

MEMORANDUM

Agenda Item No. 8(F)(1)

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

DATE: July 1, 2014

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

SUBJECT: Resolution approving terms of a
Retroactive Lease Agreement
between the County and the
City of Miami for certain
County-owned property to be
utilized by the City of Miami
for its Police Special Operations
Units

Resolution No. R-588-14

The accompanying resolution was prepared by the Internal Services Department and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro.



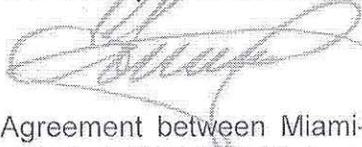
R. A. Cuevas, Jr.
County Attorney

RAC/smm

Date: July 1, 2014

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

From: Carlos A. Gimenez
Mayor



Subject: Retroactive Lease Agreement between Miami-Dade County and the City of Miami on County Property Located at 1701 NW 30 Avenue, Miami, Florida - Lease No. 01-3133-006-0900-L02

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the execution of a Retroactive Lease Agreement with the City of Miami (City) for the City to utilize County-owned property located at 1701 NW 30 Avenue, Miami, Florida. More specifically, the resolution does the following:

- Authorizes the leasing by the City of 3.8 acres of County-owned land containing an approximately 37,946 square foot office building and surface parking lot; and
- Authorizes a lease term of three years, plus one additional five-year renewal option period.

This lease is retroactive to January 1, 2013 as the County was initially considering other uses for the property and allowed the City to remain on a month-to-month basis during that time period. However, none of the other potential uses materialized, and it was subsequently determined that it would be in the County's best interest to enter into a new lease with the City for this property.

Scope

The property is located in Commission District 5, which is represented by Commissioner Bruno A. Barreiro.

Fiscal Impact/Funding Source

The County receives nominal rent in the amount of \$1.00 annually. However, the City, both under the existing lease and the recommended lease, is responsible for all maintenance and operating costs, which is estimated at approximately \$300,000 per year. The County does not expend any funds in maintaining or operating the property.

Track Record/Monitor

The County has no record of negative performance issues with the City. Margaret Araujo, Real Estate Development Division, Internal Services Department is the lease monitor.

Delegation of Authority

Authorizes the County Mayor or the County Mayor's designee to execute the attached Retroactive Lease Agreement, and to exercise the renewal and cancellation provisions.

Background

This property has been utilized by the City of Miami Police Department, Special Operations Unit since 2008, which was approved by the Board through Resolution R-414-08. When the property was originally vacated by the Community Action and Human Services Department in 2005, the property was circulated to other County Departments to determine if there was another County need for the property, in which none was determined. However, the City of Miami did express interest in the property, and, agreed to make all necessary repairs and assume all maintenance and operating expenses through the existing lease.

In light of the expiration of the current lease, the County again re-circulated the property to County departments for possible interest in utilizing this property, and, again, no other County department express interest.

The City would like to continue to utilize this property under the same terms and conditions as the existing lease. Given that no other County departments have a need for this property, and given that the City continues to cover all operating and maintenance costs associated with this property, it is in the best interest of the County to continue to secure the City as a tenant in this property. Furthermore, the County has the right to cancel the lease agreement with 180 days written notice, without having to compensate the City for any of the improvements.

Additional Lease details are as follows:

LEASE TERM: Three years, plus one five-year renewal option period.

EFFECTIVE DATES: Commencing retroactively to January 1, 2013 and terminating three years thereafter.

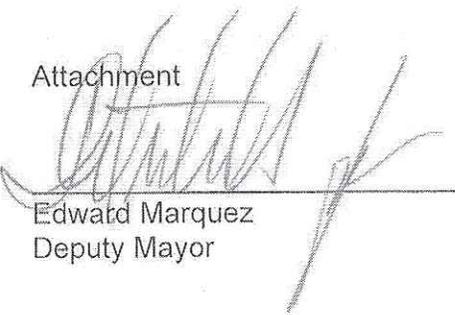
RENTAL RATE: \$1.00 per year.

LEASE CONDITIONS: The tenant is responsible for all maintenance and operating expenses including; building repairs, electricity, water, phone and data lines and equipment.

CANCELLATION PROVISION: Either party may cancel at any time and for any reason by giving each other 180 days written notice prior to the effective date of the cancellation.

CURRENT LEASE: The previous Lease Agreement was approved by the Board on April 8, 2008 through Resolution R-414-08. The lease period was for one year, with four one-year renewal option periods. The City has continued to occupy the property on a month to month basis under the same terms and conditions as the current lease agreement.

