

MEMORANDUM

Agenda Item No. 11(A)(21)

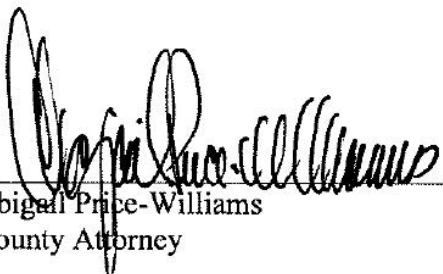
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: October 20, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution directing the County Mayor, with respect to the Lease and Development Agreements approved under Resolution No. R-676-19, to Grant Block 45, LLC (Developer) an 18-month extension of time based on economic unavoidable delay to (1) submit the construction plans required under section 4.6 of the Lease Agreement and (2) develop the 85 percent design plans under section 3.5(d) of the Development Agreement; and further directing the County Mayor, with respect to the same deadlines, to grant up to two additional extensions of time of up to six months each based on Developer's future submission of additional written evidence demonstrating new or continuing impacts of economic unavoidable delay

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



Abigail Price-Williams
County Attorney

APW/smm



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
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
- 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)(21)

10-20-20

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE, WITH RESPECT TO THE LEASE AND DEVELOPMENT AGREEMENTS APPROVED UNDER RESOLUTION NO. R-676-19, TO GRANT BLOCK 45, LLC (DEVELOPER) AN 18-MONTH EXTENSION OF TIME BASED ON ECONOMIC UNAVOIDABLE DELAY TO (1) SUBMIT THE CONSTRUCTION PLANS REQUIRED UNDER SECTION 4.6 OF THE LEASE AGREEMENT AND (2) DEVELOP THE 85 PERCENT DESIGN PLANS UNDER SECTION 3.5(D) OF THE DEVELOPMENT AGREEMENT; AND FURTHER DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE, WITH RESPECT TO THE SAME DEADLINES, TO GRANT UP TO TWO ADDITIONAL EXTENSIONS OF TIME OF UP TO SIX MONTHS EACH BASED ON DEVELOPER'S FUTURE SUBMISSION OF ADDITIONAL WRITTEN EVIDENCE DEMONSTRATING NEW OR CONTINUING IMPACTS OF ECONOMIC UNAVOIDABLE DELAY

WHEREAS, on June 18, 2019, this Board adopted Resolution No. R-676-19, approving the award of Contract No. RFP-00700 (the "Lease") to Atlantic Pacific Communities, LLC ("APC") for a 90-year lease providing for the development of a mixed-use property at the Block 45 site, located at 152 Northwest 8th Street, Miami, Florida 33136; and

WHEREAS, under a Development Agreement that accompanies the Lease, APC is also required to complete certain public improvements to the Historic Overtown/Lyric Theatre Metrorail Station (together with the development of the mixed-used property, the "Project"); and

WHEREAS, the Project entails the development of 25,000 square feet of retail space, a parking garage, including spaces to accommodate electric vehicles, and approximately 616 residential units of which 60 percent will be dedicated to workforce and affordable housing, including 3-bedroom units to accommodate families; and

WHEREAS, the Project also entails a partnership with Bethel AME Church to facilitate neighborhood involvement and including, and a traffic and construction plan to minimize traffic impact to the area; and

WHEREAS, once developed, the Project, which is within walking distance of the Brightline Downtown Train Station, the Metrorail and Metro Mover, a City of Miami trolley stop, and 7 County bus routes, will promote pedestrian living and use of mass transit by providing numerous walkable retail and restaurant spaces, as well as shared amenities for all residents, regardless of income levels; and

WHEREAS, as part of its promotion of the use of mass transit, the Project will incorporate connecting walkways, sidewalks, paving, and hardscapes between the Project and the Historic Overtown/Lyric Theatre Metrorail Station and elevator/escalator upgrades and bicycle amenities at the station itself; and

WHEREAS, the Project is located within the Historic Overtown/Lyric Theatre Rapid Transit Subzone; and

