

MEMORANDUM

Agenda Item No. 11(A)(18)

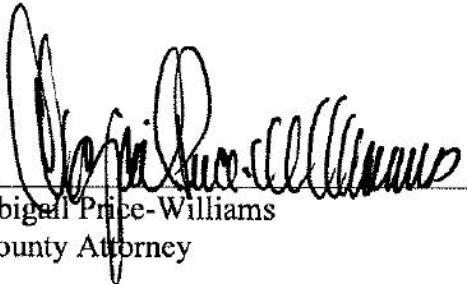
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 20, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving second amendment to the contract for sale and purchase (“contract”) between Miami-Dade County, as seller, and Miami-Dade Steel, LLC, a Delaware limited liability company, as buyer, for 123.03 acres of vacant County-owned land identified by Folio No. 30-7901-000-0095 and a portion of Folio No. 30-7901-000-0120 and located directly north of the Homestead Air Reserve Base in unincorporated Miami-Dade County in order to extend deadline for buyer to meet financing condition; authorizing County Mayor to execute the second amendment to the contract and exercise all provisions contained therein

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.


Abigail Price-Williams
County Attorney

APW/uw



MEMORANDUM
(Revised)

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

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County Attorney

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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
- 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)(18)
10-20-20

RESOLUTION NO. _____

RESOLUTION APPROVING SECOND AMENDMENT TO THE CONTRACT FOR SALE AND PURCHASE (“CONTRACT”) BETWEEN MIAMI-DADE COUNTY, AS SELLER, AND MIAMI-DADE STEEL, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS BUYER, FOR 123.03 ACRES OF VACANT COUNTY-OWNED LAND IDENTIFIED BY FOLIO NO. 30-7901-000-0095 AND A PORTION OF FOLIO NO. 30-7901-000-0120 AND LOCATED DIRECTLY NORTH OF THE HOMESTEAD AIR RESERVE BASE IN UNINCORPORATED MIAMI-DADE COUNTY IN ORDER TO EXTEND DEADLINE FOR BUYER TO MEET FINANCING CONDITION; AUTHORIZING COUNTY MAYOR OR MAYOR’S DESIGNEE TO EXECUTE THE SECOND AMENDMENT TO THE CONTRACT AND EXERCISE ALL PROVISIONS CONTAINED THEREIN

WHEREAS, on May 22, 2019, the Board of County Commissioners approved Resolution No. R-526-19, approving a Purchase and Sale Contract (“contract”) with Miami-Dade Steel, LLC, (the “Buyer”) a Delaware limited liability company, for the sale of 123.03 acres of vacant, County-owned land identified by Folio. No. 30-7901-000-0095 and a portion of Folio No. 30-7901-000-0120 and located directly north of the Homestead Air Reserve Base in unincorporated Miami-Dade County (the “property”) to be used for the development of a micro steel mill; and

WHEREAS, the contract set forth numerous conditions precedent that would need to take place prior to the closing of the sale of the property and set forth an 18-month period during which time the Buyer was to undertake certain due diligence activities and obtain all financing commitments, among other things; and

WHEREAS, Novel Coronavirus Disease 2019 (“COVID-19”) is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza; and

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued an executive order directing the State Health Officer and Surgeon General to declare a Public Health Emergency due to the discovery of COVID-19 in Florida; and

WHEREAS, on March 9, 2020, Governor DeSantis issued Executive Order 20-52 declaring a state of emergency for the entire State of Florida as a result of COVID-19; and

WHEREAS, on March 12, 2020, the County Mayor declared a State of Emergency for all of Miami-Dade County; and

WHEREAS, on May 5, 2020, this Board approved Resolution No. R-454-20 to grant an extension of six months to the 18-month due diligence period in the contract and to the 12-month period in the contract to satisfy the financing condition in the contract following Buyer’s request for such extensions “due to the interruption of business activities and the current turmoil of financial markets caused by the Covid-19 pandemic”; and

WHEREAS, following this Board’s approval of Resolution No. R-454-20, the County and Buyer executed the first amendment to the contract to memorialize the new deadlines approved by this Board; and

WHEREAS, on October 6, 2020, the Buyer requested an additional six-month extension of time to various contractual deadlines in the contract in order to comply with additional steps required to secure financing due to the impact of fluctuations within the steel industry caused by COVID-19; and

WHEREAS, this Board desires to approve a second amendment to the contract to grant Buyer an extension of time until May 1, 2021 to satisfy the financing condition in the contract that requires it to secure financial commitment letters, satisfactory to the County, which, when coupled with the firm equity commitments obtained by Buyer, total an amount not less than Two Hundred and Twenty Four Million Dollars (\$224,000,000.00) to be used to construct the micro steel mill project,

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 hereby approves a second amendment to the contract between the County and Buyer, in substantially the form attached hereto and made a part hereof, to extend the deadline by when the Buyer has to satisfy the financing condition set forth therein until May 1, 2021.

Section 3. This Board authorizes the County Mayor or Mayor's designee to execute the second amendment to the contract and exercise all provisions contained therein.

