

MEMORANDUM

Agenda Item No. 11(A)(1)

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

DATE: January 20, 2016

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving terms of and authorizing execution by the County Mayor of an Amendment to the Lease between Miami-Dade County and NKMIA, LLC, a Delaware Limited Liability Company, for the construction, operation and maintenance of a facility to house the headquarters of Naeem Khan Limited or a successor entity to design, create, and market products under the Naeem Khan brand and related creative industries and providing for an eight month extension of certain deadlines set forth therein for property located at 1175 NW South River Drive located in Miami, Florida

Resolution No. R-53-16

This item was amended at the 12-10-15 Economic Prosperity Committee to authorize the County Mayor or Mayor's designee to work with the Tenant in drafting customary and reasonable leasehold mortgage documentation in the event that the Tenant enters into a leasehold mortgage pursuant to the terms of the original lease, including notice provisions, providing a curative period for the lender in the event of a tenant default, and approving terms not otherwise inconsistent with the Amended Lease or resolution.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Bruno A. Barreiro and Co-Sponsor Commissioner Audrey M. Edmonson.


Abigail Price-Williams
County Attorney

APW/cp



MEMORANDUM
(Revised)

TO: Honorable Chairman Jean Monestime
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 ____, 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)(1)
1-20-16

RESOLUTION NO. R-53-16

RESOLUTION APPROVING TERMS OF AND AUTHORIZING EXECUTION BY THE COUNTY MAYOR OR MAYOR'S DESIGNEE OF AN AMENDMENT TO THE LEASE BETWEEN MIAMI-DADE COUNTY AND NKMIA, LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A FACILITY TO HOUSE THE HEADQUARTERS OF NAEEM KHAN LIMITED OR A SUCCESSOR ENTITY TO DESIGN, CREATE, AND MARKET PRODUCTS UNDER THE NAEEM KHAN BRAND AND RELATED CREATIVE INDUSTRIES AND PROVIDING FOR AN EIGHT MONTH EXTENSION OF CERTAIN DEADLINES SET FORTH THEREIN FOR PROPERTY LOCATED AT 1175 NW SOUTH RIVER DRIVE LOCATED IN MIAMI, FLORIDA; AUTHORIZING COUNTY MAYOR OR MAYOR'S DESIGNEE EXERCISE ANY AND ALL OTHER RIGHTS CONFERRED THEREIN AND TO PERFORM ALL ACTS NECESSARY TO EFFECTUATE SAME.

WHEREAS, pursuant to Resolution No. R-1071-14, on December 2, 2014, the Board approved the lease between the County and NKMIA, LLC, a Delaware Limited Liability Company ("NKMIA"), of a County-owned property located at 1175 N.W. South River Drive, located in Miami, Florida, (the "Lease") for the construction, operation, and maintenance of a facility to house the headquarters of Naeem Khan Ltd. or a successor entity, to design, create, and market products under the Naeem Khan brand and for related creative industries thereon, (the "Project"); and

WHEREAS, pursuant to the terms of the Lease, NKMIA is required to issue a Notice to Proceed for the construction of the Project no later than June 12, 2016, 18 months from the effective date of the lease, and to provide the County with the plans, specifications, and permits for the Project by April 12, 2016, no later than 16 months from the effective date of the lease; and

WHEREAS, NKMIA has expressed concern about the ability to comply with such current deadlines due to unanticipated delays, and has requested an eight month extension to provide the County with its plans, specifications, and necessary permits, and to issue its Notice to Proceed; and

WHEREAS, the Project is intended to serve the community by promoting economic development in South Florida, as well as by attracting new businesses to the community such as other members of the fashion industry; and

WHEREAS, the requested extension and amendment to the Lease would provide the additional time necessary for NKMIA to complete the permitting and construction of the Project; and

WHEREAS, all other unrelated timeframes set forth in the Lease, including completion of construction, will not be impacted by this extension >>; and

WHEREAS, NKMIA and the County desire to allow the County Mayor or County Mayor's designee to work with the Tenant in connection with drafting customary and reasonable leasehold mortgage documentation with respect to any leasehold mortgage<<¹,

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

Section 1. This Board incorporates and adopts the foregoing recitals as if fully set forth herein.

¹ Committee amendments are indicated as follows: Words stricken through and/or [[double bracketed]] are deleted, words underscored and/or >>double arrowed<< are added.

