

MEMORANDUM

Agenda Item No. 14(A)(4)

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

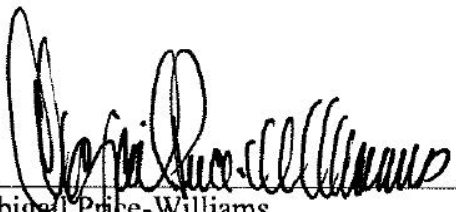
DATE: July 21, 2020

FROM: Abigail Price-Williams
County Attorney

SUBJECT: Resolution approving a restrictive covenant in favor of the State of Florida, Fish and Wildlife Conservation Commission, for a term of five years in exchange for an appropriation in the amount of \$100,000.00 to be used by the Zoo Miami Foundation in support of Zoo Miami's Animal Hospital at the Miami-Dade County-owned park known as Zoo Miami, located at 12400 SW 152 Street, Miami, FL 33177; and further authorizing the County Mayor to execute the restrictive covenant for and on behalf of Miami-Dade County and authorizing its recordation in the public records of Miami-Dade County

Resolution No. R-760-20

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Commissioner Dennis C. Moss.


Abigail Price-Williams
County Attorney

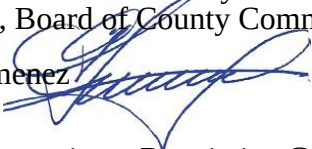
APW/smm

Memorandum



Date: July 21, 2020

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 \$100,000 Appropriation to the Zoo Miami
Foundation for the Renovation/Expansion of the Animal Hospital at the
Miami-Dade County Park Known as Zoo Miami.

Recommendation

It is recommended that the Board of County Commissioners (Board) approve the Restrictive Covenant for a five-year term in favor of the State of Florida to be placed on the land underlying the animal hospital at the Miami-Dade County-owned Zoo Miami (Zoo Miami), located at 12400 SW 152 Street, Miami, which is to be renovated and operated by Zoo Miami, in exchange for a \$100,000 appropriation to Zoo Miami Foundation (Foundation) for the purchase of equipment in support of the hospital renovation.

Scope

The animal hospital is located within Zoo Miami at 12400 SW 152 Street, Miami, in County Commission District 9, which is represented by Commissioner Dennis C. Moss.

Fiscal Impact/Funding Source

The State of Florida, Fish and Wildlife Conservation Commission (the State) made a direct appropriation of \$100,000 to the Foundation for purchase of equipment for the Hospital. There will be no fiscal impact to the County.

Track Record/Monitor

The Parks, Recreation and Open Spaces Department's (PROS) Zoo Miami Business Manager Eric Kaminsky will manage the restrictive covenant.

Background

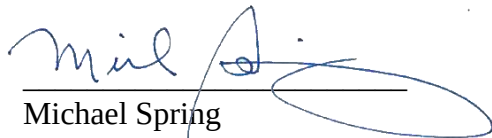
The amended and restated Miami-Dade Zoological Park and Gardens Operating Agreement states that the design and construction of capital improvements shall be carried out jointly by the Foundation and the County. Further, either party may contract for design and construction services and perform related contract management functions, subject to applicable legal requirements.

The Foundation received a \$100,000 direct appropriation from the Florida Fish and Wildlife Conservation Commission. The funds will be used for purchase of equipment in support of the renovation and expansion of the animal hospital. A requirement of the State's appropriation is that a restrictive covenant (Attachment A) be executed by the Owner (Miami-Dade County) and the Recipient (the Foundation) as well as be recorded with the Clerk of Circuit Court of Miami-Dade County. The restrictive covenant specifically requires both parties to maintain

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

the Hospital for at least five years following the recordation date of the covenant. If the covenant is violated, the Foundation must return the entire amount or a defined percentage to the State.

Attachment



Michael Spring
Senior Advisor

ATTACHMENT A

RESTRICTIVE COVENANT

(Grantee leases land and building from Govt. Entity.)

THIS RESTRICTIVE COVENANT is hereby entered into this 9th day of June, 2020, by Miami-Dade County, hereinafter referred to as the "Owner"; Zoo Miami Foundation, Inc., hereinafter referred to as the "Grantee;" and the State of Florida, Fish and Wildlife Conservation Commission, hereinafter referred to as the "Commission".

