

MEMORANDUM

Agenda Item No. 11(A)(6)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: December 1, 2021

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution waiving, as applicable to Mental Health Facility project located at 2200 NW 7 Avenue, Miami, Florida, the provisions of the Building Better Communities General Obligation Bond ("Bond") Program Administrative Rules requiring five percent Bond Program funds allocated to each project to be withheld as retainage until project completion and directing the County Mayor to release Bond Program retainage in the approximate amount of \$1,500,000.00 for Mental Health Facility project and to accept transfer of domain name for Mental Health Facility

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM
(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

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County Attorney

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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)(6)
12-1-21

RESOLUTION NO. _____

RESOLUTION WAIVING, AS APPLICABLE TO MENTAL HEALTH FACILITY PROJECT LOCATED AT 2200 NW 7 AVENUE, MIAMI, FLORIDA, THE PROVISIONS OF THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND (“BOND”) PROGRAM ADMINISTRATIVE RULES REQUIRING FIVE PERCENT BOND PROGRAM FUNDS ALLOCATED TO EACH PROJECT TO BE WITHHELD AS RETAINAGE UNTIL PROJECT COMPLETION AND DIRECTING THE COUNTY MAYOR OR MAYOR’S DESIGNEE TO RELEASE BOND PROGRAM RETAINAGE IN THE APPROXIMATE AMOUNT OF \$1,500,000.00 FOR MENTAL HEALTH FACILITY PROJECT AND TO ACCEPT TRANSFER OF DOMAIN NAME FOR MENTAL HEALTH FACILITY

WHEREAS, in November of 2004, Miami-Dade County voters approved the issuance of \$22,100,000.00 in general obligations funds as part of the Building Better Communities General Obligation Bond (“Bond”) Program to fund Bond Program Project No. 193 – “Mental Health Facility” located at 2200 NW 7 Avenue, Miami (the “project”), in order to “free up jail space and provide an effective and cost efficient alternative facility to house the mentally ill as they await a trial date;” and

WHEREAS, on June 3, 2008, the County, pursuant to Resolution No. R-637-08, approved a lease agreement (the “master lease”) between the State of Florida Trustees for the Internal Improvement Trust Fund (the “State”), as landlord, and the County, as tenant, for approximately 217,357 square feet of land and approximately 158,450 square feet of building space located at the southwest quadrant of NW 7th Avenue and NW 22nd Street, or 2200 NW 2nd Avenue, in the City of Miami, Florida (the “property”); and

WHEREAS, the master lease is for an initial 30-year term with two 30-year renewal option periods and was for the establishment and operation of a mental health diversion facility and/or correctional facility along with other related uses; and

WHEREAS, in January 2015, due to the condition of the Property, the County began a project to renovate and/or otherwise improve same so that the seven-story facility on the property could be utilized as originally intended by County voters and in accordance with the master lease; and

WHEREAS, in 2016 and again in 2020, the Board approved allocations of an additional \$21,000,000.00 of Bond Program funds to the project and, in 2016, the Public Health Trust (“PHT”) approved an allocation of \$8,000,000.00 of PHT capital funds to the project; and

WHEREAS, in 2017, this Board approved a sublease agreement of the property to the South Florida Behavioral Health Network, Inc. (“SFBHN”), a Florida not-for-profit corporation, via Resolution No. R-889-17; and

WHEREAS, the sublease agreement was executed on May 30, 2019, and since that time, SFBHN has been working to diligently complete the project using the Bond Program and PHT capital funds; and

WHEREAS, the Bond Program Administrative Rules require that five percent of the Bond Program funds allocated to any particular project be withheld by the County as retainage from each reimbursement request in order to ensure final completion of the projects and, upon final completion and submission of all documents required by the Bond Program Administrative Rules, then final retainage will be released; and

WHEREAS, the project is currently approximately 83 percent completed and is anticipated to achieve final completion by April of 2022; and

WHEREAS, currently, the County has withheld \$1,402,314.00 of Bond Program funds as retainage and by December of 2021, the County anticipates that the retainage withheld by the County will be approximately \$1,500,000.00; and

WHEREAS, SFBHN has requested that the County release all of the retainage held by the County to SFBHN and to thereafter continue withholding the five percent from all future reimbursement requests until project completion; and

WHEREAS, SFBHN is a not-for-profit entity and requires the large amount of retainage being held by the County in order to pursue the project to completion and pay the contractor and subcontractors for the remaining work; and

WHEREAS, the request by SFBHN is consistent with section 255.078, Florida Statutes, which provides that a public entity may withhold no more than five percent of each progress payment made to construction contractors as retainage and may, at any point, reduce or release the amount of retainage withheld by the public entity which is attributable to the labor, services or materials supplied by the contractor, subcontractors or supplies; and

WHEREAS, SFBHN has offered, prior to the release of the retainage, to transfer to the County, at no cost, ownership of and control over the domain name and website it has created for the mental health facility, which domain name is miamicentermentalhealth.org (the “domain name”); and

WHEREAS, this Board desires to release to SFBHN all retainage held by the County from Bond Program funds for the project as of the effective date of this resolution (estimated to be approximately \$1,500,000.00) and to accept the transfer of the domain name from SFBHN to the County at no cost to the County,

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

Section 1. The recitals set forth above are incorporated into this resolution as if fully set forth herein and are approved.

Section 2. The Board waives the provisions of the Bond Program Administrative Rules that require the County to withhold five percent of the Bond Program funds as retainage for the project and directs the County Mayor or Mayor’s designee to: (a) release to SFBHN all retainage held by the County from Bond Program funds for the project as of the effective date of this resolution (estimated to be approximately \$1,500,000.00); and (b) prior to the release of any retainage to SFBHN, accept the transfer of the domain name from SFBHN to the County at no cost to the County and execute any necessary agreements to effectuate same.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. 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:

- | | |
|----------------------|---------------------------------------|
| | Jose “Pepe” Diaz, Chairman |
| | Oliver G. Gilbert, III, Vice-Chairman |
| Sen. René García | Keon Hardemon |
| Sally A. Heyman | Danielle Cohen Higgins |
| Eileen Higgins | Joe A. Martinez |
| Kionne L. McGhee | Jean Monestime |
| Raquel A. Regalado | Rebeca Sosa |
| Sen. Javier D. Souto | |

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of December, 2021. 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.

MRP

Monica Rizo Perez