Memorandum

MIAMI-DADE COUNTY

Date: April 22, 2008

To: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

Agenda Item No. 9(A)(29)(A)

From: George M. Burgess
County Manager

Subject: *Building Better Communities* General Obligation Bond Program – Execution of GOB Grant Agreements with the Miami Art Museum of Dade County Association, Inc. (MAM), GOB Project No. 296; and the Museum of Science, Inc. (MSM), GOB Project -No. 297; and a Memorandum of Understanding among Miami-Dade County, the City of Miami, the Miami Sports and Exhibition Authority, MAM, MSM and the Historical Association of South Florida, Inc. (HASF)

Recommendation

It is recommended that the Board of County Commissioners (Board) adopt the attached resolution approving the terms of and authorizing the Mayor or his designee to execute separate *Building Better Communities* General Obligation Bond Program (the "BBC GOB Program") grant agreements by and between the County and the Miami Art Museum of Dade County Association, Inc., (MAM), a Florida not-for-profit, for GOB Project No. 296, in the amount of $235,000 (Exhibit A to the resolution) and the Museum of Science, Inc. (MSM), a Florida not-for-profit, for GOB Project No. 297, in the amount of $3.3 million (Exhibit B to the resolution) to fund the initial design and site engineering-related expenses associated with the development of the two museums at Museum Park (aka Bicentennial Park). The difference between the proposed Grant Agreements and the standard BBC GOB Program grant agreement is the deletion that grantees demonstrate site control as a pre-condition to receiving this first installment of BBC GOB Program funds. The funding will come from the first BBC GOB Program bond sale.

In addition, the attached resolution approves the terms of and authorizes the Mayor or his designee to execute a Memorandum of Understanding (MOU) (Exhibit C to the resolution) by and among Miami-Dade County, the City of Miami (the "City"), the Miami Sports and Exhibition Authority (MSEA), MAM, MSM and HASF setting out certain responsibilities among the parties involved in the implementation of Museum Park.

Scope

Although the MAM and the MSM/HASF museums will be located in County Commission District 3, these projects will have countywide impact.

Fiscal Impact/Funding Source

The BBC GOB Program has an allocation of $100 million for MAM and $175 million for MSM/HASF. Each museum will be responsible for any cost overruns to its respective project. Furthermore, the complementary work by the City to develop the Museum Park will be funded from $68 million generated by the Omni Community Redevelopment Agency (CRA), subject to the expansion of the CRA boundaries in accordance with the Global Agreement recently approved by both the Board and the City Commission.

Track Record/Monitor

The two museums are not-for-profits in good standing with Miami-Dade County. Each museum will be responsible for the implementation of its project with oversight provided by the Miami-Dade Department of Cultural Affairs. The Office of Capital Improvements will be the monitoring agency.

Background

On November 2, 2004 voters approved eight ballot questions authorizing the issuance of general obligation bonds to fund more than 300 capital improvements throughout the County over the next 15 to 18 years. GOB Project No. 296, included a total allocation of $100 million to fund the development of a new MAM and GOB Project No. 297 included an allocation of $175 million to fund the development of a new MSM/HASF, all to be built on City-owned Bicentennial Park.

MAM

The MAM presently occupies approximately 33,000 square feet in the Miami-Dade Cultural Center, a County-owned facility adjacent to the Stephen P. Clark Center in downtown Miami. The Museum has long outgrown its present facilities. In 2006, the Museum had total attendance of 62,000 visitors. Attendance is estimated by the Museum to be 190,000 at the new museum.

Project Description

GOB Project No. 296, as approved by the Board on July 20, 2004 and the voters on November 2, 2004, was clearly intended to be built at Bicentennial Park (now known as Museum Park) based on the project's approved description. The Museum will occupy approximately four acres of City land and will include 151,000 square feet of indoor space (to be built in two phases), under-building parking and outdoor art components that will be free of charge. The interior space will be complemented by outdoor public spaces and outdoor art components. The Museum will present exhibitions, expand its art collections and offer educational programs for the benefit, enjoyment and education of the public.

The current overall project budget for the 121,000 square foot Phase 1 of the Museum is $220 million ($131 million for the building, $70 million for an operating endowment and $19 million for transitional expenses). The remaining 30,000 square feet will be constructed in Phase II, which is currently not scheduled. The $100 million from the BBC GOB Program will be used for a portion of the cost of construction of the building. Private contributions will fund most of the remaining costs. The Museum has done considerable programming and conceptual design work and started their schematic design in October 2007. Construction is scheduled to start in October 2009 with the opening presently scheduled for fiscal year 2012. Currently, the County's contribution totals approximately 35% of the MAM's operational budget. The operating budget for the new facility is estimated at $12.9 million. Over the next three years, we will work with the MAM to present revised budget proposals reflective of the MAM's increased operational costs to the Board for consideration. Such proposals will factor in, to the extent possible, expected private operating endowment support, administrative revenues, and grant funds.

Selection of the Design Team

In September 2006, MAM selected the firm of Herzog & de Meuron as its design architect. The design architect will be involved primarily in conceptual and preliminary design while the executive architect, to be named, will develop the detailed construction and permit plans. On June 6, 2006, the Board approved Ordinance No. 06-88 amending Section 2-8.2.10 of the Code of Miami-Dade County which allows

municipalities and not-for-profits implementing a BBC GOB Program-funded project to use their own procurement procedures. The intention is for MAM to own the facility. This is expected to facilitate the on-going fundraising efforts and makes MAM totally responsible for any cost overruns. As a result, County procurement procedures do not apply. Nevertheless, MAM has followed the County process and on April 11, 2007 went before the County's Small Business Affairs Review Committee for the recommendation of Community Business Enterprise (CBE) goals for six relevant design professions. Although not required, MAM has committed to assign approximately 15% of that design work to CBEs.

MSM

The MSM presently occupies approximately 60,000 square feet in a County-owned facility on land that is part of Vizcaya Museum and Gardens on South Bayshore Drive. The Museum has long outgrown its present facilities across from Vizcaya. In 2006, the Museum had an attendance of 200,000 visitors. Attendance is estimated by the Museum to reach 500,000 once the new museum opens downtown.

Project Description

GOB Project No. 297, as approved by the Board on July 20, 2004 and the voters on November 2, 2004, was clearly intended to be built at Bicentennial Park (now known as Museum Park) based on the project's approved description. The Museum will occupy approximately four acres of City land and will include up to 250,000 square feet of indoor space and approximately 100,000 square feet of outdoor museum space. The Museum will house a Planetarium, an Aquarium, a Wildlife Center, interactive exhibition spaces and a Learning Center.

The current estimated cost of the Museum is $288 million ($260 million for the building and $28 million for transitional expenses) of which $175 million will come from the BBC GOB Program. Private contributions will fund most of the remaining cost. The Museum has done considerable programming work and expects to start its detail design as soon as the GOB grant agreements and MOU are executed. Construction is scheduled to start no later than 18 months after the execution of the agreements with the opening presently scheduled for 2012. Currently, the County's contribution totals approximately 11% of the MSM's operational budget. The operating budget for the new facility is estimated at $16 million. Over the next three years, we will work with the MSM to present revised budget proposals reflective of the MSM's increased operational costs to the Board for consideration. Such proposals will factor in, to the extent possible, expected private operating endowment support, administrative revenues, and grant funds.

Selection of the Design Team

On May 4, 2007 the MSM selected the firm of Grimshaw Architects as its design architect and Rodriguez and Quiroga as its executive architect. Both architects will be involved throughout the project. As previously mentioned, on June 6, 2006, the Board approved Ordinance No. 06-88 amending Section 2-8.2.10 of the Code of Miami-Dade County allowing municipalities and not-for-profits implementing BBC GOB Program-funded projects to use their own procurement procedures. The intention is for MSM to own the facility. This is expected to facilitate the on-going fundraising efforts and makes MSM totally responsible for any cost overruns. As a result, County procurement procedures do not apply. Nevertheless, MSM has followed County process and on August 29, 2007 went before the County's Small Business Affairs Review Committee for the recommendation of Community Business Enterprise (CBE) goals. Although not required, MSM has committed to assign approximately 15% of its design work to CBEs.

Memorandum of Understanding

More than two years ago, the City of Miami contracted with Cooper, Robertson & Partners to work with MAM, MSM and the County to develop a master plan for the redevelopment of Bicentennial Park. A product of this work is a site plan for the approximately 29-acre Bicentennial Park that features specific locations for developing new art and science museums on a total of 8 acres (4 acres for each museum) and a 21-acre park design.

While this work was progressing, the City, the museums and the County began discussions regarding the contractual relationships necessary for developing the Museum Park project. The County, the City, MSEA, MAM, and MSM/HASF are parties to the attached MOU (Exhibit C) that has been developed to set forth the central business terms of the Museum Park project.

For the purpose of the GOB grant agreements with MAM and MSM, it is important to highlight the fact that the MOU reflects the concurrence of all of the parties to the location of the museums on approximately 8 acres at Bicentennial Park near I-395. The leases and sub-leases referenced in the MOU for these museum parcels are not finalized yet. However, the fact that the MOU represents consensus among all of the parties regarding the museums' locations (site control) provides sufficient confidence now to recommend the waiver of BBC GOB Program requirements regarding control of the property and to allocate the limited BBC GOB Program funds for these projects covered in the grant agreements. This will provide resources necessary to maintain the momentum necessary for the success of these projects. It should be noted that the City of Miami already has allocated funds to the museums from its Homeland Defense Bond Program to help cover capital project planning expenses to date. Future allocations of BBC GOB Program grant funds are subject to the museums demonstrating satisfactory control of the property for the development of their projects.

Highlights of other key business terms covered by the MOU include:

- Each of the museums will serve as developer of its capital project, selecting firms and entering into agreements for design and construction of its building. The City of Miami will serve as developer for the park.
- Each of the museums will own and operate the improvements built on its designated 4-acre parcel in Bicentennial Park (i.e., the museum facilities). The HASF will have space in the MSM facility for exhibits and programs.
- The City will lease the museum parcels to the MSEA and MSEA will execute sub-leases for each parcel with each museum for a series of automatically renewable terms, totaling 99 years. This parallels the land arrangements made by the City and MSEA for the development of the Miami Children's Museum on Watson Island. Exhibit B to the MOU is the Museum Park Site Plan identifying the museum parcels.
- Each museum is committing to a Cost Overrun Guaranty that requires MAM and the MSM to be solely responsible to pay all costs in excess of the County's allocation of BBC GOB Program funds.
- The County will be responsible for re-opening the Bicentennial Park MetroMover Station and improvements to Pump Station #2 considered necessary by the Miami-Dade Water and Sewer Department.
- The City of Miami has not identified sufficient funds to implement the park improvements in the Cooper, Robertson & Partners' master plan; the pending first amendment to the Omni Redevelopment Area Interlocal Agreement would provide the City with funds to help cover park development costs.
- Among the outstanding issues that the museums, the City and MSEA have committed to resolve in subsequent agreements include: the disposition of the museum buildings at the termination of the leases/sub-leases; the responsibility for costs of environmental remediation that may exceed the $2 million committed by the City of Miami; and the details of identifying and assigning responsibility for

shared infrastructure costs (e.g., roadways and utilities that are used by both the museums and the park).

- The MOU is a non-binding agreement that sets forth the framework for developing more detailed, binding agreements that are called for in the MOU (e.g., the leases/sub-leases; a master development agreement; a master operating agreement).

Other Issues

The BBC GOB Program Administrative Rules require that grantees demonstrate site control as a pre-condition to receiving a grant. This requirement is included in the standard Grant Agreement executed by the County and BBC GOB Program stakeholders. Although all parties firmly expect that the museums will be built at Museum Park, the lease between the City and MSEA and the corresponding sub-leases between MSEA and the museums are not in place. We recommend that the Board approve the proposed Grant Agreements which do not require site control for the limited purpose of allowing the museums to continue moving forward. No further funds beyond the $235,000 initial grant amount for MAM and $3.3 million to MSM/HASF will be committed without the resolution of the site control issue. Payments to the museums under these agreements will be made on a reimbursement basis in accordance with the BBC GOB Program Administrative Rules. Spending the balance of the GOB total allocations will be authorized through the execution of subsequent grant agreements as the work progresses. We will report to the Board on the progress of these projects at least on a quarterly basis.

As part of the BBC GOB Program grant review process, under direct oversight from my office, the Office of Capital Improvement and the Department of Cultural Affairs will perform certain due diligence and evaluation to ascertain that the Museums are ready and capable of implementing the projects. This effort will include a review of the project budgets and schedules, as well as a review of the necessary additional funding sources. We will not execute the grant agreements until we are satisfied that these projects are ready to move forward.

We have had considerable discussions regarding how the County will monitor this project. The primary oversight responsibility on behalf of the County will rest with the Miami-Dade Department of Cultural Affairs with support from the Office of Capital Improvements. My office will be directly involved in overseeing these efforts. The County will likely also retain the services of a dedicated "owner's representative" to provide more in-depth oversight.

Finally, these grant agreements and the MOU are instruments necessary to implement the decision the Board made in July 2004 when it approved the two museums for inclusion in the 2004 BBC GOB Program referendum. The voters overwhelmingly endorsed that decision by the Board with a resounding "yes" vote in November of that year. The recent favorable action by the Board on the Global Agreement establishes the financial framework that will help the City to fund its responsibilities under the MOU. This item authorizes the next step in the development process for the two museums and ensures that both projects continue to move forward.

Assistant County Manager

MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners

DATE: April 22, 2008

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 9(A)(29)(A)

Please note any items checked.

_____ **"4-Day Rule" ("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**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 9(A)(29)(A)
04-22-08

RESOLUTION NO. _____

RESOLUTION APPROVING TERMS OF AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE SEPARATE BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND GRANT AGREEMENTS WITH THE MIAMI ART MUSEUM OF DADE COUNTY ASSOCIATION, INC. (MAM) AND THE MUSEUM OF SCIENCE, INC. (MSM) TO FUND INITIAL DESIGN AND SITE ENGINEERING EXPENSES ASSOCIATED WITH THE DEVELOPMENT OF THE TWO MUSEUMS AT MUSEUM PARK; AND APPROVING TERMS OF AND AUTHORIZING THE MAYOR OR HIS DESIGNEE TO EXECUTE A MEMORANDUM OF UNDERSTANDING AMONG THE COUNTY, THE CITY OF MIAMI, THE MIAMI SPORTS AND EXHIBITION AUTHORITY (MSEA), MAM, MSM AND THE HISTORICAL ASSOCIATION OF SOUTH FLORIDA, INC.

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by this reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board hereby approves the terms of and authorizes the Mayor or his designee to execute (i) the Building Better Communities General Obligation Bond Program Grant Agreement by and between the County and the Miami Art Museum of Dade County Association, Inc. (the "MAM") in substantially the form attached hereto as Exhibit A; (ii) the Building Better Communities General Obligation Bond Program Grant Agreement by and between the County and the Museum of Science, Inc. (the "MSM") in substantially the form attached hereto as Exhibit B; and (iii) the Memorandum of Understanding by and among the County, the City of Miami, the Miami Sports and Exhibition

Authority, MAM, MSM and the Historical Association of Southern Florida, Inc., in substantially the form attached hereto as Exhibit C.

The foregoing resolution 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:

Bruno A. Barreiro, Chairman
Barbara J. Jordan, Vice-Chairwoman

Jose "Pepe" Diaz	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Joe A. Martinez	Dennis C. Moss
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 22nd April, 2008. 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. MR

Monica Rizo

Exhibit A

MIAMI-DADE COUNTY
BUILDING BETTER COMMUNITIES
GRANT AGREEMENT

New Miami Art Museum Facility / GOB Project Number 296-70428

This Agreement (the "Agreement") by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), through its governing body, the Board of County Commissioners of Miami-Dade County, Florida (the "Board") and **Miami Art Museum of Dade County Association, Inc.,** a **Florida nonprofit corporation** (the "Grantee") is entered into this ___ day of _____, 2008.

WITNESSETH:

WHEREAS, on July 20, 2004, the Board adopted Resolution Nos. R-912-04, R-913-04, R-914-04, R-915-04, R-916-04, R-917-04, R-918-04 and R-919-04 authorizing the issuance of $2.926 billion in general obligation bonds for capital projects and on November 2, 2004, a majority of those voting approved the bond program (the "BBC GOB Program"); and

WHEREAS, the aforementioned Resolutions include specific projects such as but not limited to development, improvement, rehabilitation, restoration or acquisition of real property; and

WHEREAS, the Grantee is undertaking **the construction of a new art museum for presenting exhibitions, expanding its art collections and offering educational programs and a sculpture garden as part of the Museum Park Project** (the "Project") which was specifically approved as part of the BBC GOB Program or is eligible for funding from one of the programs to be funded under the BBC GOB Program and is described more specifically in Exhibit 1 to this Grant Agreement; and

WHEREAS, the **new Miami Art Museum Facility** is estimated to cost **$131,000,000** (the "Total Project Cost") and will be funded from the sources listed in Exhibit 1; and

WHEREAS, the **new Miami Art Museum Facility / GOB Project Number 296-70428** is eligible for funding from the BBC GOB Program in a total amount not to exceed **$100,000,000** (the "Funding Allocation"); and

WHEREAS, pursuant to the terms of this Agreement the County has agreed to allocate **$235,000** from the **Series A** Bonds for the Project (the "Funding Cycle Allocation"); and

WHEREAS, the Project physically improves an area, facility, resource or site to increase its ability or capacity to serve the public; and

WHEREAS, the County and the Board of Directors of the Grantee have authorized, by resolution, their respective representatives to enter into this Agreement for each Funding Cycle Allocation describing their respective roles in the funding for the Project costs with respect to such Funding Cycle Allocation,

NOW THEREFORE, pursuant to Resolution No. R-595-05, which specifically authorizes the County Manager to execute such agreements and other required contracts and documents, to expend Building Better Communities bond funds received for the purpose described in the approved funding allocation, and in consideration of the mutual promises and covenants contained herein and the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

Section 1. Parties, Effective Date and Term: The parties to this Agreement are the Grantee and the County. The County has delegated the responsibility of administering this grant to the County Manager, or his designee, who shall be referred to herein as the "County Manager."

This Agreement shall take effect upon execution and shall terminate upon the completion of the Project, including the completion of all final closeout documentation.

Section 2. **Amount of Funding Cycle Allocation and Payment Schedule:** A Project funding plan identifying the Funding Allocation to be funded by the County solely from BBC GOB Program proceeds and the costs to be funded by the Grantee through written project funding commitments from third parties is attached as Exhibit 1. Included shall be a projected timetable for each Funding Cycle Allocation and the amount funded to date, if any. The County agrees to provide solely from the BBC GOB Program proceeds for the Funding Cycle Allocation an amount equal to **$235,000**. This amount represents a portion of the amount necessary to complete the Project. By making this grant, Miami-Dade County assumes no obligation to provide financial support of any type whatever in excess of the Funding Allocation. Cost overruns are the sole responsibility of the Grantee. The Funding Cycle Allocation shall be provided in accordance with the Administrative Rules which are attached as Attachment 1 ("Administrative Rules") and incorporated in this Agreement by this reference. In the event that the Funding Cycle Allocation is not expended on schedule, additional allocations may be delayed for one calendar year or more depending on the bond schedule, in accordance with the Administrative Rules and Section 22 of this Agreement.

Payment(s) of Funding Cycle Allocation funds will be made to the Grantee pursuant to the reimbursement provisions in the Administrative Rules and its Exhibits.

Miami-Dade County shall only be obligated to reimburse the Grantee provided the Grantee is not in breach of this Agreement and the Grantee has demonstrated that it has adequate funds to complete the Project. The County shall administer, in accordance with the appropriate regulations, the funds available from the BBC GOB Program as authorized by Board Resolutions. Any and all reimbursement obligations of the County shall be fully subject to and contingent upon the availability of funding solely from the BBC GOB Program funds. The Grantee shall be solely responsible for submitting all documentation, as required by this Agreement and by the Administrative Rules, to the County Manager.

Section 3. **Project Description:** The Grantee may only use the Funding Cycle Allocation for the purpose of purchasing, building, renovating and/or equipping facilities for the Project as specifically described in Exhibit 1. Further, it is expressly understood and agreed, that the Grantee's Project which is supported by Funding Cycle Allocation must be open and accessible to the public, provide public exposure and benefit the public unless otherwise noted under Section 25 of this Agreement.