Attachment



Edward Marquez
Deputy Mayor



MEMORANDUM
(Revised)

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

DATE: July 1, 2014

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

SUBJECT: Agenda Item No. 8(F)(1)

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. 8(F)(1)
7-1-14

RESOLUTION NO. R-588-14

RESOLUTION APPROVING TERMS OF A RETROACTIVE LEASE AGREEMENT BETWEEN THE COUNTY AND THE CITY OF MIAMI FOR CERTAIN COUNTY-OWNED PROPERTY LOCATED AT 1701 N.W. 30 AVENUE, FOR PREMISES TO BE UTILIZED BY THE CITY OF MIAMI FOR ITS POLICE SPECIAL OPERATIONS UNITS FOR A RENTAL AMOUNT OF \$1.00 PER YEAR, AND AUTHORIZING EXECUTION BY THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE AND THE EXERCISE BY THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE OF ANY AND ALL OTHER RIGHTS CONFERRED THEREIN

WHEREAS, the City of Miami is a registered Florida Municipal Corporation of the State of Florida; and

WHEREAS, the City of Miami desires to use certain County-owned property located at 1701 N.W. 30 Avenue, Miami under Folio Number 01-3133-006-0900 solely for its Police Special Operations Units; and

WHEREAS, this Board finds that pursuant to Section 125.38 of the Florida Statutes, such lease for such use of this property would promote community interest and welfare, that the City of Miami requires the County-owned property for such use, and the property is not otherwise needed for County purposes; and

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference, including specifically the lease to the City of Miami for a three year term with one five-year renewal option period at the rents set forth in the Lease,

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

Section 1. The foregoing recitals are incorporated herein and are approved.

Section 2. This Board hereby approves the terms of the Retroactive Lease Agreement between Miami-Dade County and the City of Miami, a Florida Municipal Corporation of the State of Florida, for premises to be utilized by the City's Police Special Operations, for the three-year term of the lease and the one-five year renewal option period, all in substantially the form attached hereto and made a part hereof by this reference (the "Lease"). This Board hereby authorizes the County Mayor or the County Mayor's designee to execute this lease for and on behalf of Miami-Dade County; and authorizes the County Mayor or the County Mayor's designee to exercise any and all other rights conferred therein.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of July, 2014. 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.

JRA

Juliette R. Antoine

RETROACTIVE LEASE AGREEMENT

THIS AGREEMENT made on the _____ day 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. and City of Miami, a Florida Municipal Corporation of the State of Florida, hereinafter referred to as the "TENANT,"

WITNESSETH:

That COUNTY, for and in consideration of the restrictions and covenants herein contained, hereby allows the TENANT and TENANT hereby agrees to use from COUNTY the Leased Premises described as follows:

Approximately 167,396 square feet of land and building located at 1701 N.W. 30 Avenue, Miami.

TO HAVE AND TO HOLD unto said TENANT for a retroactive term of three (3) years, commencing on January 1, 2013, (the "Effective Date") and terminating three (3) years thereafter, for a total rental fee of One Dollar and 00/100 (\$1.00) payable to the Internal Services Department, 111 N.W. 1st Street, 24th floor, Miami, Florida 33128, or at such other place and to such other person as the COUNTY may from time to time designate in writing.

IT IS FURTHER MUTUALLY UNDERSTOOD AND AGREED BY THE RESPECTIVE PARTIES HERETO:

ARTICLE I USE OF LEASED PREMISES

The area of the Leased Premises shall be used by TENANT solely for its Police Special Operations, which may include, but are not limited to the following units: Section Commander and Staff, Police Training, Crime Suppression, Enforcement (Motors), K-9, Bomb Squad (Office Only),

SWAT /Hostage Negotiation, Special Events, Aviation, Accident Investigations /Traffic Homicide, and Marine Patrol units.

ARTICLE II
CONDITION OF LEASED PREMISES

TENANT hereby accepts the Leased Premises in its "AS-IS" condition, as of the date of the beginning of this Lease Agreement.

ARTICLE III
UTILITIES

The TENANT, during the term hereof, shall pay all charges for utilities used by the TENANT at the Leased Premises and shall provide janitorial and custodial services as well as auxiliary services such as security services.

ARTICLE IV
MAINTENANCE

The TENANT agrees to maintain and keep in good repair, condition, and appearance, during the term of this Lease Agreement or any extension or renewal thereof, the Leased Premises.

TENANT shall be responsible for and shall repair any damage caused to the Leased Premises as a result of TENANT OR TENANT's agents, employees, invitees, or visitors use of the Leased Premises, ordinary wear and tear excepted. COUNTY shall notify TENANT after discovering any damage which TENANT is responsible for repairing and TENANT shall make the necessary repairs promptly after said notice.

