

MEMORANDUM

Agenda Item No. 11(A)(11)

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

DATE: February 7, 2012

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

SUBJECT: Resolution authorizing
execution of Second
Amendment to Lease
Agreement at Virginia Key
with University of Miami for
the purpose of making
University responsible for
maintenance and operation of
eight-inch gravity sanitary
sewer line

Resolution No. R-159-12

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Xaiver L. Suarez.



R. A. Cuevas, Jr.
County Attorney

RAC/jls

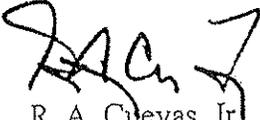


MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
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SUBJECT: Agenda Item No. 11(A)(11)

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)(11)
2-7-12

RESOLUTION NO. R-159-12

RESOLUTION AUTHORIZING EXECUTION OF SECOND AMENDMENT TO LEASE AGREEMENT AT VIRGINIA KEY WITH UNIVERSITY OF MIAMI FOR THE PURPOSE OF MAKING UNIVERSITY RESPONSIBLE FOR MAINTENANCE AND OPERATION OF EIGHT-INCH GRAVITY SANITARY SEWER LINE; AND AUTHORIZING COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXERCISE ANY AND ALL RIGHTS CONFERRED THEREIN

WHEREAS, in 1979, the University of Miami ("University") began leasing real property from the County at Virginia Key for the expansion and improvement of the Rosenstiel School of Marine and Atmospheric Sciences (RSMAS); and

WHEREAS, in 2005, the Lease was amended by the parties to extend the term until 2050, add a provision regarding the new master plan for Virginia Key and modify the legal description; and

WHEREAS, the University is currently expanding the main campus of the RSMAS; and

WHEREAS, the main campus of the RSMAS is served by an existing 8-inch gravity sanitary sewer line which is located under a building; and

WHEREAS, the 8-inch sewer line is owned by the County and operated and maintained by the Miami-Dade Water and Sewer Department ("MDWASD"); and

WHEREAS, the Lease provides the University with the financial responsibility of relocating , adjusting, revising, realigning or connecting existing utilities for the continuing operation of other activities in the area; and

WHEREAS, the University is scheduled to begin construction of a new seawater building in February, 2012 and relocating the sewer line will adversely affect the construction schedule of the new building which is partially funded by a \$15 million American Recovery and Reinvestment Act Grant; and

WHEREAS, the University has requested that the County further amend the lease to provide for the University to be financially responsible for the maintenance and operation of the 8-inch sewer line to ensure that the University meets the time requirements of the \$15 million Grant; and

WHEREAS, since the location of the sewer line under the building is difficult for MDWASD to access, operate and maintain, it is in the County's best interest to amend the lease to require the University to be financially responsible for the maintenance and operation of said sewer line,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the Second Amendment to Lease Agreement between Miami-Dade County and University of Miami, for the purpose of requiring the University to be responsible for the maintenance and operation of the 8-inch sanitary sewer line that is located under a building on the subject real property, authorizes the County Mayor or Mayor's designee to execute the same for and on behalf of Miami-Dade County, in substantially the form attached hereto and made a part hereof; and authorizes the County Mayor or Mayor's designee to exercise any and all rights conferred therein.

The Prime Sponsor of the foregoing resolution is Commissioner Xavier L. Suarez. It was offered by Commissioner **Jose "Pepe" Diaz**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of February, 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.

Henry N. Gillman

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SECOND AMENDMENT TO LEASE

THIS SECOND AMENDMENT TO LEASE made this _____ day of _____, 2012, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "Lessor" and the UNIVERSITY OF MIAMI, a corporation not-for-profit, organized under the laws of the State of Florida, and having its principal place of business in Coral Gables, Florida, hereinafter referred to as the "Lessee."

WITNESSETH:

WHEREAS, Resolution No. R-621-79, adopted by the Board of County Commissioners on May 15, 1979, authorized a lease between the above-named parties; and

WHEREAS, on June 21, 2005, the Board of County Commissioner authorized an amendment to the Lease by Resolution No. R-782-05; and

WHEREAS, both Lessor and Lessee are desirous of further amending said Lease as set forth below; and

WHEREAS, by Resolution No. _____ adopted _____, 2012, the Board of County Commissioners has authorized the amending of said Lease;

NOW, THEREFORE, it is agreed that the said Lease is hereby amended as follows:

Article VII – Utilities is amended to read:

The Tenant agrees to assume the responsibility for and to bear the expense of the relocation, adjustment, revision, realignment or connection of any

existing above or below-grade utilities on the demised premises or other existing improvements which are to be retained, and which are necessary for the continuing operation of other activities permanently established in the area, and to cooperate with the County or its assigns in respect to future installation of such utilities as may be required within the site. The Tenant shall have the financial responsibility and liability of properly maintaining and operating the 8-inch sanitary sewer main that is placed under a building located at 4600 Rickenbacker Causeway to ensure continuous operation of the sewer main in accordance with applicable laws.

In all other respects, said Lease shall remain in full force and effect in accordance with the terms and conditions specified therein.

IN WITNESS WHEREOF, the Lessor and Lessee have caused this Second Amendment to Lease to be executed by their respective and duly authorized officers the day and year first above written.

By: _____

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

By: _____

UNIVERSITY OF MIAMI

By: _____

(LESSEE)

MIAMI-DADE COUNTY BY ITS

BOARD OF COUNTY COMMISSIONERS

By: _____

County Mayor (LESSOR)

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