

Approved _____ Mayor

Agenda Item No.

Veto _____

Override _____

DRAFT

RESOLUTION NO. _____

RESOLUTION RESCINDING GRANT AWARD IN AMOUNT OF \$2,438,000 FROM THE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NO. 223 - "NOT-FOR-PROFIT COMMUNITY ORGANIZATION CAPITAL FUND" TO MIAMI CHILDREN'S MUSEUM, INC. ("MUSEUM"), AWARDING SAME TO THE MUSEUM, AND AUTHORIZING DISBURSEMENT OF FUNDS TO THE MUSEUM AFTER EXECUTION OF GRANT AGREEMENT AND RECORDATION OF DECLARATION OF RESTRICTIVE COVENANTS

WHEREAS, in 2001, this Board awarded a \$5 million grant from Convention Development Tax funds for the construction of the new Miami Children's Museum ("Museum") facility (Resolution No. R-793-01); and

WHEREAS, this \$5 million allocation, along with \$14.8 million of private and State funds, an additional \$5 million construction loan secured by a mortgage on the Museum provided the necessary funding for the Miami Children's Museum, Inc. ("Children's Museum") to complete the construction of the facility; and

WHEREAS, in 2003, the Museum opened in a new state-of-the-art, 60,000 square foot facility close to downtown Miami and now stands as one of the 10 largest children's museums in the United States and the only one in Miami-Dade County; and

WHEREAS, the Museum targets services to children ages 3 months to 12 years old, their families, caregivers, and educators; and

WHEREAS, the Museum's facility encompasses 14 galleries of interactive exhibits with learning activities focused on the themes of arts, culture, community, and communication and all

exhibits and programs are guided by research-based models that promote child development through fun, interactive, and authentic learning experiences; and

WHEREAS, to date, the Museum has paid \$4.1 million in principal and interest payments on the construction loan it obtained, but the burden of this continuing obligation has had a direct effect on the Museum's financial stability and its ability to offer programs and services to the public; and

WHEREAS, given the recent economic climate, it has become increasingly difficult for the Museum to raise sufficient funds both to sustain its operations and to continue to repay this loan in a timely manner; and

WHEREAS, on November 2, 2004, voters overwhelmingly approved eight referendum questions to fund more than 300 capital improvement projects throughout Miami-Dade County over an approximately 18 to 20 year period, comprising the Building Better Communities General Obligation Bond ("BBC GOB") Program; and

WHEREAS, BBC GOB Project No. 223 - "Not-for-Profit Community Organization Capital Fund", with a total allocation of \$30 million, was approved as a part of the BBC GOB Program; and

WHEREAS, on July 24, 2007, by Resolution No. R-884-07, the Board approved allocations to 37 not-for-profit entities totaling the full \$30 million from the BBC GOB Project No. 223, after a competitive request for proposals process, and the Children's Museum was awarded \$2,438,000 to implement a series of capital improvements to their existing facility including renovation, upgrading and construction of new features to enhance the visitor experience, accessibility and safety/security, and to complete interior and exterior construction; and

WHEREAS, in order to strengthen the Children's Museum's operational stability prior to undertaking additional capital projects, it is in the best interest of the County to rescind the

original \$2,438,000 grant of BBC GOB Project No. 223 funds to the Children's Museum and approve a grant award in the same amount to the Museum to be used to pay the balance of the construction loan, secured by a mortgage on the museum facility, the proceeds of which were used for capital expenses related to the museum facility; and

WHEREAS, the Children's Museum will therefore be able to pay off its capital debt, thus enabling the organization to focus more of its resources on its core mission to enrich the lives of children by fostering a love of learning and enabling children to realize their highest potential; and

WHEREAS, as a condition of the grant award, the Children's Museum will be required to record a Restrictive Covenant (Exhibit A) ensuring the use of the property for public museum purposes and restricting the Museum's ability to further encumber the property without the expressed written consent of Miami-Dade County,

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

Section 1. All of the foregoing recital clauses are incorporated herein by referenced and adopted by this Board.

Section 2. This Board hereby rescinds a grant award in the amount of \$2,438,000 from the BBC GOB Program Project No. 223 – "Not-for-Profit Community Organization Capital Fund" and awards \$2,438,000 from Project No. 223 to the Children's Museum in order to pay the balance of a construction loan, the proceeds of which were used for capital expenses on the Museum facility.

Section 3. This Board hereby approves the disbursement of BBC GOB funds to the Children's Museum after the execution of the BBC GOB Grant Agreement and the recordation

of a declaration of restrictive covenants, in substantially the form attached hereto as Exhibit "A" and made a part hereof, by the Children's Museum.

The Prime Sponsor of the foregoing resolution is Commissioner Bruno A. Barreiro. 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:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this _____, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this 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. _____

Monica Rizo

Return to:

Director
Miami-Dade County
Office of Capital Improvements
111 N.W. First Street, Suite 2130
Miami, Florida 33128

Instrument prepared by:

Monica Rizo
Assistant County Attorney
Miami-Dade County Attorney's Office
111 N.W. First Street, Suite 2810
Miami, Florida 33128-1993

Folio No. Info needed here via CAO

(For Recorder's Use Only)

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS ("Covenant") is made this ____ day of _____, 2011, by Miami Children's Museum, Inc., ("Museum") a not-for-profit corporation under the laws of the State of Florida, in favor of Miami-Dade County, a political subdivision of the State of Florida.

