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CLERK OF THE BOARD
OF COUNTY COMMISSIONERS
MIAMI-DADE COUNTY, FLORIDA

MEMORANDUM

Agenda Item No. 11(A)(13)

TO:	Honorable Chairman Jose "Pepe" Diaz and Members, Board of County Commissioners	**DATE:**	March 15, 2022
FROM:	Geri Bonzon-Keenan County Attorney	**SUBJECT:**	Resolution directing the County Mayor to audit the agreements with South Florida Behavioral Health Network, Inc. (a/k/a its trademark name of "Thriving Mind South Florida") for the sublease of state-owned property located at 2200 N.W. 7th Avenue, Miami, Florida and grant of Building Better Communities General Obligation Bond Funds and Public Health Trust funds and to enforce all provisions thereof and, specifically, the terms pertaining to County's inspection rights of the property and the works and operations thereon; and further directing County Mayor to report back to this Board within 30 days on results of such audits

Resolution No. R-279-22

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

DATE: March 15, 2022

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(13)

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)(13)
3-15-22

RESOLUTION NO. R-279-22

RESOLUTION DIRECTING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO AUDIT THE AGREEMENTS WITH SOUTH FLORIDA BEHAVIORAL HEALTH NETWORK, INC. (A/K/A ITS TRADEMARK NAME OF "THRIVING MIND SOUTH FLORIDA") FOR THE SUBLEASE OF STATE-OWNED PROPERTY LOCATED AT 2200 N.W. 7TH AVENUE, MIAMI, FLORIDA AND GRANT OF BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND FUNDS AND PUBLIC HEALTH TRUST FUNDS AND TO ENFORCE ALL PROVISIONS THEREOF AND, SPECIFICALLY, THE TERMS PERTAINING TO COUNTY'S INSPECTION RIGHTS OF THE PROPERTY AND THE WORKS AND OPERATIONS THEREON; AND FURTHER DIRECTING COUNTY MAYOR OR MAYOR'S DESIGNEE TO REPORT BACK TO THIS BOARD WITHIN 30 DAYS ON RESULTS OF SUCH AUDITS

WHEREAS, in November of 2004, Miami-Dade County voters approved the issuance of $22,100,000.00 in general obligation bonds 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 7th Avenue, Miami, in order to fund capital improvements 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" (the "Project"); and

WHEREAS, on June 3, 2008, the County, pursuant to Resolution No. R-637-08, approved a lease agreement between the State of Florida Trustees for the Internal Improvement Trust Fund, as landlord, and the County, as tenant, for approximately 217,357 square feet of land and approximately 158,450 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"), for the establishment and operation of a mental health diversion facility and/or correctional facility along with other related uses; and

WHEREAS, since that time, this Board has approved additional funding from the Bond Program and from the Public Health Trust capital funds such that the total allocation for the Project is now $51,100,000.00, inclusive of an additional $9,000,000.00 of Bond Program funds that were approved on August 31, 2020, pursuant to Resolution No. R-830-20; and

WHEREAS, in 2014, this Board adopted Ordinance No. 14-93, wherein this Board acknowledged that "it is the policy of Miami-Dade County and the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, through its Criminal Mental Health Project . . . to expedite the delivery of mental health services through the expedited design and construction of the mental health diversion facility located at 2200 NW 7th Avenue, Miami, Florida 33127 (the "Facility"). Expediting the design, construction and improvement of the Facility will also allow for the reduction of the County's jail population by providing for an alternative setting to treat those persons who suffer from serious mental illnesses"; and

WHEREAS, indeed, this Board has always recognized that the County is undertaking the Project in conjunction with the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, through its Criminal Mental Health Project ("Court"), which always served as the County's subject matter expert relating to this Project and all matters relating to mental health and guidance on legislative matters; and

WHEREAS, in January 2015, due to the condition of the Property, the County began a project to renovate and/or otherwise improve the seven-story facility on the Property to house a variety of non-custodial treatment and support services to assist individuals with mental illnesses, diverted from the criminal justice system, with adaptive community re-entry; and

WHEREAS, in October 2017, pursuant to Resolution No. R-889-17, this Board approved (1) a sublease agreement with South Florida Behavioral Health Network, Inc., also known by its trademark name of Thriving Mind South Florida ("Thriving Mind") for the Property to allow

Thriving Mind to complete the planned improvements utilizing the remaining funds available for the Project, and thereafter operate the Property to serve as a mental health diversion facility (the "sublease agreement"), and (2) a grant agreement with Thriving Mind for the Bond Program funds and the PHT capital funds to be used to complete the Project (the "grant agreement"); and

WHEREAS, subsequently, Thriving Mind withdrew from its commitment to operate the Property once the current construction is completed; and

WHEREAS, since the County turned over the Property and the Project to Thriving Mind via the sublease agreement and the grant agreement, concerns have been raised, at times, to staff and officials at the County regarding the use and management of funds relating to the Project and regarding the overall management of the Project; and

