

MEMORANDUM

Agenda Item No. 8(H)(1)

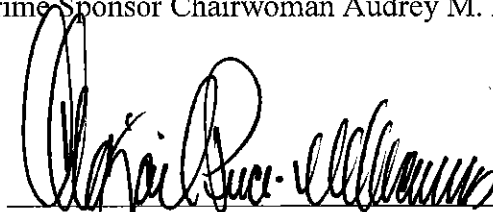
TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving restrictive covenant in favor of the State of Florida, Department of State, Division of Cultural Affairs, for a term of ten years in exchange for grant in the amount of \$500,000.00 to be used by the Museum of Science, Inc. in support of its restoration and construction of the Raptor Rehabilitation Center at the Miami-Dade County-owned park known as Greynolds Park, located at 2270 NE 186 Street, Miami, FL 33160; authorizing the County Mayor to execute same for and on behalf of Miami-Dade County and authorizing recordation in the public records of Miami-Dade County

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Chairwoman Audrey M. Edmonson.



Abigail Price-Williams
County Attorney

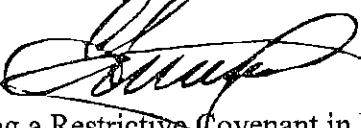
APW/smm

Memorandum



Date: June 4, 2019

To: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Approving a Restrictive Covenant in Favor of the State of Florida Required in Exchange for a \$500,000 Cultural Facilities Grant to the Museum of Science, Inc. for the Renovation and Construction of the Raptor Rehabilitation Center at the Miami-Dade County Park Known as Greynolds Park

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the Restrictive Covenant for a ten-year term in favor of the State of Florida to be placed on the land underlying the Raptor Rehabilitation Center (Center) at the Miami-Dade County-owned Greynolds Park, located at 2270 NE 186 Street, Miami (Park), which Center is to be constructed and operated by the Museum of Science, Inc. (the Museum), in exchange for a \$500,000 grant to the Museum for the renovation and construction of the Center.

Scope

The Center is located at 2270 NE 186 Street, Miami in County Commission District 4, which is represented by Commissioner Sally A. Heyman.

Fiscal Impact/Funding Source

The State of Florida, Department of State, Division of Cultural Affairs (the State) awarded a \$500,000.00 Cultural Facilities Grant to be used by the Museum for renovation and construction of the Center. There is no fiscal impact to the County.

Track Record/Monitor

The Parks, Recreation and Open Spaces Department's (PROS) Assistant Director of Performance Excellence, Christina Salinas Cotter, will manage the restrictive covenant.

Background

On April 9, 2019, the Board passed Resolution No. R-370-19 approving a programming partnership operating and developing agreement between the County and the Museum for use of and educational programming at a former fire station building located at the Park. The Agreement allows the Museum to renovate the former fire station building for the purpose of operating the Center at the Park and to provide environmental education programming to both children and adults related to the Center operations and in collaboration with the Park's existing programming activities.

The Museum applied for and received a \$500,000 Cultural Facilities Grant from the Florida Department of State. The grant funds will be used to renovate and construct the Center. A requirement of the State's Cultural Facilities Grant Program is that a restrictive covenant

Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners
Page 2

(Attachment A) be executed by the Owner (Miami-Dade) and the Grant Recipient (the Museum) as well as recorded with the Clerk of Circuit Court of Miami-Dade County. The restrictive covenant specifically requires both parties to maintain the Center as a cultural facility for at least ten years following the recordation date of the covenant. If the covenant is violated, the Museum must return the entire grant amount or a defined percentage to the State.


Michael Spring
Senior Advisor

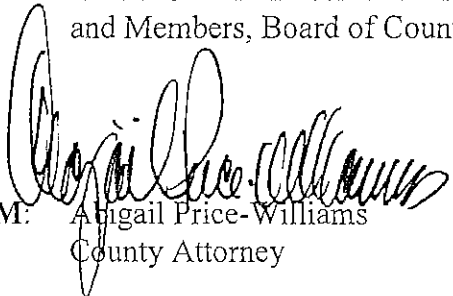


MEMORANDUM

(Revised)

TO: Honorable Chairwoman Audrey M. Edmonson
and Members, Board of County Commissioners

DATE: June 4, 2019

FROM: 
Angail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 8(H)(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
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____) 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. 8(H)(1)
6-4-19

RESOLUTION NO. _____

RESOLUTION APPROVING RESTRICTIVE COVENANT IN FAVOR OF THE STATE OF FLORIDA, DEPARTMENT OF STATE, DIVISION OF CULTURAL AFFAIRS, FOR A TERM OF TEN YEARS IN EXCHANGE FOR GRANT IN THE AMOUNT OF \$500,000.00 TO BE USED BY THE MUSEUM OF SCIENCE, INC. IN SUPPORT OF ITS RESTORATION AND CONSTRUCTION OF THE RAPTOR REHABILITATION CENTER AT THE MIAMI-DADE COUNTY-OWNED PARK KNOWN AS GREYNOLDS PARK, LOCATED AT 2270 NE 186 STREET, MIAMI, FL 33160; AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE SAME FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND AUTHORIZING RECORDATION IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY

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

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

Section 1. This Board approves the restrictive covenant between the County, the Museum of Science, Inc. ("Museum"), and in favor of the State of Florida, Department of State, Division of Cultural Affairs in substantially the form attached as Attachment A ("Agreement") to be placed upon the County-owned land underlying the Raptor Rehabilitation Center ("Center") and that is depicted in Exhibit A to Attachment A, in exchange for \$500,000.00 from a Cultural Facilities grant to the Museum to be used in support of the renovation and construction of the Center.

