

MEMORANDUM

Agenda Item No. 11(A)(9)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: December 2, 2025

FROM: Geri Bonzon-Keenan
County Attorney

SUBJECT: Resolution authorizing and approving assignment of lease from MS Leisure Company, Inc. to Resilient Aquarium LLC; directing the County Mayor to negotiate an amended and restated lease with Resilient Aquarium LLC; and authorizing the County Mayor to execute certain documents as landlord

Resolution No. R-1177-25

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



Geri Bonzon-Keenan
County Attorney

GBK/uw



MEMORANDUM

(Revised)

TO: Honorable Chairman Anthony Rodriguez
and Members, Board of County Commissioners

DATE: December 2, 2025

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 11(A)(9)

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 ____, majority plus one ____, 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) ____, 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)(9)
12-2-25

RESOLUTION NO. _____ R-1177-25

RESOLUTION AUTHORIZING AND APPROVING
ASSIGNMENT OF LEASE FROM MS LEISURE COMPANY,
INC. TO RESILIENT AQUARIUM LLC; DIRECTING THE
COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO
NEGOTIATE AN AMENDED AND RESTATED LEASE WITH
RESILIENT AQUARIUM LLC; AND AUTHORIZING THE
COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO
EXECUTE CERTAIN DOCUMENTS AS LANDLORD

WHEREAS, the Seaquarium is located at 4400 Rickenbacker Causeway on County owned
and operated park land; and

WHEREAS, on March 9, 1954, the County entered into a lease, originally with Marine
Exhibit Corporation, to use the park property to provide a family-oriented tourist attraction that
included an aquarium. A year later, the Seaquarium opened its doors to the public with three marine
exhibits. Over the years, the Seaquarium underwent significant expansion and development,
adding marine exhibitions to accommodate public demand; and

WHEREAS, the lease documents have been amended and restated and approved by this
Board a number of times since it originated, including on July 25, 2000, when an amended and
restated lease (collectively the "Lease") was approved by this Board; and

WHEREAS, the Lease term has been extended three times resulting in the current Lease
expiration date of November 26, 2044, with optional renewal terms of up to 10 years, if the tenant
makes substantial capital improvements; and

WHEREAS, on October 19, 2021, the Lease was assigned to MS Leisure Company, Inc.;
and

WHEREAS, on June 25, 2024, the County filed suit in the County Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, seeking to evict MS Leisure based the many (and well-documented) instances of MS Leisure’s breach of the Lease. The breaches of the Lease included not caring for animals in accordance with applicable law, and failing to maintain the premises in accordance with the Lease; and

WHEREAS, while the eviction action was still pending, on March 31, 2025, MS Leisure filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”); and

WHEREAS, since filing for bankruptcy, the County has worked with the debtors’ new management, Riveron Consulting, LLC (“Riveron”); and

WHEREAS, under the approval and guidance of the Bankruptcy Court, Riveron undertook significant efforts to market the Lease in order to recoup losses on behalf of the bankruptcy estate. Riveron engaged real estate advisor, Keen-Summit Capital Partners LLC (“Keen”), in consultation with the debtors (MS Leisure), and their secured lenders. Beginning on July 14, 2025, Keen marketed the Seaquarium with the debtors’ other Florida properties by doing the following: creating a teaser for the portfolio of properties and an information memorandum for the real property, which was made available to prospective bidders and interested parties; directly soliciting strategic buyers and developers in Florida, regionally and nationally; advertising the real property in The Miami Herald, El Nuevo Herald, Sun Sentinel, Florida Times Union, St. Augustine Record, WSJ – Florida Edition, and the South Florida Business Journal; coordinating digital advertising via internet listings, advertisements on websites, industry publications, and in electronic newsletters including the Miami Herald Digital, Sun-Sentinel Digital, Miami Today, NAIOP Source Weekly eNews, Wealth Management Real Estate, Globestreet National Spotlight,

Investor's Business Daily, IHIF Hotel HM Invest, IHIF Hotel 7 Keen's website, CoStar.com, Crexi.com, LoopNet.com, RCM, and several commercial real estate marketing websites that connect tens of thousands of investors and developers; and engaging in numerous mass emails to over 20,000 contacts in Keen's proprietary database and specialty commercial real estate services. These extensive marketing efforts by Keen resulted in tens of thousands of views of the debtors' properties, including Seaquarium. Ninety-five (95) parties specifically reviewed the Seaquarium materials. As a result of this marketing, the debtors received numerous written offers and verbal expressions of interest. The debtors carefully considered all offers, including the proposed purchase prices and their proposed uses of the property, and the debtors determined that the offer from Resilient Aquarium LLC ("Resilient"), an affiliate of Terra Acquisitions Florida, LLC, was the highest and best offer of value to the debtors' estates, providing, among other things, the most certainty to close; and