For at least thirty (30) years from the completion of the Project, the Grantee shall use the facility and/or equipment acquired and/or improved under the Project for activities benefiting the public, and for no other purposes. The Grantee agrees to: a) maintain the Project; b) keep the Project open to all Miami-Dade County residents; and (c) allow all Miami-Dade County residents equal access and use of the Project.

If the Grantee wishes to revise the Project for the purpose of completing the Project and such revisions substantially alter the original Project, the Grantee must request in writing that the County Manager review and approve such revisions. Grantee's request must be given at least fourteen (14) days prior to implementation of revisions. The County Manager will make the final determination on revisions within fourteen (14) business days of the date of receipt of the request in the County Manager's offices.

Section 4. **Project Budget:** The Grantee agrees to demonstrate fiscal stability and the ability to administer the Funding Cycle Allocation responsibly and in accordance with standard accounting practices by developing and adhering to a Project budget that is based upon reasonable revenue development and expenditures projected to complete the Project within the Total Project Cost. This Project budget is attached as Exhibit 1. Further, Grantee agrees that all expenditures will be subject to the terms of this Agreement. If Grantee wishes to revise the budget for the purpose of completing the Project, including line item changes, and such revisions substantially alter the original Project, the Grantee must request in writing that the County Manager review and approve such revisions. Grantee's request must be given at least fourteen (14) days prior to implementation of the revisions. The County Manager will make the final determination on revisions within fourteen (14) business days of the date of receipt of the request in the County Manager's offices.

Section 5. **Expenditure Deadline:** The Grantee shall spend or commit all of the Funding Cycle Allocation and matching funds on or before **December 31, 2009** (the "Expenditure Deadline"). Any Funding Cycle Allocation funds not spent or committed by the Expenditure Deadline or for which a Project extension has not been requested shall revert to the County and this Agreement shall be terminated in accordance with the provisions of this Agreement. A Project extension may be requested in writing from the County Manager at least thirty (30) business days prior to the Expenditure Deadline. The County Manager, at his discretion, may grant an extension of up to one (1) year from the Expenditure Deadline so long as such extension will not significantly alter the Project including its quality, impact, or benefit to the organization, the County or its citizens. Additional extensions may be authorized by the County Manager if the Grantee can document in a written request sufficient Project progress and cause for such an extension to be warranted.

Section 6. **Report Deadline:** To demonstrate that the Funding Cycle Allocation has been used in accordance with the Project Description and Project budget information as outlined in Exhibit 1 and that Grantee has met and fulfilled all requirements as outlined in this Agreement, exhibits, and/or other substantive materials as may be attached or included as a condition to this Funding Cycle Allocation award, the Grantee must submit to the County Manager, a written report documenting that the Grantee is meeting or has fulfilled all Project and financial requirements. This report is to be received by the County Manager monthly. The Grantee shall also submit a written report to the County Manager on or prior to September 30th of each year from the time of the execution of this Agreement through the termination of this Agreement demonstrating that the Grantee is fulfilling, or has fulfilled, its purpose, and has complied with all applicable municipal, Miami-Dade County, state and federal requirements. The County Manager may also request that a compilation statement or independent financial audit and accounting for the expenditure of Funding Cycle Allocation funds be prepared by an independent certified public accountant at the expense of the Grantee.

In the event that the Grantee fails to submit the required reports as required above, the County Manager may terminate this Agreement in accordance with Section 15. Further, the County Manager must approve these reports for the Grantee to be deemed to have met all conditions of the grant award.

Section 7. **Program Monitoring and Evaluation:** The County Manager may monitor and conduct an evaluation of the Grantee's operations and the Project, which may include visits by County representatives to: observe the Project or Grantee's programs, procedures, and operations; discuss the Grantee's programs with the Grantee's personnel; and/or evaluate the public impact of the Project. Upon request, the Grantee shall provide the County Manager with notice of all meetings of its Board of Directors or governing board, general activities and Project-related events. In the event the County Manager concludes, as a result of such monitoring and/or evaluation, that the Grantee is not in compliance with the terms of this Agreement or the Administrative Rules or for other reasons which significantly impact on the Grantee's ability to fulfill the conditions of this Funding Cycle Allocation award, then the County Manager must provide in writing to the Grantee, within thirty (30) days of the date of said monitoring/evaluation, notice of the inadequacy or deficiencies noted which may significantly impact on the Grantee's ability to complete the Project or fulfill the terms of this Agreement within a reasonable time frame. If Grantee refuses or is unable to address the areas of concern within thirty (30) days of receipt of such notice from the County Manager, then the County Manager, at his discretion, may take other actions which may include reduction or rescission of the Funding Cycle Allocation award, or withholding Funding Cycle Allocation funds until such time as the Grantee can demonstrate that such issues have been corrected. Further, in the event that the Grantee does not expend the Funding Cycle Allocation for the Project or uses any portion of the Funding Cycle Allocation for costs not associated with the Project and the Grantee refuses or is unable to address the areas of concern, then the County Manager may request the return of the full or partial Funding Cycle Allocation award. The County Manager may also institute a moratorium on applications from the Grantee to County grants programs for a period of up to one (1) year or until the deficient areas have been addressed to the satisfaction of the County Manager, whichever occurs first.

If the Project involves construction work, the Grantee shall: notify the County Manager of any applicable federal labor compliance requirements regarding procurement and pre-award procedures prior to scheduling pre-construction conferences; submit to the County Manager all plans and specifications and receive the approval of the County Manager prior to issuance and implementation; and comply with all applicable provisions of municipal, state, federal and County laws, regulations and rules.

Section 8. **Bank Accounts and Bonding:** Monies received pursuant to this Agreement shall be kept in accounts in established Florida banks, credit unions or savings and loan associations whose identity shall be disclosed in writing, with the identity and title of individuals whom the Grantee authorizes to withdraw or write checks on Funding Cycle Allocation funds from the banking institution identified on the "Bank Account Disclosure" form submitted by the Grantee. These accounts must be segregated from other accounts maintained by the Grantee. All persons authorized to withdraw funds from the Funding Cycle Allocation account must be bonded by a reputable licensed firm.

Section 9. **Accounting and Financial Review:** The Grantee must keep accurate and complete books and records for all receipts and expenditures of this Funding Cycle Allocation award and any matching funds required in conformance with reasonable general accounting standards. These books and records, as well as all documents pertaining to payments received and made in conjunction with the Funding Cycle Allocation, such as vouchers, bills, invoices, receipts and canceled checks, shall be retained in Miami-Dade County in a secure place and in an orderly fashion by the Grantee for at least three (3) years after the later of: the Expenditure Deadline specified in Section 5; the extended Expenditure Deadline, as approved by the County Manager, if any; the completion of a County requested or mandated audit or compliance review; or the conclusion of a legal action involving the Funding Cycle Allocation award, the Grantee and/or Project or activities related to the Funding Cycle Allocation award.

The County Manager may examine these books, records and documents at the Grantee's offices or other approved site under the direct control and supervision of the Grantee during regular business hours and upon reasonable notice. Furthermore, the County Manager may, upon reasonable notice and at the County's expense, audit or have audited all financial records of the Grantee, whether or not purported to be related to this grant.

Pursuant to Section 2-1076 of the Miami-Dade County Code the County shall have the right to engage the services of an independent private-sector inspector general ("IPSIG") to monitor and investigate compliance with the terms of this Agreement. The Office of the **MIAMI-DADE COUNTY INSPECTOR GENERAL (IG)** shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions, and contracts such as this Agreement for improvements some cost of which is funded with County funds.

As such, the IG may, on a random basis, perform audits on this Agreement throughout the duration of said Agreement (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County.

The IG shall have the power to retain and coordinate the services of an **IPSIG** who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the Grantee and contractor and their respective officers, agents and employees, lobbyists, subcontractors, materialmen, staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the Grantee (and any affected contractor and materialman) from IG, the Grantee (and any affected contractor and materialman) shall make all requested records and documents available to the IG for inspection and copying.

The IG shall have the power to report and/or recommend to the Board whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG is authorized to investigate any alleged violation by a contractor of its Code of Business Ethics, pursuant Miami-Dade County Code Section 2-8.1.

The provisions in this section shall apply to the Grantee, its contractors and their respective officers, agents and employees. The Grantee shall incorporate the provisions in this section in all contracts and all other agreements executed by its contractors in connection with the performance of this Agreement. Any rights that the County has under this Section shall not be the basis for any liability to accrue to the County from the Grantee, its contractors or third parties for such monitoring or investigation or for the failure to have conducted such monitoring or investigation and the County shall have no obligation to exercise any of its rights for the benefit of the Grantee.

Section 10. **Publicity and Credits:** The Grantee must include the following credit line in all promotional marketing materials related to this funding including web sites, news and press releases, public service announcements, broadcast media, programs, and publications: "THIS PROJECT IS SUPPORTED BY THE BUILDING BETTER COMMUNITIES BOND PROGRAM AND THE MAYOR AND BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY."

Section 11. **Naming Rights and Advertisements**: In the event that any naming rights or advertisement space is offered on a facility constructed or improved with BBC GOB Program funds, then Miami-Dade County's name, logo, and slogan shall appear on the facility at least once. Lettering used for Miami-Dade County will be no less than 75% of the size of the largest lettering used for any sponsor or advertiser.

Section 12. **Liability and Indemnification:** It is expressly understood and intended that the Grantee, as the recipient of BBC GOB Program funds, is not an officer, employee or agent of Miami-Dade County, its Board of County Commissioners, its

Mayor, nor the Miami-Dade County Department administering the Funding Cycle Allocation award. Further, for purposes of this Agreement, the Project or activity, the parties hereto agree that the Grantee, its officers, agents and employees are independent contractors and solely responsible for the Project.
The Grantee shall take all actions as may be necessary to ensure that its officers, agents, employees, assignees and/or subcontractors shall not act as nor give the appearance of that of an agent, servant, joint venturer, collaborator or partner of the Department administering this Grant, the Miami-Dade County Mayor, the Miami-Dade County Board of County Commissioners, or its employees. No party or its officers, elected or appointed officials, employees, agents, independent contractors or consultants shall be considered employees or agents of any other party, nor to have been authorized to incur any expense on behalf of any other party, nor to act for or to bind any other party, nor shall an employee claim any right in or entitlement to any pension, workers' compensation benefit, unemployment compensation, civil service or other employee rights or privileges granted by operation of law or otherwise, except through and against the entity by whom they are employed.

The Grantee agrees to be responsible for all work performed and all expenses incurred in connection with the Project. The Grantee may subcontract as necessary to complete the Project, including entering into subcontracts with vendors for services and commodities, provided that it is understood by the Grantee that the County shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

The Grantee shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Grantee or its employees, agents, servants, partners, principals, subconsultants or subcontractors. Grantee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. Grantee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Grantee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Section 13. **Assignment:** The Grantee is not permitted to assign this Agreement or any portion thereof. Any purported assignment will render this Agreement null and void and subject to immediate rescission of the full amount of the Funding Cycle Allocation award and reimbursement by the Grantee of its full value to the County.

Section 14. **Compliance with Laws:** It shall be a contractual obligation of the Grantee hereunder and the Grantee agrees to abide by and be governed by all Applicable Laws necessary for the development and completion of the Project. "Applicable Law" means any applicable law (including, without limitation, any

environmental law), enactment, statute, code, ordinance, administrative order, charter, tariff, resolution, order, rule, regulation, guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement of any governmental authority, political subdivision, or any division or department thereof, now existing or hereinafter enacted, adopted, promulgated, entered, or issued. Notwithstanding the foregoing, "Applicable Laws" and "applicable laws" shall expressly include, without limitation, all applicable zoning, land use, DRI and Florida Building Code requirements and regulations, all applicable impact fee requirements, all requirements of Florida Statutes, specifically including, but not limited to, Section 255.05 related to payment and performance bonds, Section 255.20 related to contractor selection and Section 287.055 related to competitive selection of architects and engineers, all requirements of Chapters 119 and 286 of the Florida Statutes, all disclosure requirements imposed by Section 2-8.1 of the Miami-Dade County Code, all requirements of Miami-Dade County Ordinance No. 90-133 (amending Section 2-8.1), County Resolution No R-754-93 (Insurance Affidavit), County Ordinance No. 92-15 (Drug-Free Workplace), and County Ordinance No. 91-142 (Family Leave Affidavit), execution of public entity crimes disclosure statement, Miami-Dade County disability non-discrimination affidavit, and Miami-Dade County criminal record affidavit, all applicable requirements of Miami-Dade County Ordinance No. 90-90 as amended by Ordinance 90-133 (Fair Wage Ordinance), Section 2-11.15 of the Code (Art in Public Places), the requirements of Section 2-1701 of the Code and all other applicable requirements contained in this Agreement.

The Grantee shall comply with Miami-Dade County Resolution No. R-385-98 which creates a policy prohibiting contracts with firms violating the Americans with Disabilities Act of 1990 and other laws prohibiting discrimination on the basis of disability and shall execute a Miami-Dade County Disability Non-Discrimination Affidavit confirming such compliance.

The Grantee covenants and agrees with the County to comply with Miami-Dade County Ordinance No. 72-82 (Conflict of Interest), Resolution No. R-1049 93 (Affirmative Action Plan Furtherance and Compliance), and Resolution No. R.-185-00 (Domestic Leave Ordinance).

All records of the Grantee and its contractors pertaining to the Project shall be maintained in Miami-Dade County and, upon reasonable notice shall be made available to representatives of the County. In addition, the Office of Inspector General of Miami-Dade County shall have access thereto for any of the purposes provided in Sec. 2-1076 of the Code of Miami-Dade County.

The Grantee shall cause each contract to include a provision that contractor shall comply with all requirements of Section 2-1076 as provided in Section 9 herein, and that contractor will maintain all files, records, accounts of expenditures for contractor's portion of the Work and that such records shall maintained within Miami-Dade County and County shall have access thereto as provided in this Agreement.

The Grantee has certifiably indicated compliance to certain Applicable Laws by properly executing the affidavits attached hereto. See affidavits for specific provisions and declarations described.

Section 15. **Breach, Opportunity to Cure and Termination**:

(a) Each of the following shall constitute a default by the Grantee:

(1) If the Grantee uses the Funding Cycle Allocation for costs not associated with the Project (i.e. ineligible costs), and the Grantee fails to cure its default within thirty (30) days after written notice of the default is given to the Grantee by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Grantee commences diligently and thereafter continues to cure.

(2) If the Grantee shall breach any of the other covenants or provisions in this Agreement other than as referred to in Section 15(a)(1) and the Grantee fails to cure its default within thirty (30) days after written notice of the default is given to the Grantee by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Grantee commences diligently and thereafter continues to cure.

(b) Each of the following shall constitute a default by the County:

(1) If the County shall breach any of the covenants or provisions in this Agreement and the County fails to cure its default within thirty (30) days after written notice of the default is given to the County by the Grantee; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the County commences diligently and thereafter continues to cure.

(c) Remedies:

(1) Upon the occurrence of a default as provided in Section 15(a)(1) and such default is not cured within the applicable grace period, in addition to all other remedies conferred by this Agreement, the Grantee shall reimburse the County, in whole or in part as the County shall determine, all funds provided by the County hereunder.

(2.) Either party may institute litigation to recover damages for any default or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy).

(3) Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

(4) Any failure of a party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that party of any claim for damages it may have by reason of the default.

(d) Termination:

(1) Notwithstanding anything herein to the contrary, either party shall have the right to terminate this Agreement, by giving written notice of termination to the other party, in the event that the other party is in material breach of this Agreement.

(2) Termination of this Agreement by any Party is not effective until five (5) business days following receipt of the written notice of termination.

(3) Upon termination of this Agreement pursuant to Section 15(d)(1) above, no party shall have any further liability or obligation to the other party except as expressly set forth in this Agreement; provided that no party shall be relieved of any liability for breach of this Agreement for events or obligations arising prior to such termination.

In the event this grant is canceled or the Grantee is requested to repay Funding Cycle Allocation funds because of a breach of this Agreement, the Grantee will not be eligible to apply to the County for another grant for a period of one (1) year, commencing on the date the Grantee receives the notice in writing of the breach of this Agreement. Further, the Grantee will be liable to reimburse Miami-Dade County for all unauthorized expenditures discovered after the expiration or termination of this Agreement. The Grantee will also be liable to reimburse the County for all lost or stolen Funding Cycle Allocation funds.

Funding Cycle Allocation funds which are to be repaid to the County pursuant to this Section or other sections in this Agreement, are to be repaid by delivering to the County Manager a certified check for the total amount due payable to Miami-Dade County Board of County Commissioners.

These provisions do not waive or preclude the County from pursuing any other remedy, which may be available to it under the law.

Section 16. **Waiver:** There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement. Waiver by any party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

Section 17. **Written Notices:** Any notice, consent or other communication required to be given under this Agreement shall be in writing, and shall be considered given when delivered in person or sent by facsimile or electronic mail (provided that any notice sent by facsimile or electronic mail shall simultaneously be sent personal delivery, overnight courier or certified mail as provided herein), one business day after being sent by reputable overnight carrier or 3 business day after being mailed by certified mail,

return receipt requested, to the parties at the addresses set forth below (or at such other address as a party may specify by notice given pursuant to this Section to the other party):

The County:
George M. Burgess, County Manager
Miami-Dade County
111 NW 1 Street, Suite 2910
Miami, Fl. 33128

Grantee:
Terence Riley, Director
Miami Art Museum
of Dade County Association, Inc.
101 W Flagler Street
Miami, Fl. 33130

Section 18. **Captions:** Captions as used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

Section 19. **Contract Represents Total Agreement:** This Agreement, and the attachments thereto, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives. In the event a conflict between this Agreement and any of its attachments or exhibits, this Agreement shall prevail.

Section 20. **Litigation Costs/Venue**: In the event that the Grantee or the County institutes any action or suit to enforce the provisions of this Agreement, the prevailing party in such litigation shall be entitled to reasonable costs and attorney's fees at the trial, appellate and post-judgment levels. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The County and the Grantee agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

Section 21. **Representation of the Grantee**: The Grantee represents that this Agreement has been duly authorized, executed and delivered by the governing body of the Grantee and it has granted **Terence Riley**, or his designee, the required power and authority to execute this Agreement. The Grantee agrees to a) maintain the Project for a minimum of twenty-five (25) years, b) agrees to govern itself, in regards to the subject Project, in accordance with Article 6 of the County Charter, c) keep the Project open safely and properly maintained for all Miami-Dade County residents, and d) allow all Miami-Dade County residents equal access and use of the project and not discriminate

when charging facility admission fees. The Grantee also agrees to accept and comply with the Administrative Rules as stated in Attachment 1. The Grantee shall be solely responsible for submitting all documentation required by the Administrative Rules to the County Manager or his designee.

Section 22. **Representation of the County**: The County represents that this Agreement has been duly approved, executed and delivered by the Board, as the governing body of the County, and it has granted the Miami-Dade County Manager the required power and authority to execute this Agreement. The County agrees to provide the Funding Cycle Allocation to the Grantee for the purpose of developing and improving the Project in accordance with each of the attached Exhibit Forms, incorporated herein as Exhibits A-J of Attachment 1 (Administrative Rules). Miami-Dade County shall only be obligated to reimburse the Grantee provided the Grantee is not in breach of this Agreement and the Grantee has demonstrated that it has adequate funds to complete the Project. The County shall administer, in accordance with the appropriate regulations, the funds available from the BBC GOB Program as authorized by Board Resolutions. Any and all reimbursement obligations of the County shall be fully subject to and contingent upon the availability of funding from the County for the specific purpose contained herein.

Section 23. **Invalidity of Provisions, Severability**: Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

Section 24. Insurance The Grantee must maintain and shall furnish upon request to the County Manager, certificates of insurance indicating that insurance has been obtained which meets the requirements as outlined below:

1. Workmen's Compensation Insurance for all employees of the Grantee as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive policy in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

The insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

1. The Company must be rated no less than "B" as to the management, and no less than "Class V" as to financial strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division; or,
2. The Company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida," issued by the State of Florida Department of Insurance, and is a member of the Florida Guaranty Fund.