Section 2. The Board authorizes the County Mayor or Mayor's designee to execute the Agreement on behalf of the County and to exercise all provisions contained therein. The County Mayor or Mayor's designee is further authorized to have the restrictive covenant recorded in the public records of Miami-Dade County. The County Mayor or Mayor's designee shall be required to seek Board approval for any approvals, consents, actions, events or undertakings that would create a financial obligation, cost or expense to the County beyond those specifically identified and set forth in the Agreement.

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:

Audrey M. Edmonson, Chairwoman

Rebeca Sosa, Vice Chairwoman

Esteban L. Bovo, Jr.

Jose "Pepe" Diaz

Eileen Higgins

Joe A. Martinez

Dennis C. Moss

Xavier L. Suarez

Daniella Levine Cava

Sally A. Heyman

Barbara J. Jordan

Jean Monestime

Sen. Javier D. Souto

The Chairperson thereupon declared this resolution duly passed and adopted this 4th day of June, 2019. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the 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.

MRP

Monica Rizo Perez

Attachment A

RESTRICTIVE COVENANT

THIS RESTRICTIVE COVENANT is hereby entered into this _____ day of _____, 20____, by **Miami-Dade County**, hereinafter referred to as the "Owner"; **Museum of Science, Inc.**, hereinafter referred to as the "Grantee;" and the State of Florida, Department of State, Division of Cultural Affairs, hereinafter referred to as the "Division".

WHEREAS, the Owner is the fee simple title holder of the building(s) and the underlying land located at **2270 NE 186 Street, Miami, FL 33160**. A legal description of the subject property is attached as Exhibit A and made a part of this covenant.

WHEREAS, the Grantee and Grantor have entered into a Programming Partnership Operating and Development Agreement for **10 years**. "Facility" is used herein to refer to the building(s) and the associated land that will be used as a "cultural facility," as defined herein.

WHEREAS, the Grantee has been approved to receive a Cultural Facilities Grant in the amount of **\$500,000**, to be administered by the Division and used only for the acquisition, renovation, and construction of the cultural facility in accordance with Section 265.701(1), Florida Statutes.

WHEREAS, the Division has authority under Section 265.701(4), Florida Statutes, to require the recordation of this restrictive covenant to ensure that the facility will be used as "cultural facility," as defined herein, for at least (10) ten years following the execution of the grant award agreement.

NOW THEREFORE, in partial consideration for the Cultural Facilities Grant and in accordance with Section 265.701(4), Florida Statutes, the Parties hereby agree to the following:

1.) This restrictive covenant shall run with the title to the land and the cultural facility, encumber them, and be binding upon the Grantee, the Owner and their successors in interest for ten (10) years following the execution of the grant award agreement.

2.) The grant award shall only be expended for:
Project Title: Batchelor Environmental Center: New Construction (18.c.cf.300.583)

3.) The Parties agree that for the required duration of this covenant, all improvements to the facility and the associated land, funded in whole or part by grant funds shall be owned by the Owner.

4.) The Division has the right to inspect the facility and the associated land at all reasonable times to determine whether the conditions of the grant award agreement and this covenant are being complied with.

5.) The facility shall be maintained as a "cultural facility," defined as a building which shall be used primarily for the programming, production, presentation, exhibition or any combination of the above functions of any of the cultural disciplines, such as: music, dance, theatre, creative writing, literature, painting, sculpture, folks arts, photography, crafts, media arts, and historical and science museums.

6.) This restrictive covenant will be violated if the Grantee, the Owner, or their successors in interest do not use or cease to use the facility as a cultural facility, as defined herein, and as required by Section 265.701(4), F.S., within ten (10) years following the execution of the grant award agreement. If the Grantee violates this restrictive covenant, it shall repay the grant funds to Division pursuant to the amortization schedule set forth below:

- a. If the violation occurs within five (5) years following the execution of the grant award agreement, 100% of the grant amount;
- b. If the violation occurs more than five (5) but less than six (6) years following execution of the grant award agreement, 80% of the grant amount;
- c. If the violation occurs more than six (6) but less than seven (7) years following execution of the grant award agreement, 65% of the grant amount;
- d. If the violation occurs more than seven (7) but less than eight (8) years following execution of the grant award agreement, 50% of the grant amount;
- e. If the violation occurs more than eight (8) but less than nine (9) years following execution of the grant award agreement, 35% of the grant amount; and
- f. If the violation occurs more than nine (9) but less than ten (10) years following execution of the grant award agreement, 20% of the grant amount.


