

MEMORANDUM

Substitute
Agenda Item No. 11(A)(5)

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


DATE: January 19, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution directing the County Mayor to take all steps necessary, pursuant to section 125.045, Florida Statutes, to effectuate an Economic Development Conveyance to Homestead Town Center, LLC, including conducting due diligence regarding its plan for the development on two County-owned properties generally located south of SW 280 Street, west of SW 127 Avenue, north of Biscayne Drive, and east of Nevada Avenue and SW 128 Path adjacent to the Homestead Air Reserve Base ("subject properties") of: (1) a large-scale container park to serve as a commerce and entertainment hub, and (2) under certain circumstances, a temporary small-scale container or event-space park; establishing County policy that the subject properties shall be used only for entertainment, commercial, and light industrial uses and shall not be used by the County as a bus maintenance and repair depot; and further directing the County Mayor to negotiate such purchase and sale agreement, to provide status report within 15 days and to place a resolution seeking Board approval of same within 30 days

This substitute differs from the original item in that it (1) establishes County policy that the subject properties shall only be used for entertainment, commercial and light industrial uses, and shall not be used for a transit bus maintenance or repair depot, and (2) reduces the time for submitting a status report from 30 days to 15 days and for submitting an item to the Board for approval from 60 days to 30 days, and makes conforming changes to the title.

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



Geri Bonzon-Keenan
County Attorney

GBK/smm



MEMORANDUM
(Revised)

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

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Gen Bonzon-Keenan
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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 _____

Substitute
Agenda Item No. 11(A)(5)
1-19-22

RESOLUTION NO. _____

RESOLUTION DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO TAKE ALL STEPS NECESSARY, PURSUANT TO SECTION 125.045, FLORIDA STATUTES, TO EFFECTUATE AN ECONOMIC DEVELOPMENT CONVEYANCE TO HOMESTEAD TOWN CENTER, LLC, INCLUDING CONDUCTING DUE DILIGENCE REGARDING ITS PLAN FOR THE DEVELOPMENT ON TWO COUNTY-OWNED PROPERTIES GENERALLY LOCATED SOUTH OF SW 280 STREET, WEST OF SW 127 AVENUE, NORTH OF BISCAYNE DRIVE, AND EAST OF NEVADA AVENUE AND SW 128 PATH ADJACENT TO THE HOMESTEAD AIR RESERVE BASE (“SUBJECT PROPERTIES”) OF: (1) A LARGE-SCALE CONTAINER PARK TO SERVE AS A COMMERCE AND ENTERTAINMENT HUB, AND (2) UNDER CERTAIN CIRCUMSTANCES, A TEMPORARY SMALL-SCALE CONTAINER OR EVENT-SPACE PARK; ESTABLISHING COUNTY POLICY THAT THE SUBJECT PROPERTIES SHALL BE USED ONLY FOR ENTERTAINMENT, COMMERCIAL, AND LIGHT INDUSTRIAL USES AND SHALL NOT BE USED BY THE COUNTY AS A BUS MAINTENANCE AND REPAIR DEPOT; AND FURTHER DIRECTING THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO NEGOTIATE SUCH PURCHASE AND SALE AGREEMENT, TO PROVIDE STATUS REPORT WITHIN 15 DAYS AND TO PLACE A RESOLUTION SEEKING BOARD APPROVAL OF SAME WITHIN 30 DAYS

WHEREAS, on July 13, 2004, Miami-Dade County approved Resolution No. R-909-04 which authorized the County to execute an Economic Development Conveyance Agreement (“EDC agreement”) with the secretary of the Air Force on behalf of the United States of America (“Air Force”) to accomplish the transfer of 601 acres of former Homestead Air Reserve Base property (“EDC premises”) to the County at no cost, for the purpose of promoting economic development through job creation and new business development in the immediate area of the former Homestead Air Reserve Base; and

WHEREAS, as a result of the EDC agreement, the EDC premises were conveyed to the County by multiple deeds, which included various rights, obligations, and restrictions; and

WHEREAS, the County has leased or conveyed numerous properties for economic development purposes to various entities throughout the EDC premises since the initial conveyance from the Air Force; and