Certificates shall indicate no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Modification or waiver of any of the aforementioned insurance requirements is subject to the approval of the County's Risk Management Division. The Grantee shall notify the County of any intended changes in insurance coverage, including any renewals of existing policies.

Section 25. Special Conditions. The grant is awarded to this Grantee with the understanding that the Grantee is performing a public purpose through the programs, projects, and services recommended for support. Use of these funds for any program component not meeting this condition will be considered a material breach of the terms of this Agreement and will allow Miami-Dade County to seek remedies including, but not limited to those outlined in the Sections and Exhibits of this Grant Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
By Its BOARD OF
COUNTY COMMISSIONERS on the

HARVEY RUVIN, CLERK

____ day of _____, 2008

By: _____
Deputy Clerk

By:

_____
County Mayor

GRANTEE:_____

on the ____day of _____, 2008

(Grantee's Corporate Seal)

Federal Identification
#_____

By_____
Chairman or President

_____
Type or Print Above Signature

By_____
Treasurer/ Chief Fiscal Officer

_____
Type or Print Above Signature

By_____
Executive Director

_____
Type or Print Above Signature

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

Miami-Dade County
Building Better Communities General Obligation Bond Program (GOB)

Miami Art Museum of Dade County Association, Inc. (MAM) — **New Miami Art Museum Facility / GOB Project Number 296-70428**

REVENUES				Milestones	EXPENSES		
FY 2007-08 GOB Allocation (000's)	Future GOB Allocations (000's)	Other Funding Allocations (000's) *	Total Estimated Revenues (000's)		Projected Schedule Start Date	End Date	Total Estimated Expenses (000's)
				Project Administration			
		6,364	6,364	Project Administration (Non-GOB)	1/1/2005	11/1/2009	6,364
				Land Acquisition			
				Land Acquisition (Non-GOB)			
235			235	Pre-design, Planning, including preliminary engineering	10/1/2007	12/1/2008	235
		515	515	Pre-design, Planning, including preliminary (Non-GOB)	9/1/2006	3/1/2007	515
				A&E Selection			
				A&E Selection (Non-GOB)			
				Design			
		21,186	21,186	Design (Non-GOB)	10/1/2007	11/1/2009	21,186
				Dry run/permit			
				Dry run/permit (Non-GOB)			
				Contractor Selection			
				Contractor Selection (Non-GOB)			
	99,765		99,765	Construction On Going	11/1/2009	4/1/2012	99,765
		2,935	2,935	Construction On Going (Non-GOB)	11/1/2009	4/1/2012	2,935
				Construction Substantially Complete			
				Construction Substantially Complete (Non-GOB)			

REVENUES					EXPENSES		
2006 GOB Allocation (000's)	Future GOB Allocations (000's)	Other Funding Allocations (000's) *	Total Estimated Revenues (000's)	Milestones	Projected Schedule Start Date	Projected Schedule End Date	Total Estimated Expenses (000's)
				Other			
				Other (Non-GOB)			
235	99,765	31,000	131,000	TOTALS			131,000

*** Other Funding (List sources and amounts)**

Funding Source	Amount (000's)
Museum Funding	31,000

Total
31,000

Project Narrative/Description

Construct a new art museum for presenting exhibitions, expanding art collections, offer educational programs and will include a sculpture garden as part of the Museum Park project. The current capital project budget for the 121,000 square foot Phase 1 of the Museum is $131 million with an additional $70 million for an operating endowment and $19 million for transitional expenses. The remaining 30,000 square feet will be constructed in Phase II, which is currently not scheduled.

GOB Total Funding Allocation Narrative/Description

$100 million of the $131 million capital project budget is from GOB funds. MAM is currently using their own funding and will seek reimbursement of pre-agreement expenses from the County as part of their GOB allocation.

GOB 2007-08 Funding Allocation Narrative/Description

$235,000 is allocated from the 2007-2008 GOB funding to assist in the initial site engineering and planning. This is matched by the $1.8 million of private museum funds for the design of the project to date.

**For municipalities and public agencies, this exhibit, along with the entity's resolution, conforms with Article III, Section I, 2Ae of the Building Better Communities Bond Program (GOB) Administrative Rules.

Exhibit B

MIAMI-DADE COUNTY
BUILDING BETTER COMMUNITIES
GRANT AGREEMENT

New Miami Museum of Science & Planetarium Facility / Historical Museum of Southern Florida / GOB Project Number 297-70430

This Agreement (the "Agreement") by and between Miami-Dade County, a political subdivision of the State of Florida (the "County"), through its governing body, the Board of County Commissioners of Miami-Dade County, Florida (the "Board") and **Museum of Science, Inc. dba as Miami Science Museum, Inc.**, a **Florida nonprofit corporation** (the "Grantee") is entered into this ___ day of _____, 2008.

WITNESSETH:

WHEREAS, on July 20, 2004, the Board adopted Resolution Nos. R-912-04, R-913-04, R-914-04, R-915-04, R-916-04, R-917-04, R-918-04 and R-919-04 authorizing the issuance of $2.926 billion in general obligation bonds for capital projects and on November 2, 2004, a majority of those voting approved the bond program (the "BBC GOB Program"); and

WHEREAS, the aforementioned Resolutions include specific projects such as but not limited to development, improvement, rehabilitation, restoration or acquisition of real property; and

WHEREAS, the Grantee is undertaking completion of **the construction of a new science and technology museum, planetarium and aquarium offering participatory exhibits, educational programs and collections; an outdoor science park and wildlife center; and indoor space for the Historical Museum of Southern Florida** (the "Project") which was specifically approved as part of the BBC GOB Program or is eligible for funding from one of the programs to be funded under the BBC GOB Program and is described more specifically in Exhibit 1 to this Grant Agreement; and

WHEREAS, the new **new Miami Museum of Science & Planetarium Facility / Historical Museum of Southern Florida** is estimated to cost **$260,000,000** (the "Total Project Cost") and will be funded from the sources listed in Exhibit 1; and

WHEREAS, the **new Miami Museum of Science & Planetarium Facility / Historical Museum of Southern Florida / GOB Project Number 297-70430** is eligible for funding from the BBC GOB Program in a total amount not to exceed **$175,000,000** (the "Funding Allocation"); and

WHEREAS, pursuant to the terms of this Agreement the County has agreed to allocate **$3,300,000** from the **Series A** Bonds for the Project (the "Funding Cycle Allocation"); and

WHEREAS, the Project physically improves an area, facility, resource or site to increase its ability or capacity to serve the public; and

WHEREAS, the County and the Board of Directors of the Grantee have authorized, by resolution, their respective representatives to enter into this Agreement for each Funding Cycle Allocation describing their respective roles in the funding for the Project costs with respect to such Funding Cycle Allocation,

NOW THEREFORE, pursuant to Resolution No. R-595-05, which specifically authorizes the County Manager to execute such agreements and other required contracts and documents, to expend Building Better Communities bond funds received for the purpose described in the approved funding allocation, and in consideration of the mutual promises and covenants contained herein and the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

Section 1. Parties, Effective Date and Term: The parties to this Agreement are the Grantee and the County. The County has delegated the responsibility of administering this grant to the County Manager, or his designee, who shall be referred to herein as the "County Manager."

This Agreement shall take effect upon execution and shall terminate upon the completion of the Project, including the completion of all final closeout documentation.

Section 2. **Amount of Funding Cycle Allocation and Payment Schedule:** A Project funding plan identifying the Funding Allocation to be funded by the County solely from BBC GOB Program proceeds and the costs to be funded by the Grantee through written project funding commitments from third parties is attached as Exhibit 1. Included shall be a projected timetable for each Funding Cycle Allocation and the amount funded to date, if any. The County agrees to provide solely from the BBC GOB Program proceeds for the Funding Cycle Allocation an amount equal to **$3,300,000**. This amount represents a portion of the amount necessary to complete the Project. By making this grant, Miami-Dade County assumes no obligation to provide financial support of any type whatever in excess of the Funding Allocation. Cost overruns are the sole responsibility of the Grantee. The Funding Cycle Allocation shall be provided in accordance with the Administrative Rules which are attached as Attachment 1 ("Administrative Rules") and incorporated in this Agreement by this reference. In the event that the Funding Cycle Allocation is not expended on schedule, additional allocations may be delayed for one calendar year or more depending on the bond schedule, in accordance with the Administrative Rules and Section 22 of this Agreement.

Payment(s) of Funding Cycle Allocation funds will be made to the Grantee pursuant to the reimbursement provisions in the Administrative Rules and its Exhibits.

Miami-Dade County shall only be obligated to reimburse the Grantee provided the Grantee is not in breach of this Agreement and the Grantee has demonstrated that it has adequate funds to complete the Project. The County shall administer, in accordance with the appropriate regulations, the funds available from the BBC GOB Program as authorized by Board Resolutions. Any and all reimbursement obligations of

the County shall be fully subject to and contingent upon the availability of funding solely from the BBC GOB Program funds. The Grantee shall be solely responsible for submitting all documentation, as required by this Agreement and by the Administrative Rules, to the County Manager.

Section 3. **Project Description:** The Grantee may only use the Funding Cycle Allocation for the purpose of purchasing, building, renovating and/or equipping facilities for the Project as specifically described in Exhibit 1. Further, it is expressly understood and agreed, that the Grantee's Project which is supported by Funding Cycle Allocation must be open and accessible to the public, provide public exposure and benefit the public unless otherwise noted under Section 25 of this Agreement.

For at least thirty (30) years from the completion of the Project, the Grantee shall use the facility and/or equipment acquired and/or improved under the Project for activities benefiting the public, and for no other purposes. The Grantee agrees to: a) maintain the Project; b) keep the Project open to all Miami-Dade County residents; and (c) allow all Miami-Dade County residents equal access and use of the Project.

If the Grantee wishes to revise the Project for the purpose of completing the Project and such revisions substantially alter the original Project, the Grantee must request in writing that the County Manager review and approve such revisions. Grantee's request must be given at least fourteen (14) days prior to implementation of revisions. The County Manager will make the final determination on revisions within fourteen (14) business days of the date of receipt of the request in the County Manager's offices.

Section 4. **Project Budget:** The Grantee agrees to demonstrate fiscal stability and the ability to administer the Funding Cycle Allocation responsibly and in accordance with standard accounting practices by developing and adhering to a Project budget that is based upon reasonable revenue development and expenditures projected to complete the Project within the Total Project Cost. This Project budget is attached as Exhibit 1. Further, Grantee agrees that all expenditures will be subject to the terms of this Agreement. If Grantee wishes to revise the budget for the purpose of completing the Project, including line item changes, and such revisions substantially alter the original Project, the Grantee must request in writing that the County Manager review and approve such revisions. Grantee's request must be given at least fourteen (14) days prior to implementation of the revisions. The County Manager will make the final determination on revisions within fourteen (14) business days of the date of receipt of the request in the County Manager's offices.

Section 5. **Expenditure Deadline:** The Grantee shall spend or commit all of the Funding Cycle Allocation and matching funds on or before **December 31, 2009** (the "Expenditure Deadline"). Any Funding Cycle Allocation funds not spent or committed by the Expenditure Deadline or for which a Project extension has not been requested shall revert to the County and this Agreement shall be terminated in accordance with the provisions of this Agreement. A Project extension may be requested in writing from the County Manager at least thirty (30) business days prior to the Expenditure Deadline. The County Manager, at his discretion, may grant an extension of up to one (1) year from the Expenditure Deadline so long as such extension will not significantly alter the Project including its quality, impact, or benefit to the organization, the County or its

citizens. Additional extensions may be authorized by the County Manager if the Grantee can document in a written request sufficient Project progress and cause for such an extension to be warranted.

Section 6. **Report Deadline:** To demonstrate that the Funding Cycle Allocation has been used in accordance with the Project Description and Project budget information as outlined in Exhibit 1 and that Grantee has met and fulfilled all requirements as outlined in this Agreement, exhibits, and/or other substantive materials as may be attached or included as a condition to this Funding Cycle Allocation award, the Grantee must submit to the County Manager, a written report documenting that the Grantee is meeting or has fulfilled all Project and financial requirements. This report is to be received by the County Manager monthly. The Grantee shall also submit a written report to the County Manager on or prior to September 30th of each year from the time of the execution of this Agreement through the termination of this Agreement demonstrating that the Grantee is fulfilling, or has fulfilled, its purpose, and has complied with all applicable municipal, Miami-Dade County, state and federal requirements. The County Manager may also request that a compilation statement or independent financial audit and accounting for the expenditure of Funding Cycle Allocation funds be prepared by an independent certified public accountant at the expense of the Grantee.

In the event that the Grantee fails to submit the required reports as required above, the County Manager may terminate this Agreement in accordance with Section 15. Further, the County Manager must approve these reports for the Grantee to be deemed to have met all conditions of the grant award.

Section 7. **Program Monitoring and Evaluation:** The County Manager may monitor and conduct an evaluation of the Grantee's operations and the Project, which may include visits by County representatives to: observe the Project or Grantee's programs, procedures, and operations; discuss the Grantee's programs with the Grantee's personnel; and/or evaluate the public impact of the Project. Upon request, the Grantee shall provide the County Manager with notice of all meetings of its Board of Directors or governing board, general activities and Project-related events. In the event the County Manager concludes, as a result of such monitoring and/or evaluation, that the Grantee is not in compliance with the terms of this Agreement or the Administrative Rules or for other reasons which significantly impact on the Grantee's ability to fulfill the conditions of this Funding Cycle Allocation award, then the County Manager must provide in writing to the Grantee, within thirty (30) days of the date of said monitoring/evaluation, notice of the inadequacy or deficiencies noted which may significantly impact on the Grantee's ability to complete the Project or fulfill the terms of this Agreement within a reasonable time frame. If Grantee refuses or is unable to address the areas of concern within thirty (30) days of receipt of such notice from the County Manager, then the County Manager, at his discretion, may take other actions which may include reduction or rescission of the Funding Cycle Allocation award, or withholding Funding Cycle Allocation funds until such time as the Grantee can demonstrate that such issues have been corrected. Further, in the event that the Grantee does not expend the Funding Cycle Allocation for the Project or uses any portion of the Funding Cycle Allocation for costs not associated with the Project and the Grantee refuses or is unable to address the areas of concern, then the County Manager

may request the return of the full or partial Funding Cycle Allocation award. The County Manager may also institute a moratorium on applications from the Grantee to County grants programs for a period of up to one (1) year or until the deficient areas have been addressed to the satisfaction of the County Manager, whichever occurs first.

If the Project involves construction work, the Grantee shall: notify the County Manager of any applicable federal labor compliance requirements regarding procurement and pre-award procedures prior to scheduling pre-construction conferences; submit to the County Manager all plans and specifications and receive the approval of the County Manager prior to issuance and implementation; and comply with all applicable provisions of municipal, state, federal and County laws, regulations and rules.

Section 8. **Bank Accounts and Bonding:** Monies received pursuant to this Agreement shall be kept in accounts in established Florida banks, credit unions or savings and loan associations whose identity shall be disclosed in writing, with the identity and title of individuals whom the Grantee authorizes to withdraw or write checks on Funding Cycle Allocation funds from the banking institution identified on the "Bank Account Disclosure", Exhibit Form K, submitted by the Grantee. These accounts must be segregated from other accounts maintained by the Grantee. All persons authorized to withdraw funds from the Funding Cycle Allocation account must be bonded by a reputable licensed firm.

Section 9. **Accounting and Financial Review:** The Grantee must keep accurate and complete books and records for all receipts and expenditures of this Funding Cycle Allocation award and any matching funds required in conformance with reasonable general accounting standards. These books and records, as well as all documents pertaining to payments received and made in conjunction with the Funding Cycle Allocation, such as vouchers, bills, invoices, receipts and canceled checks, shall be retained in Miami-Dade County in a secure place and in an orderly fashion by the Grantee for at least three (3) years after the later of: the Expenditure Deadline specified in Section 5; the extended Expenditure Deadline, as approved by the County Manager, if any; the completion of a County requested or mandated audit or compliance review; or the conclusion of a legal action involving the Funding Cycle Allocation award, the Grantee and/or Project or activities related to the Funding Cycle Allocation award.

The County Manager may examine these books, records and documents at the Grantee's offices or other approved site under the direct control and supervision of the Grantee during regular business hours and upon reasonable notice. Furthermore, the County Manager may, upon reasonable notice and at the County's expense, audit or have audited all financial records of the Grantee, whether or not purported to be related to this grant.

Pursuant to Section 2-1076 of the Miami-Dade County Code the County shall have the right to engage the services of an independent private-sector inspector general ("IPSIG") to monitor and investigate compliance with the terms of this Agreement. The Office of the **MIAMI-DADE COUNTY INSPECTOR GENERAL (IG)** shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions, and contracts such as this Agreement for improvements some cost of which is funded with County funds.

As such, the IG may, on a random basis, perform audits on this Agreement throughout the duration of said Agreement (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County.

The IG shall have the power to retain and coordinate the services of an **IPSIG** who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the Grantee and contractor and their respective officers, agents and employees, lobbyists, subcontractors, materialmen, staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud. The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the Grantee (and any affected contractor and materialman) from IG, the Grantee (and any affected contractor and materialman) shall make all requested records and documents available to the IG for inspection and copying.

The IG shall have the power to report and/or recommend to the Board whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG is authorized to investigate any alleged violation by a contractor of its Code of Business Ethics, pursuant Miami-Dade County Code Section 2-8.1.

The provisions in this section shall apply to the Grantee, its contractors and their respective officers, agents and employees. The Grantee shall incorporate the provisions in this section in all contracts and all other agreements executed by its contractors in connection with the performance of this Agreement. Any rights that the County has under this Section shall not be the basis for any liability to accrue to the County from the Grantee, its contractors or third parties for such monitoring or investigation or for the failure to have conducted such monitoring or investigation and the County shall have no obligation to exercise any of its rights for the benefit of the Grantee.

Section 10. **Publicity and Credits:** The Grantee must include the following credit line in all promotional marketing materials related to this funding including web sites, news and press releases, public service announcements, broadcast media, programs, and publications: "THIS PROJECT IS SUPPORTED BY THE BUILDING BETTER COMMUNITIES BOND PROGRAM AND THE MAYOR AND BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY."

Section 11. **Naming Rights and Advertisements**: In the event that any naming rights or advertisement space is offered on a facility constructed or improved with BBC GOB Program funds, then Miami-Dade County's name, logo, and slogan shall appear

on the facility at least once. Lettering used for Miami-Dade County will be no less than 75% of the size of the largest lettering used for any sponsor or advertiser.

Section 12. **Liability and Indemnification:** It is expressly understood and intended that the Grantee, as the recipient of BBC GOB Program funds, is not an officer, employee or agent of Miami-Dade County, its Board of County Commissioners, its Mayor, nor the Miami-Dade County Department administering the Funding Cycle Allocation award. Further, for purposes of this Agreement, the Project or activity, the parties hereto agree that the Grantee, its officers, agents and employees are independent contractors and solely responsible for the Project.
The Grantee shall take all actions as may be necessary to ensure that its officers, agents, employees, assignees and/or subcontractors shall not act as nor give the appearance of that of an agent, servant, joint venturer, collaborator or partner of the Department administering this Grant, the Miami-Dade County Mayor, the Miami-Dade County Board of County Commissioners, or its employees. No party or its officers, elected or appointed officials, employees, agents, independent contractors or consultants shall be considered employees or agents of any other party, nor to have been authorized to incur any expense on behalf of any other party, nor to act for or to bind any other party, nor shall an employee claim any right in or entitlement to any pension, workers' compensation benefit, unemployment compensation, civil service or other employee rights or privileges granted by operation of law or otherwise, except through and against the entity by whom they are employed.

The Grantee agrees to be responsible for all work performed and all expenses incurred in connection with the Project. The Grantee may subcontract as necessary to complete the Project, including entering into subcontracts with vendors for services and commodities, provided that it is understood by the Grantee that the County shall not be liable to the subcontractor for any expenses or liabilities incurred under the subcontract and that the Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under the subcontract.