WHEREAS, the Owner is the fee simple title holder of the building(s) and the underlying land located at 12400 SW 152 Street, Miami, Florida 33177-1499. A legal description of the subject property is attached as Exhibit A and made a part of this covenant.

WHEREAS, the Grantee has been provided a building to operate by the Owner. "Facility" is used herein to refer to the building(s) and the associated land that will be used as a facility, as defined herein.

WHEREAS, the Grantee has been approved to receive a Grant in the amount of \$100,000, to be administered by the Commission and used only for the construction, renovation, and/or of the Facility.

WHEREAS, the Commission has authority to require the recordation of this restrictive covenant to ensure that the Facility will be used as "facility," as defined herein, for at least (5) five years from the completion of improvements.

NOW THEREFORE, in partial consideration for the Grant, the Parties hereby agree to the following:

- 1) This restrictive covenant shall run with the title to the land and the Facility, encumber them, and be binding upon the Grantee, the Owner and their successors in interest for five (5) years from the completion of improvements.
- 2) The grant award shall only be expended for

Project Title: Zoo Miami Expansion/Renovation/Construction of Hospital

- 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 in part by grant funds shall be owned by the Owner.
- 4) The Commission 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 facility, defined as a building which shall be used primarily for an animal hospital for medical care of animals.

- 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 within five (5) years from the completion of improvements. If the Grantee or the Owner violates this restrictive covenant, the violating party shall repay the grant funds to Commission pursuant to the schedule set forth below:

If the violation occurs within five (5) years from the completion of improvements, 100% of the grant amount will be repaid.

- 7) The amount due as a result of the Grantee's or the Owner'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 violating party within the time allotted, the Parties agree that the Commission may obtain a stipulated judgment against the violating party 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 violating party to obtain; and that no trial or hearing shall be necessary to make such a stipulated judgment legally effective. The Commission 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 Commission and to the Owner.
- 10) The Parties agree that the Commission 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.

[Signature pages to follow]

FOR ZOO MIAMI FOUNDATION INC:

[Signature]
First Witness Signature

[Signature]
GRANTEE SIGNATURE

Corey Davis
First Witness Name (print)

William W. Moore
GRANTEE NAME (print)

[Signature]
Second Witness Signature

12400 SW 152 Street
GRANTEE ADDRESS

Carlos Simoes
Second Witness Name (print)

Miami FL 33177
City State Zip

The State of Florida County of Florida

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

William W. Moore personally, appeared as

President and CEO for Zoo Miami Foundation
(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 forgoing instrument.

Type of Identification Produced Personally Known

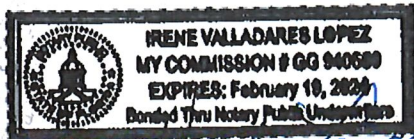
Executed and sealed by me at Zoo Miami 12400 SW 152 St. Florida on June 9, 2020

Notary Public in and for

The State of Florida

My commission expires: February 19, 2024

[SEAL]



FOR THE FISH AND WILDLIFE CONSERVATION COMMISSION:

Gil McRae, 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

appeared as _____ for the Florida Fish and Wildlife Conservation Commission 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 MIAMI-DADE COUNTY:

First Witness Signature

OWNER SIGNATURE _____

First Witness Name (print)

OWNER NAME (print)

Second Witness Signature

OWNER ADDRESS

Second 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, 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 forgoing instrument.

Type of Identification Produced _____

Executed and sealed by me at _____, Florida on _____

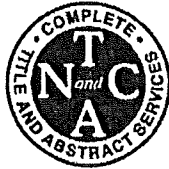
Notary Public in and for

The State of _____

My commission expires: _____

[SEAL]

EXHIBIT A



**NATIONAL TITLE AND
ABSTRACT COMPANY**

ABSTRACTS • TITLE INSURANCE • CLOSING SERVICES

TITLE SEARCH REPORT

Search Number: 19-75171
Street Address: 12400 SW 152 St.
Parcel: Miami Zoo
Project: 30-5936-000-0050 PROS
County: Miami-Dade County

