



MEMORANDUM

Agenda Item No. 11(A)(1)

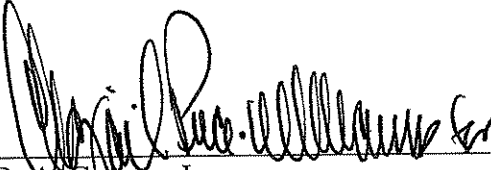
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 6, 2011

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

SUBJECT: Resolution approving amendment to resolution No. R-870-11 related to allocation to Miami Children's Museum, Inc. from Building Better Communities General Obligation Bond Program Project No. 223 – "Not-for-Profit Community Organization Capital Fund"; waiving requirements in standard grant agreement relating to facility admission fees

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



R. A. Cuevas, Jr.
County Attorney

RAC/cp



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: December 6, 2011

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County Attorney

SUBJECT: Agenda Item No. 11(A)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised**
- 6 weeks required between first reading and public hearing**
- 4 weeks notification to municipal officials required prior to public hearing**
- Decreases revenues or increases expenditures without balancing budget**
- Budget required**
- Statement of fiscal impact required**
- Ordinance creating a new board requires detailed County Manager's report for public hearing**
- No committee review**
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve**
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(1)
12-6-11

RESOLUTION NO. _____

RESOLUTION APPROVING AMENDMENT TO RESOLUTION NO. R-870-11 RELATED TO ALLOCATION TO MIAMI CHILDREN'S MUSEUM, INC. FROM BUILDING BETTER COMMUNITIES GENERAL OBLIGATION BOND PROGRAM PROJECT NO. 223 - "NOT-FOR-PROFIT COMMUNITY ORGANIZATION CAPITAL FUND"; WAIVING REQUIREMENTS IN STANDARD GRANT AGREEMENT RELATING TO FACILITY ADMISSION FEES

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

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

WHEREAS, pursuant to Resolution No. R-870-11, this Board authorized the award of \$2,438,000 of BBC GOB Project No. 223 funds to the Miami Children's Museum, Inc. ("Children's Museum") to be disbursed to the Children's Museum only after the recordation of a declaration of restrictive covenants on the property and museum facility by the Children's Museum; and

WHEREAS, the declaration of restrictive covenants was to run with the land and was to require the Children's Museum to continuously operate the facility for the public purpose of providing interactive exhibits with learning activities focused on the themes of arts, culture, community, and communication; public programs and events that sustain and advance our cultural goals and provide opportunities for families to grow together; and

WHEREAS, however, the land underlying the museum facility and the museum facility itself is owned by the City of Miami (“City”) and would therefore require the City to approve and execute the declaration of restrictive covenants; and

WHEREAS, the City leased the land and museum facility to the Miami Sports and Exhibition Authority (“MSEA”), an independent and autonomous instrumentality of the City, who in turn sub-leased the land and museum facility to the Children’s Museum pursuant to a sublease agreement entered into between MSEA and the Children’s Museum in 2001 (“Sublease”); and

WHEREAS, the Sublease is for a fifty (50) year term and requires that the premises be used by the Children’s Museum solely for the development, construction, management and operation of a regional children’s museum and related facilities and improvements, with the primary purpose being to offer participatory educational interactive exhibits and programs that are designed to stimulate understanding through involvement for infants through school-age children, and includes the ability to use the museum facilities for camps, environmental programs, theater, music and dance performances and programming, lectures and workshops for families and educators, arts classes, and multicultural activities; and

WHEREAS, therefore, because the Sublease already requires that the Children’s Museum operate and manage the premises solely for educational and cultural purposes and because the premises are owned by the City, it is not expedient that the County record a restrictive covenant as the risk is minimal that the premises would be utilized for anything other than a charitable and not-for-profit purpose; and

WHEREAS, the Sublease also requires that the Children's Museum provide in-kind services to the City, to include a year-round discount of fifty-percent (50%) off the standard entrance fee to the museum facilities for City residents; and

WHEREAS, however, the County's standard BBC GOB grant agreement, approved by this Board pursuant to Resolution No. R-595-05, requires that recipients of BBC GOB grant funds, "allow all Miami-Dade County residents equal access and use of the project and not discriminate when charging facility admission fees"; and

WHEREAS, the Children's Museum is required, pursuant to the Sublease, to charge discounted admission fees for entrance to the museum facilities for City residents and cannot, therefore, agree to the language in the County's standard BBC GOB grant agreement prohibiting such a practice; and

WHEREAS, this Board recognizes that it is not within the control of the Children's Museum to charge all County residents equal admission fees because the pre-existing Sublease requires it do to otherwise, or else risk being in breach of its agreement with MSEA; and

WHEREAS, this Board therefore desires to amend Resolution No. R-870-11 to delete the condition that a declaration of restrictive covenants be recorded prior to disbursement of BBC GOB funds to the Children's Museum and, with respect to the Children's Museum, to waive the requirement in the standard BBC GOB grant agreement that the grantee "not discriminate when charging facility admission fees,"

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

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

Section 2. This Board hereby amends Section 3 of Resolution No. R-870-11 to remove the requirement that a declaration of restrictive covenants be recorded and to instead read as follows: "This Board hereby approves the disbursement of BBC GOB funds to the Children's Museum after the execution of the BBC GOB Grant Agreement."

Section 3. This Board hereby waives, with respect to the Children's Museum, the requirement in the standard BBC GOB grant agreement that the grantee "not discriminate when charging facility admission fees" for admission into the museum facilities operated by the Children's Museum.

The Prime Sponsor of the foregoing resolution is Commissioner Bruno A. Barreiro. It was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____ and upon being put to a vote, the vote was as follows:

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

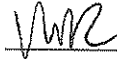
The Chairperson thereupon declared the resolution duly passed and adopted this 6th day of December, 2011. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

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

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.



Monica Rizo