The Grantee shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Grantee or its employees, agents, servants, partners, principals, subconsultants or subcontractors. Grantee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorneys' fees which may issue thereon. Grantee expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Grantee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Section 13. **Assignment:** The Grantee is not permitted to assign this Agreement or any portion thereof. Any purported assignment will render this Agreement null and void and subject to immediate rescission of the full amount of the

Funding Cycle Allocation award and reimbursement by the Grantee of its full value to the County.

Section 14. **Compliance with Laws:** It shall be a contractual obligation of the Grantee hereunder and the Grantee agrees to abide by and be governed by all Applicable Laws necessary for the development and completion of the Project. "Applicable Law" means any applicable law (including, without limitation, any environmental law), enactment, statute, code, ordinance, administrative order, charter, tariff, resolution, order, rule, regulation, guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction or requirement of any governmental authority, political subdivision, or any division or department thereof, now existing or hereinafter enacted, adopted, promulgated, entered, or issued. Notwithstanding the foregoing, "Applicable Laws" and "applicable laws" shall expressly include, without limitation, all applicable zoning, land use, DRI and Florida Building Code requirements and regulations, all applicable impact fee requirements, all requirements of Florida Statutes, specifically including, but not limited to, Section 255.05 related to payment and performance bonds, Section 255.20 related to contractor selection and Section 287.055 related to competitive selection of architects and engineers, all requirements of Chapters 119 and 286 of the Florida Statutes, all disclosure requirements imposed by Section 2-8.1 of the Miami-Dade County Code, all requirements of Miami-Dade County Ordinance No. 90-133 (amending Section 2-8.1), County Resolution No R-754-93 (Insurance Affidavit), County Ordinance No. 92-15 (Drug-Free Workplace), and County Ordinance No. 91-142 (Family Leave Affidavit), execution of public entity crimes disclosure statement, Miami-Dade County disability non-discrimination affidavit, and Miami-Dade County criminal record affidavit, all applicable requirements of Miami-Dade County Ordinance No. 90-90 as amended by Ordinance 90-133 (Fair Wage Ordinance), Section 2-11.15 of the Code (Art in Public Places), the requirements of Section 2-1701 of the Code and all other applicable requirements contained in this Agreement.

The Grantee shall comply with Miami-Dade County Resolution No. R-385-98 which creates a policy prohibiting contracts with firms violating the Americans with Disabilities Act of 1990 and other laws prohibiting discrimination on the basis of disability and shall execute a Miami-Dade County Disability Non-Discrimination Affidavit confirming such compliance.

The Grantee covenants and agrees with the County to comply with Miami-Dade County Ordinance No. 72-82 (Conflict of Interest), Resolution No. R-1049 93 (Affirmative Action Plan Furtherance and Compliance), and Resolution No. R.-185-00 (Domestic Leave Ordinance).

All records of the Grantee and its contractors pertaining to the Project shall be maintained in Miami-Dade County and, upon reasonable notice shall be made available to representatives of the County. In addition, the Office of Inspector General of Miami-Dade County shall have access thereto for any of the purposes provided in Sec. 2-1076 of the Code of Miami-Dade County.

The Grantee shall cause each contract to include a provision that contractor shall comply with all requirements of Section 2-1076 as provided in Section 9 herein, and that

contractor will maintain all files, records, accounts of expenditures for contractor's portion of the Work and that such records shall maintained within Miami-Dade County and County shall have access thereto as provided in this Agreement.

The Grantee has certifiably indicated compliance to certain Applicable Laws by properly executing the affidavits attached hereto. See affidavits for specific provisions and declarations described.

Section 15. **Breach, Opportunity to Cure and Termination**:

(a) Each of the following shall constitute a default by the Grantee:

(1) If the Grantee uses the Funding Cycle Allocation for costs not associated with the Project (i.e. ineligible costs), and the Grantee fails to cure its default within thirty (30) days after written notice of the default is given to the Grantee by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Grantee commences diligently and thereafter continues to cure.

(2) If the Grantee shall breach any of the other covenants or provisions in this Agreement other than as referred to in Section 15(a)(1) and the Grantee fails to cure its default within thirty (30) days after written notice of the default is given to the Grantee by the County; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the Grantee commences diligently and thereafter continues to cure.

(b) Each of the following shall constitute a default by the County:

(1) If the County shall breach any of the covenants or provisions in this Agreement and the County fails to cure its default within thirty (30) days after written notice of the default is given to the County by the Grantee; provided, however, that if not reasonably possible to cure such default within the thirty (30) day period, such cure period shall be extended for up to one hundred eighty (180) days following the date of the original notice if within thirty (30) days after such written notice the County commences diligently and thereafter continues to cure.

(c) Remedies:

(1) Upon the occurrence of a default as provided in Section 15(a)(1) and such default is not cured within the applicable grace period, in addition to all other remedies conferred by this Agreement, the Grantee shall reimburse the County, in whole or in part as the County shall determine, all funds provided by the County hereunder.

(2.) Either party may institute litigation to recover damages for any default or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy).

(3) Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default.

(4) Any failure of a party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that party of any claim for damages it may have by reason of the default.

(d) Termination:

(1) Notwithstanding anything herein to the contrary, either party shall have the right to terminate this Agreement, by giving written notice of termination to the other party, in the event that the other party is in material breach of this Agreement.

(2) Termination of this Agreement by any Party is not effective until five (5) business days following receipt of the written notice of termination.

(3) Upon termination of this Agreement pursuant to Section 15(d)(1) above, no party shall have any further liability or obligation to the other party except as expressly set forth in this Agreement; provided that no party shall be relieved of any liability for breach of this Agreement for events or obligations arising prior to such termination.

In the event this grant is canceled or the Grantee is requested to repay Funding Cycle Allocation funds because of a breach of this Agreement, the Grantee will not be eligible to apply to the County for another grant for a period of one (1) year, commencing on the date the Grantee receives the notice in writing of the breach of this Agreement. Further, the Grantee will be liable to reimburse Miami-Dade County for all unauthorized expenditures discovered after the expiration or termination of this Agreement. The Grantee will also be liable to reimburse the County for all lost or stolen Funding Cycle Allocation funds.

Funding Cycle Allocation funds which are to be repaid to the County pursuant to this Section or other sections in this Agreement, are to be repaid by delivering to the County Manager a certified check for the total amount due payable to Miami-Dade County Board of County Commissioners.

These provisions do not waive or preclude the County from pursuing any other remedy, which may be available to it under the law.

Section 16. **Waiver:** There shall be no waiver of any right related to this Agreement unless in writing and signed by the party waiving such right. No delay or failure to exercise a right under this Agreement shall impair such right or shall be construed to be a waiver thereof. Any waiver shall be limited to the particular right so waived and shall not be deemed a waiver of the same right at a later time or of any other right under this Agreement. Waiver by any party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement.

Section 17. **Written Notices:** Any notice, consent or other communication required to be given under this Agreement shall be in writing, and shall be considered given when delivered in person or sent by facsimile or electronic mail (provided that any notice sent by facsimile or electronic mail shall simultaneously be sent personal delivery, overnight courier or certified mail as provided herein), one business day after being sent by reputable overnight carrier or 3 business day after being mailed by certified mail, return receipt requested, to the parties at the addresses set forth below (or at such other address as a party may specify by notice given pursuant to this Section to the other party):

The County:
George M. Burgess, County Manager
Miami-Dade County
111 NW 1 Street, Suite 2910
Miami, FL. 33128

Grantee:
Gillian Thomas
Museum of Science, Inc. / Historical Association of Southern Florida, Inc.
3280 South Miami Avenue
Miami, FL. 33129

Section 18. **Captions:** Captions as used in this Agreement are for convenience of reference only and do not constitute a part of this Agreement and shall not affect the meaning or interpretation of any provisions herein.

Section 19. **Contract Represents Total Agreement:** This Agreement, and the attachments thereto, incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained in this Agreement. The parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this Agreement, and that this Agreement contains the entire agreement between the parties as to all matters contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that any oral representations or modifications concerning this Agreement shall be of no force or effect, and that this Agreement may be modified, altered or amended only by a written amendment duly executed by both parties hereto or their authorized representatives. In the event a conflict between this Agreement and any of its attachments or exhibits, this Agreement shall prevail.

Section 20. **Litigation Costs/Venue**: In the event that the Grantee or the County institutes any action or suit to enforce the provisions of this Agreement, the prevailing party in such litigation shall be entitled to reasonable costs and attorney's fees at the trial, appellate and post-judgment levels. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The County and the Grantee agree to submit to service of process and jurisdiction of the State of Florida for any controversy or claim arising out of or relating to this Agreement or a breach of this Agreement. Venue for any court action between the parties for any such controversy arising from or related to this Agreement shall be in the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, or in the United States District Court for the Southern District of Florida, in Miami-Dade County, Florida.

Section 21. **Representation of the Grantee**: The Grantee represents that this Agreement has been duly authorized, executed and delivered by the governing body of the Grantee and it has granted **Gillian Thomas**, or her designee, the required power and authority to execute this Agreement. The Grantee agrees to a) maintain the Project for a minimum of twenty-five (25) years, b) agrees to govern itself, in regards to the subject Project, in accordance with Article 6 of the County Charter, c) keep the Project open safely and properly maintained for all Miami-Dade County residents, and d) allow all Miami-Dade County residents equal access and use of the project and not discriminate when charging facility admission fees. The Grantee also agrees to accept and comply with the Administrative Rules as stated in Attachment 1. The Grantee shall be solely responsible for submitting all documentation required by the Administrative Rules to the County Manager or his designee.

Section 22. **Representation of the County**: The County represents that this Agreement has been duly approved, executed and delivered by the Board, as the governing body of the County, and it has granted the Miami-Dade County Manager the required power and authority to execute this Agreement. The County agrees to provide the Funding Cycle Allocation to the Grantee for the purpose of developing and improving the Project in accordance with each of the attached Exhibit Forms, incorporated herein as Exhibits A-K of Attachment 1 (Administrative Rules). Miami-Dade County shall only be obligated to reimburse the Grantee provided the Grantee is not in breach of this Agreement and the Grantee has demonstrated that it has adequate funds to complete the Project. The County shall administer, in accordance with the appropriate regulations, the funds available from the BBC GOB Program as authorized by Board Resolutions. Any and all reimbursement obligations of the County shall be fully subject to and contingent upon the availability of funding from the County for the specific purpose contained herein.

Section 23. **Invalidity of Provisions, Severability**: Wherever possible, each provision of the Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement, provided that the material purposes of this Agreement can be determined and effectuated.

Section 24. Insurance The Grantee must maintain and shall furnish upon request to the County Manager, certificates of insurance indicating that insurance has been obtained which meets the requirements as outlined below:

1. Workmen's Compensation Insurance for all employees of the Grantee as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive policy in an amount not less than $300,000 combined single limit per occurrence for bodily injury and property damage. Miami-Dade County must be shown as an additional insured with respect to this coverage.

The insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

1. The Company must be rated no less than "B" as to the management, and no less than "Class V" as to financial strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division; or,
2. The Company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida," issued by the State of Florida Department of Insurance, and is a member of the Florida Guaranty Fund.

Certificates shall indicate no modification or change in insurance shall be made without thirty (30) days written advance notice to the certificate holder.

Modification or waiver of any of the aforementioned insurance requirements is subject to the approval of the County's Risk Management Division. The Grantee shall notify the County of any intended changes in insurance coverage, including any renewals of existing policies.

Section 25. Special Conditions. The grant is awarded to this Grantee with the understanding that the Grantee is performing a public purpose through the programs, projects, and services recommended for support. Use of these funds for any program component not meeting this condition will be considered a material breach of the terms of this Agreement and will allow Miami-Dade County to seek remedies including, but not limited to those outlined in the Sections and Exhibits of this Grant Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement:

ATTEST:

MIAMI-DADE COUNTY, FLORIDA
By Its BOARD OF
COUNTY COMMISSIONERS on the

HARVEY RUVIN, CLERK

____ day of _____, 2008

By: _____
Deputy Clerk

By:
_____
County Mayor

GRANTEE:_____

on the ____day of _____, 2008

(Grantee's Corporate Seal)

Federal Identification
#_____

By_____
Chairman or President

_____
Type or Print Above Signature

By_____
Treasurer/ Chief Fiscal Officer

_____
Type or Print Above Signature

By_____
Executive Director

_____
Type or Print Above Signature

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

Miami-Dade County
Building Better Communities General Obligation Bond Program (GOB)

Museum of Science, Inc. (MSM) / Historical Association of Southern Florida, Inc. (HASF)

New Museum of Science & Planetarium Facility / Historical Museum of Southern Florida / GOB Project Number 297-70430

REVENUES				Milestones	EXPENSES		
FY 2007-08 GOB Allocation (000's)	Future GOB Allocations (000's)	Other Funding Allocations (000's) *	Total Estimated Revenues (000's)		Projected Schedule Start Date	End Date	Total Estimated Expenses (000's)
1,000			1,000	Project Administration	1/1/2007	10/1/2009	1,000
		7,000	7,000	Project Administration (Non-GOB)	1/1/2007	10/1/2009	7,000
				Land Acquisition			
				Land Acquisition (Non-GOB)			
2,300	2,700		5,000	Pre-design, Planning, including preliminary engineering	6/1/2007	6/1/2008	5,000
		3,200	3,200	Pre-design, Planning, including preliminary (Non-GOB)	6/1/2007	6/1/2008	3,200
				A&E Selection			
				A&E Selection (Non-GOB)			
	23,000		23,000	Design	1/1/2008	10/1/2009	23,000
		500	500	Design (Non-GOB)	5/1/2007	12/31/2007	500
				Dry run/permit			
				Dry run/permit (Non-GOB)			
				Contractor Selection			
				Contractor Selection (Non-GOB)			
	146,000		146,000	Construction On Going	11/1/2009	3/1/2012	146,000
		74,300	74,300	Construction On Going (Non-GOB)	11/1/2009	3/1/2012	74,300
				Construction Substantially Complete			
				Construction Substantially Complete (Non-GOB)			

39

REVENUES					EXPENSES		
2006 GOB Allocation (000's)	Future GOB Allocations (000's)	Other Funding Allocations (000's) *	Total Estimated Revenues (000's)	Milestones	Projected Schedule Start Date	End Date	Total Estimated Expenses (000's)
				Other			
				Other (Non-GOB)			
3,300	171,700	85,000	260,000	TOTALS			260,000

*** Other Funding (List sources and amounts)**

Funding Source	Amount (000's)
Museum Funding	85,000

Total
85,000

40

Project Narrative/Description

The new Museum of Science Inc, dba as Miami Science Museum will be a 200,000 SF green new building, on an approximately 4 acre site, housing a Planetarium, an Observatory, an Aquarium, interactive exhibitions and a Learning Center, accompanied by external areas to include a Wildlfe Center and a Science Playground. Included in the building and the $288 million total budget ($260 million in capital and $28 million in transitional costs) is approximately 25,000 SF of shell space for the Historical Museum of Southern Florida. Approximately 250 parking spaces are included at grade under the building. The building is an exhibit of science and technology in action, has potential to expand to 250,000 SF and the Museum will seek LEED certification.

GOB Total Funding Allocation Narrative/Description

$175 million of the $260 million captial budget is from GOB funds. This will provide the major part of the design and construction of the building, with soft costs not to exceed 17%. The remainder of the budget is from private fundraising by the Museum which includes $28 million for transitional costs. MSM is currently using their own funding and will seek reimbursement of pre-agreement expenses from the County as part of their GOB allocation.

GOB 2007-08 Funding Allocation Narrative/Description

$3.3 million is allocated from the 2007-2008 GOB funding, to assist in the initial building design and planning. This is matched by the funds from private fundraising, $3.29 million spent to date on the planning of the new Museum and the $3.82 million in the budget for 2008.

**For municipalities and public agencies, this exhibit, along with the entity's resolution, conforms with Article III, Section I, 2Ae of the Building Better Communities Bond Program (GOB) Administrative Rules.

Exhibit C

MEMORANDUM OF UNDERSTANDING

AMONG

MIAMI-DADE COUNTY, CITY OF MIAMI, THE MIAMI SPORTS AND EXHIBITION AUTHORITY, THE MIAMI ART MUSEUM OF DADE COUNTY ASSOCIATION, INC., THE MUSEUM OF SCIENCE, INC. AND THE HISTORICAL ASSOCIATION OF SOUTHERN FLORIDA, INC.

CONCERNING THE DEVELOPMENT, DESIGN, CONSTRUCTION AND OPERATION OF THE MUSEUM PARK PROJECT

TABLE OF CONTENTS

I. Purpose and Intent
II. Parties to the Museum Park Project Agreements
III. Museum Park Project
IV. Financial Contributions
V. Agreements
VI. Other Provisions
VII. Termination

Exhibit "A" The Land
Exhibit "B" The Site Plan
Exhibit "C" Museum Park Design Development Documents
Exhibit "D" Financial Contributions

I. PURPOSE AND INTENT

The purpose and intent of this Memorandum of Understanding ("MOU") is to provide for the general terms and conditions among Miami-Dade County (the "County"), the City of Miami (the "City"), the Miami Sports and Exhibition Authority (the "MSEA"), the Miami Art Museum of Dade County Association, Inc. (the "MAM") and the Museum of Science, Inc. (the "MSM") with respect to their joint efforts to design, develop, construct and operate museums and park facilities to be located in Bicentennial Park , which parcel of land is depicted in Exhibit "A" (the "Entire Site"). MAM and MSM shall be collectively referred to as the "Museums," and the Museums, collectively with the County, the City and the MSEA shall be referred to as the "Parties." This MOU constitutes an acknowledgement of the intent of the Parties to negotiate in good faith the definitive agreements described in Section V herein (the "Definitive Agreements") that incorporate the terms and conditions set forth herein, which Definitive Agreements shall be subject to approval by the City Commission (the "Commission"), the Board of Directors of the MSEA (the "MSEA Board") and the Boards of Directors of the Museums (the "Museums Boards"). The new Miami Art Museum of Dade County Association, Inc., new Museum of Science, Inc., the Park (as defined in Section III) and associated land and infrastructure improvements are referred to as the "Museum Park Project." It is also the Parties' intent that the planning, design, development, construction and operation of the Museum Park Project be a cooperative, mutual endeavor and that the Parties actively participate in and work together in good faith to negotiate all necessary agreements. This Agreement may be terminated by any Party in accordance with Section VII herein.