WHEREAS, many of the proposals received by Keen included uses and development of the property that were impermissible; and

WHEREAS, the proposal submitted by Resilient includes a significant capital investment that augments and improves the existing facilities, including restoration of the historic Buckminster Fuller golden dome and the Flipper House; and

WHEREAS, on October 17, 2025, the Bankruptcy Court approved the assignment of the Lease from MS Leisure to Resilient finding Resilient to be the best entity to assume the Lease; and

WHEREAS, the Bankruptcy Court order approving the assignment recognized that approval by this Board is required before MS Leisure and Resilient close on the assignment of the Lease; and

WHEREAS, MS Leisure and Resilient anticipate closing on or before July 2026; and

WHEREAS, MS Leisure has closed the Seaquarium to the public, and has pledged to relocate all animals by the end of 2025 in accordance with all regulatory requirements, while also providing notice to the County regarding such relocation; and

WHEREAS, under the terms of the Lease, the lease may be assigned upon approval by this Board; and

WHEREAS, while there is a provision of the Lease that entitles the County to a portion of the sale funds of an assignment, this provision is only applicable if there is a net profit on the sale, and such net profit is absent given the bankruptcy of MS Leisure; and

WHEREAS, Resilient is an affiliate of Terra Acquisitions Florida, LLC (“Terra”) and is 100 percent owned and operated by David Martin, Terra’s Co-founder and CEO. Terra is an award-winning, Miami-based real estate development company founded in 2001 with a portfolio of more than five million square feet of residential and commercial real estate valued in excess of \$8 billion across all major real estate asset classes. Terra has developed a wide range of projects including public-private partnerships with Miami-Dade County; and

WHEREAS, in order to effectuate a vision of a Seaquarium for the 21st century the Lease must be amended. Resilient and the County have engaged in negotiations regarding an amended and restated Lease; and

WHEREAS, a term sheet outlining major deal points for a Second Amended and Restated Lease is attached as Exhibit A; and

WHEREAS, there may be documents that need to be executed for Resilient to perform due diligence and resolve title issues prior to Resilient closing with MS Leisure,

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

Section 1. Adopts and ratifies the matters set forth in the foregoing recitals.

Section 2. Authorizes and approves the assignment of the Lease from MS Leisure Company, Inc. to Resilient Aquarium LLC. Such approval shall become effective upon closing of the assignment from MS Leisure Company, Inc. to Resilient Aquarium LLC.

Section 3. Directs the County Mayor or County Mayor's designee to negotiate an amended and restated lease, consistent with the term sheet attached, with Resilient Aquarium LLC, and to bring back such negotiated lease to the Board for approval.

Section 4. Authorizes the County Mayor or County Mayor's designee as landlord to take any and all actions necessary for the submittal of land use, zoning, and permitting applications required to permit the construction of the development contemplated by the attached term sheet, including but not limited to all applications or requests, joinders, agreements, instruments and/or releases associated with the development contemplated by the term sheet, provided that such delegation does not result in a fiscal impact to the County. The County shall retain all sovereign rights as related to the review of and acceptance of any applications.

The Prime Sponsor of the foregoing resolution is Commissioner Raquel A. Regalado. It was offered by Commissioner **Danielle Cohen Higgins** , who moved its adoption. The motion was seconded by Commissioner **Kionne L. McGhee** and upon being put to a vote, the vote was as follows:

Anthony Rodriguez, Chairman	aye		
Kionne L. McGhee, Vice Chairman	aye		
Marleine Bastien	aye	Juan Carlos Bermudez	aye
Sen. René García	aye	Oliver G. Gilbert, III	aye
Roberto J. Gonzalez	absent	Keon Hardemon	aye
Danielle Cohen Higgins	aye	Vicki L. Lopez	aye
Natalie Milian Orbis	aye	Raquel A. Regalado	aye
Micky Steinberg	absent		

The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of December, 2025. 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

