

**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

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This substitute differs from the original in that it conforms the County Deed attached to this resolution, to the deed adopted by the Southeast Overtown/Park West Community Redevelopment Agency, and the deed submitted for approval by the City of Miami Commission. The substitute deed a) clarifies that in the event of a reversion; the ownership rights would be subject to the Court's ruling in the pending lawsuit and b) provides a five-year timeframe for commencement of construction of the Lyric Theater.

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



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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: Substitute  
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 \_\_\_\_\_

Substitute  
Agenda Item No. 13(A)(1)  
4-21-09

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING THE CONVEYANCE OF COUNTY-OWNED PROPERTY LOCATED BETWEEN NW 8<sup>TH</sup> STREET AND NW 9<sup>TH</sup> 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 2<sup>nd</sup> 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 8<sup>th</sup> Street and NW 9<sup>th</sup> 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    |
| Dorin D. Rolle                  | Natacha Seijas     |
| Katy Sorenson                   | Rebeca Sosa        |
| Sen. Javier D. Souto            |                    |

The Chairman thereupon declared the resolution duly passed and adopted this 21<sup>st</sup> 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





This conveyance is made subject to the restriction that the Grantee shall have "commenced construction" within five (5) years of the date hereof and that such property shall be utilized solely for the construction and use of capital additions and/or improvements to the Lyric Theater. The phrase "commenced construction" shall mean that all required construction and development permits have been issued on a complete set of plans, and that actual physical construction work is taking place on the property on a continuing basis. 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, subject to any unresolved claims of ownership by the City of Miami and the Southeast Overtown/Park West Community Redevelopment Agency pending in City of Miami and the Southeast Overtown/Park West Community Redevelopment Agency v. Miami-Dade County, Case No. 07-46851 CA 31, in the Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

**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

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

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mayor

Approved for legal sufficiency: \_\_\_\_\_

The foregoing was authorized by Resolution No. \_\_\_\_\_  
Commissioners of Miami-Dade County, Florida, on the

approved by the Board of County  
day of \_\_\_\_\_, 200 .