II. PARTIES TO THE MUSEUM PARK PROJECT AGREEMENTS

a. The City. The City is the owner of the Entire Site on which the Museum Park Project will be developed, The City will lease to the MSEA the portion of the Entire Site depicted in the Site Plan, attached hereto as Exhibit "B" (the "Museum Site") where the Museums and related under-building parking structures (the "Museums Parking Facilities") will be developed (collectively, the "Museum Component"), for the exclusive purpose of development and operations of the Museum Component, as herein contemplated (the "MSEA Lease"). The Parties acknowledge that Exhibit "B" also depicts an area, identified in said exhibit as "Area A," which is currently not owned by the City, and consequently is not part of the Museum Site. The City agrees to seek permission from the owner of Area A to allow Area A to be used for access roadway to the City maintenance facility, as contemplated in Section III below. The MSEA Lease shall have a term of thirty (30) years, and shall be automatically renewed for two (2) terms of thirty (30) years and one (1) term of nine (9) years, provided no defaults have occurred under the terms of the MSEA Lease and/or the MSM Sublease or the MAM Sublease (defined below). At the end of the term of the MSEA Lease, the Parties shall attempt in good faith to negotiate the continued use of the properties for Museum purposes. The disposition of the properties, in the event the Parties are unable or unwilling to continue to use the properties for the purposes contemplated in this MOU, will be addressed in the MSEA Lease. The Park portion

of the Land and related parking ("the Park Component") will be developed and operated by the City or its designee.

b. The MSEA. The MSEA will sublease to the MSM (the "MSM Sublease") the land for the MSM portion of the Museum Component, which parcel of land is depicted in Exhibit "B" (the "MSM Site") and to MAM (the "MAM Sublease") the land for the MAM portion of the Museum Component, which parcel of land is depicted in Exhibit "B" (the "MAM Site") (collectively the "Subleases"). The Subleases shall require, among other things, that the MSM and MAM, respectively, (i) construct its Museum and its portion of the Museums Parking Facilities and associated infrastructure, (ii) use, operate, maintain and manage the Museum continuously for the purposes contemplated in this Agreement, and no other purpose, and (iii) comply with its obligations under this Agreement. The Subleases shall contain the above-outlined requirements and any other requirements agreed to by the City and MSEA in the MSEA Lease.

c. The County. The County will provide funding to the Museums for the Museum Component from the Building Better Communities General Obligation Bond Program (the "BBC GOB Program"), subject to the ability of the County to issue bonds in the future, and the successful negotiation, approval and execution of all necessary grant agreements.

d. MAM. MAM is the private, non-profit corporation that will design, construct, manage, use, maintain and own, during the term of the MAM Sublease, the improvements on the MAM portion of the Museum Component which includes a new 150,000 sq. ft. art museum building (the "MAM Building") , under-building parking, loading docks, visitor drop-offs, access roads, internal site roadways, and outdoor features. MAM will present exhibitions, expand its art collections and offer educational programs for the benefit, enjoyment and education of the public, in accordance with the MAM Sublease. MAM and MSM will cooperate to plan and design the Museum Parking Facilities which include the MAM under-building parking. The Parties recognize that the MAM improvements may be constructed in two (2) phases and that the first phase shall be no less than 100,000 square feet. The square footage for the MAM Building size set forth in this MOU is subject to change based on factors such as construction market conditions and subject to the review and approval of the County and the City and subject to the requirements of the BBC GOB Program. However, the total area to be subleased to MAM shall be approximately four (4) acres.

e. MSM. MSM is the private, non-profit corporation that will design, construct manage, use, maintain and own, during the term of the MSM Sublease, the improvements on the MSM portion of the Museum Component which includes a new 250,000 sq. ft. science and technology museum, planetarium and an aquarium (the "MSM Building"), 25,000 sq. ft of segregated, museum quality space, with separate ingress and egress for exhibits and programs, which the MSM agrees to provide to the Historical Association of Southern Florida, Inc. (the "HASF") in accordance with the

BBC GOB Program, showcasing South Florida's history (the "HASF Space"), loading docks, visitor drop-offs, access roads, internal site roadways, under-building parking, and outdoor features. MSM will offer participatory indoor and outdoor exhibits, educational programs and collections for the benefit, enjoyment and education of the public, in accordance with the MSM Sublease. MSM and MAM will cooperate to plan and design, the Museum Parking Facilities which include the MSM under-building parking. The square footage for the MSM Building, including the HASF Space in this MOU is subject to change based on factors such as construction market conditions. By mutual agreement of the MSM and the HASF, and subject to the review and approval of the County and the City, these square footage building sizes may be adjusted, as necessary, proportionately or by some other mutually agreed upon method, subject to the requirements of the BBC GOB Program. However, the total area to be subleased to MSM, including the HASF Space shall be approximately four (4) acres.

f) HASF. The HASF is the private, non-profit corporation that will at its own expense design, develop and build a permanent exhibit and present temporary exhibits in the HASF Space. HASF joins in the execution of this MOU to signify its agreement only with respect to matters pertaining to it.

III. MUSEUM PARK PROJECT

General. The Museum Park Project ("Project") shall be designed, planned, constructed and operated upon the Entire Site as depicted in Exhibit "A." Each component of the Project, including each Museum and the Park Component, is depicted in the site plan developed by Cooper Robertson and Partners ("Cooper Robertson") attached hereto as Exhibit "B" (the "Site Plan"). Cooper Robertson, the architectural and urban design firm hired by the City to work with the Parties, has developed a Museum Park Master Plan, Program of Requirements and Design Principles that includes: the Site Plan delineating the locations of the Museums and general design guidelines for the Museums; design development plans for the Park (including but not limited to landscape, structures, infrastructure, access roads, parking and marine project elements); and a course of action for addressing other critical infrastructure and development issues. The Parties acknowledge receipt of the Museum Park Design Development Documents prepared by Cooper Robertson and referenced hereto as Exhibit "C" (the "Museum Park Design Development Documents") and agree to work jointly and with Cooper Robertson to reach a consensus regarding the key issues, including but not limited to the site plan, design guidelines and the timetable for completing each component of the Project. Exhibit "C," as amended from time to time, is on file with the City's Department of Capital Improvements and with the County's Office of the County Clerk.

The Parties acknowledge that as of the date of this MOU the City intends to fund the Park Component from tax increment revenues from the Omni Community Redevelopment Area (the "CRA"), subject to the expansion of the CRA's boundaries. In the event the CRA boundaries are not expanded and the City does not identify other funds sufficient to complete the Park Component as specified in the Museum Park

Design Development Documents, then the Parties shall work collaboratively and with Cooper Robertson to reach a consensus regarding any adjustments to the scope of the Park Component. The Parties further acknowledge that the Park Component and related infrastructure may not be developed on the same schedule as the rest of the Project. It is the intent of the City and the Museums to coordinate the work and the development of the different components, such as infrastructure and shared facilities to minimize time and maximize cost savings. By way of example, if the development of the Museum Component requires the completion of work that the City may be required to perform but at the time the need arises is not ready to do so, then, to the extent feasible, the Museums shall attempt to have the work completed with the City and the Museums to pay their prorated shares of such cost. It is the intent of the City that by the opening date of the Museums Component, it will make sufficient improvements to the Park to open the Park to the public and to provide an attractive setting for the opening and operation of the Museums to the extent of availability of funding.

The Parties agree to constitute a Museum Park Project Steering Group ("Museum Park Steering Group") comprised of representatives from each of the Parties to oversee and coordinate the planning, design and construction of the Museum Park Project and the development, implementation and marketing of programming for the Museum Park Project. The Museum Park Steering Group shall meet regularly to accomplish the purposes for which it will be constituted.

Miami Art Museum of Dade County Association, Inc.. The Museum Park Project plans include the MAM Building, the under-building parking to be developed cooperatively with the MSM, loading docks, visitor drop-offs, access roads, internal site roadways, and outdoor features all to be built within the 4 acres of property, as depicted in the Site Plan. The City will work cooperatively with the MAM (but without assumption of any liability and at no cost to the City) to develop and facilitate the implementation of a plan to incorporate art elements and programming in the Park, provided that MAM shall not charge the public a fee for the art elements and programming within the Park. The MAM facility shall be designed, developed, constructed and operated by the MAM as a first class cultural facility comparable with museums of similar size and scope and shall be in general conformance with the Museum Park Design Development Documents. The cost of operating, managing and maintaining MAM shall be borne by MAM. The financing of the cost of construction of the MAM facilities shall be as provided in Exhibit "D," Financial Contributions and Section IV.

Museum of Science, Inc.. The Museum Park Project plans include the MSM Building, the HASF Space, the under-building parking to be developed cooperatively with the MAM, loading docks, visitor drop-offs, access roads, internal site roadways, and outdoor features all to be built on 4 acres of property, as depicted in the Site Plan. The City will work cooperatively with the MSM (but without assumption of any liability and at no cost to the City) to develop and facilitate the implementation of a plan to incorporate science elements and programming in the Park, provided that MSM shall not charge the public a fee for the science elements and programming within the Park. The MSM facility shall be designed, developed, constructed and operated by the MSM as a

first class cultural facility comparable with museums of similar size and scope and shall be in general conformance with the Museum Park Design Development Documents. The MSM shall solicit input from and work cooperatively with the HASF to obtain agreement pertaining to the location and design of the HASF Space and shall obtain input from the HASF on the design of all shared areas within the MSM. In addition, the HASF shall design, develop and construct the HASF exhibit space as a first class exhibit comparable with exhibits of similar size and scope. The cost of operating, managing and maintaining MSM shall be borne by MSM. The cost of operating, managing and maintaining HASF shall be borne by HASF. The financing of the cost of construction of the MSM facilities shall be as provided in Exhibit "D" and Section IV.

Museum Parking Facilities. The Museums shall agree to cooperate to plan, design and develop the Museum Parking Facilities as a single, continuous under-building parking structure for the Museums. Each Museum shall be responsible for the construction, operation and management of its own portion of the Museum Parking Facilities at the Museum's sole cost and expense. The terms and conditions for cooperation on planning, designing and developing the Museum Parking Facilities, for coordinating the Museums' Project timetables to develop the Museum Parking Facilities, and for separately constructing and operating each portion of the Museum Parking Facilities will be included in the Master Development and Management Agreements and agreements that will be negotiated between the MAM and the MSM which shall be subject to the approval of the City and MSEA, provided that such approval shall not be unreasonably withheld, conditioned or delayed. The Museums agree to provide as many under-building spaces as is feasible, with the goal of a total of 500 parking spaces to the public during business hours.

Park. The Museum Park Project plans include a park of approximately 21 acres of land (the "Park"), including but not limited to landscape, structures, infrastructure, access roads, and parking (the "Park Component"). The Park shall be designed, developed, constructed and operated by the City, or the City's designee and, subject to the provision contained in the Section III, shall be in general conformance with the Museum Park Design Development Documents, as amended from time to time. The City will work cooperatively with the Museums to develop and facilitate the implementation of a plan to incorporate art, science and history elements and programming in the Park, at no cost to the City. This includes working with the MAM to integrate sculpture(s) into the Park and with the MSM and the HASF to include external components of their programs into the Park on a non-exclusive, non-permanent basis. In addition, all Parties will work together cooperatively to establish and implement coordinated programs to promote the overall identity of Museum Park Project, including but not limited to signage, marketing, branding, and public relations. The cost of maintaining the Park, including the Baywalk, shall be borne by the City or the City's designee and the cost of construction of the Park Component shall be as provided in Exhibit "D" and Section IV.

Infrastructure. The Museum Park Project includes the following responsibilities for addressing infrastructure issues, subject to the monetary limitations set forth in Exhibit "D" and Section IV:

- Environmental Conditions. The Museums shall have one hundred-eighty (180) days after approval of this MOU by all Parties in which to deliver to the City a cost estimate of any environmental remediation necessary to provide a clean Site necessary for the Museums to construct their facilities (the "Environmental Cost"). The City agrees to pay up to Two Million Dollars ($2,000,000) toward the Environmental Cost. In the event the Environmental Cost exceeds $2,000,000, there shall be a period of ninety (90) days from delivery of the cost estimate of the Environmental Cost for the City and the Museums to agree how to apportion payment of the amount of Environmental Costs which exceed $2,000,000. If the Parties do not reach an agreement allocating responsibility for Environmental Cost in excess of $2,000,000 within ninety (90) days after the delivery of the cost estimate to the City, then this MOU shall be null and void and of no further force and effect.
- Site Improvements. The Museums shall be responsible for all costs required to design, develop, construct, and maintain all site improvements required for construction of the Museums Component, which shall include but not be limited to demolition, utility relocations, water, sewer and sanitation work, street improvements, landscaping and hardscaping, and other customary infrastructure work up to the boundaries of the Park Component. The City shall be responsible for all costs of utilities and roadways within the Park Component. The Museums, in cooperation with the City, shall develop a master infrastructure plan for the Museum Park Project. The City will work cooperatively with the Museums to coordinate infrastructure needs for the Museums and for the Park Components and to develop and include in the Master Development Agreement a plan to share the costs of infrastructure needs that serve both the Museums and the Park Components to the extent that it is mutually beneficial and cost efficient for the City and the Museums.
- Roadways. The Museums shall be responsible for designing, developing, constructing and maintaining access roadways on the Museum Site for the Museum Component. The Parties agree to coordinate construction of the roadways as to not unduly interfere with the construction of the Museums Component and to make their best efforts to minimize the impact on other functions that may be taking place at Bicentennial Park during the construction phase of the Project. The Museums shall be responsible for all costs of providing and maintaining all landscaping and hardscaping that occur within the boundaries of the Museums' site. The Parties agree to explore, in good faith, the potential for cost sharing by the City and the Museums for the design, construction and maintenance of the roadway within the Museum Site that also serves the Park maintenance facility. A portion of the roadway and City maintenance facility lie in the area identified as "Area A" on Exhibit B, which is currently not owned by the City. The parties acknowledge that the City will be seeking approval from the appropriate authority(ies) to use Area A for an access road to the maintenance facility. In the event the City is unable to obtain the appropriate approvals, then the City, MSEA and the Museums shall make the necessary modifications to the

leased areas if needed to continue to provide the acreage contemplated in this MOU.

- Museum Parking Facilities. The Museums shall agree to cooperate and be responsible for all costs required to design, develop, separately construct and operate Museum Parking Facilities within their respective sites. The Museums intend to construct as many under-building parking spaces as feasible, with a goal of 500 parking spaces, which shall be available to the public at all times during business hours.
- Park Parking Facility. The City shall be responsible for all costs required to design, construct, develop and operate parking located in and necessary for the Park (the "Park Parking Facility").
- MetroMover Station. The County shall be responsible for all necessary costs related to the re-opening of the Bicentennial Park MetroMover Station subject to the review of the Museum Park Design Development Documents by the Miami-Dade County Transit Department, the acceptance by the Parties of all changes that are considered necessary by the Miami-Dade County Transit Department, and as provided in Exhibit D.
- Pump Station #2. The County shall be responsible for all costs related to necessary improvements to Pump Station #2 subject to: the review of the Museum Park Design Development Documents by the Miami-Dade County Water and Sewer Department; any changes that are considered necessary by the Miami-Dade County Water and Sewer Department; and the City and County agreeing to work cooperatively to resolve the existing boundary issues regarding City and County property lines for Pump Station #2, and as provided in Exhibit D.
- Biscayne Boulevard. The Museums and the City shall cooperate to determine responsibility for the cost, if any, necessary to gain access to and from Biscayne Boulevard.

IV. FINANCIAL CONTRIBUTIONS.

City Financial Contribution. The City intends to contribute up to $151 million to the Museum Park Project, to be applied to the components and in the manner set forth in Exhibit "D." The Parties acknowledge that up to $68 million of the City's contribution is allocated to the Park Component, subject to the Park Component's final design and project schedule, which may contemplate phases. It is contemplated that the cost of the Park Component will be funded from the tax increment revenues from the CRA, subject to the expansion of the CRA's boundaries. In the event the CRA expansion does not occur, the City may not be able to identify and secure other revenue source(s) for the Park Component in order to satisfy the Museums' timetable. Therefore, to the extent feasible, the Parties shall coordinate the work and the development of the infrastructure and shared facilities to reach maximum time and cost savings and, if necessary and feasible, and with the consent of the City, the Museums may proceed with portions of the work that the City may be required to perform, but at the time the need arises is not ready to do so, with each Party to pay its prorated share of such cost, within a reasonable timeframe. The Parties acknowledge that the ability to open the Museums will be

positively influenced by the City's development of the Park Component and the Parties will take this into consideration in developing the timetable for the Museum Park Project.

The City's contribution does not include Park improvements south of the FEC slip with the exception of the slip fountain and does not include the other slip improvements including the pedestrian bridge over the slip, which are not part of the Park Component.

County Financial Contribution. Subject to the County's ability to issue bonds in the future, and the successful negotiation, approval and execution of all necessary agreements, the County shall provide $275 million from Building Better Communities GOB Program proceeds to the Museum Component of the Project to be used for the purposes set forth in the Building Better Communities GOB Program and summarized in Exhibit "D." The MSEA Lease and the Subleases shall provide that if the County is not able to issue the bonds, as contemplated herein, within a date to be specified in those agreements, then the MSEA Lease and the Subleases shall terminate and the Parties shall have no further rights and obligations thereunder.

Museums' Financial Contributions. As shown in Exhibit "D," the County and the City have provided, or shall provide, their contributions to the MAM and the MSM, as herein stipulated, for design, construction, site improvements, infrastructure and required environmental remediation, as set forth in the Master Development Agreement and subsequent respective agreements with the MAM and the MSM. These agreements will outline the amounts of, schedules for and use of the matching funds from the Museums necessary to design, develop, construct, operate and maintain the Museums. The MAM shall raise approximately $120 million in matching funds to complete the MAM project. The MSM shall raise approximately $100 million in matching funds to complete the MSM project. The intention of the Parties to proceed with the Definitive Agreements and other necessary agreements specifically will require each of the Parties to demonstrate its ability to secure all funds as outlined in this MOU and in subsequent agreements. The Parties agree to use reasonable, diligent efforts to secure such funding. It is understood that fundraising by the Museums can be contingent upon there being substantial progress demonstrated on the Museum Park Project. In addition, it is understood that donors often structure the payment of contributions to occur over a multiple year period and that a draw down schedule will be developed by the Museums and included in the Master Development Agreement to demonstrate the availability of the private sector funding necessary to complete the Museums. The Subleases shall provide that if the Museums are not able to raise the amounts shown in Exhibit "D" within a date to be specified in those agreements, as such amounts or dates may be modified by agreement of the Parties to the Subleases, then the Subleases shall terminate and the Parties shall have no further rights and obligations thereunder.

Notifications Regarding Financial Contributions. Each of the Museums, the County and the City agrees to notify promptly in writing the other Parties in the event that it becomes aware of any material variation in the amounts of, schedules for or uses of amounts to be contributed by such Party pursuant to this MOU. The Definitive

Agreements shall include, where appropriate, notification requirements similar to those expressed in the immediately preceding sentence.

V. AGREEMENTS

Museum Park Plan. The Parties must give their final approval to the Museum Park Design Development Documents (Exhibit "C"), as same may be amended in accordance with this MOU, as a condition precedent to proceeding with the design and construction of the Project. The Museums and the City may proceed with their respective architectural selection processes in advance and in anticipation of the approval of the Museum Park Design Development Documents, subject to applicable law and the requirements of the BBC GOB Program and Homeland Defense Bond Program, where applicable.

Master Development Agreement. As a condition precedent to proceeding with construction of the Project, the City and the Museums shall negotiate, approve and execute a Master Development Agreement encompassing all of the components of the Project that shall include, among other things, details regarding the matching funds and private funding draw down schedules, development and cost overrun guarantee, construction coordination among components of the Project (i.e., the MAM Building, the MSM Building, Museum Parking Facilities, the Park Component and Infrastructure), construction administration procedures, and rights and responsibilities of the City and the Museums to ensure construction on the schedule agreed to by the Parties. To the extent feasible and cost effective, the Parties to the Master Development Agreement shall be required to make a positive effort to procure supplies, equipment, construction, and services from minority and women owned businesses and to utilize businesses located in or owned by residents of the areas designated by the City.

The Master Development Agreement also may address areas that may be developed and/or operated jointly by the City and the Museums (e.g., infrastructure and utilities, parking, etc.). The Parties agree that each Museum will serve as the Project Developer for its own facility (the "MAM Project Developer" and the "MSM Project Developer," respectively) and that the City, or the City's designee, will serve as the Project Developer for the Park Component (the "Park Project Developer"). In each case, each Project Developer shall manage and control the design, development and construction of its component of the Project. Each Project Developer shall be responsible for the pre-development issues required for its component of the Project, including but not limited to, regulatory reviews and approvals, traffic, parking and engineering analysis, etc. in accordance with any applicable laws, the costs of which shall be funded by each Project Developer from its monies. Each Project Developer shall retain appropriate professionals to assist in the compliance of these pre-development issues and coordinate its activities with the other Project Developers.

Each Project Developer or its agents shall be responsible for the design, construction, site improvements, infrastructure and required environmental remediation, subject to Section III, of its component of the Project, including, as applicable, the

competitive selection of architects and engineers, contractors, consultants and any project/construction managers in accordance with State and local law and the development of all plans, designs, schematics, specifications, drawings and programs for the construction of its component of the Museum Park Project, provided such plans shall be in general conformance with the Museum Park Plan and shall be coordinated with the other Parties' plans. Each Project Developer agrees to provide the other Parties with copies of its Design Team's scope for work on its component of the Museum Park Project. At each stage of the architectural and engineering work on its component of the Museum Park Project, each Project Developer shall provide to the other Parties reports of progress on the design work and construction estimates for review. Each Project Developer shall work cooperatively and in good faith with the other Parties to maintain project timetables.

The City, as owner of the Land, shall have the rights of review and approval of applications for building, zoning, planning or development. The City recognizes its role as a partner in the development of the Project and, subject to the provisions of Section I hereof, shall use reasonable, diligent efforts to take actions necessary to facilitate the permitting process in order to facilitate the commencement and completion of construction of the Project, as soon as practicable.

