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OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(3)

TO: Honorable Chairman Jean Monestime and Members, Board of County Commissioners

DATE: April 21, 2015

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

SUBJECT: Resolution approving a Second Amendment to Lease Agreement between Miami-Dade County, as Landlord, and the Children's Psychiatric Center, Inc., a Florida not-for-profit corporation, n/k/a Institute for Child and Family Health, Inc., as tenant, for vacant land located at 6100 N.W. 153 Avenue, Miami Lakes in order to extend construction deadline and permit leasehold mortgage
Resolution No. R-330-15

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Vice Chairman Esteban L. Bovo, Jr.

R. A. Cuevas, Jr.
County Attorney

RAC/smm

MEMORANDUM

(Revised)

TO: Honorable Chairman Jean Monestime
and Members, Board of County Commissioners

DATE: April 21, 2015

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

SUBJECT: Agenda Item No. 11(A)(3)

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. 11(A)(3)
4-21-15

RESOLUTION NO. R-330-15

RESOLUTION APPROVING A SECOND AMENDMENT TO LEASE AGREEMENT BETWEEN MIAMI-DADE COUNTY, AS LANDLORD, AND THE CHILDREN'S PSYCHIATRIC CENTER, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION, N/K/A INSTITUTE FOR CHILD AND FAMILY HEALTH, INC., AS TENANT, FOR VACANT LAND LOCATED AT 6100 N.W. 153 AVENUE, MIAMI LAKES IN ORDER TO EXTEND CONSTRUCTION DEADLINE AND PERMIT LEASEHOLD MORTGAGE; AND AUTHORIZING THE COUNTY MAYOR OR THE COUNTY MAYOR'S DESIGNEE TO EXECUTE SAID SECOND AMENDMENT AND EXERCISE ALL PROVISIONS CONTAINED THEREIN

WHEREAS, by Resolution No. R-44-06, adopted by the Board of County Commissioners on January 24, 2006, the Board authorized a Lease Agreement ("Lease") between Miami-Dade County and The Children's Psychiatric Center, Inc., a Florida not-for-profit corporation, now known as (n/k/a) Institute for Child and Family Health, Inc. ("ICFH"), for the lease of 61,927 square feet of unimproved, County-owned, vacant land located at 6100 N.W. 153 Street, Miami Lakes, Florida; and

WHEREAS, pursuant to the Lease, ICFH is to use the land for the construction and operation of a facility which will provide healthcare services to the County's children and families, including prevention and treatment of health and behavioral health disorders; and

WHEREAS, the Lease was for a 50 year term commencing on March 30, 2006 and ending March 29, 2056; and

WHEREAS, by Resolution No. R-308-11, adopted by the Board of County Commissioners on May 3, 2011, the Board authorized an amendment to the Lease ("First Amendment") which, among other things, changed the requirement that commencement of

construction begin within five years of the execution of the Lease to one that requires the construction of the facility to be completed within 10 years of the commencement date of the Lease dated March 30, 2006; and

WHEREAS, in order to undertake the construction of the facility, ICFH requires financing and has sought approval from the County to obtain a leasehold mortgage on the Lease; and

WHEREAS, ICFH also requires additional time to complete construction of the facility and has requested that the County extend the construction completion date by two years; and

WHEREAS, the County is desirous of amending said Lease and the First Amendment in order to authorize ICFH to obtain and record a leasehold mortgage and to complete construction within 12 years of the commencement date of the Lease,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the Second Amendment to Lease Agreement between Miami-Dade County (as Landlord) and ICFH, a Florida not-for-profit corporation (as Tenant), in substantially the form of agreement attached hereto and made a part hereof, for premises located at 6100 N.W. 153 Avenue, Miami Lakes in order to extend the deadline by when construction must be completed and in order to allow ICFH to obtain a leasehold mortgage, and authorizes the County Mayor or the County Mayor's designee to execute same for and on behalf of Miami-Dade County and to exercise all provisions contained therein.

The Prime Sponsor of the foregoing resolution is Vice Chairman Esteban L. Bovo, Jr. It was offered by Commissioner **Esteban L. Bovo, Jr.**, who moved its adoption. The motion was seconded by Commissioner **Sally A. Heyman** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of April, 2015. 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: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Monica Rizo Perez

SECOND AMENDMENT TO LEASE AGREEMENT

THIS SECOND AMENDMENT TO THE LEASE AGREEMENT ("Second Amendment") is made this _____ day of _____, 2015, by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, herein sometimes designated or referred to as the "LANDLORD," and THE CHILDREN'S PSYCHIATRIC CENTER, INC., nka INSTITUTE FOR CHILD AND FAMILY HEALTH, INC. a Florida Not-for-Profit Corporation, hereinafter referred to as the "TENANT."