The Prime Sponsor of the foregoing resolution is Commissioner Dennis C. Moss. 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:

Audrey M. Edmonson, Chairwoman	
Rebeca Sosa, Vice Chairwoman	
Esteban L. Bovo, Jr.	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Eileen Higgins	Barbara J. Jordan
Joe A. Martinez	Jean Monestime
Dennis C. Moss	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared this resolution duly passed and adopted this 20th 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

SECOND AMENDMENT
TO CONTRACT FOR SALE AND PURCHASE

THIS SECOND AMENDMENT TO THE CONTRACT FOR SALE AND PURCHASE (“Second Amendment”) is entered into and made effective on this _____ day of _____, 2020 by and between Miami-Dade County, a political subdivision of the State of Florida (hereinafter “Landlord” and/or “County”), and MIAMI-DADE STEEL, LLC, (hereinafter “Buyer” and jointly with the County referred to herein as the “Parties”).

WHEREAS, pursuant to Resolution No. R-526-19, on May 22, 2019, the Parties entered into a Contract for Sale and Purchase (the “**Contract**”) for the County to sell and the Buyer to purchase the approximately 123.03 acres of real property that is more particularly described in the Survey and legal description attached as **Exhibit "A"** of the Contract (the "**Property**") for the purpose of constructing and operating a steel micro mill; and

WHEREAS, on May 5, 2020, the Board of County Commissioners approved Resolution No. R-454-20 to grant a six-month extension of time to certain contractual deadlines in the Contract; and

WHEREAS, on July 9, 2020, the Parties executed the First Amendment to the Contract (“**First Amendment**”); and

WHEREAS, the Parties are desirous of further amending the Contract in order to extend certain deadlines,

NOW, THEREFORE, in consideration for the mutual promises and covenants contained in this Second Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the County and the Buyer agree as follows:

WITNESSETH

1. Recitals. Buyer and the County agree that all of the foregoing recitals are true and correct, and incorporated by this reference in this Second Amendment.

2. Valid Amendment. Buyer and the County agree that this Second Amendment amends the Contract in accordance with Section 17 thereof.

3. Effect of Amendment. Buyer and County agree that all of the terms and conditions in the Contract remain in full force and in effect, except for such terms and conditions that are expressly amended by this Second Amendment.

4. Defined Terms. Buyer and County agree that, unless specifically defined herein, all of the capitalized terms used but not defined in this Second Amendment shall have the respective meanings set forth in the Contract.

5. The currently unfulfilled Conditions Precedent to Closing in Section 4(a) are hereby amended to extend said unfulfilled Conditions Precedent such that Section 4(a)(iv) shall now read as follows:

- (iv) On or before May 1, 2021, the BUYER shall secure financial commitment letters, satisfactory to the reasonable approval of the Seller, which, when coupled with the firm equity commitments obtained by BUYER, total an amount not less than Two Hundred and Twenty Four Million Dollars (\$224,000,000.00) (the “**Financing Condition**”), which funds shall be used to develop and build the Project on the Property in accordance with the Declaration of Restrictions attached hereto as **Exhibit “C”** (the “**Declaration**”); and

The remainder of Section 4 of the Contract remains unchanged.

6. The effective date of this Second Amendment shall be the date set forth on the first page hereof.

7. This Second Amendment may be executed in counterparts, each of which shall be deemed an original and all of which together constitute one and the same instrument. Facsimile or electronically transmitted signatures shall be deemed for all purposes to be originals.

This Second Amendment shall constitute a part of the Contract and references to the Contract hereafter shall automatically include a reference to this Second Amendment. In all other respects, the Contract remains in full force and effect in accordance with the terms and conditions specified therein. In the event of any conflict between this Second Amendment, the First Amendment and the Contract, the Second Amendment shall supersede the First Amendment and the Contract and the First Amendment shall supersede the Contract.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

[ONLY THE SIGNATURE PAGE REMAINS]

IN WITNESS WHEREOF, Buyer and the County have duly executed this Second Amendment, with the intent for it to be legally binding, as of the day and year first above written.

MIAMI-DADE COUNTY

a political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

Date signed: _____

ATTEST:

Harvey Ruvin, Clerk

By: _____

Approved by the County Attorney as to
Form and legal sufficiency

Assistant County Attorney

Witnesses:

Print name: _____

Print name: _____

BUYER:

MIAMI-DADE STEEL LLC, DBA ESteel
A Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF FLORIDA

ss:

COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before, an officer duly authorized to administer and take acknowledgements, personally appeared _____, personally known to me, or proven, by producing the follow identification: _____ to be the _____ of Miami-Dade Steel, LLC, DBA ESteel, an existing Limited Liability Company under the laws of the State of Delaware, and whose name the foregoing 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 hereto.

WITNESS my hand and official Seal at _____, in the County and the State aforesaid, on this, the _____ day of _____, 2020.

NOTARY PUBLIC STATE OF FLORIDA
My Commission Expires:

[NOTARIAL SEAL]