JUAN FERNANDEZ-BARQUIN, CLERK

By: Basia Pruna
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

mjs

Melanie J. Spencer
Brianna E. Donet

Miami Seaquarium
3400 Rickenbacker Causeway, Miami, Florida
Portion of Folio No. 30-4220-000-0010, including certain submerged lands

Lease Assignment and Amendment Term Sheet

Tenant:	Resilient Aquarium LLC, a Delaware limited liability company (" <u>Tenant</u> ").
Assignment and Amendment of Existing Lease:	MS Leisure Company, Inc. (" <u>Existing Tenant</u> ") will assign to Tenant (the " <u>Assignment</u> ") all of its interest in the existing lease for the Miami Seaquarium (the " <u>Existing Lease</u> ") with Miami-Dade County (the " <u>County</u> " or " <u>Landlord</u> "). Simultaneously with the Assignment, Tenant and County will enter into an amendment to the Existing Lease (the " <u>Amendment</u> ") setting forth the terms upon which Tenant will redevelop and operate the Seaquarium. The Existing Lease, as amended by the Amendment, shall be referred to as the " <u>Lease</u> ." The date that the Conditions to Effectiveness (defined below) have been satisfied and the Assignment and Amendment have been executed and delivered shall be the effective date (the " <u>Effective Date</u> ").
Conditions to Effectiveness of Assignment and Amendment:	The effectiveness of the Assignment and the Amendment will be conditioned on the following (collectively, the " <u>Conditions to Effectiveness</u> "): (i) the settlement or unconditional dismissal of the existing eviction litigation between the County and Existing Tenant; (ii) Existing Tenant shall have relocated all of the animals at the Seaquarium; (iii) the approval by the Board of County Commissioners (the " <u>Board</u> ") of the Assignment of the Existing Lease and Amendment, and the verification that no transfer fees are due to the County under the Existing Lease in connection with the Assignment; and (iv) the entry of a final and non-appealable order by the bankruptcy court, containing market terms, approving the sale, assumption, and assignment of the Existing Lease, free and clear of liens, claims, encumbrances, and interests including, without limitation, those presently at issue between the County and Existing Tenant as framed in the County's pending motion to compel rejection.
Lease Term:	The Lease shall be amended to include an additional Tenant renewal option (the " <u>New Option</u> ") such that the Lease term, inclusive of the remaining term on the Existing Lease, any remaining renewal options under the Existing Lease, and the New Option, shall expire on the date that is 99 years after the Effective Date (the " <u>Extended Term</u> "). By way of example, if the Effective Date is February 1, 2026, then the length of the New Option will be 70 years, 2 months, and 6 days (i.e., the difference between (a) the expiration of the last renewal option under the Existing Lease, which is November 26, 2054, and (b) the date that is 99 years after February 1, 2026).
Proposed Improvements:	Tenant proposes to design and construct the following on the Premises pursuant to the Lease (collectively, the " <u>Project</u> "): a) New, accredited aquarium (with no marine mammals); b) immersive marine- and aquatic-based experiences that emphasize the unique environment of Biscayne Bay; c) education, conservation, and research center; d) wellness spaces and experiences tied to the natural waterfront habitat; e) marina/fisherman's village with marine-oriented retail and food & beverage establishments; f) preservation of the historic Buckminster Fuller Seaquarium dome to be repurposed as event space for public and private gatherings;

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- g) marina with wet slips and a dry stack, including fueling facilities/dock and other ancillary or accessory uses customarily associated with the operation of a marina;
- h) required parking; and
- i) public green areas and a public walkway across the marina border.

Public Benefits Tenant shall expend a minimum of \$10,000,000 (inclusive of hard costs, soft costs, and financing costs) in the construction of new infrastructure and facilities open to the public at no charge, including a public baywalk on the portion of the property fronting Biscayne Bay. Tenant shall also utilize commercially reasonable efforts to maximize subcontracting opportunities to local businesses in connection with the construction of the project.

Pre-Development Obligations Following the Effective Date, Tenant shall, at its sole cost and expense, satisfy the following (collectively, the “Pre-Development Obligations”):

- (a) Tenant shall take commercially reasonable steps to secure the Premises, including installing fencing, and ensure that it remains closed to the public pending the completion of the Project (except to the extent any interim uses are requested by Tenant and authorized by the County);
- (b) Tenant shall diligently pursue and obtain unconditional and non-appealable land use, zoning, and site plan approvals for the Project with all applicable appeal periods expired without the filing of any appeals (or if any appeals are filed, with the resolution of all such appeals in a manner acceptable to Tenant); and
- (c) Tenant shall diligently pursue and obtain all permits and approvals from all applicable governmental authorities that are required for the commencement of construction and development of the Project (collectively with the approvals in the above paragraph (b), the “Approvals”), with all applicable appeal periods expired without the filing of any appeals (or if any appeals are filed, with the resolution of all such appeals in a manner acceptable to Tenant).