Section 2. This Board approves the terms of and authorizes an Amendment to the Lease providing an eight month extension of the date that NKMIA is required to issue a Notice to Proceed for the construction of the Project from June 12, 2016 to February 12, 2017, and an eight month extension for NKMIA to provide the County with the plans, specifications, and permits for the Project from April 12, 2016 to December 12, 2016, in substantially the form attached hereto and made a part hereof as Exhibit "A."

Section 3. This Board authorizes the County Mayor or Mayor's designee to execute the Amendment to Lease, for and on behalf of Miami-Dade County, and authorizes the County Mayor or Mayor's designee to exercise any and all other rights conferred therein and to perform all acts necessary to effectuate same. >>The Board further authorizes the County Mayor or County Mayor's designee, after approval by the County Attorney's Office, with respect to the customary documentation as may be reasonably required in connection with the leasehold financing referenced in Section 17.2 of the Lease, 1) to approve of terms requiring the County to provide the leasehold lender with notice of any Tenant default, 2) to provide a reasonable curative period for the lender in the event that the Tenant fails to remedy the default, and 3) to review and approve of the reasonable and customary documentation and terms which are not otherwise inconsistent with the Amended Lease or authorizing resolution.<<

The Prime Sponsor of the foregoing resolution is Commissioner Bruno A. Barreiro and the Co-Sponsor is Commissioner Audrey M. Edmonson. It was offered by Commissioner **José "Pepe" Diaz**, 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 | absent |
| Juan C. Zapata | aye | | |

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2016. 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.

Debra Herman

AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE (hereinafter "Amended Lease") is entered into and made effective on this _____ day of _____, 2016 by and between Miami-Dade County, a political subdivision of the State of Florida (hereinafter "Landlord" and/or "County"), and NKMIA, LLC, a Delaware limited liability company (hereinafter "Tenant").

RECITALS

WHEREAS, by Resolution No. R-1071-14, adopted by the Miami-Dade Board of County Commissioners on December 2, 2014, the Board Authorized a Lease Agreement ("Lease") between the above named parties for Premises located at 1175 N.W. South River Drive, Miami, Florida; and

WHEREAS, Landlord and Tenant are desirous of amending the Lease in order to provide an eight month extension for Tenant to provide the County with the plans, specifications, and permits for construction of the Project (as defined in the Lease) and an eight month extension for Tenant to issue a Notice to Proceed for the construction of the Project; and

WHEREAS, the Lease currently provides that the Notice to Proceed shall be issued no later than eighteen months from the Effective Date of this Agreement, and that the Tenant shall provide the County with the plans and specifications for the Project, and shall have obtained all permits required to commence construction no later than sixty days prior to the issuance of the Notice to Proceed; and

WHEREAS, by Resolution No. _____, adopted _____, 2016, the Board of County Commissioners has authorized this amendment of said Lease,

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Amended Lease, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do agree as follows:

WITNESSETH:

1. The foregoing recitals and provisions are hereby adopted and

incorporated herein to the Amended Lease.

2. The following paragraph shall supersede and replace the referenced paragraph in the Lease:

Paragraph 1.5A is hereby amended and restated to read as follows:

A. Deadline for Initial Notice to Proceed. Tenant shall be obligated to do all things necessary to allow issuance of Notice to Proceed (and shall so issue the Notice to Proceed) as to all Initial Minimum Development elements described in Section 4.3, no later than twenty-six (26) months from the Effective Date of this Agreement.

3. In all other respects, including but not limited to all time deadlines and requirements and all default, termination, and reverter provisions, said Lease shall remain in full force and effect in accordance with the terms and conditions specified therein. In the event of any conflict between this Amended Lease and the Lease, this Amended Lease shall supercede same.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]
[ONLY THE SIGNATURE PAGE REMAINS]

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease, with the intent for it to be legally binding, as of the day and year first above written.

Landlord:

MIAMI-DADE COUNTY

a political subdivision of the State of Florida

By: _____

Name: _____

Title: _____

Date signed: _____

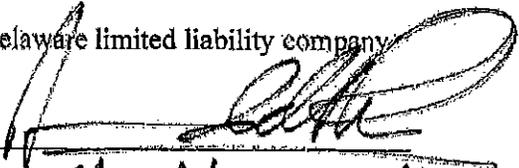
Witness/Attest:

Witness/Attest:

Tenant:

NKMIA, LLC,

a Delaware limited liability company

By:  _____

Name: Mr Naeem Khan

Title: President

Date signed: 10 Nov 2015

Witness/Attest:

Witness/Attest: