

Memorandum



Agenda Item No. 2(B)(4)
July 7, 2022

Date: April 22, 2022

To: Honorable Chairman Jose "Pepe" Díaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Subject: Audit Report-South Florida Behavioral Health Network – Directive No. 220242

In response to Resolution No. R-279-22 sponsored by Commissioner Sally A. Heyman and adopted by the Board of County Commissioners (BCC) on March 15, 2022, the attached Report was prepared by the Audit and Management Services Department. The County Mayor or Mayor's designee was directed to audit the agreements with South Florida Behavioral Health Network, Inc. (a/k/a its trademark name of "Thriving Mind South Florida") relating to the sublease of state-owned property located at 2200 N.W. 7th Ave, Miami, Florida and award of Building Better Communities General Obligation Bond Funds and Public Health Trust Funds to assure compliance with all provisions including, the terms pertaining to the County's Inspection rights of the property and the works and operations thereon.

Pursuant to Ordinance No. 14-65, this Report will be placed on the next available BCC Meeting agenda. Please contact Cathy Jackson, Department Director, at 786-469-5900, should you have any questions.


CJ:bm

Attachment

c: Honorable Harvey A. Ruvin, Clerk of the Courts
Honorable Judge Steve Leifman, Eleventh Judicial Circuit of Florida
Geri Bonzon-Keenan, County Attorney
Gerald K. Sanchez, First Assistant County Attorney
Jess M. McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
David L. Clodfelter, Director, Office of Management and Budget
Cathy Jackson, Director, Audit and Management Services
Alex Muñoz, Director, Internal Services
Jennifer Moon, Chief, Office of the Budgetary Affairs
Yinka Majekodunmi, Commission Auditor
Felix Jimenez, Inspector General
Basia Pruna, Director, Clerk of the Board
Eugene Love, Agenda Coordinator

Date: April 15, 2022

To: Daniella Levine Cava, Mayor
Miami-Dade County


From: Cathy Jackson, Director
Audit and Management Services Department (AMS)

Subject: Audit Report – South Florida Behavioral Health Network Review

PURPOSE AND SCOPE

Pursuant to Resolution No. R-279-22, AMS conducted a limited review of South Florida Behavioral Health Network, Inc. (SFBHN) as it pertains to the Sublease and Grant Agreements executed with Miami-Dade County (County) in May 2019 and June 2019, respectively. The purpose of our limited review was to assess SFBHN's:

- Management and use of funds awarded to renovate the property at 2200 N.W. 7th Avenue, Miami, Florida as a mental health diversion facility.
- Compliance with *Section 10 of the Sublease Agreement* that permits County authorized agents, representatives, or employees to inspect or observe the property or operations at all times.
- Oversight and completion of facility renovations as described in the construction plans and specifications as referenced in *Section 41 (C) of the Sublease*.

BACKGROUND

In November 2004, County voters approved an allocation of \$22.1 million in Building Better Communities General Obligation Bond Program monies (BBC GOB) to fund a mental health diversion facility at 2200 N.W. 7th Avenue, Miami, Florida (the Project). As a result, the County entered into a long-term lease with the State of Florida for the subject property in September 2008. The property sat idle until January 2015, when the County requisitioned design and construction documents to renovate the seven-story facility for its intended purpose. In October 2016, the Board of County Commissioners (BCC) allocated another \$12 million in BBC GOB monies, and on December 21, 2016, the Public Health Trust (PHT) contributed \$8 million in capital funds, which increased available Project funding to \$42.1 million (Table I).

On May 30, 2019, the County executed a five-year Sublease Agreement with SFBHN to rent the Project premises for use as a mental health diversion facility at \$1 per year, plus additional rent of \$300. The initial lease period extends from May 30, 2019 to May 29, 2024, with options thereafter, for two 5-year renewals. Then, on June 5, 2019, SFBHN was awarded \$39.1 million to complete

the facility renovations as referenced in the Sublease Agreement. The facility, when completed, would provide 208 resident beds and offer a variety of services including crisis stabilization, outpatient programs, transitional housing, and a small courtroom, in addition to primary healthcare and dental care services.