WHEREAS, the Museum purchased the land legally described in Exhibit "A" (the "Property"), attached hereto and incorporated herein by reference, and constructed its museum facility thereon with the proceeds of a construction loan used to pay for capital expenses associated with the construction of the museum; and

WHEREAS, the Museum is using the Property as its headquarters and as a children's museum, for the public purpose of providing interactive exhibits with learning activities focused on the themes of arts, culture, community, and communication; providing public programs and events that sustain and advance cultural goals and provide opportunities for families to grow together; and

WHEREAS, Miami-Dade County (the "County") granted the Museum Building Better Communities General Obligation Bond ("BBC GOB") Program funds in the amount of \$2,438,000 for the purpose of repayment of the construction loan, the proceeds of which were used by the Museum to pay for capital expenses associated with the construction of the museum on the Property.

NOW, THEREFORE, in consideration for the BBC GOB grant and other good and valuable consideration, the Museum hereby voluntarily covenants and agrees to the following restrictions that are intended and shall be deemed to be covenants running with the land and binding upon the Museum, its successors and assigns:

- 1) The foregoing recitations are true and correct and are hereby incorporated herein by this reference; and
- 2) The Museum shall eliminate its principal mortgage debt on the property within ninety (90) days of the date of the Museum's receipt of the BBC GOB funds from the County; and
- 3) During the entire term hereof, the Museum covenants that (a) the Property and building(s) located thereon and facilities located therein will continuously be used for and operated as Miami Children's Museum, Inc.'s headquarters and as a children's museum; (b) the Property and building(s) located thereon and facilities located therein shall be used exclusively for the public purpose of providing interactive exhibits with learning activities focused on the themes of arts, culture, community, and communication; public programs and events that sustain and advance cultural goals and provide opportunities for families to grow together; (c) The Museum will be the continuous owner and operator of the Property and any and all buildings and facilities located thereon; (d) The Museum will qualify and remain as a not-for-profit corporation; and (e) The Museum will not further encumber the Property after the date this declaration is recorded without express written consent of Miami-Dade County, through its County Mayor or Mayor's designee. The County Mayor or Mayor's designee shall determine and decide, in its complete and sole discretion, whether the Property and buildings and facilities thereon have ceased to be used for the purposes stated herein and/or whether the Museum has ceased to exist or to own or operate the Property and any and all buildings and facilities located thereon, and/or whether the Museum has lost its status as a not-for-profit corporation.

In the event that the conditions set forth in sections 2 and 3 above are not met, the Museum shall correct or cure the default/violation within thirty (30) days of notification of the default by Miami-Dade County. If the Museum fails to remedy the default/violation, Miami-Dade County shall have the right to have the title to the Property and building shall revert to and vest in Miami-Dade County, without the necessity of obtaining a court order, and the Museum shall deed the Property and building and facilities together with all of its contents by Warranty Deed to Miami-Dade County; and the Museum specifically waives, by acceptance of this

Declaration, any entitlement to or right to seek any compensation whatsoever for said Property and building, including seeking any recourse in any Court.

Covenant Running with the Land. This Declaration of Restrictive Covenants shall run with the land for twenty-five (25) years from the date this Declaration is recorded in the public records of Miami-Dade County, unless this Declaration has been modified, amended or released by a written instrument executed by Miami-Dade County as authorized by and through and at the sole discretion of its Board of County Commissioners.

Enforcement. Miami-Dade County is the beneficiary of these covenants and restrictions and as such may enforce these covenants and restrictions by an action in law or equity, including without limitation a decree of specific performance or mandatory or prohibitory injunction, against any person or persons, entity or entities, violating or attempting to violate the terms of these covenants and restrictions.

Inspection. It is understood and agreed that any inspector from Miami-Dade County shall have the right at any time during normal working hours to enter and investigate the use of the Property and the facilities to determine if the conditions of this Declaration of Restrictive Covenants are being complied with.

Notice and Contact. Any notice required or permitted under this Agreement shall be in writing and shall be deemed to have been given, delivered and received when either (i) delivered in person to the agents designated herein below for that purpose, (ii) on the first business day after delivery to an overnight courier (e.g., Federal Express, Airborne) as evidenced by the sender's copy, addressed as set forth herein below, or (iii) three (3) days after deposited in the United States Mail, by certified mail, postage prepaid, return receipt requested, addressed to the other party. The addresses of the parties are as follows:

TO MIAMI-DADE COUNTY:

Director
Office of Capital Improvements
111 N.W. 1st Street, Suite 2130
Miami, Florida 33128

With a copy to:

Miami-Dade County Attorney
111 N.W. 1st Street, Suite 2810
Miami, Florida 33128

TO MIAMI CHILDREN'S MUSEUM, INC.:

Executive Director
980 MacArthur Causeway
Miami, Florida 33132

Severability. If any covenant, restriction or provision contained in this document is held to be invalid by any court of competent jurisdiction, such invalidity shall not affect the validity

Notary Signature

(NOTARY SEAL/STAMP)

Printed Notary Name
Notary Public, State of Florida
Commission No: _____

REF

EXHIBIT "A"

The acquisition includes the following:

Folio Number Parcel : Info needed here via CAO

Address: 980 MacArthur Causeway, Miami, Florida 33132

Owner: Miami Children's Museum, Inc.

Co-Use: ~~XXXXXXXXXX~~

Legal Description:

Info needed here via CAO

Info needed here via CAO

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