THE UNDERSIGNED does hereby certify that a search has been made of the Official Records of Miami-Dade County, State of Florida for: **Miami-Dade County, a political subdivision of the State of Florida**

As to the following described property to wit:

A PORTION OF: BEG CENTER OF SEC 35 TH N2655.01FT S 87 DEG W 943.88FT N 02 DEG W 35FT N 03 DEG W 1291.75FT N 85 DEG E 3904.77FT N 31 DEG E 750FT N 19 DEG E 876.94FT N 16 DEG E 1097.39FT N 87 DEG E 144.38FT N 02 DEG W 1380.03FT N 87 DEG E 220.01FT S 02 DEG E 1380.03FT N 87 DEG E 970FT S 02 DEG E 2705.53FT S 87 DEG W 400FTS 02 DEG E 1200FT N 87 DEG E 365FT S 02 DEG E 35FT S 01 DEG E 2389.69FT S 90 DEG W 531.73FT S 64 DEG W 500FT S 36 DEG W 1000.75FT S 30 DEG W 500FT S 50 DEG W 500FT S 64 DEG W 795.97FT N 84 DEG W 500FT N 84 DEG W 500FT N 71 DEG W 500FT N 56 DEG W 500FT N 40 DEG W 1498.83FT TO POB AKA METRO ZOO & LESS PORT OF SEC 26 DESC AS BEG N 35 DEG E 52.65FT & 680FTE OF SW COR OF SW 1/4 OF SEC 26 CONT N 87 DEG E 1045.05FT N 03 DEG W 1252.39FT N 35 DEG E 1472.45FT S 02 DEG E 59.82FT S 35 DEG W 1280.83FT SWLY AD 221.82FT S 03 DEG E 920.02FT S 19 DEG E 76.96FT S 47 DEG E 53.81FT S 19 DEG E 3.83FT S 72 DEG W 136.59FT S 88 DEG W 1041.96FT N 02 DEG W 22.48FT TO POB & LESS PORT IN SEC 25 DESC AS COMM IN NW COR OF NE 1/4 OF SEC 26 TH S 01 DEG E 55FT S 88 DEG W 59.32FT S 38 DEG W 686.27FT SWLY & SELY AD 986.31FT S 51 DEG E 79.24FT S 58 DEG E 1957.17FT S 31 DEG W 260.87FT S 58 DEG W 2009.93FT TO POB TH N 31 DEG E 750FT N 19 DEG E 548.93FT N 19 DEG E 326.90FT N 16 DEG E 1097.40FT N 87 DEG E 205.62FT S 00 DEG E 67.33FT S 87 DEG W 71.93FT NWLY & SWLY AD 148.03FT S 16 DEG W 981.55FT S 19 DEG W 326.90FT S 19 DEG W 543.68FT S 31 DEG W 755.14FT N 58 DEG W 67.8FT TO POB, SEC 25 26 & 35 36 55 39, MIAMI-DADE COUNTY, FL

Note: Legal description should not be used, a survey must be obtained in order to determine the complete and accurate legal description.

LAST RECORD TITLE HOLDER: Miami-Dade County by virtue of Quit Claim Deed recorded October 7, 1974 in Official Records Book 8799, Page 1580 and Corrective Quit Claim Deed recorded November 20, 1975 in Official Records Book 9159, Page 926 and the United States of America, acting by and through the Secretary of the Interior Southeast Regional Director National Park Service Atlanta, GA, by virtue of County Quit Claim Deeds recorded in Official Records Book 28164, Pages 2869 & 2875.