Prior thereto, the County had disbursed \$2.7 million to SBLM Architects, P. C. (SBLM) and others in pre-construction costs. On June 10, 2019, the County assigned the SBLM Professional Services Agreement (PSA) to SFBHN to continue construction management, inspection and other services required for the remaining phases of the Project. For example, with the assistance of SBLM, SFBHN selected Thornton Construction Company, Inc. (Thornton), as the general contractor, to commence work in July 2019.

Table I
Summary of Key Dates

Date	Description
Nov 2004	Initial project funding allocation of \$22.1 million from BBC GOB funds (R-915-04).
May 2008	Lease agreement between the State of Florida and the County for the Project site (R-637-08).
Oct 2014	Board adopts Ordinance No. 14-93 to expedite the design and construction of the Project (R-134-14).
Jan 2015	County signs PSA with SBLM Architects to provide design and construction documents.
Oct 2016	Board increases project funding allocation from BBC GOB by \$12 million (R-870-16).
Oct 2017	Board approves a Sublease Agreement with SFBHN to complete the planned improvements including a Grant Agreement adding \$8 million in funding from PHT (R-889-17).
May 2019	County executes Sublease Agreement with SFBHN, see R-889-17.
May 2019	SFBHN executes contract with Thornton for construction of the Project.
Jun 2019	County executes Grant Agreement (See R-889-17) and assigns PSA with SBLM Architects to SFBHN.
Jul 2019	Notice to Proceed (NTP) issued by SFBHN to Thornton.
Aug 2020	Board increases BBC GOB project funding by \$9.2 million to a total of \$51.1 million (R-830-20).
Mar 2021	SFBHN withdraws from its commitment to operate the facility once construction is completed.
Jun 2021	Grant Agreement amended to increase the available project funding to \$48.4 million.

Source: Resolutions issued by the Board of County Commissioners and relevant Project documents.

In June 2021, the Grant Agreement was amended to increase the SFBHN Project Budget to \$48.4 million. The \$9.2 million increase was funded from the BBC GOB Program. According to the Office of Management and Budget (OMB), \$42.8 million had been reimbursed to SFBHN as of March 31, 2022 for expenditures incurred through November 30, 2021 (Table II).

Table II
Summary of Project Funding
From Inception through March 31, 2022

Description	Project Budget	Pre-construction Budget	SFBHN		
			Budget	Actual ¹	Remaining
Source of Funds:					
Nov-2004 BBC GOB Allocation	\$ 22,100,000				
Oct-2016 BBC GOB Allocation	12,000,000				
	34,100,000	\$ 2,970,178	\$ 31,129,822		
Aug-2020 BBC GOB Allocation	9,000,000	(231,550)	9,231,550		
	43,100,000	2,738,628	40,361,372	\$ 40,361,184	\$ 188
Public Health Trust Capital Funds	8,000,000	-	8,000,000	2,432,256	5,567,744
	<u>\$ 51,100,000</u>	<u>\$ 2,738,628</u>	<u>\$ 48,361,372</u>	<u>\$ 42,793,440</u>	<u>\$ 5,567,932</u>
Use of Funds:					
Pre-construction	\$ 2,738,628	\$ 2,738,628	\$ -	\$ -	\$ -
Project Administration	693,700	-	693,700	693,700	-
Construction	47,667,672	-	47,667,672	42,099,740	5,567,932
	<u>\$ 51,100,000</u>	<u>\$ 2,738,628</u>	<u>\$ 48,361,372</u>	<u>\$ 42,793,440</u>	<u>\$ 5,567,932</u>

Source: Office of Management and Budget

¹ Based on reimbursement requests received through March 31, 2022, for expenditures incurred through November 30, 2021.

PROJECT OVERSIGHT AND MANAGEMENT OF FUNDS

Since execution of the respective agreements, OMB has reviewed and approved all SFBHN reimbursement requests, and the Internal Services Department (ISD) has monitored construction. Both have participated in regular progress meetings with representatives from SFBHN and Thornton to discuss the Project status and assure timely completion of the renovations. Our review disclosed that OMB has meticulously assured that all reimbursement requests were adequately supported, and charges conformed to the terms of the Grant Agreement prior to releasing any funds. Further, both OMB and ISD have also approved any change orders exceeding \$25,000 from the architectural and engineering firm and \$50,000 from the construction contractor, as required, and modifications to the Project Budget were appropriately justified.