The County shall have rights of review and approval for general conformance with the Museum Park Design Development Documents of all design and design related matters to the extent agreed upon by the Parties in the Master Development Agreement provided that such approval shall not be unreasonably withheld, conditioned or delayed. The County shall have the right to review all construction and procurement related matters of the Project, as required by applicable law and the Building Better Communities GOB Program. The County may utilize its own staff or may hire a third party independent project management firm, which is not a member of the Design Teams ("Museum Park Program Manager"), to review and monitor on the County's behalf the design and construction of the Museum Park Project. The costs of such services shall be paid by the County.

In regard to the City's and/or the County's rights of review and approval, the Master Development Agreement shall set forth procedures and timetables for the City and/or the County to exercise their rights of review and approval with the objective of facilitating decision-making.

At various points during the design and prior to advertising for Project contractors, the Project Developers shall submit plans and the proposed final form of construction contracts to the Parties for their review and comment. All plans should be reviewed by the City and the Museum Park Program Manager to review issues of utility coordination, economies of scale, logistics, transportation and parking and other construction management efficiencies and coordination. Each of the Project Developers shall competitively select a Florida licensed contractor to construct its component of the Project in accordance with State and local law, specifically the competitive selection procedures provided in Section 255.20, Florida Statutes, if applicable. Prior to

advertisement and award for the competitive selection of the Museums' contractors, the City may have the right to review and approve each of the Museums' solicitation documents and contracts to confirm that the solicitation complies with all applicable State and local laws, related to the design, construction and operations of its component of the Project. Prior to commencement of construction, each of the Museums must provide proof of insurance as specified by the City's Risk Management Administrator and of its payment and performance bond, naming the City and the MSEA the beneficiaries thereof.

In a form reasonably acceptable to the City, the MAM Project Developer and the MSM Project Developer shall provide detailed cost, budget and schedule reporting to the City during development (on a schedule to be determined in the Master Development Agreement) and construction (on a monthly basis) of their components of the Project. Specific procedures for monitoring these components of the Project, reviewing the MAM and MSM Project budgets, and addressing any issues that arise during the design and construction of the MAM and MSM facilities shall be set forth in the Master Development Agreement.

Each Museum shall commit to a Development and Construction Cost Overrun Guaranty ("Cost Overrun Guaranty") in favor of the County and the City, in form and substance satisfactory to all Parties, that shall establish each of the Museums as the guarantors of the obligation to pay any and all costs of planning, designing, acquiring, constructing and equipping their respective Museum in excess of the Parties' contributions, as set forth in this MOU and for claims, demands or causes of action by the architect, general contractor, subcontractors, trade contractors, suppliers and other parties, including attorneys' fees (trial and appellate) and defense costs (in the aggregate and as more fully defined in the Cost Overrun Guaranty, the "Cost Overrun"). The Cost Overrun Guaranty shall provide that each of the Museums shall pay and be solely responsible for all Cost Overruns.

The City and each Museum recognizes that development of their respective components of the Project may be on separate time frames and each agrees to use reasonable efforts to coordinate the work and the development of infrastructure and shared facilities to accommodate the other, maximize costs and time savings to all Parties, and to make their best efforts to minimize the impact on other functions that may be taking place at Bicentennial Park during the construction phase of the Project.

Master Management Agreement. The City, MSEA and the Museums shall negotiate a Master Management Agreement that may include, among other things, discussion of operational subsidies for the Museums, responsibilities for maintenance, capital repairs and replacements, and responsibilities for any areas of operational overlap. The MAM and the MSM shall be the managers and operators of their respective museum facilities, the HASF shall be the manager and operator of the HASF Space, and the City, or its designee, shall be the manager and operator of the Park. Each of the Parties shall have the sole responsibility and authority to operate and manage its component and its part of any shared components of the Project. The Master Management Agreement shall provide that at various points prior to the opening of their respective components of the

Project, each of the Parties shall prepare and provide for the review of the other Parties an operating pro forma for its component of the Project, with an updated forecast of the costs and revenues to operate its component of the Project. A timetable for updating the operating pro formas and for submitting annual operating budgets, after the facilities open, shall be included in the Master Management Agreement. The Museums and the City will agree to work cooperatively and in good faith with each other in the booking and scheduling of events at the Museum Park Project.

The MSEA Lease and Subleases. The MSEA, the City and the Museums shall negotiate the terms of the MSEA Lease and the Subleases which will include, among other things, the terms required in this MOU and the term, rent, City ownership of the land, Museum ownership of the Museum buildings and the disposition of the properties at the termination of the MSEA Lease term.

All parties shall work cooperatively to implement their Project components and to maintain the design intent and design standards set forth by the Museum Park Master Plan as they proceed through the design, construction and operation phases. The City reserves the right at any time and from time to time, to: (a) make or permit reasonable changes or revisions in its plan for the Park, including additions to, subtractions from, rearrangements of, alterations of, modifications of, or supplements to building areas, walkways, parking areas, driveways and other Park areas; (b) construct other buildings or improvements in the Park and to make alterations thereof or additions thereto; (c) make or permit changes or revisions in the Park, including additions thereto, and to convey all or portions of the Park to others for the purpose of constructing thereon other buildings or improvements, including additions thereto and alterations thereof; and (d) change location, size, content and design of any signage for the Park; provided, that there is consensus among the members of the Museum Park Steering Group that: (i) such development, changes or alterations do not materially affect the Museums' ability to operate or construct their respective projects as intended and (ii) any such change is consistent with the purpose and design intent of this Museum Park Project. In such event, the Museums agree to cooperate with the City in the development, changes and/or alterations to the Park by providing all necessary approvals required for such development, changes and/or alterations including being a co-applicant as necessary. The Master Development Agreement and the Master Management Agreements shall further require any one obtaining an interest in the Property including, but not limited to, a mortgagee, to also execute such approvals as may be necessary in order for the development, change or alteration to take place.

VI. OTHER PROVISIONS

City's and County's Rights as Sovereign. It is expressly understood that notwithstanding any provisions of this MOU and the City's and County's status thereunder:

1. The City and County retain all of their sovereign prerogatives and rights as a city and county under Florida laws and shall in no way be estopped from

withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the Museum Park Project or the Entire Site or the operation thereof, or be liable for the same; and

2. The City and County shall not by virtue of this MOU be obligated to grant the Museums any approvals of applications for building, zoning, planning or development under present or future laws and ordinances of whatever nature applicable to the planning, design, construction, development and/or operation of the Museum Park Project or the Entire Site.

No Liability for Exercise of Police Power. Notwithstanding and prevailing over any contrary provision in this MOU, any City or County covenant or obligation that may be contained in this MOU shall not bind the Board, the Planning and Zoning Department, DERM or any other County, City, federal or State department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the City or County or other applicable governmental agencies in the exercise of its police power.

Square Footage Costs. Each of the square footage, acreage and cost numbers used in this MOU are approximations and will be subject to adjustment based on final approved plans, agreements, and the requirements of the BBC GOB Program.

Agreements. The MOU shall become effective on the date the MOU is properly approved and executed by all the Parties. Upon the effectiveness of this MOU, the Parties shall use reasonable diligent efforts to negotiate and agree on terms in the Master Development and Management Agreements, the MSEA Lease, the Museums' Subleases and the other necessary agreements, including specifically the BBC GOB Program Grant Agreements, in good faith with the objective of having them approved by the Board, Commission and the MSEA Board and the Museum Boards as soon as practicable.

Although the planning, design, construction, operation, management, use and occupancy of the Museum Park Project shall be subject to the terms of the more definitive Master Development and Management Agreements, which will encompass issues not addressed in this MOU, the Parties agree that the terms of this MOU will be incorporated into such other agreements. The Parties further acknowledge and agree that this MOU reflects the basic business deal among the Parties.

VII. TERMINATION

Any Party may terminate this MOU for any reason upon providing written notice to the non-canceling Parties. Upon the termination of this MOU, no Party shall have any liability or obligation to any other Party. A Party shall exercise its termination rights under this Section by giving written notice thereof to the other Parties.

CITY OF MIAMI, FLORIDA

By:_____
Pedro G. Hernandez
City Manager
City of Miami

ATTEST:

By:_____
City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
Jorge L. Fernández,
City Attorney

APPROVED AS TO INSURANCE
REQUIREMENTS:

_____
LeeAnn Brehm,
Risk Administrator

MIAMI-DADE COUNTY, FLORIDA

By:_____
George M. Burgess
County Manager
Miami-Dade County

ATTEST:

By:_____
Clerk of the Board

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
R.A. Cuevas, Jr.,
County Attorney

MIAMI SPORTS AND EXHIBITION AUTHORITY

By:_____
Timothy Schmand
Executive Director

MIAMI ART MUSEUM OF DADE COUNTY ASSOCIATION, INC. MUSEUM OF SCIENCE, INC.

By:_____ By:_____

THE HISTORICAL ASSOCIATION OF SOUTHERN FLORIDA, INC.

By: _____

EXHIBIT "A'
THE LAND

My Home
Miami-Dade County, Florida

miamidade.gov MIAMI-DADE

Property Information Map

Digital Orthophotography - 2006 0 230 ft

This map was created on 12/31/2007 10:48:50 AM for reference purposes only.

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Close

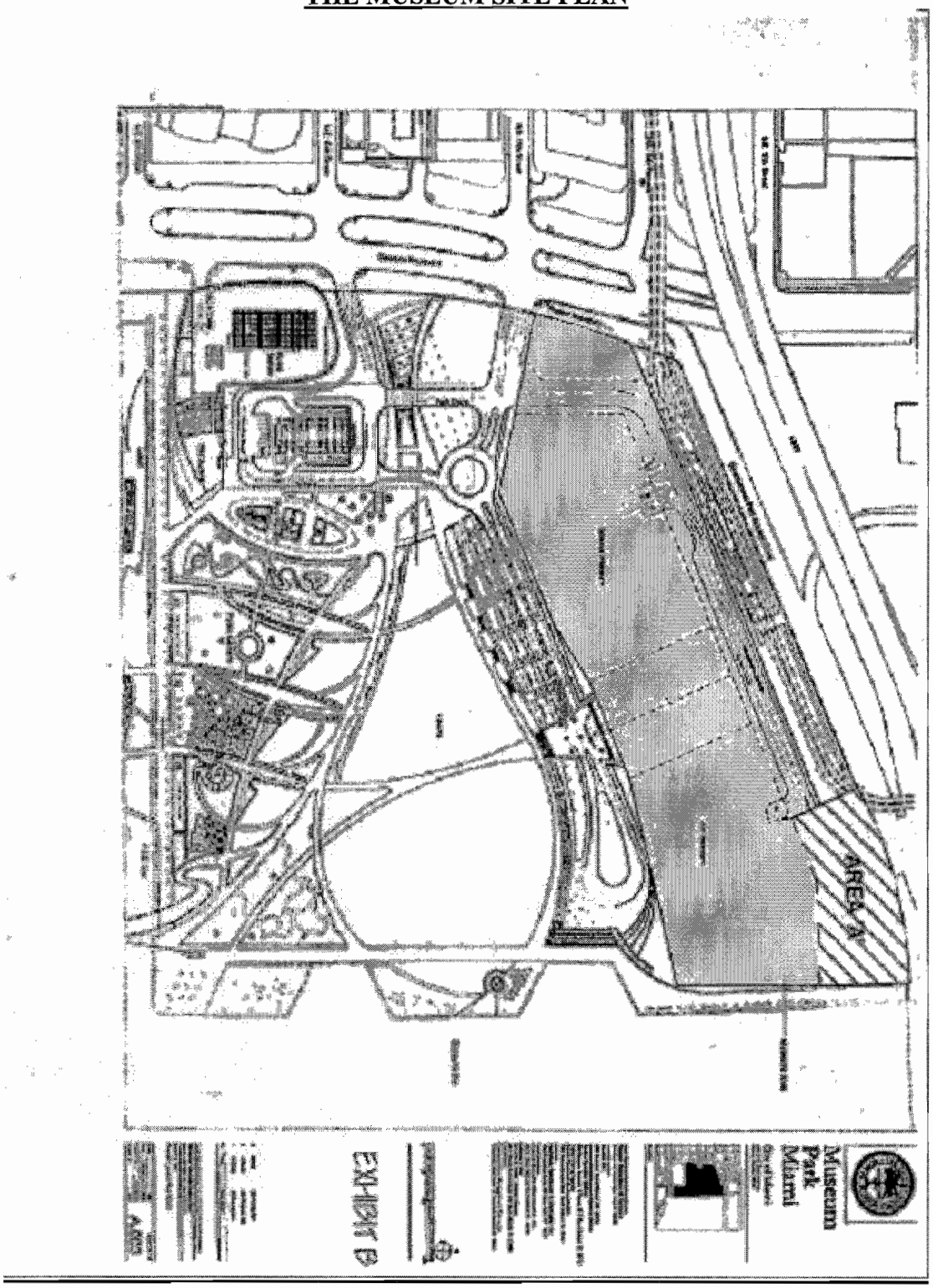
Summary Details:	
Folio No.:	01-4137-039-0010
Property:	1075 BISCAYNE BLVD
Mailing Address:	CITY OF MIAMI-DEPT OF P&D ASSET MANAGEMENT DIVISION 444 SW 2 AVE STE# 325 MIAMI FL 33130-1910

Property Information:	
Primary Zone:	8002 PARKS & RECREATION
CLUC:	0040 MUNICIPAL
Beds/Baths:	0/0
Floors:	1
Living Units:	0
Adj Sq Footage:	10,983
Lot Size:	1,321,191 SQ FT
Year Built:	1976
Legal Description:	NEW WORLD CENTER BICENTENNIAL PB 140-50 /PARK TR A LOT SIZE 30.33 AC 01-0100-000-0450-0490 THRU -0510 & -0530

Sale Information:	
Sale O/R:	
Sale Date:	0/0
Sale Amount:	$0

Assessment Information:		
Year:	2007	2006
Land Value:	$39,635,730	$39,635,730
Building Value:	$1,029,974	$1,014,781
Market Value:	$40,665,704	$40,650,511
Assessed Value:	$40,665,704	$40,650,511
Total Exemptions:	$40,665,704	$40,650,511
Taxable Value:	$0	$0

EXHIBIT "B"
THE MUSEUM SITE PLAN



Designates the Museum Site

EXHIBIT "C"

MUSEUM PARK DESIGN DEVELOPMENT DOCUMENTS

On file with and available for inspection at the Miami-Dade County Clerk of the Board.

EXHIBIT "D"
FINANCIAL CONTRIBUTIONS

PARTY	AMOUNT	PURPOSE
CITY	$60 Million	Estimated value of land for Project
	$15 Million	Approximate value of seawall stabilization
	$2 Million	Environmental costs
	$700 Thousand	Grant to MSM
	$700 Thousand	Grant to MAM
	$1.4 Million	Paid to Cooper Robertson to develop Museum Park Plan
	$2 Million	Grant to MAM
	$2 Million	Grant to MSM
	$68 Million (up to)	Park Component and other required work, such as infrastructure
COUNTY	$100 Million	Design & construction of MAM, and other required work, such as infrastructure
	$175 Million	Design & construction of MSM, and other required work, such as infrastructure
	TBD	Bicentennial MetroMover Station
	TBD	Pump Station #2 improvements
MAM	$120 Million	Matching funds for MAM component
MSM	$100 Million	Matching funds for MSM component

BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM ADMINISTRATIVE RULES

TABLE OF CONTENTS

ARTICLE I – GENERAL CONDITIONS	Page 2
SECTION 1. BACKGROUND	Page 2
SECTION 2. SCOPE	Page 2
SECTION 3. GENERAL	Page 2
SECTION 4. DEFINITIONS	Page 2
ARTICLE II –FUNDING PROCEDURES	Page 5
SECTION 1. FUNDING CYCLES; APPLICATION SUBMISSION PERIODS	Page 5
SECTION 2. FUNDING APPLICATION	Page 6
SECTION 3. ELIGIBILITY REQUIREMENTS	Page 7
SECTION 4. ELIGIBILITY DETERMINATION AND EVALUATION	Page 9
ARTICLE III – GRANT ADMINISTRATION	Page 11
SECTION 1. FUNDING ALLOCATION ADMINISTRATION & REIMBURSEMENT POLICY	Page 11
SECTION 2. COMPLIANCE RESPONSIBILITIES	Page 18
SECTION 3. REPORTS	Page 21
SECTION 4. PROJECT CLOSE-OUT	Page 21
SECTION 5. INTERPRETATION; ADMINISTRATION	Page 22

ARTICLE I - GENERAL CONDITIONS

SECTION 1. BACKGROUND

These administrative rules govern the implementation by Miami-Dade County (the "County") of its Building Better Communities General Obligation Bond Program as established by Ordinance No. 05-47 (the "Ordinance").

SECTION 2. SCOPE

These administrative rules have been prepared to address the administration and allocation of funds for the projects and programs identified in the Building Better Communities General Obligation Bond Program (BBC GOB Program). In addition to the funding of Projects specifically listed in the BBC GOB Program, eligible projects may be funded through the application process described in these administrative rules with monies from four (4) funds. The funds are the Historical Preservation Fund, the Economic Development Fund, the Not-for-Profit Community Organization Capital Fund and the Primary Health Care Facilities Fund (collectively, the "Funds").

SECTION 3. GENERAL

All recipients of funding for specific projects identified in the BBC GOB Program and for projects approved for funding from one of the Funds are required to follow these administrative rules. Failure to do so may lead to disqualification.

Additional copies of the administrative rules and/or application materials may be obtained by contacting the County Manager's Office. All inquiries, correspondence and applications for the BBC GOB Program should be addressed to:

Miami-Dade County
County Manager's Office
111 NW 1 Street
Suite 2910
Miami, Florida 33128
Attention: Roger T. Hernstadt

or to a Department or agency of Miami-Dade County, serving as the County Manager's Designated Representative.

SECTION 4. DEFINITIONS

The following is a list of terms and definitions that are used in these administrative rules:

"Acquisition" means the act of obtaining real property and/or capital assets or interests and rights in real property and/or capital assets by various legal means to serve public purposes.

"Applicant" means a Public Agency, not-for-profit organization, Municipality or other entity eligible to participate in the BBC GOB Program, which submits a Funding Application Package to the County during an announced Application Submission Period.

"Application" means the process described in these rules to make a formal request for Funding Allocation which remains open until the execution of a Grant Agreement or Interlocal Agreement, as the case may be, or a decision by the County not to provide a Total Funding Allocation.

"Application Submission Period" means the formally announced period of time for the submission of a Funding Application Package in a given Funding Cycle.

"Board of County Commissioners" or **"Board"** means the legislative and the governing body of the County.

"Community-Based Organization (CBO)" shall refer to any not-for-profit 501(c)(3) agency, group, organization, society, association, partnership or individual whose primary purpose is to provide a community service designed to improve or enhance the well-being of the community of Miami-Dade County at large or to improve or enhance the well-being of certain individuals within this community who have special needs.

"County" means Miami-Dade County, Florida.

"County Manager" or **"Manager"** means the head of the administrative branch of the County government or his/her designated representative.

"Development" means the act of physically improving an area, facility, resource or site to increase its ability or capacity to serve the public.

"Designated Projects" means the specific Projects approved by the Board in the Ordinance and the electors on November 2, 2004 for inclusion in the BBC GOB Program.

"Fixtures, Furniture and Equipment (FF&E)" means 1) Fixtures - items that are permanently affixed to the building or property, i.e., doors, bathroom stalls, A/C units, etc.; 2) Furniture - indoor furnishings needed to allow proper use of a building, i.e., desks, chairs, tables, workstations, etc.; and 3) Equipment - non-consumable tangible property with a life of at least one year that is directly related to the funded project, such as bleachers for courts, audio/visual equipment for community rooms, computers for computer labs, portable basketball goals for gymnasiums, etc.

"Fund Projects" means the specific Projects approved by the County pursuant to these administrative rules for a Funding Allocation from one of the Funds.

"Funds" means any and/or all of the following four funds included in the BBC GOB Program to address grant requests for Fund Projects: the Economic Development Fund, the Historical Preservation Fund, the Not-for-Profit Community Organization Capital Fund and the Primary Healthcare Facilities Fund.

"Funding Cycle Allocation" means Building Better Communities General Obligation Bond funds approved by the Board in a given year for use by a Recipient for implementation of a Project pursuant to these administrative rules.