ARTICLE V
DESTRUCTION OF LEASED PREMISES

In the event the Leased Premises should be destroyed or so damaged by fire, windstorm, or other casualty to the extent that the Leased Premises are rendered unleaseable or unfit for the purpose of TENANT, either party may cancel this Lease Agreement by the giving of thirty (30) days' prior written

notice to the other. If the Leased Premises are partially damaged due to TENANT's negligence, but not rendered unusable for the purposes of this Lease Agreement, the same shall with due diligence be repaired by TENANT from proceeds of the insurance coverage and/or at its own cost and expense. If the damage shall be so extensive as to render such Leased Premises unusable for the purposes intended, but capable of being repaired within thirty (30) days, the damage shall be repaired with due diligence by TENANT from the proceeds of the insurance coverage policy and/or at its own cost and expense. In the event that said Leased Premises are completely destroyed due to TENANT's negligence, TENANT shall repair and reconstruct the Leased Premises so that they equal the condition of the Leased Premises on the date possession was given to TENANT. In lieu of reconstructing, TENANT shall reimburse COUNTY all expenses incurred by COUNTY in restoring the Leased Premises to their original condition. The election of remedies shall be at the sole discretion of COUNTY.

ARTICLE VI
ASSIGNMENT

TENANT shall not sublet, transfer, mortgage, pledge, or dispose of this Lease Agreement or the term hereof, without the County's written permission, which permission shall not be unreasonably withheld.

ARTICLE VII
NO LIABILITY FOR PERSONAL PROPERTY

All personal property placed or moved in the Leased Premises above described shall be at the risk of TENANT or the owner thereof. COUNTY shall not be liable to TENANT for any damage to said personal property unless caused by or due to negligence of COUNTY, COUNTY's agents or employees, subject to all limitations of Florida Statutes, Section 768.28.

ARTICLE VIII
SIGNS

Exterior signs will be of the design and form of letter to be first approved by COUNTY, the cost of painting to be paid by TENANT. All signs shall be removed by TENANT at termination of this

Lease Agreement and any damage or unsightly condition caused to Leased Premises because of or due to said signs shall be satisfactorily corrected or repaired by TENANT.

ARTICLE IX
COUNTY'S RIGHT OF ENTRY

COUNTY or any of its agents shall have the right to enter said Leased Premises during all reasonable working hours, upon the giving of twenty-four (24) hours' prior notice, to examine the same or to make such repairs, additions, or alterations as may be deemed necessary for the safety, comfort, or preservation thereof. Said right of entry shall likewise exist for the purpose of removing placards, signs, fixtures, alterations, or additions which do not conform to this Lease Agreement.

ARTICLE X
PEACEFUL POSSESSION

Subject to the terms, conditions, and covenants of this Lease Agreement, COUNTY agrees that TENANT shall and may peaceably have, hold, and enjoy the Leased Premises above described, without hindrance or molestation by COUNTY.

ARTICLE XI
SURRENDER OF LEASED PREMISES

TENANT agrees to surrender to COUNTY, at the end of the term of this Lease Agreement or any extension thereof, said Leased Premises in as good condition as said Leased Premises were at the beginning of the term of this Lease Agreement, ordinary wear and tear and damage by fire and windstorm or other acts of God excepted.

ARTICLE XII
INDEMNIFICATION AND HOLD HARMLESS

TENANT and the COUNTY do hereby agree to indemnify and hold harmless each other to the extent and within the limitations of Section 768.28, Florida Statutes, subject to the provisions of that Statute whereby TENANT and the COUNTY shall not be held liable to pay a personal injury or

property damage claim or judgments by any one person which exceeds the sum of \$100,000 or any claim or judgments or portions thereof, which, when totaled with all other occurrences, exceeds the sum of \$200,000, from any and all personal injury or property damage claims, liabilities, losses and causes of action which may arise solely as a result of the respective negligence of the COUNTY or TENANT.

ARTICLE XIII
LIABILITY FOR DAMAGE OR INJURY

COUNTY shall not be liable for any damage or injury which may be sustained by any party or person on the demised Leased Premises other than the damage or injury caused solely by the negligence of COUNTY, its officers, employees, agents, invitees, or instrumentalities, subject to all limitations of Florida Statutes, Section 768.28.

ARTICLE XIV
SUCCESSORS IN INTEREST

It is hereby covenanted and agreed between the parties that all covenants, conditions, agreements, and undertakings contained in this Lease Agreement shall extend to and be binding on the respective successors and assigns of the respective parties hereto, the same as if they were in every case named and expressed.

ARTICLE XV
CANCELLATION

Either party, be it the COUNTY through its County Mayor or his designee, or the TENANT through its City Manager or his designee, shall have the right to cancel this Lease Agreement at any time by giving the other at least 180 days written notice prior to its effective date.

ARTICLE XVI
OPTION TO RENEW

Provided this Lease Agreement is not otherwise in default, TENANT is hereby granted the option to extend this Lease Agreement for one (1) additional five years (5) renewal option periods, by

giving County notice in writing at least one hundred twenty (120) days prior to the expiration of the lease agreement or any extensions thereof, under the same terms and conditions of the initial Lease Agreement.

