Agenda Item No. 13(A)(1)

TO: Honorable Chairman Dennis C. Moss
and Members, Board of County Commissioners

DATE: April 21, 2009

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

SUBJECT: Resolution authorizing the conveyance of county-owned property to the Black Archives History and Research Foundation of South Florida, Inc., for the expansion of the Lyric Theater in connection with the partial settlement of a pending lawsuit; and authorizing the County Mayor to execute a County Deed for such purpose

---

The accompanying resolution was placed on the agenda by the County Attorney.

R. A. Cuevas, Jr.
County Attorney

RAC/jls

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: April 21, 2009

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

SUBJECT: Agenda Item No. 13(A)(1)

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 Mayor'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. 13(A)(1)
4-21-09

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE CONVEYANCE OF COUNTY-OWNED PROPERTY LOCATED BETWEEN NW 8TH STREET AND NW 9TH STREET IN BLOCK 36 IN MIAMI-DADE COUNTY TO THE BLACK ARCHIVES HISTORY AND RESEARCH FOUNDATION OF SOUTH FLORIDA, INC., FOR THE EXPANSION OF THE LYRIC THEATER IN CONNECTION WITH THE PARTIAL SETTLEMENT OF A PENDING LAWSUIT; AND AUTHORIZING THE COUNTY MAYOR TO EXECUTE A COUNTY DEED FOR SUCH PURPOSE

WHEREAS, Lyric Theater, built in 1913 and located at 819 NW 2nd Avenue in the heart of the Historic Overtown Folklife Village, is the oldest theater remaining in Miami-Dade County; and

WHEREAS, the historic Lyric Theater is owned and operated by the Black Archives History and Research Foundation of South Florida, Inc., a not-for-profit organization; and

WHEREAS, Miami-Dade County Department of Cultural Affairs has been working with the Black Archives in connection with the proposed expansion of the theater, to remedy space constraints of the original facility; and

WHEREAS, two of the three phases of the Lyric Theater renovation project have been completed, and the final phase requires an expansion of the facility in order to make the Lyric Theater fully operational; and

WHEREAS, Miami-Dade County already has committed $10 million dollars for the Lyric Theater's renovation and expansion; and

WHEREAS, the expansion of the Lyric Theater would require the conveyance to the Black Archives of County-owned property located between NW 8th Street and NW 9th Street in

Miami-Dade County, as legally described in the County Deed attached hereto as Exhibit "A," and incorporated herein, including forty feet running along the westernmost boundary of Block 36, Lots 46, 43, 38, 35, 30, 27, 22, 19, 14, and 11, as well five feet of an adjoining alley vacated by the City of Miami; and

WHEREAS, the referenced property is contained within a larger area of property that is the subject of litigation filed against Miami-Dade County in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, Case No. 07-46851 (CA-31), wherein the City of Miami and the Southeast Overtown/Park West Community Redevelopment Agency (the "CRA") are disputing Miami-Dade County's ownership of the property; and

WHEREAS, Miami-Dade County, the City of Miami, and the CRA have mutually expressed support for the Lyric Theater expansion project, and for the conveyance of such property to the Black Archives for such purpose; and

WHEREAS, Miami-Dade County, the City of Miami, and the CRA seek to release this portion of the property from the lawsuit, without prejudice to their respective positions in the litigation,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board ratifies and adopts those matters set forth in the foregoing recitals; that this Board approves the conveyance of the property legally described in Exhibit "A" to the Black Archives History and Research Foundation of South Florida, Inc. for the expansion of the Lyric Theater in partial settlement of a pending lawsuit; and that this Board authorizes the County Mayor to execute a County Deed, in substantially the form attached hereto as Exhibit "A" and made a part hereof.

The foregoing 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:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairman thereupon declared the resolution duly passed and adopted this 21st day of April, 2009. 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.

Debra Herman

EXHIBIT A

COUNTY DEED

THIS DEED, made this day of , 200 by MIAMI-DADE COUNTY, FLORIDA, a Political Subdivision of the State of Florida, party of the first part, whose address is: Stephen P. Clark Center, 111 NW 1 Street Suite 17-202, Miami, Florida 33128-1963, and the Black Archives, History and Research Foundation of South Florida, Inc., party of the second part, whose address is , Miami, Florida.

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of Ten and No/100 Dollars ($10.00) to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged has granted, bargained and sold to the party of the second part, his or her heirs and assigns forever, the following described land lying and being in Miami-Dade County, Florida:

The West 40 feet of Lots 11, 14, 19, 22, 27, 30, 35, 38, 43 and 46 of Block 36 of P.W. White's Resubdivision, recorded in Plat Book B, at Page 34 of the Public Records of Miami-Dade County, Florida, together with all right, title and interest, if any, of Grantor in the East 5 feet of the 10 foot alley adjacent to Lots 11, 14, 19, 22, 27, 30, 35, 38, 43 and 46 of Block 36 of P.W. White's Resubdivision, recorded in Plat Book B, at Page 34 of the Public Records of Miami-Dade County, Florida.

This grant conveys only the interest of the County and its Board of County Commissioners in the property herein described and shall not be deemed to warrant the title or to represent any state of facts concerning the same.

This conveyance is made subject to the restriction that such property shall be utilized solely for the construction and use of capital additions and/or improvements to the Lyric Theater. Failure to comply with this restriction, or use of such property for any other purpose, shall result in the forfeiture of all monetary investments and physical improvements by automatic reverter of the property back to Miami-Dade County.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Mayor of said Board, the day and year aforesaid.

(OFFICIAL SEAL)

ATTEST:

HARVEY RUVIN, CLERK

By: _____

Deputy Clerk

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

By:

Mayor

Approved for legal sufficiency: _____

The foregoing was authorized by Resolution No. approved by the Board of County Commissioners of Miami-Dade County, Florida, on the day of , 200 .