funds"). Tenant shall not be obligated to incur any expenses in excess of the \$7,500,000.00 being funded by the GOB Funds in connection with the construction of the Government Center, except to the extent that the design or construction of the Government Center suffers delays or cost overruns as a result of negligent or intentional acts of Tenant contrary to the provisions of this Lease and Exhibit "I". The Government Center is more particularly described in Exhibit "I" and shall be designed and constructed in accordance with the provisions set forth in Exhibit "I" and the Building Better Communities General Obligation Bond Program Administrative Rules which are attached as Exhibit "M".

5. Construction Schedule. Section 4.5(A) of the Lease is amended to read as follows:

Tenant shall Commence Construction of: (i) Phase 0 no later than twelve (12) months after the Amendment Effective Date; (ii) Phase I no later than twenty six (26) months after the Amendment Effective Date, and (iii) Phase II no later than seventy four (74) months after the Amendment Effective Date. Tenant shall achieve Completion of Construction of (i) Phase 0 including Public Infrastructure associated therewith, within twenty six (26) months after the Amendment Effective Date, (ii) Phase I, including Public Infrastructure associated therewith, within fifty (50) months after the Amendment Effective Date, and (iii) Phase II, including the Public Infrastructure associated therewith, within ninety eight (98) months after the Amendment Effective Date. Provided, however, that if the Tenant determines, prior to the completion of Phase 0, that any particular construction activities may safely occur on the Demised Property without interruption to the Community Agencies (including, but not limited to, the interruption of utility services), then the Tenant, at its option, may commence those activities before the commencement of Phase I, subject to the consent of the County, which shall not be unreasonably withheld. Furthermore, for the sake of clarity, the deadline for Tenant to Commence Construction of Phase I shall be tolled until the date upon which the last of the Community Organizations has vacated its existing facility located on the Community Parcels and moved in to its new facility constructed in

Phase I, which the parties recognize and agree cannot occur unless and until the State of Florida, Department of Children and Families ("DCF") has inspected and approved the new facility and agreed to and caused the transfer of the licenses for the Community Organizations to the new facility ("DCF Approval") Landlord agrees to (i) cooperate with and assist the Community Organizations to obtain DCF Approval as soon as possible and (ii) cause each of the Community Organizations to vacate its existing facility (and remove all of its personal property from such existing facility) and the portion of the Community Parcels which it currently occupies promptly after such Community Organization has obtained DCF Approval

6. **Minimum Annual Public Infrastructure Spending** Section 3.3 of the Lease shall be amended to require that the Minimum Annual Infrastructure Spend commence in the fourth Lease Year.

7. **Unavoidable Delays** The following sentence shall be added to Section 4.4:

In the event that Tenant determines, in its reasonable discretion and without prejudice to any other rights or remedies available under the Lease or by law, that an Unavoidable Delay materially compromises the feasibility of the Development Concept after the substantial completion of Phase I of the Minimum Development, Tenant shall provide notice of the same to the County and the parties shall negotiate in good faith appropriate revisions to the Lease. Any proposed revisions to the Lease resulting from negotiations between the Tenant and the County Mayor or Mayor's designee shall be subject to approval by the Board

8. **Priority of First Amendment.** Except as amended and modified by this Amendment, all of the terms, covenants, conditions, and agreements of the Lease shall remain in full force and effect. In the event of any conflict between the provisions of the Lease and the provisions of this Amendment, this Amendment shall prevail

[Remainder of Page Intentionally Left Blank - Signature Page Follows.]

IN WITNESS WHEREOF, Landlord has caused this Amendment to be executed in its name by the County Mayor, as authorized by the Board of County Commissioners, and Tenant has caused this Lease to be executed by its duly authorized representative, all on the day and year first herein above written

LANDLORD

MIAMI-DADE COUNTY, a political subdivision
of the State of Florida
BY ITS BOARD OF COUNTY
COMMISSIONERS

By _____
Name: _____
Title: _____

ATTEST:

| _____|. CLERK

By _____

Approved by the County Attorney as
to form and legal sufficiency

Assistant County Attorney

Signed in the presence of

TENANT

13 PISTA, LLC,
a Delaware limited liability company

Alexandro A. -
Print Name Alexandro Clavier

Celestina Avondet
Print Name Celestina Avondet

By [Signature]
Name WIS CARLOS DE NARVAEZ STEVER
Title OWNER

Corporate Seal

STATE OF _____

COUNTY OF _____

I HEREBY CERTIFY, that on this _____ day of _____, 20____, before me, an officer duly authorized to administer oaths and take acknowledgments, appeared _____, [] in person or [] via online notarization, who is personally known to me, or proven, by producing the following identification _____, to be the _____ of _____, an existing Limited Liability Company under the laws of the State of _____, and whose name the forgoing instrument is executed and said officer severally acknowledged before me that he executed said instrument acting under the authority duly vested by said corporation and its Corporate Seal is affixed thereto

WITNESS my hand and official Seal at _____, in the County and State aforesaid, on this, the _____ day of _____, 20____

Notary Public (SEAL)

Print Name

NOTARY SEAL / STAMP

Notary Public, State of _____
My Commission expires _____



20020010300018/1

1 CERTIFICADO DE ACTUACION REMOTA.- En mi carácter de Escribano
2 Adscripto del Registro Notarial número 200 de esta Ciudad, CERTIFICO
3 que el día de la fecha, veintinueve de junio del dos mil veinte, a las 16.31
4 horas he mantenido una videoconferencia mediante la aplicación
5 WhatsApp, con el teléfono numero +54 9 11 5327-8713, desde mi teléfono
6 celular, con Luis Carlos DE NARVAEZ STEUER, titular del Documento
7 Nacional de Identidad número 19.068.880, domiciliado en Perdriel 1454,
8 Martínez, Provincia de Buenos Aires, quien declaró actuar por derecho
9 propio. Identifico al requirente por conocimiento en los términos del inciso
10 b) del Código Civil y Comercial de la Nación. Durante la videoconferencia
11 el requirente me exhibió un documento redactado en idioma extranjero
12 que consiste en "First Amendment to Lease Agreement", que firmó de
13 manera ológrafa, lo que he procedido a verificar a través del citado medio
14 audiovisual. A continuación me envió por mail una copia del documento
15 por él suscripto, que incorporaré a la presente certificación.- En virtud de
16 lo que disponen los artículos 96, subsiguientes y concordantes de la Ley
17 Orgánica Notarial 404, y en los términos de las Resoluciones 103/20 de
18 fecha 2 de abril de 2020 y 112/20 del 9 de abril de 2020 del Consejo
19 Directivo del Colegio de Escribanos de la Ciudad de Buenos Aires, expido
20 el presente certificado a pedido del requirente en la presente foja de
21 Actuación Notarial Digital Extraprotocolar, que procedo a firmar
22 digitalmente, en la Ciudad Autónoma de Buenos Aires, a los veintinueve
23 días del mes de junio de dos mil veinte, para ser presentado ante quien
24 corresponda.

25