WHEREAS, since then, the County and the Court have continued to be involved and desire to oversee the development and construction of the Project pursuant to the terms of the sublease agreement and the grant agreement, in acknowledgment that the Court has served and shall continue to serve as one of the County's representatives for the Project; and

WHEREAS, both the sublease agreement and the grant agreement provide the County with audit rights with respect to Thriving Mind's performance under those agreements and this Board authorized the County Mayor or Mayor's designee to exercise those rights on behalf of the County; and

WHEREAS, among other provisions of the sublease agreement, section 10 provides that the State of Florida and the County "or their duly authorized agents, representatives or employees shall have the right at any and all times to inspect the [Property] and the works and operations thereon of [Thriving Mind] in any matter pertaining to this Sublease;" and

WHEREAS, similarly, section 7 of the grant agreement provides that the County Mayor or Mayor's designee "may monitor and conduct an evaluation of [Thriving Mind]'s operations and the Project, which may include visits by County representatives to observe the Project or [Thriving Mind]'s programs, procedures, and operations; discuss [Thriving Mind]'s programs with [Thriving Mind]'s personnel; and/or evaluate the public impact of the Project;" and

WHEREAS, issues, concerns and miscommunications between representatives of the Court and of Thriving Mind about the application and import of the above-mentioned provisions of the sublease agreement and the grant agreement have resulted in disagreements, and also risk hampering the County's goal to provide effective and cost efficient facilities at the Property on a stated schedule; and

WHEREAS, recently, Thriving Mind has objected to certain inspections and visits to the Property and Project by representatives of the County and the Court but the County and the Court desire to continue to undertake periodic inspections of the Property in accordance with the terms of the sublease agreement; and

WHEREAS, it is in the best interest of the County, and this Board desires, to have the County Mayor or Mayor's designee audit the sublease agreement and grant agreement to determine whether Thriving Mind is complying with the provisions contained therein, including but not limited to, allowing the County to exercise its rights to: (1) inspect the Property at any and all times; (2) monitor and conduct an evaluation of Thriving Mind's operations and the Project; and (3) conduct visits by County representatives to observe the Project or Thriving Mind's programs, procedures, and operations; and

WHEREAS, it is in the best interest of the County, and this Board desires, to have the County Mayor or Mayor's designee exercise and enforce all such provisions contained in the sublease agreement and grant agreement,

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

Section 1. The above recitals are incorporated herein by reference and are approved.

Section 2. This Board directs the County Mayor or Mayor's designee to audit the sublease agreement and grant agreement to determine whether Thriving Mind is complying with the provisions contained therein, including but not limited to, allowing the County to exercise its rights to: (a) inspect the Property at any and all times; (b) monitor and conduct an evaluation of Thriving Mind's operations and the Project; and (c) conduct visits by County representatives to observe the Project or Thriving Mind's programs, procedures, and operations. This Board acknowledges and confirms that the Court has been and shall continue to serve as the County's partner and one of its representatives for this Project.

Section 3. This Board directs the County Mayor or Mayor's designee to: (a) exercise and enforce all such provisions contained in the sublease agreement and grant agreement, including but not limited to, the County's rights identified in section 2 of this resolution; (b) instruct and advise Thriving Mind to comply with the terms of the sublease agreement and grant agreement with respect to the County's broad access and inspection rights; and (c) report back to this Board as to any and all complaints and incidents regarding any interference or obstruction by Thriving Mind or its agents, employees, contractors and agents of the County's access and inspection rights under the sublease and grant agreements.

Section 4. This Board directs the County Mayor or County Mayor's designee to: (a) provide, as appropriate and in each instance, any report required by section 3(c) of this resolution at the next regularly scheduled meeting of the full Board; and (b) provide a written report back to this Board within 30 days of the effective date of this resolution on the results of the audits required by section 2 of this resolution. The County Mayor or County Mayor's designee shall place the completed report required by this subsection on the next available agenda of the Board pursuant to Ordinance No. 14-65.

The Prime Sponsor of the foregoing resolution is Commissioner Sally A. Heyman. It was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Oliver G. Gilbert, III** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman **aye**
Oliver G. Gilbert III, Vice Chairman **aye**

Sen. René García	**nay**	Keon Hardemon	**aye**
Sally A. Heyman	**aye**	Danielle Cohen Higgins	**aye**
Eileen Higgins	**aye**	Joe A. Martinez	**aye**
Kionne L. McGhee	**aye**	Jean Monestime	**absent**
Raquel A. Regalado	**aye**	Rebeca Sosa	**aye**
Sen. Javier D. Souto	**aye**		

The Chairperson thereupon declared this resolution duly passed and adopted this 15th day of March, 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

Basia Pruna
By:________________________
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. MRP

Monica Rizo Perez