WHEREAS, the County holds two sizeable vacant parcels within the EDC premises totaling approximately 47 gross acres, which such parcels are identified as folio number 30-7902-000-0021 that includes approximately 16.9 acres, and folio number 30-7902-000-0040 that includes approximately 29.7 acres (the “subject properties”); and

WHEREAS, the subject properties are generally located south of SW 280 Street, west of SW 127 Avenue, north of Biscayne Drive, and East of Nevada Avenue and SW 128 Path adjacent to the Homestead Air Reserve Base; and

WHEREAS, the subject properties can be used to promote job creation and new business development in the area; and

>>**WHEREAS**, this Board desires to further job creation and new business development in the area by establishing County policy that the subject properties shall only be used for entertainment, commercial and light industrial uses, and shall not be used by the County as a transit bus maintenance and repair depot; and<<¹

¹ The differences between the substitute and the original item are indicated as follows: Words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or >>double arrowed<< are added.

WHEREAS, this Board seeks to create and stimulate economic development opportunities and business development on the subject properties, while also providing opportunities to encourage small business growth, including engagement and participation by not-for-profit entities; and

WHEREAS, increasing opportunities for employment and other economic development will benefit the residents of District 9 and Miami-Dade County; and

WHEREAS, the County desires to develop the subject properties as a large-scale container park, providing cost effective, flexible, and ecologically sensitive tenant space through the repurposing of shipping containers into business uses such as retail shops, entertainment, eating establishments, and community spaces; and

WHEREAS, container parks provide unique opportunities for small or start-up businesses, and can also include opportunities for not-for-profit entities, due to the low cost, customizable and flexible size, and variable configuration of such containers; and

WHEREAS, container parks have been developed throughout the United States, including, but not limited to, California, New York, Nevada, and Oklahoma, as well as in Florida such as in the City of Hollywood and in the City of Miami in Wynwood; and

WHEREAS, the Downtown Container Park in Las Vegas, which includes independent shops, local restaurants, outdoor entertainment, and interactive play areas for children, is an example of the successful economic opportunities that can be created by large-scale open air container parks; and

WHEREAS, a container park was likewise developed in Wynwood including individual outdoor food and beverage establishments, each operating from separate shipping containers, along with a courtyard that includes outdoor space in which the community can socialize and interact; and

WHEREAS, the creation of a business and entertainment container park in the Homestead area would enhance and expand economic activities, invigorate the area, create jobs, and assist in providing a stronger and more vibrant economy; and

WHEREAS, in October 2022, the City of Homestead will host the second race in the NASCAR Cup Series Playoffs at Homestead-Miami Speedway (the “NASCAR event”); and

WHEREAS, the NASCAR event will attract a large number of people to the Homestead area in the vicinity of the subject properties; and

WHEREAS, the creation of a temporary container or event-space park at the subject properties in time for the NASCAR event would provide a forum where people can enjoy entertainment, shopping, and dining in close proximity to the NASCAR races as well as attract tourists and locals alike to an area and entertainment venue they would then be likely to visit in the future; and

WHEREAS, therefore, a need exists, in addition to the construction of the large-scale container park, to complete a smaller-scale container or event-space park in time for the NASCAR event; and

WHEREAS, any temporary or event-space development on the subject properties can also potentially be thereafter converted to a more permanent development of the large-scale container park, if deemed to be in the best interest of the County; and

WHEREAS, it is in the best interests of Miami-Dade County to promote economic growth, to create new jobs and to strengthen the County's economy; and

WHEREAS, pursuant to section 125.045, Florida Statutes, the County may employ measures to attract business enterprises, including but not limited to conveyance of real property directly to entities, and including other economic development incentives such as grants and loans, to attract such business enterprises; and

WHEREAS, section 125.045 provides an exception to competitive bidding requirements for non-competitive conveyances to allow the expansion of existing businesses in the community or to attract new businesses and industries to the community for economic development purposes; and

WHEREAS, this Board desires to develop the subject properties as a large-scale container park by entering into a purchase and sale agreement pursuant to section 125.045 with a private sector developer who has experience in creating container parks, in order to accomplish such economic development on the subject properties; and

WHEREAS, Homestead Town Center, LLC ("developer") has approached the County with its plan and desire to develop the subject properties as a large-scale container park; and