"Funding Allocation" means (i) the total amount of Building Better Communities General Obligation Bond funds approved by the Board on July 20, 2004 for use by a Recipient for a specific

Project; or (ii) the total amount approved by the County from a Fund for use by a Recipient for a specific Project.

"Funding Application Form" means the base application form provided by the County Manager to be completed by the Applicant and submitted as part of the Funding Application Package.

"Funding Application Package" means the complete submittal package required by these administrative rules and submitted by an Applicant for a Project. (See Article II, Section 2).

"Funding Cycle" means the time between the opening of an Application Submission Period and the approval by the Board of the Projects to receive a Funding Cycle Allocation from the next series of general obligation bonds.

"Grant Agreement" means an executed grant agreement between the County and a Recipient (other than a grant to a Municipality or Public Agency, which grant will be evidenced by an executed Interlocal Agreement) setting forth mutual obligations regarding a Funding Cycle Allocation for a Project.

"Interlocal Agreement" means an executed grant agreement between the County and a Recipient that is a Municipality or Public Agency setting forth mutual obligations regarding a Funding Cycle Allocation for a Project.

"Match" means cash committed by the Recipient, as stipulated in the approved Grant Agreement or the Interlocal Agreement, as the case may be, to complement funding awarded from the BBC GOB Program.

"Municipality" means a political unit, such as a city, town, or village, incorporated for local self-government within the confines of Miami-Dade County.

"Ordinance" means the Building Better Communities General Obligation Bond Ordinance No. 05-47.

"Pre-Agreement Expenses" means eligible expenses identified in Article III, Section 1(B) of these rules incurred by a Recipient for accomplishment of a Project prior to full execution of a Grant Agreement or an Interlocal Agreement, as the case may be.

"Project" means each Designated Project or Fund Project, as the case may be, identified in a Funding Application Package and approved by the County for a Funding Allocation.

"Public Agency or Public Agencies" means an agency or agencies or administrative division or divisions of the United States government, the State of Florida, the County, or any municipality within the County.

"Recipient" means an entity receiving a Funding Allocation.

"Soft Costs" means real and verifiable expenditures for administration, project management (not related to construction supervision), indirect costs (accounting/purchasing/personnel, etc.), imposed fees (e.g., permit processing fees) and those costs NOT related to construction material, labor, equipment or construction sub-contractors. Soft Costs for the purpose of this Program are classified

by the following three areas:

- Project Administration - administration, project management (not related to construction supervision), indirect costs (accounting/purchasing/personnel, etc.) and imposed fees (e.g., Professional Services Agreement selection/permit processing fees). Project management related to construction supervision is not considered a soft cost; and

- Planning Services - Master Plan development and approval and feasibility studies; and

- Design Services - schematic design, design development, construction documents, bidding or negotiation and as built drawings.

Construction supervision and/or inspection are not considered soft costs. All costs associated with land acquisition such as: appraisals, due diligence, cost of land, project administration related to land purchase, legal fees, etc. are not part of the soft costs.

"Targeted Urban Areas" or "TUA" means the geographical communities which have been designated by the Board of County Commissioners.

"UMSA" means Unincorporated Municipal Service Area of the County, for which the County provides municipal services. Projects occurring within areas defined as UMSA are subject to the same administrative rules as any other project seeking Building Better Communities General Obligation Bond funding, regardless of the entity involved in the project.

ARTICLE II – FUNDING PROCEDURES

SECTION 1. FUNDING CYCLES; APPLICATION SUBMISSION PERIODS

A Funding Cycle shall be established by the Board on a periodic basis related to the sale of bonds, provided there are Building Better Communities General Obligation Bonds remaining to be sold. Each Project may be funded during one or more Funding Cycles through a Funding Allocation.

Eligible entities must apply for these Funding Allocations. Eligible entities existing on/or before July 20th, 2004, the date the General Obligation Bond Resolutions were approved by the Board, will receive priority consideration for Project approval and Funding Allocation. A Grant Agreement or Interlocal Agreement between the County and the Recipient, as the case may be, implements the Funding Allocations.

The Funding Application package shall be delivered on or before the last day of the announced Application Submission Period. The County may announce an additional Application Submission Period if funds remain or become available after the preceding Application Submission Period is complete. Each Application Submission Period and other pertinent application information shall be publicly announced in newspapers of general circulation in the County at least one (1) month prior to the deadline for submission of the Funding Application Package, unless otherwise waived by the Board.

SECTION 2. FUNDING APPLICATION

An Applicant must submit a complete Funding Application in order to be eligible to receive a Funding Allocation award. A complete Funding Application Package means one that meets all the requirements of the Ordinance and these administrative rules and is supported by proper documentation required by these administrative rules. The Funding Application Package shall consist of:

1) Completed Funding Application Form.

2) Completed line item budget. The line item budget must be submitted with budget justifications for the Construction and Fixtures, Furniture and Equipment line items. The justification should provide detailed descriptions of the project elements. Reimbursement for Fixtures, Furniture & Equipment is contingent upon prior inclusion and approval of these expenses in the Grant Agreement. (See Article III, Section 1(C)).

3) Letter(s) of commitment for matching funds that complement the Funding Allocation request as may be required by the Application.

4) Projected completion date for the Project and if the Project will be constructed in phases, the completion date of each phase.

5) Project location map.

6) For Development Projects, certification of ownership of a site by the Applicant or evidence of land tenure sufficient to satisfy the County that the Project may be developed on the designated site.

7) Written evidence (resolution or other legally required documentation), which at a minimum: (i) authorizes the execution of the Grant Agreement or the Interlocal Agreement, as the case may be; (ii) commits the Applicant to complete the Project; (iii) as applicable, commits the Applicant to provide operating, maintenance and programming funds upon completion of the Project, to the extent allowed by law; and (iv) provides that the Funding Allocation shall not be used in substitution of other capital project funding available to the Applicant.

8) Any other documentation that the Board may require from time to time.

An Applicant may request funding for a major Project in phases. Each phase shall constitute a distinct portion of the proposed Project. Each Applicant requesting funding for a Project in phases shall commit to completing the Project as defined in the Grant Agreement or the Interlocal Agreement, as the case may be, unless otherwise modified by approval of the Board in accordance with these rules and the Ordinance.

In the event an applicant intends to submit a request for pre-agreement reimbursement, the applicant shall comply with Article III, Section 1(B)).

SECTION 3. ELIGIBILITY REQUIREMENTS

A) Designated Projects

Eligibility requirements for Applicants:

- Active and duly registered Florida not-for-profit 501(c)(3) corporation. Comply with the County's Administrative Order 3-15.
- Active and duly registered Florida for-profit corporation or recognized business entity.
- Municipal entity or agency based in Miami-Dade County.
- Owner or lessee of residential or commercial property located within Miami-Dade County on which the Designated Project shall be situated.
- Financially stable including financial commitments to complete the Designated Project.

B) Fund Projects

1. Funds Objectives

The Economic Development Fund (the "EDF") is a component of the Building Better Communities Bond Program and is available for the purpose of providing infrastructure improvements to spur economic development and attract new businesses to the community in order to create jobs. The EDF includes $75 million that is available countywide and $15 million that is specifically focused on the County's designated Targeted Urban Areas. Eligible uses of the EDF include but are not limited to: infrastructure funding for road construction, water and sewer lines, fencing, sidewalks, entryways, lighting, and handicap accessibility; acquisition of land or buildings; and new construction of buildings; renovation of buildings. Ineligible uses of the EDF include but are not limited to: working capital; furniture and fixtures; office equipment; and other non-capital related expenses.

The Historical Preservation Fund, the Primary Healthcare Facilities Fund and the Not-for-Profit Community Organization Capital Fund are a component of the Building Better Communities General Obligation Bond initiative for the purpose of funding projects that support the County's historic preservation, primary healthcare, and community agency infrastructure needs. These are capital projects that improve the quality of life for the County's citizens, enhance medical facilities, rehabilitate historic properties, save irreplaceable historic venues, and serve as a catalyst for preserving and protecting Miami-Dade County's future. Medical institutions, historically and culturally significant properties, and Community-Based Organizations needing capital funds for construction, renovation, and expansion of facilities within the community that meet the criteria for the following programs may be eligible for assistance from these funds.

2) Program Descriptions and Criteria

a) Economic Development Fund.

This program includes $75 million that is available countywide and $15 million that is specifically focused on the County's designated Targeted Urban Areas to spur economic development and attract new businesses in order to create jobs.

Eligibility Requirements for Applicants:

- Active and duly registered Florida not-for-profit 501(c)(3) corporation.
- Active and duly registered Florida for-profit corporation or recognized business entity.
- Municipal entity or agency based in Miami-Dade County.
- Owner or lessee of residential or commercial property located within Miami-Dade County on which the Designated Projects will be situated.
- Financially stable including financial commitments to complete the Designated Project.
- Those listed in any Request For Proposal's related to this Fund.

b) Historic Preservation Fund

This program includes $10 million and is intended to provide matching funds to private property owners, private nonprofit organizations, and municipal government agencies for the acquisition, relocation and rehabilitation of designated historic properties, or properties eligible for designation as a historic property or as a contributing historic district property, which has applied for such a designation within Miami-Dade County.

Eligibility Requirements for Applicants:

- Active and duly registered Florida not-for-profit 501(c)(3) corporation.
- Active and duly registered Florida for-profit corporation or recognized business entity.
- Municipal entity or agency based in Miami-Dade County.
- Owner of residential or commercial property located within Miami-Dade County.
- Individually listed as municipal, County, State or National Register of historic property located in Miami-Dade County.
- Contributing Property within a designated municipal, County, State or national historic district located in Miami-Dade County.
- Property determined eligible for listing as an individual historic site or as a contributing historic district property, and which has applied for such designation, in a Municipality, County, State or National Register, and located within Miami-Dade County.
- Those listed in any Request For Proposal's related to this Fund.

c) Not-for-Profit Community Organization Capital Fund

The objective of this fund is to build and sustain the capability and capacity of the not-for-profit sector and support entities that enhance the quality of life of Miami-Dade County by delivering needed services. The $30 million allocated to this fund recognizes the importance and continuing contributions that these organizations make to the future of Miami-Dade County.

Eligibility Requirements for Applicants:

- Legally incorporated 501(c)(3) not-for-profit organization lacking access to government sources of capital funding.
- Demonstrable financial stability.
- Organization's mission is consistent with goals identified in the Miami-Dade County Strategic Plan.
- Demonstrate ownership of or intent to purchase a facility.
- Letter of Commitment confirming the resources necessary to accomplish the project.
- Architectural/engineering study and/or equipment specifications and professional cost estimate.
- Two (2) year management and budget plan for the facility.
- Those listed in any Request For Proposal's related to this Fund.

c) Primary Healthcare Facilities Fund

The objective of this fund is to build and sustain the capability and capacity of the not-for-profit sector and support entities that enhance the quality of primary healthcare within Miami-Dade County by delivering needed services. The $25 million allocated to this fund recognizes the importance and continuing contributions that these organizations, and the care that they provide, make to the future of Miami-Dade County.

Eligibility Requirements for Applicants:

- Legally incorporated 501(c)(3) not-for-profit organization lacking access to government sources of capital funding.
- Demonstrable financial stability.
- Organization's mission is consistent with goals identified in the Miami-Dade County Strategic Plan.
- Demonstrate ownership of or intent to purchase a facility.
- Letter of Commitment confirming the resources necessary to accomplish the project.
- Architectural/engineering study and/or equipment specifications and professional cost estimate.
- Two (2) year management and budget plan for the facility.
- Those listed in any Request For Proposal's related to this Fund.

SECTION 4. ELIGIBILITY DETERMINATION AND EVALUATION

Following closure of an Application Submission Period, the County Manager will review and evaluate each Funding Application Package for funding eligibility or ineligibility. The County Manager may use entities such as the following to assist him in the review and to create Project Review Committees.

Economic Development Fund

- Empowerment Zone Trust Board
- Miami-Dade Empowerment Trust
- Office of Community and Economic Development

- Coalition of Chambers of Commerce
- Task Force on Urban Revitalization
- Metro Miami Action Plan Trust
- Beacon Council
- Greater Miami Chamber of Commerce
- Dade League of Cities

Historic Preservation Fund

- Dade Heritage Trust
- Historic Preservation Board

Not-for-Profit Community Organization Capital Fund

- Alliance for Human Services
- Dade Community Foundation

Primary Healthcare Facilities Fund

- Office of Countywide Health Care Planning

Any such entity shall adhere to public record protocols specified under Administrative Order No. 3-31. Funding Allocations for eligible projects may be recommended to the County Manager by the Project Review Committee. The County Manager and the Project Review Committee may determine that a Funding Application Package be classified as:

A) **Ineligible.** Declaration that the Project identified in a Funding Application Package is ineligible.

B) **Conditionally Eligible.** The Board may determine that a Project is eligible for funding upon satisfaction of specified conditions. In the event that conditional approval is given, Board staff shall verify that the conditions have been satisfied prior to executing a Grant Agreement or an Interlocal Agreement, as the case may be.

C) **Eligible.** Declaration that a Project identified in a Funding Application Package is fully eligible.

Funding Application Packages determined to be Eligible or Conditionally Eligible shall be reviewed and competitively evaluated to recommend bond funding allocations. A listing of all Funding Application Packages shall be reviewed by the GOB Sub-committee and presented to the Board by the County Manager in the form of a Resolution stating the eligibility determination, presenting the County Manager's funding recommendations based on the competitive evaluation and seeking approval for the disbursement of funds.

ARTICLE III – GRANT ADMINISTRATION

SECTION 1. FUNDING ALLOCATION ADMINISTRATION & REIMBURSEMENT POLICY

A) Grant Agreement or Interlocal Agreement

1) As a condition of award of a Funding Allocation, the BBC GOB Program and the Recipient shall enter into a Grant Agreement or an Interlocal Agreement, as the case may be, which sets forth the responsibilities and duties of each regarding administration of the approved Project and approved Funding Allocation.

2) The Grant Agreement or the Interlocal Agreement, as the case may be, shall specify the following and shall incorporate such other terms and conditions as may be required by particular circumstances:

a) A Project Narrative/Description of Project, including location of Project, and beginning and end dates;

b) An overall budget for the Final Project, identifying additional sources of revenue;

c) A Funding Allocation line item budget (proposed use of BBC GOB funds);

d) If the Recipient is a Community-Based Organization or other entity (not a Municipality or Public Agency, a letter of commitment of matching funds validly executed committing the organization to raise any additional capital funds necessary to complete the Project, and committing to provide operating, maintenance and programming funds upon completion of the Project, all as authorized and approved by the Recipient's Board of Directors or governing entity;

e) If the Recipient is a Municipality or Public Agency, a letter of commitment of matching funds validly executed committing the organization to appropriate capital funds necessary to complete the Project and to provide operating, maintenance and programming funds upon completion of the Project, all as authorized and approved by the governing board of such Municipality or Public Agency;

f) Certification of ownership, or evidence of lease or other use agreement for a minimum un-expired term of 25 years;

g) Business plan and/or operating pro-forma, defining and identifying strategies to address the impact the Project will have on the organization's operational structure; and

h) A list of consultants that will be involved in the development of the Project (e.g., Owner's project manager(s), Architecture and Engineering team, Specialty Consultants, Developers, General Contractor or Construction Manager, etc.) as they become available.

B) **Pre-Agreement Expenses**. The incurring of Pre-Agreement Expenses creates no obligation on the County to execute a Grant Agreement or Interlocal Agreement, as the case may be, or otherwise satisfy those expenses. However, prior to the effective date of the Grant Agreement or Interlocal Agreement, as the case may be,, a Recipient may incur eligible Pre-Agreement Expenses as defined in Article I - Section 4, and then after the effective date of the Grant Agreement or Interlocal Agreement, as the case may be, be reimbursed for those costs, provided that:

1) The costs and activities are funded as part of the Funding Allocation award and are in compliance with the requirements of the Ordinance and these rules.

2) For those Projects funded by bond proceeds from bond sales subsequent to the sale of the Series 2005 Bonds, reimbursement of Pre-Agreement Expenses is limited to those Pre-Agreement Expenses incurred one (1) year prior to the first day of the Application Submission Period, unless previously approved by the Board.

3) The Recipient has notified the County Manager in writing of the intent to submit eligible Pre-Agreement expenses for reimbursement within 30-days of a Grant Agreement or Interlocal Agreement being executed. Recipients shall send a letter addressed to the County Manager for his review and approval of eligible expenses.

C) **Payment.** Recipients are paid allocated funds subject to the following conditions:

1 **Cost of Issuance of Bonds.** Not more than one percent (1%) of the value of each Funding Allocation award may be earmarked for all costs incidental to the preparation, issuance and administration of the BBC GOB Program.

2 **Timing.** Project costs eligible for reimbursement shall be incurred between the effective date of, and the Project completion date identified in, the Grant Agreement or the Interlocal Agreement, as the case may be, with the exception of Pre-Agreement Expenses.

3) **Soft Cost Limits.** Project Soft Costs for Planning Services, Design Services and Project Administration, as defined in Article 1 Section 4, "Soft Costs", are eligible for funding provided that bond proceeds utilized to pay for such costs do not exceed seventeen percent (17%) of the total bond proceeds allocated to a given Project. This limitation may be waived by the Board. Where a major Project is funded in phases, this cost limit may not necessarily apply to each individual Project phase, but must apply to the Funding Allocation for the Project.

4) Recipients will implement their own procurement process; however, they shall comply with all applicable Federal, State and local laws and regulations, including the County ordinances and regulations.

5) Recipients are responsible for managing the day-to-day operations of Funding Allocation supported activities, and maintaining communications with the County Manager regarding the Project. Recipients must monitor Funding Allocation supported activities to assure compliance with the Ordinance, these rules, the Grant Agreement or Interlocal Agreement, as the case may be, and all applicable Federal, State and local requirements.

6) Payments to the Recipient may be withheld at any time that the Recipient fails to comply with the terms of the Grant Agreement or the Interlocal Agreement, as the case may be. Funds withheld for failure to comply with the terms of the Grant Agreement or the Interlocal Agreement, as the case may be, but without suspension of the Funding Allocation shall be released to the Recipient upon subsequent compliance. Recipients will not be required to reimburse the County for payments already received by the County from the Recipient unless the Recipient fails to develop and/or operate the Project for the purpose described in the Funding Application Package.

7) Recipient's must complete the authorized signature form (Exhibit A).

8) a. In general, payment shall be made on a reimbursement basis. A Funding Allocation Recipient may submit a Request for Advance Payment form (Exhibit B) for review and approval by the County Manager. Approved recipients may receive an advance payment no more that 180 days in advance of the allocation schedule approved by the Board, for up to 25% of the value of the Funding Allocation for the subject Project.

b. However, in accordance with the guidelines reflected below, the County Manager may, on a case-by-case basis and at his sole discretion, consider advance payment of up to 90% of a municipality's funding allocation for a specific project. Upon the County Manager's decision that a request for advance payment of up to 90% of a municipality's funding allocation for a specific project will be considered, the guidelines below will be applied consistently and in their entirety.

Conditions under which a municipality may receive up to 90% of their BBC allocation for a subject project:

- A municipality must not owe money to the County and the County must not have any outstanding claims against the municipality:
- Project activity to date is proceeding on-schedule:
- Construction schedules are being updated on a monthly basis and all required documentation has been submitted to Miami-Dade's Office of Capital Improvements (OCI).
- The municipality must have contract(s) in place to complete the project and no outstanding claims or disputes can exist between the municipality and their contractors on the project:
- Municipality payments to contractors, subcontractors and suppliers are being made timely:

Field Evaluations will be conducted on a case-by-case basis by Miami-Dade's Office of Capital Improvements (OCI) and will include items such as:

- Field audit determination that the project is on-schedule including physical construction:

- Follow-up field audit inspections will be performed by OCI to ensure project completion:

OCI will submit a written recommendation to the County Manager to approve any disbursement under these provisions. The municipalities will be required to execute a supplemental agreement acknowledging these terms.