WITNESSETH:

WHEREAS, by Resolution No. R-44-06, adopted by the Board of County Commissioners on January 1, 2006, the Board authorized a Lease Agreement ("Lease") between the above named parties which approved the lease of 61,927 square feet of unimproved, County-owned, vacant land located at 6100 N.W. 153 Street, Miami Lakes, Florida; and

WHEREAS, the Lease commenced on March 30, 2006 through March 29, 2056 for a fifty (50) year term; and

WHEREAS, the TENANT is to construct and operate a facility which will provide a continuum of healthcare and behavioral services to Miami-Dade County's children and their families, to include prevention and treatment of health and behavioral health disorders for children, adolescent and their families; and

WHEREAS, by Resolution No. R-308-11, adopted by the Board of County Commissioners on May 3, 2011, the Board authorized an amendment to the Lease ("First Amendment") which, among other things, changed the requirement that commencement of construction begin within five (5) years of the execution of the Lease to one that requires the construction of the facility to be completed within ten (10) years of the commencement date of the Lease dated March 30, 2006; and

WHEREAS, in order to undertake the construction of the facility, the TENANT requires financing and has sought approval from the County to obtain a leasehold mortgage on the lease; and

WHEREAS, TENANT also requires additional time to complete construction of the facility and has request that the County extend the construction completion date by two (2) years; and

WHEREAS, both LANDLORD and TENANT are desirous of amending said Lease and the First Amendment as set forth below in order to authorize TENANT to obtain and record a leasehold mortgage and to complete construction within twelve (12) years of the commencement date of the Lease; and

WHEREAS, by Resolution No. _____, adopted _____, 2015, the Board of County Commissioners has authorized this Second Amendment;

NOW, THEREFORE, in consideration of the restrictions and covenants herein contained, it is agreed that the said Lease is hereby amended as follows:

(1) A new Article XXIII to be titled "LEASEHOLD MORTGAGE" is hereby added to the Lease Agreement providing as follows:

Approved by County Attorney as to
form and legal sufficiency_____

TENANT shall be permitted to encumber its interest in the Lease Agreement (such encumbrance herein being defined as the "Leasehold Mortgage") for the sole purpose of financing the construction of a facility to provide healthcare services to Miami-Dade County's children and their families, inclusive of prevention and treatment of health and behavioral disorders, subject to the terms and conditions of this Lease Agreement. The TENANT and LANDLORD, individually or jointly, will enter into such customary documentation as may reasonably be required in connection with such Leasehold Mortgage to memorialize: (1) that the Leasehold Mortgage is subordinate and inferior to the County's ownership of the land; (2) that the leasehold lender and any subsequent tenant will attorn to the County in the event of any default by TENANT under the Leasehold Mortgage; (3) that the LANDLORD will provide the leasehold lender with reasonable notice of any default of the Lease Agreement, and reasonable opportunity to cure same; and (4) so long as the leasehold lender does timely cure any default of TENANT hereunder, and so long as such leasehold lender obtains (within a reasonable time thereafter) a subsequent not-for-profit tenant approved in writing by the LANDLORD, which approval will not be unreasonably withheld, who agrees to occupy, use and operate the leased premises and all improvements constructed thereon for the provision of health and/or social services to the community and to comply with all other of TENANT's obligations under this Lease Agreement, LANDLORD will recognize leasehold lender (initially) and then subsequent not-for-profit tenant as TENANT and will not disturb their possession of the leased premises.

(2) Provision one (1) of Article XV of the Lease titled "Cancellation" shall be modified as follows:

1. Construction of the facility has not been completed within twelve (12) years of the commencement date of the Lease Agreement dated March 30, 2006. The facility shall be deemed to have been completed for purposes of this subsection once TENANT has obtained a certificate of occupancy.

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

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

(CORPORATE SEAL)

INSTITUTE FOR CHILD AND FAMILY HEALTH, INC., a Florida Not-for-Profit Corporation

WITNESS

WITNESS

By: _____
Juan C. Gonzalez
Chief Executive Officer (TENANT)

Approved by County Attorney as to form and legal sufficiency_____

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by the County Attorney as
To Form and Legal Sufficiency._____

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

By:_____
Carlos A. Gimenez
County Mayor (LANDLORD)