CHAIN OF TITLE: See pages 2 of 5

MORTGAGES AND OTHER ENCUMBRANCES: See page 3 of 5

COVENANTS, RESTRICTIONS, EASEMENTS AND RELATED DOCUMENTS: See pages 3 & 4 of 5

RIGHT-OF-WAY: See page 4 of 5

FOLIO NUMBER: 30-5936-000-0050

CURRENT TAXES: No Taxes Due - Exempt

DELINQUENT: YES: _____

NO: X

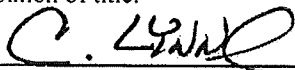
Tax Certificate No: NONE

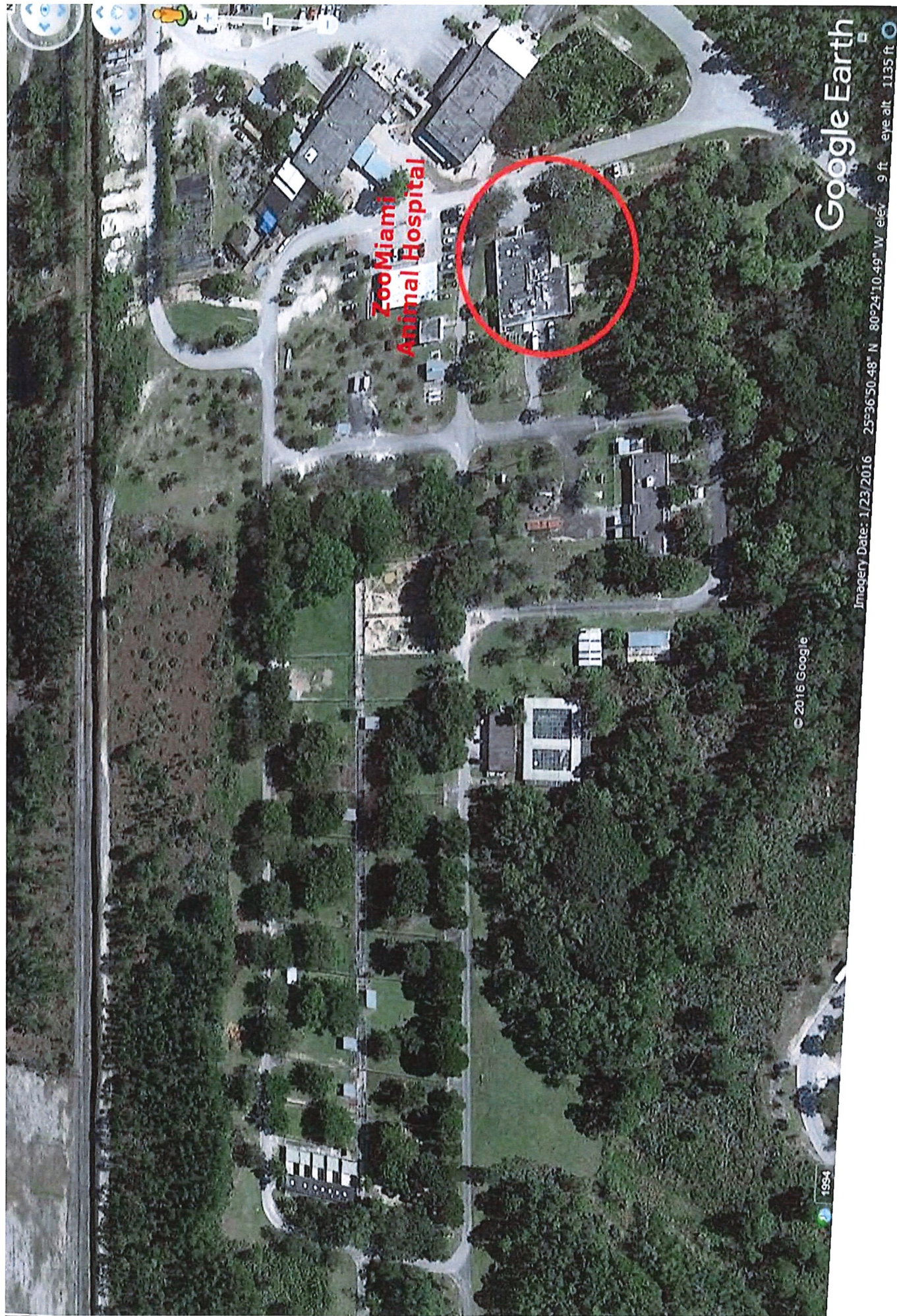
This report consists of Encumbrances, Name Search Data, Conveyance history, etc. The Omission of any section indicates, **NOTHING FOUND**, for that section ALL "subject to" Mortgages have been satisfied by statute or of record unless specifically shown.

The foregoing title search report reflects comprehensive search of the Official Records of Miami-Dade County, Florida showing the present ownership of the real property described above together with all outstanding encumbrances and potential encumbrances affecting said lands. This report is not to be constructed as an opinion of title.