WHEREAS, the developer has represented that it will complete Phase 1 of the development, including food/beverage, entertainment, and cultural spaces by October 2022, in time for the NASCAR event; and

WHEREAS, the developer seeks to place a purchase money deposit down for a percentage of the purchase price, and to pay the balance over time based upon a percentage of annual net revenue until the purchase price is satisfied; and

WHEREAS, the County’s reversionary interest in the event of noncompliance would be secured by a mortgage and a note, as well as an appropriate reverter clause to ensure compliance with the deed restrictions; and

WHEREAS, in light of (i) the pressing and time sensitive nature of having an agreement in place for the NASCAR event, and (ii) the developer’s expressed interest and experience of its assembled team in developments of container parks, this Board desires to direct the County Mayor or County Mayor’s designee to expeditiously conduct due diligence and to negotiate a purchase and sale agreement with the developer, with appropriate deed restrictions and a reverter clause, for the development of a large-scale permanent container park, and if necessary to achieve completion of an entertainment and event space to support and service the NASCAR event by the date of such event, a smaller-scale container or event-space park,

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

Section 1. The foregoing recitals are incorporated in this resolution and are approved.

Section 2. This Board directs the County Mayor or County Mayor’s designee to take all steps necessary, pursuant to section 125.045, Florida Statutes, to effectuate the economic development conveyance, in accordance with the provisions herein, of the subject properties for the development of a large-scale permanent container park, and if necessary to achieve completion of an entertainment and event-space to support and service the NASCAR event by the date of such event, a smaller-scale container or event-space park. Such steps shall include:

- (i) performing due diligence for an economic development purchase and sale agreement, which at a minimum, shall require the developer to provide its relevant development experience, financial plan and capability to complete the project,

proposed uses for the containers to be placed on the subject properties along with any ancillary, supporting uses, estimated number of jobs to be created, the anticipated timeline for construction and completion, and proposed incentives or opportunities for participation by small or start-up businesses and not-for-profit business entities;

- (ii) negotiating and finalizing an economic development conveyance with the developer that shall include minimum job creation requirements, and timeframes and milestones upon which a reverter can be based in the event of noncompliance. Further, in accordance with section 125.045, Florida Statutes, to facilitate the growth and creation of business enterprises at the subject properties, the purchase agreement may include economic development incentives, and shall consider and include any appropriate reduction in price, grants, loans, or other financial incentives which may be based upon, but are not limited to: (a) the opportunities provided to small or start-up businesses and not-for profit business entities for participation in the development and operations of the project; (b) the developer's proposed capital investment into the subject properties; (c) any needed stabilization period and profit sharing; and (d) the promotion of the creation of a new business enterprise in Miami-Dade County, when structuring the terms of the purchase and sale agreement and the purchase price; and
- (iii) placing a resolution, including the proposed economic development purchase and sale agreement, directly on a full Board agenda for consideration by this Board without the necessity of committee review no later than ~~[[60]]~~>>30<< days from the effective date of this resolution.

Section 3. This Board further directs the County Mayor or County Mayor's designee to provide a status report to this Board by placement on the first available agenda of the full Board without the necessity of committee review within ~~[[30]]~~>>15<< days of the effective date of this resolution in accordance with Ordinance No. 14-65. The status report shall, at a minimum: (i) describe the status of the negotiations and the due diligence conducted; (ii) identify any issues which have arisen or impediments to the proposed conveyance; and (iii) in the event that completion of the negotiated economic development purchase and sale agreement is not anticipated within the timeframe set forth herein, provide an estimated timeframe for completion of the purchase and sale agreement, including the basis for any such required extension. The County Mayor or County Mayor's designee is directed to take no other actions that would encumber or impact the utilization of the subject properties other than as specified herein, and shall not issue any permits, licenses, or other agreements related to the subject properties in the absence of Board direction.

>>**Section 4.** This Board desires to establish County policy that the subject properties shall only be used for entertainment, commercial and light industrial uses, without use by the County for transit purposes, and shall not be used by the County as a transit bus maintenance and repair depot.<<

The Prime Sponsor of the foregoing resolution is Commissioner Kionne L. McGhee. 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 19th day of January, 2022. 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.



Debra Herman
Monica Rizo Perez