Safeguards/Corrective Actions to be implemented by the County in case of non-compliance by a municipality with the BBC-GOB Administrative Rules or if satisfactory progress is not being maintained will include:

- Funding for municipal or other GOB-funded projects to be performed by the subject municipality will be withheld:

- The County will ask to be reimbursed the amount given to the municipality as part of the grant agreement and/or withheld funds due to the municipality from other County funding sources such as PTP:

- If the municipality refuses to reimburse the County the amount of the grant agreement, the County may employ all available means to recover the subject funds up to and including litigation.

The aforementioned safeguards will be implemented by the County in Cases of non-compliance. All conditions shall be a part of all grant agreements with a municipality. All existing grant agreements will be amended to include the provisions referenced above and all new grant agreements will likewise include these provisions.

Any disbursement of funds under these provisions will be reported to the Board.

c. All advance payments received by a Recipient shall be maintained in a separate interest bearing account and may not be commingled with other funds. All advances and interest earned must be fully accounted for. The Municipality shall submit evidence of interest earned to the County with any subsequent reimbursement request. The amount of interest earned shall be deducted from such subsequent payment to the Municipality. If at any time the amount of interest earned is greater than the reimbursement request the Municipality shall submit payment to the county an amount equal to the interest earned less the reimbursement request. Upon the County's receipt of the payment and any required supporting documentation from the Municipality, the reimbursement request may be paid. Checks must be made payable to Miami-Dade County Board of County Commissioners and forwarded to the Office of the County Manager.

9) Recipients must submit reimbursement/payment requests no later than quarterly. If a Recipient is unable to submit a reimbursement/payment request by the quarterly deadline, a written justification indicating the reason for the delay and expected submission date is required to be submitted by the deadline. Failure to comply with this requirement shall render the Recipient in non-compliance with the Administrative Rules and may result in reduction or forfeiture of payment, at the discretion of the County Manager. Failure to submit two consecutive requests shall be deemed a forfeiture of all rights unless specifically waived by the County Manager. The Recipient must submit a written explanation for such

delays in order to be considered for a waiver of this requirement and all such waivers shall be made at the sole discretion of the County Manager.

10) Recipients shall complete, sign, and submit to the County the appropriate Reimbursement Request forms as necessary (Exhibits D through H) accompanied by supporting documentation (i.e., copies of invoices, receipts and check payments).

11) Reimbursement requests for Fixtures, Furniture & Equipment items must be included and approved in the Grant Agreement or the Interlocal Agreement, as the case may be, prior to acquisition. Written requests for Fixtures, Furniture & Equipment approval must be accompanied by Exhibit H.

12) In accordance with State law, five (5%) of the value of the Building Better Communities General Obligation Bond funding for a given Project shall be retained by the County for all projects in excess of $100,000, unless otherwise recommended in writing by staff and approved by the Board. Upon completion of a Project, a signed project completion certificate (Exhibit I) must be submitted with the final reimbursement request forms in order for the remaining retainage to be released.

13) The County Manager may require that reimbursement requests for any Funding Allocations requiring a cash match must be accompanied by documentation of the expenditure of committed match funds (i.e., copies of invoices, canceled checks, etc.).

14) Each Recipient will ensure that all contractors and consultants perform in accordance with the terms, conditions, drawings and specifications of their contracts or purchase orders and that all Federal, State and local contracting rules apply.

15) Each Recipient shall maintain an accounting system, which meets generally accepted accounting principles, and shall maintain all required financial records to properly account for all Building Better Communities General Obligation Bond funds and any supplemental funds used for the Project. The Recipient shall at all times maintain a separate accounting of all Building Better Communities General Obligation Bond funds.

16) Each Recipient shall be responsible for reporting, on a continuous, on-going basis, any contractual relationship established to perform work on the project, start dates, progress payments, completion dates, etc. in the system provided by the County.

17) The Recipient shall be responsible for completing the Project. If the total cost of the Project exceeds the value of the Funding Allocation, then the Recipient must provide any supplemental funds required. In the event that supplemental funds are necessary for completion of a Project, as of the point in time that it is known that supplemental funds are needed, the Recipient must demonstrate that such supplemental funds have been committed to the Project prior to and as a condition of disbursement or further disbursement of Funding Allocations. The requirement for a Recipient to provide supplemental funds may be modified, in part or whole, by the Board, to the extent that it approves in writing any reduction or change to the Project scope of work in accordance with the Ordinance. Approval of any reduction or change in scope of work is at the sole discretion of the Board.

D) **Acquisition Projects**. Guidelines and requirements for administering Acquisition Project

Funding Allocations are as follows:

1 Appraisal Required. Prior to acquisition of a Project site, a Recipient must obtain an appraisal or appraisals supporting the fair market value of the land to be acquired. Pursuant to State law, if the property is $500,000 or less in appraised value, one appraisal is required. If the property exceeds $500,000 in appraised value, two appraisals are required.

2 Amount Authorized for Payment. The amount of Funding Allocation authorized for payment for land acquisition shall in no case exceed the Funding Allocation available for the Project. In the event that the negotiated acquisition price exceeds by ten percent or greater the appraised value of the land, the disbursement of Funding Allocation shall be conditioned upon a written justification for the purchase price and other conditions attendant to the proposed purchase, which justification is declared satisfactory by the Board in writing. Appraisal costs are eligible Funding Allocation costs as long as the appraised property is being realistically and seriously considered for Acquisition, regardless of the outcome.

3 Environmental Survey. The Recipient may not acquire land for a BBC GOB Program funded Project until a Phase I environmental survey is completed, which demonstrates that the property is suitable for its intended general use and for the specific Project. GOB funds may be used for the necessary clean-up a Phase II environmental survey may require provided the scope of the project is not impacted. Changes to the scope of the project require BCC approval.

4 Signage. For six months following an Acquisition, the County shall post a sign, in the general design provided by the County, containing the Building Better Communities General Obligation Bond logo, identifying the source of Project funding. The cost of such a sign is eligible for payment from the Funding Allocation.

5) Ownership. Title to land acquired with BBC GOB Program funds or facilities constructed/developed with Building Better Communities General Obligation Bond funds shall vest with a Public Agency or a legally incorporated 501(c)(3) not-for-profit Community-Based Organization.

E) **Development Projects.** Guidelines and requirements for administering Development Project Funding Allocations are as follows:

1) Licensed Contractors; Contractor Bonds. Duly licensed contractors shall perform all construction. Construction contracts for work in excess of the threshold amounts established in Section 255.20 of the Florida Statutes shall require payment and performance bonds, which comply with the requirements of Section 255.05, Florida Statutes.

2) Cost Elements.

a) Construction Equipment. Recipients are required to use their own equipment, if available. If a Recipient's equipment is used, the maximum Funding Allocation payment shall cover operating and routine maintenance costs of such equipment; the Funding Allocation excludes any depreciation or replacement cost from payment. If a Recipient's equipment is used, a report or source document must describe the work performed, indicate the hours used and be related to the Project. If a Recipient does not

have needed construction equipment available, then the Recipient may rent such equipment.

b) Construction Supplies and Materials. Supplies and materials may be purchased for a specific Project or may be drawn from a central stock, providing they are claimed at a cost no higher than that which the Recipient paid. When supplies and/or materials are purchased with the intention of constructing a piece of equipment, structure or part of a structure, the costs that are charged as supplies and materials may be capitalized according to the Recipient's normal practice or policy. If capitalized, only the cost reasonably attributable to the Project may be claimed under the Project.

c) Personnel or Employee Services. Services of the Recipient's employees who perform work directly related to the accomplishment of the Project are eligible costs payable from the Funding Allocation. These costs must be computed according to the Recipient's prevailing wage or salary scales and may include fringe benefit costs, such as vacations, sick leave, FICA, MICA, health and life insurance, and workers compensation at the Recipient's established fringe benefit rate. Costs charged to the Project must be computed on the basis of actual time spent on the Project, and supported by time and attendance records describing the work performed on the Project. Overtime costs may be allowed under the Recipient's established policy, provided that the regular work time was devoted to the same Project. Salaries and wages claimed for employees working on allocation-funded Projects must not exceed the Recipient's established rates for similar positions or rates per industry standards. Alternative methodologies for established wage rates must be pre-approved by the Board.

d) Consultant Services. The costs of consultant services necessary for the Project are eligible for payment from the Funding Allocation. The Recipient must pay consultants according to the Recipient's customary or established method and rate. No consultant fee may be paid to the Recipient's own employees.

3) Cost Activities.

a) Construction activities. The cost of all necessary construction activities, from site preparation (including demolition, survey, excavation and other site work) to the completion of a structure is eligible for payment from the Funding Allocation.

b) Fixtures, Furniture and Equipment. The cost of Fixtures, Furniture and Equipment necessary to operate the facility are eligible for payment from the Funding Allocation if approved in the Grant Agreement or the Interlocal Agreement, as the case may be, and a detailed list of eligible items is submitted in writing and approved by the County Manager prior to its purchase (See Article III, Section 1 (c)). Costs for consumable goods shall not be considered eligible for payment from the Funding Allocation. Also, refer to Article I, Section 4 for a detailed definition of Fixtures, Furniture and Equipment.

c) Interpretive Signs and Aids. The cost of signs, display boards or other interpretive aids relating to the Project are eligible for payment from the Funding Allocation.

d) Signage. During the time period of Development, the County shall post a sign in a

prominent location at the Project site in the general design provided by the County depicting the Building Better Communities General Obligation Bond logo and identifying the source of funding for the Project. The cost of such a sign is eligible for payment from the Funding Allocation.

Recipients are encouraged to use value-engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.

4) The following is a nonexclusive list of costs ineligible for payment from the Funding Allocation:

a) Funding Application costs.

b) Ceremonial expenses.

c) Expenses for publicity.

d) Bonus payments unless specifically authorized by the Board.

e) Charges in excess of the lowest responsive and responsible bid or proposal in accordance with the governing rules and procedures of the Recipient, when the law requires the Recipient to utilize competitive selection. In the event a selection process is used, other than a low bid process any cost in excess of the cost of the highest ranked firm shall be considered ineligible.

f) Charges for deficits or overdrafts.

g) Charges incurred contrary to the policies and practices of the Recipient.

h) Interest expense (May be reimbursed at the discretion of the Board if incurred during the construction period and is attributable only to the construction period).

i) Litigation expenses or judgments.

j) The cost of services, material or equipment obtained under any other program.

k) Costs of discounts not taken.

l) The cost of purchasing a non-refundable option when acquiring land.

F) **Budget Changes.**

1) Recipients shall adjust their Project budgets to reflect actual costs and updated cost estimates and shall submit adjusted Project budgets to the County Manager as soon as the recipient is aware of a material budget change.

2) Budget adjustments may not exceed the 17% Soft Cost limitation for design, planning, and program administration, nor exceed the Project Funding Allocation without approval of the Board.

3) Recipients shall obtain the prior written approval of the Board whenever budget adjustments are anticipated as outlined in a, b, and c below. The request must be in the same budget format the Recipient used in the Grant Agreement or Interlocal Agreement, as the case may be, and shall be accompanied by a narrative justification for the proposed revision. Such request for adjustment shall, if approved, amend the Grant Agreement or Interlocal Agreement, as the case may be. Requests for budget changes shall be considered whenever any of the following adjustments are required:

a) For any Project involving both Acquisition and Development activities, any proposed budget transfers from Development to Acquisition.

b) Any proposed reduction or revision of the scope or objectives of the Project (regardless of whether there is an associated budget adjustment) that substantially changes the original intent of a project.

c) Any change that would increase Soft Costs for planning, design, and project administration which exceeds the limit specified in Article III Section 3 (c)(1).

In the event that a Recipient has completed the approved scope of work for a Project and has unexpended funds, the Recipient may submit a request to the County Manager's Office to expend these funds in an existing or new budget line item for the Project. The County Manager is authorized to approve such budget changes and expenses not to exceed 15% of the total budget.

G) **Cost Overruns.** During the execution of work on a Project, the Recipient may find that actual Project costs exceed the approved budget. For cost overruns that will require additional funding for the Project, or otherwise require a budget adjustment for which prior Board approval is required pursuant to paragraph E above, the Recipient shall:

1) Provide a justification for the additional costs;

2) Identify available funds for the completion of the Project; and, if necessary

3) Request from the Board a change or revision in the Project scope consistent with the terms of the Ordinance.

The Board, at its discretion, may authorize in writing a change or revision in the scope of the Project: (i) where change or revision of the scope is consistent with the Ordinance; and (ii) where the change or revision is justified by the Recipient; and (iii) where the Recipient does not have sufficient funds to complete the Project with the available funds. Under those circumstances, the Board, in its sole discretion, may identify other funds available under the Ordinance for the Project.

SECTION 2. COMPLIANCE RESPONSIBILITIES

The following constitute general requirements for program compliance:

A) An annual independent audit of the Building Better Communities General Obligation Bond funds must be submitted by all Recipients to the County Manager's Office no later than six months after the close of the Recipient's fiscal year for which a Funding Allocation was

received and each year thereafter until Project completion. The audit report must include the Fund Summary Status Report, Exhibit J. The audit must be performed by certified independent auditors and include the following:

1) Test for compliance with the Grant Agreement or Interlocal Agreement, as the case may be, Miami-Dade County Ordinance No. 05-47, applicable resolutions and the Building Better Communities General Obligation Bond Administrative Rules.

2) Test to verify compliance with advance requirements.

3) Sufficient tests, as determined by the independent auditor to verify true and accurate reflection of Project expenditures.

4) Tests to verify expenditure of required match dollars.

5) Verification of the Fund Summary Status Report.

B) Land and facilities acquired, developed, improved or rehabilitated by Funding Allocation shall be dedicated and maintained in perpetuity for the use and benefit of the general public except where leases are in effect. Any land, facilities, or equipment acquired with Building Better Communities General Obligation Bond funds may not be sold or transferred without the written consent of the County and may require an equitable reimbursement of bond funding based on residual value. All projects shall be open to the public at reasonable times and shall be managed in a safe and attractive manner appropriate for public use.

C) Funding Allocation for the purposes of development, improvement, rehabilitation or restoration shall be expended for these purposes only on lands owned by a Recipient or on lands for which the Recipient holds a lease or other use agreement. Such lease or other use agreement must be for an unexpired minimum term of 25 years. The Funding Allocation Recipient may demonstrate the eligibility of the Project to the reasonable satisfaction of the Board, through a joint ownership, use, franchise or other agreement, evidencing that the lands and/or the Project will be utilized for the public benefit, consistent with the terms of this Ordinance, for a term of at least 25 years in duration. The lease must not be revocable at will.

D) Recipient shall maintain all financial and programmatic records, supporting documents and other records pertinent to the Funding Allocation for a period of three years from the starting date defined below. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the three year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three year period, whichever is later. When Funding Allocation support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the Recipient submits to the County its single or last expenditure report for that period. In all other cases, the retention period starts on the day the Recipient submits its final expenditure report.

E) The Board and the County, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers or other records of the Recipient in order to make audits, examinations, excerpts and transcripts.

Office of the Miami-Dade County Inspector General (IG) (MDC Code Section 2-1076) shall have the authority and power to review past, present and proposed County programs, accounts, records, contracts and transactions. The IG shall have the power to subpoena witnesses, administer oaths and require the production of records. Upon ten (10) days written notice to the Recipient from IG, the Recipient shall make all requested records and documents available to the IG for inspection and copying. The IG shall have the power to report and/or recommend to the Board whether a particular project, program, contract or transaction is or was necessary and, if deemed necessary, whether the method used for implementing the project or program is or was efficient both financially and operationally. Monitoring of an existing project or program may include reporting whether the project is on time, within budget and in conformity with plans, specifications, and applicable law. The IG shall have the power to analyze the need for, and reasonableness of, proposed change orders.

The IG may, on a random basis, perform audits on all County contracts throughout the duration of said contract (hereinafter "random audits"). This random audit is separate and distinct from any other audit by the County. To pay for the functions of the Office of the Inspector General, any and all payments to be made to the Recipient under the Grant Agreement will be assessed one quarter of one percent of the total amount of the payment, to be deducted from each progress payment as the same becomes due unless, as stated in the Code or the Grant Agreement, the Project is federally or state funded and federal or state law or regulations preclude such a charge. The Recipient shall in stating its agreed prices be mindful of this assessment.

The IG shall have the power to retain and coordinate the services of an independent private sector inspector general (IPSIG) who may be engaged to perform said random audits, as well as audit, investigate, monitor, oversee, inspect, and review the operations, activities and performance and procurement process including, but not limited to, project design, establishment of bid specifications, bid submittals, activities of the contractor, its officers, agents and employees, lobbyists, County staff and elected officials in order to ensure compliance with contract specifications and detect corruption and fraud.

F) If a Recipient materially fails to comply with any term of an award, the Board or the County Manager may take one or more of the following actions, as appropriate in the circumstances:

1) Temporarily withhold cash payments pending correction of the deficiency by the Recipient;

2) Disallow all or part of the cost of the activity or action not in compliance;

3) Wholly or partly suspend or terminate the current award for the Recipient's Project;

4) Withhold further Funding Allocation awards from the Recipient; or

5) Take other remedies that may be legally available.

G) Any of the enforcement actions listed in paragraph F above, taken by the County Manager, which are contested and unresolved between the Recipient and the County within thirty days of such action, will result in the Board providing the Recipient with an opportunity to be heard on the issue. Said hearing will occur within sixty days of the Board receiving the Recipient's written request. Staff will recommend appropriate action to the Board.

H) Costs to Recipient resulting from obligations incurred by the Recipient during a suspension or after termination of an award are not eligible for reimbursement unless the County Manager expressly authorizes them in the notice of suspension or termination or subsequently authorizes reimbursement in writing. Other costs incurred by the Recipient during suspension or after termination which are necessary and not reasonably avoidable are eligible for reimbursement if:

1) The costs result from obligations which were properly incurred by the Recipient before the effective date of suspension or termination, were not in anticipation of it, and in the case of a termination, are non-cancelable; and

2) The costs would be eligible for reimbursement if the award was not suspended or if the award expired normally at the end of the funding period in which the termination takes effect.

I) Inspections. Staff of the Board or the County, or both, shall periodically inspect each Project to ensure compliance with these rules, the Ordinance, and the Grant Agreement or Interlocal Agreement, as the case may be. Staff shall perform an inspection of the Project site to ensure compliance prior to release of the final Funding Allocation payment.

SECTION 3. REPORTS

Recipients are required to submit the Project Status Report no later than monthly (Exhibit E), in the format stipulated by the County Manager. Additional reports that shall be due upon request of the County Manager may include, but are not limited to:

A) Actual accomplishments of each Funding Allocation;

B) Problems encountered in implementation of each Funding Allocation; and

C) Anticipated start and/or completion dates of each Funding Allocation.

Recipient may be required to meet with the Board to discuss the Project.

SECTION 4. PROJECT CLOSE-OUT

A) A Recipient has up to forty-five (45) days after the expiration or termination of the Funding Allocation to submit all final documentation including final reimbursement requests and project completion certificates.

B) The close-out of a Funding Allocation does not affect:

1) The County's right to disallow costs and recover funds on the basis of a later audit or review;
2) The Recipient's obligation to return any funds due as a result of later refunds, corrections or other transactions;
3) Records retention responsibilities set forth above;
4) Continuing responsibilities set forth in the Ordinance and these rules; and
5) Audit rights set forth in these rules.

C) Any amounts paid to Recipient in excess of the amount to which the Recipient is finally determined to be entitled under the terms of the Grant Agreement or Interlocal Agreement, as the case may be, constitute a debt to the County. If not paid within a reasonable period after demand, the County may reduce the debt by:

1) Making an administrative offset against other requests for reimbursement;
2) Withholding payments otherwise due to the Recipient; or
3) Taking other action provided by law.

Any overdue debt of the Recipient shall accrue interest at the maximum rate allowed by law.

SECTION 5. INTERPRETATION; ADMINISTRATION

These administrative rules have been promulgated under the Ordinance. In the event of a conflict between these rules and the provisions of the Ordinance, the Ordinance shall prevail.

The County Manager shall be authorized to interpret the provisions of these administrative rules and their interpretation of any matters governed hereby shall be final and may only be overturned by a majority vote of the Board. The County Manager shall submit recommendations amending these administrative rules to the Board, which may approve or reject such recommendations by majority vote.

The County Manager shall be authorized and required to administer the Building Better Communities General Obligation Bond Program consistent with the Ordinance and these administrative rules.