ARTICLE XVII
NOTICES

All notices or other communications which may be given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered by personal service or by certified mail addressed to TENANT and COUNTY at the addresses indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served or if by certified mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

To City:

City Manager
City of Miami
3500 Pan American Drive
Miami, Florida 33133

To County:

County Mayor
Stephen P. Clark Center
111 NW 1st Street, Suite 2910
Miami, Florida 33128-1994

With Copies to:

City Attorney
City of Miami
444 SW 2nd Avenue
Suite 945
Miami, Florida 33130

Director
Department of Public Facilities
City of Miami
444 SW 2nd Avenue, 3rd Floor
Miami, Florida 33130

Director
Internal Services Department
Miami-Dade County
111 NW 1st Street, Suite 2460
Miami, Florida 33130

ARTICLE XVIII
INSURANCE

TENANT is self-insured in accordance with and subject to the limitations of Section 768.28, Florida Statutes and shall provide evidence of acceptable self-insurance under the laws of the State of

Florida to the County's Department of Risk Management. TENANT represents that its self-insurance program covers actions to recover for injury or loss of property, personal injury or death caused by the negligent or wrongful acts or omission of its officers and employees.

ARTICLE XIX
PERMITS, REGULATIONS & SPECIAL ASSESSMENTS

TENANT covenants and agrees that during the term of this Lease Agreement TENANT will obtain any and all necessary permits and approvals and that all uses of the Leased Premises will be in conformance with all applicable laws, including all applicable zoning regulations.

Any and all charges, taxes, or assessments levied against the Leased Premises shall be paid by TENANT and failure to do so will constitute a breach of this Lease Agreement.

ARTICLE XX
ADDITIONAL PROVISIONS

1. Mechanic's, Materialmen's and Other Liens

TENANT agrees that it will not permit any mechanic's, materialmen's or other liens to stand against the Leased Premises for work or materials furnished to TENANT; it being provided, however, that TENANT shall have the right to contest the validity thereof. TENANT shall immediately pay any judgment or decree rendered against TENANT, with all proper costs and charges, and shall cause any such lien to be released off record without cost to COUNTY.

2. Non-Discrimination

The Board of County Commissioners declared and established as a matter of policy, by Resolution No. 9601 dated March 24, 1964, that there shall be no discrimination based on race, color, creed, or national origin and Resolution No. 85-92 dated January 21, 1992, that there shall be no discrimination on the basis of disability in connection with any County property or facilities operated or maintained under Lease Agreement, license, or other agreement from MIAMI-DADE COUNTY or its agencies.

TENANT agrees to comply with the intention of Resolution No. 9601 dated March 24, 1964 and

Resolution No. 85-92 dated January 21, 1992, involving the use, operation, and maintenance of the property and facilities included in this Lease Agreement.

ARTICLE XXI
GOVERNING LAW

This Lease Agreement, including any exhibits, or amendments, if any, and all matters relating thereto (whether in contract, statute, tort or otherwise) shall be governed by and construed in accordance with the laws of the State of Florida.

ARTICLE XXII
HOLDOVER

If TENANT, with COUNTY'S consent, remains in possession of the demised premises after expiration of the term and if COUNTY'S and TENANT have not executed an expressed written agreement as to such holding over, then such occupancy shall be a tenancy from month to month at a monthly rental for the first month, after expiration of the term, equivalent to one hundred percent (100%) of the monthly rental in effect immediately prior to expiration, such payments to be made as herein provided. In the event of such holding over, all of the terms of the Lease Agreement including the payment of all charges owing hereunder other than rent shall remain in force and effect on said month to month basis.

ARTICLE XXIII
WRITTEN AGREEMENT

This Lease Agreement contains the entire agreement between the parties hereto and all previous negotiations leading thereto.

IN WITNESS WHEREOF, COUNTY and TENANT have caused this Lease Agreement to be executed by their respective and duly authorized officers the day and year first above written.

CITY OF MIAMI,
A FLORIDA MUNICIPAL CORPORATION

ATTEST: [Signature]
TODD B. HANNON
CITY CLERK 10/18/13

BY: [Signature]
JOHNNY MARTINEZ, P.E.
CITY MANAGER

APPROVED AS TO FORM AND
CORRECTNESS:

APPROVED AS TO INSURANCE
REQUIREMENTS:

BY: [Signature]
VICTORIA MÉNDEZ
CITY ATTORNEY JAX

BY: [Signature]
CALVIN ELLIS
RISK MANAGEMENT DIRECTOR

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN,

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

By: _____
DEPUTY CLERK

By: _____
CARLOS A. GIMENEZ
COUNTY MAYOR (COUNTY)