We interviewed the ISD Project Manager, who indicated that ISD staff visit the site, and have been actively involved in monitoring construction to ensure the Project is completed timely and within scope. The Project is expected to reach substantial completion by June 2022, at which time a Temporary Certificate of Occupancy (TCO) should be issued by the City of Miami Building Department. It is at this juncture that ISD expects to formally assume stewardship of the Project from SFBHN.

Completion of the Project, including a recently approved \$1.4 million change order to perform needed roof repairs, is not projected until late September 2022, at which time a permanent Certificate of Occupancy (CO) would be sought. Nonetheless, ISD has expressed concerns over the unfinished former kitchen area on the 1st floor, which include several large non-functional

overhead fire suppression/exhaust hoods that were part of the previously used cooking space when the facility was operational. Since this equipment is not functional, any future building or fire inspections could identify this as a potential hazard or violation thereby jeopardizing the issuance of a TCO. Overall, ISD has been pleased with the quality and progress of the construction.

Also, we understand the Office of the Inspector General (OIG) has been actively involved in assuring Project compliance. OIG staff visited the Project Site, regularly monitored construction progress meetings, and met with the Eleventh Judicial Circuit Court of Florida - Judicial Administration (the Court) representative to resolve concerns. Although no Reports have been issued, the OIG has advised that their review has not disclosed any major issues or concerns.

INSPECTION AND VISITATION RIGHTS

On April 4, 2022, our auditors, along with the ISD Project Manager visited the Project Site to assess construction progress. While there, we met with the Superintendent for Thornton and inquired about inspections and visits by County authorized representatives. The on-site Superintendent explained that site visits have occurred regularly, since the start of construction, except during the height of the *COVID-19* pandemic.

In fact, he provided us emails indicating that numerous visits have taken place over the last three months, including a recent email from a Court representative requesting three different site visits that took place during the prior week. Each visitor is required to sign a release form and wear a hard hat. However, many times they do not always know in advance the size of the group visiting, which can prove challenging when trying to secure enough hard hats and staff to escort the groups throughout the site.

During the tour, the Superintendent provided details on the construction progress. We noted one area in particular, the 7th floor, was not part of the renovations except for a new fire sprinkler system and other life-safety improvements necessary for future build-out and occupancy. While the original Project Scope called for 250 resident beds, the removal of the 7th floor buildout brought the estimated final bed count to 208. It is our understanding that this modification was done during contract negotiations as a cost saving measure to lower construction costs and reserve monies for future contingencies. Currently, ISD is seeking estimates to determine how much it will cost to make the 7th floor space useable for future occupancy.

AMS CONCLUSIONS AND OTHER OBSERVATIONS

AMS reviewed the provisions of the Sublease and Grant Agreements (including applicable amendments) with SFBHN. Based on our discussions with County oversight representatives, there were no notable instances of noncompliance disclosed to us, as it pertains to SFBHN's management performance. Moreover, nothing came to our attention to indicate that the SFBHN has not substantially complied with the terms of the Sublease or Grant Agreements.

Further, we obtained and reviewed the audited financial statements for the SFBHN for the three fiscal years ended June 30, 2021. The Reports disclosed no internal control deficiencies, noncompliance with grant agreements, or financial statement findings. We were also provided with a letter from the SFBHN's external auditors dated April 7, 2022, detailing specific procedures performed to assure no material misstatement of the Project expenditures. In summary, the auditors concluded that the BBC GOB Project expenditures reimbursed were fairly and accurately stated in all material respects relative to the audited financial statements.

In March 2021, SFBHN indicated that it plans to transfer the facility back to the County at substantial completion of the renovations (sometime in June 2022). We understand that ISD is working on drafting a formal agreement to ensure a timely and orderly transition of the Project back to the County. Another key issue that must be addressed is funding and management of the facility operations once final construction is complete. Such plans were not available as of the date of this Report.

CJ:bm

c: Honorable Harvey A. Ruvin, Clerk of the Courts
Geri Bonzon-Keenan, County Attorney
Edward Marquez, Chief Financial Officer
Jimmy Morales, Chief Operations Officer
Morris Copeland, Chief Community Services Officer
David L. Clodfelter, Director, Office of Management and Budget
Alex Muñoz, Director, Internal Services Department
Yinka Majekodunmi, Commission Auditor
Felix Jimenez, Inspector General
John W. Newcomer, M.D., President & Chief Executive Officer, South Florida Behavioral Health Network, Inc.