7.) The amount due as a result of Grantee's violation of this restrictive covenant shall be due in full within 90 days of the violation, or some other period of time as agreed upon by the parties.

8.) If the entire amount due under the paragraph (6.) is not repaid by the Grantee within the time allotted, the Parties agree that the Division may obtain a stipulated judgment against the Grantee for the amount due plus interest at the current legal rate, and record it in the public records of the county where the facility is located. The Parties further agree that such a judgment shall be a stipulated judgment by virtue of full execution of this restrictive covenant; that it shall not require further approval of the Grantee to obtain; and that no trial or hearing shall be necessary to make such a stipulated judgment legally effective. The Division shall have the right to enforce the stipulated judgment by resorting to any legal or equitable available remedy including an action for specific performance.

- 9.) As a condition to receipt of the grant funds, the Grantee shall:
- a. Record this covenant in the public records with the Clerk of the Circuit Court of **Miami-Dade** County, Florida;
 - b. Pay all fees associated with its recording; and
 - c. Provide a certified copy of the recorded covenant to the Division and to the Owner.
- 10.) The Parties agree that the Division shall incur no tax liability as a result of this covenant.

IN WITNESS WHEREOF, the Grantee and the Owner hereby affirm that they have read this restrictive covenant; that they understand and agree to its terms; and that they hereby affix their signatures accordingly.

WITNESSES:


 First Witness Signature

Xavier Coltesano
 First Witness Name (print)


 Second Witness Signature

BROOKS WEISBLAT
 Second Witness Name (print)

PARTIES:


 GRANTEE SIGNATURE

George Trevor Powers
 GRANTEE NAME (print)

1101 Biscayne Blvd
 GRANTEE ADDRESS

Miami FL 33132
 City State Zip

The State of Florida County of Miami - Dade

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, that

George T. Powers personally
(Name)

appeared as SVP for Museum of Science/Frost Science
(Position) (Name of Qualifying Entity)

~~known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.~~

Type of Identification Produced _____

Executed and sealed by me at Miami, Florida on 4/2/15

[Handwritten Signature]



[SEAL]

Notary Public in and for
The State of _____
My commission expires: _____

//

First Witness Signature

OWNER SIGNATURE

First Witness Name (print)

OWNER NAME (print)

Second Witness Signature

OWNER ADDRESS

Witness Name (print)

City

State

Zip

The State of Florida County of _____

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, that

_____ personally
(Name)

appeared as _____ for _____
(Position) (Name of Qualifying Entity)

known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

Type of Identification Produced _____

Executed and sealed by me at _____, Florida on _____

Notary Public in and for

The State of _____

My commission expires: _____

[SEAL]

For the Division of Cultural Affairs:

R.A. Gray Building
500 S. Bronough St.
Tallahassee, Florida 32303

Sandy Shaughnessy, Director

First Witness Signature

First Witness Name (Print)

Second Witness Signature

Second Witness Name (Print)

The State of Florida County of _____

I certify that on this date before me, an officer duly authorized in the state and county named above to take acknowledgments, that

_____ personally
(Name)

appeared as _____ for the Florida Department of State, Division of
(Position)

Cultural Affairs known to me to be or proved to my satisfaction that he/she is the person described in and who executed the foregoing instrument.

Type of Identification Produced _____

Executed and sealed by me at _____, Florida on _____.

Notary Public In and for

The State of _____

My Commission expires: _____

[SEAL]

This document was prepared by the following individual:

Teri R. Abstein
R. A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399-0250

Exhibit A

LEGAL DESCRIPTION:

A PORTION OF THE SOUTHEAST ONE-QUARTER (SE1/4) OF SECTION 4, TOWNSHIP 52 SOUTH, RANGE 42 EAST, MIAMI/DADE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE NORTHEAST ONE-QUARTER (NE1/4) OF THE SOUTHEAST ONE-QUARTER (SE1/4) OF THE SOUTHWEST ONE-QUARTER (SW1/4) OF SAID SECTION 4;

THENCE NORTH $00^{\circ}15'49''$ EAST ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE1/4) OF SAID SECTION 4, A DISTANCE OF 264.12 FEET;

THENCE SOUTH $89^{\circ}50'18''$ EAST ALONG THE SOUTH RIGHT OF WAY LINE OF NE MIAMI GARDENS DRIVE (NE 186TH STREET), A DISTANCE OF 385.19 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUE SOUTH $89^{\circ}50'18''$ EAST ALONG SAID SOUTH RIGHT OF WAY LINE, A DISTANCE OF 115.97 FEET TO THE WATERS OF OLETA RIVER;

THENCE SOUTHERLY ALONG THE WATERS OF SAID OLETA RIVER, A DISTANCE OF 258 FEET PLUS OR MINUS;

THENCE SOUTH $89^{\circ}53'43''$ WEST, A DISTANCE OF 220.61 FEET;

THENCE NORTH $00^{\circ}06'18''$ WEST, A DISTANCE OF 222.42 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN MIAMI/DADE COUNTY, FLORIDA; CONTAINING 35,362 SQUARE FEET OR 0.8118 ACRES, MORE OR LESS.