CERTIFIED from July 22, 1942 through May 22, 2019 at 2:30 p.m.

BY:


Cynthia Lynne- Examiner



Google Earth

Imagery Date: 1/23/2016 25°36'50.48" N 80°24'10.49" W elev 9 ft eye alt 1135 ft

© 2016 Google

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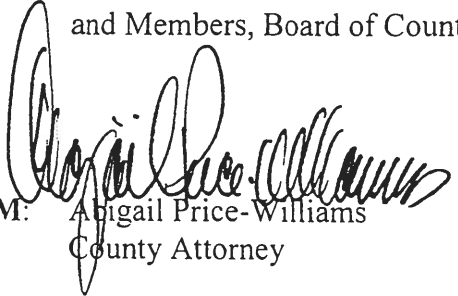


MEMORANDUM

(Revised)

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

DATE: July 21, 2020

FROM: 
Abigail Price-Williams
County Attorney

SUBJECT: Agenda Item No. 14(A)(4)

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. 14(A)(4)
7-21-20

RESOLUTION NO. R-760-20

RESOLUTION APPROVING A RESTRICTIVE COVENANT IN FAVOR OF THE STATE OF FLORIDA, FISH AND WILDLIFE CONSERVATION COMMISSION, FOR A TERM OF FIVE YEARS IN EXCHANGE FOR AN APPROPRIATION IN THE AMOUNT OF \$100,000.00 TO BE USED BY THE ZOO MIAMI FOUNDATION IN SUPPORT OF ZOO MIAMI'S ANIMAL HOSPITAL AT THE MIAMI-DADE COUNTY-OWNED PARK KNOWN AS ZOO MIAMI, LOCATED AT 12400 SW 152 STREET, MIAMI, FL 33177; AND FURTHER AUTHORIZING THE COUNTY MAYOR OR MAYOR'S DESIGNEE TO EXECUTE THE RESTRICTIVE COVENANT FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND AUTHORIZING ITS 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 Zoo Miami Foundation, and in favor of the State of Florida, Fish and Wildlife Conservation Commission in substantially the form attached to the Mayor's Memorandum as Attachment "A" to be placed upon the County-owned land underlying the Animal Hospital and that is depicted in Exhibit A to Attachment A, in exchange for \$100,000.00 from a direct appropriation to the Foundation to be used for the purchase of equipment in support of the expansion/renovation/construction of the Hospital.

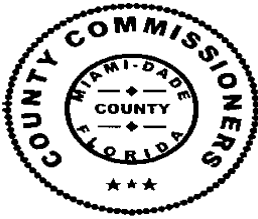
Section 2. The Board authorizes the County Mayor or Mayor’s designee to execute the restrictive covenant on behalf of the County and to exercise all provisions contained therein. The County Mayor or Mayor’s designee shall be required to seek Board approval for any approvals, consents, actions, events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

Section 3. This Board, pursuant to Resolution No. R-974-09, (a) directs the County Mayor or Mayor’s designee to record the instrument of conveyance accepted herein in the Public Records of Miami-Dade County, Florida, and to provide a recorded copy of the instrument to the Clerk of the Board within thirty (30) days of execution of said instrument; and (b) directs the Clerk of the Board to attach and permanently store a recorded copy of said instrument together with this resolution.

The foregoing resolution was offered by Commissioner **Sally A. Heyman** , who moved its adoption. The motion was seconded by Commissioner **Dennis C. Moss** and upon being put to a vote, the vote was as follows:

	Audrey M. Edmonson, Chairwoman	aye
	Rebeca Sosa, Vice Chairwoman	absent
Esteban L. Bovo, Jr.	absent	Daniella Levine Cava aye
Jose “Pepe” Diaz	aye	Sally A. Heyman aye
Eileen Higgins	aye	Barbara J. Jordan aye
Joe A. Martinez	absent	Jean Monestime aye
Dennis C. Moss	aye	Sen. Javier D. Souto aye
Xavier L. Suarez	absent	

The Chairperson thereupon declared the resolution duly passed and adopted this 21st day of July, 2020. 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: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

MRP

Monica Rizo Perez