WHEREAS, as permitted under the Lease, APC subsequently assigned the Lease to Block 45, LLC (the “Developer”); and

WHEREAS, the Developer has represented to the County that it has been diligently working towards the commencement of construction of the Project, including by (1) completing all third-party analysis and diligence reports; (2) receiving approval from the County for the design plans for the Project at the 15 percent and 85 percent stages of design completion; (3) obtaining site plan approval from the City of Miami; and (4) execution a water and sewer agreement with the Water and Sewer Department; and

WHEREAS, in the course of performing its obligations under the Lease and Development Agreement, the coronavirus disease 2019 (“COVID-19”) pandemic struck, leading to various declarations of a public health emergency by international, federal, state, and local governmental authorities and resulting in widespread economic slowdowns; and

WHEREAS, on September 28, 2020, the Developer requested an extension to its construction-related deadlines under the Lease and Development Agreement based on delays outside the reasonable control of the Developer, including COVID-19, which the Developer claims have negatively impacted the availability of financing and materially delayed the potential contributions of tax increment financing for the Project from the Southeast Overtown/Park West Community Redevelopment Agency; and

WHEREAS, the Lease and Development Agreement authorize the County to extend certain deadlines for “Economic Unavoidable Delay,” which is defined in the Lease and Development Agreement to include “economic or political conditions that result in a significant decline in economic activity that materially impair access to debt or equity markets by developers of development projects in the South Florida real estate market similar to the Project or allow a committed debt or equity participant to terminate its debt or equity commitment, such as a temporary or long term liquidity crises or major recession”; and

WHEREAS, under the Economic Unavoidable Delay provision, the Developer is entitled to an initial extension of up to 18 months and, in the reasonable discretion of the Director of the Department of Transportation and Public Works (“DTPW”) or his/her designee, 2 further extensions each of up to 6 months; and

WHEREAS, based on the Developer's representations as to the impacts on the Project of COVID-19 and events beyond its control, this Board desires to direct the County Mayor or County Mayor's designee to grant the 18-month extension requested by the Developer and authorized under the Lease and Development Agreement; and

WHEREAS, this Board further desires to direct the County Mayor or County Mayor's designee, upon the Developer's future submission of additional written evidence demonstrating new or continuing impacts of Economic Unavoidable Delay on the Project, to grant up to 2 additional extensions of up to 6 months each to account for such delay; and

WHEREAS, this Board specifically desires to direct the County Mayor or County Mayor's designee to grant the aforementioned extensions with respect to the Developer's obligation to (1) submit Construction Plans to the City of Miami (or other governmental authority with jurisdiction) after Final Design Plans are approved by DTPW under section 4.6 of the Lease and (2) develop the 85 percent Design Plans, as defined in section 3.5(d) of the Development Agreement; and

WHEREAS, the foregoing directives are administrative directives from the Board to the County Mayor or County Mayor's designee which are not intended to create substantive rights in third parties, extend any deadlines other than those identified herein, or alter any obligations between the County and the Developer under any agreements other than the Lease and Development Agreement,

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

Section 1. Adopts the foregoing recitals as true and correct and incorporates them herein.

Section 2. Directs the County Mayor or County Mayor’s designee, based on Economic Unavoidable Delay, to (1) grant the Developer an 18-month extension of time to submit Construction Plans to the City of Miami (or other governmental authority with jurisdiction) after Final Design Plans are approved by DTPW under section 4.6 of the Lease and (2) develop the 85 percent Design Plans, as defined in section 3.5(d) of the Development Agreement.

Section 3. Directs the County Mayor or County Mayor’s designee, as to the Developer’s obligations identified in section 2, and upon the Developer’s future submission of additional written evidence demonstrating new or continuing impacts of Economic Unavoidable Delay on the Project, to grant up to 2 additional extensions of up to 6 months each to account for such delay.

The Prime Sponsor of the foregoing resolution is Chairwoman 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:

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.

MAG

Miguel A. Gonzalez