Project Development: Upon the issuance of the Approvals, Tenant shall use commercially reasonable efforts to develop the Project in accordance with the development milestones agreed to by Landlord and Tenant (the “Development Milestones”), which Development Milestones shall be subject to unavoidable delays, delays caused by County, and extensions of time approved by Landlord. In the event Tenant is unable to timely satisfy any applicable Development Milestones, Tenant shall be subject to liquidated damages in the amounts agreed to by Landlord and Tenant.

Development Phases: Tenant may, at its option, develop the Project in phases (each, a “Phase”) pursuant to a bifurcated lease, which may be financed, constructed and operated independently of one another.

Project Investment: Tenant shall invest a minimum of \$100,000,000 (inclusive of hard costs, soft costs, and financing costs) in the development of the Project (the “Minimum Initial Investment”). In the event that a portion of the Project cannot be developed because entitlements or permits cannot be obtained notwithstanding Tenant’s diligent efforts, the Minimum

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Initial Investment shall be equitably reduced to account for the elimination of such portion of the Project.

The Lease shall include standards for ongoing operation and maintenance of the Project throughout the Term.

Annual Rent:

Commencing upon the substantial completion of construction of the Project, Tenant shall pay annual rent in the amount required by the Current Lease, with the following modifications:

1. Guaranteed Rent shall be \$1,100,000 and increased each year after the Annual Rent Commencement Date based on CPI (with a floor of 0% and a ceiling of 3%). (Existing Lease has Guaranteed rent of \$750,000, or \$1 Million if Gross Revenues exceed \$7.5 million, and no CPI adjustment.)
2. Percentage Rent shall be equal to:
 - a. 3% of Gross Revenues earned through the operation of the Project (less any portions of the marina); and
 - b. 5% of Gross Revenues earned through the operation of the marina portion of the Project.
3. The definition of Gross Revenue shall be modified to include contract revenues from concessions, subleases, and similar agreements.

Transfer Fee:

The Assignment shall be subject to the transfer fee under the Existing Lease. After the Assignment, subsequent sales or assignments of Tenant's rights under the Lease shall be subject to the current transfer fee under the Existing Lease.

Additional Provisions:

The Lease will include reasonable and customary financing and assignment provisions consistent with a project of this nature, such as leasehold mortgage, mezzanine or alternative financing, bifurcation of lease for each Phase, extended cure periods for foreclosing lenders, assignability of each Phase to affiliates; and assignability of each Phase to unaffiliated owners meeting specified requirements after completion of construction, in each case consistent with other County projects and including standard County protections. The Lease will also contain other standard County provisions and protections, including County remedies in the event of an uncured Tenant default, including habitual defaults, such as the right to terminate the Lease.

Worker Heat Protections and Responsible Contracting:

The Developer shall select contractors for the construction of the Project in accordance with applicable law and that meet standard County requirements for ground leases, which shall include customary prohibitions on entities that have been debarred by the County or other public agencies, have been convicted of public entity crimes, or are on any of the lists of prohibited contractors maintained by the State of Florida.

During 2025, Miami-Dade County issued two heat advisories due to extreme heat conditions during the summer months. The Developer is committed to worker safety and putting in place important heat safety measures in the event of a heat advisory. If, during construction of the Project, the County issues a heat advisory, the Developer's general contractor shall, for the duration of such heat advisory: (a) provide one additional rest break to construction workers, (b) provide on site a dedicated area within an air-conditioned trailer to workers who are experiencing symptoms of heat stress, and

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(c) as soon as practicable, make available on site an advanced registered nurse practitioner (ARNP).

**Additional
Environmental
Protections:**

- Developer shall endeavor to design the Project in a manner that expands tree canopy on-site by 30 percent within the developed footprint.
- Implement lighting upgrades consistent with best management practices for coastal and sensitive environmental areas.
- Incorporate "reduce waste/leave no trace" signage for marina users (e.g., pack in/pack out, proper waste disposal, anti-littering).
- Coordinate with relevant County departments on wildlife areas and stormwater retention.