

MEMORANDUM

Agenda Item No. 8(H)(1)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 2, 2021

FROM: Geri Bonzon-Keenan
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 \$600,000.00 to be used by the Friends of the Military Museum of South Florida (the "Grantee", d/b/a the "Miami Military Museum and Memorial") in support of the acquisition, renovation, and construction of the cultural facility known as the Miami Military Museum and Memorial (the "Military Museum"), on County-owned land located at Gold Coast Railroad Museum Park, 12450 SW 152 Street, Miami, Florida 33176; authorizing the County Mayor to execute same for and on behalf of Miami-Dade County and authorizing its recordation in the public records of Miami-Dade County

Resolution No. R-160-21

The accompanying resolution was prepared by the Parks, Recreation and Open Spaces Department and placed on the agenda at the request of Prime Sponsor Chairman Jose "Pepe" Diaz.



Geri Bonzon-Keenan
County Attorney

GBK/uw

Memorandum



Date: March 2, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor *Daniella Levine Cava*

Subject: Restrictive Covenant from the State of Florida granting \$600,000 in support of the acquisition, construction and renovation of the Miami Military Museum and Memorial

Recommendation

It is recommended that the Board of County Commissioners (the "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 Miami Military Museum and Memorial (the "Military Museum") at the Miami-Dade County-owned Gold Coast Railroad Museum Park, located at 12450 SW 152 Street, Miami, Florida 33176, in exchange for a \$600,000 grant to the Friends of the Military Museum of South Florida (the "Grantee") for the acquisition, renovation and construction of the Military Museum.

Scope

The Military Museum is located at 12450 SW 152 Street, Miami, Florida 33176 in County Commission District 9, which is represented by Commissioner Kionne L. McGhee.

Fiscal Impact/Funding Source

The State of Florida, Department of State, Division of Cultural Affairs (the "State") awarded a \$600,000 Cultural Facilities Grant to be used by the Grantee for acquisition, renovation and construction of the Military Museum. 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.

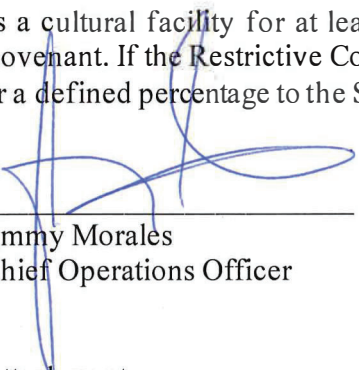
Background

On February 3, 2015, the Board passed Resolution No. R-158-15 approving an Amended and Restated License Agreement (the "Agreement") between Miami-Dade County and the Friends of the Military Museum of South Florida at NAS Richmond, Inc. (d/b/a "Miami Military Museum and Memorial") for the use, operation, maintenance and improvement of the Military Museum. The Agreement allows the Grantee to develop, operate and maintain the Military Museum with associated exhibits to enhance the public park and recreational use of the property.

The Grantee applied for and received a \$600,000 Cultural Facilities Grant from the State. The grant funds will be used to renovate the Museum. A requirement of the State's Cultural Facilities Grant Program is that a Restrictive Covenant (Attachment A) be executed by Miami-Dade County (as "Land Owner") and the Grantee as well as recorded with the Clerk of Circuit Court of Miami-Dade County. The restrictive covenant specifically requires both parties to maintain the Museum

Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners
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as a cultural facility for at least ten (10) years following the recordation date of the Restrictive Covenant. If the Restrictive Covenant is violated, the Grantee must return the entire grant amount or a defined percentage to the State.



Jimmy Morales
Chief Operations Officer

Attachment



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: March 2, 2021

FROM: 
Gen Bonzon-Keenan
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)
3-2-21

RESOLUTION NO. R-160-21

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 \$600,000.00 TO BE USED BY THE FRIENDS OF THE MILITARY MUSEUM OF SOUTH FLORIDA (THE “GRANTEE”, D/B/A THE “MIAMI MILITARY MUSEUM AND MEMORIAL”) IN SUPPORT OF THE ACQUISITION, RENOVATION, AND CONSTRUCTION OF THE CULTURAL FACILITY KNOWN AS THE MIAMI MILITARY MUSEUM AND MEMORIAL (THE “MILITARY MUSEUM”), ON COUNTY-OWNED LAND LOCATED AT GOLD COAST RAILROAD MUSEUM PARK, 12450 SW 152 STREET, MIAMI, FLORIDA 33176; AUTHORIZING THE COUNTY MAYOR OR MAYOR’S DESIGNEE TO EXECUTE SAME 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:

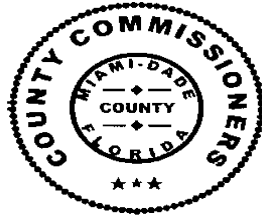
Section 1. This Board approves the Restrictive Covenant between Miami-Dade County (the “Land Owner”), the Grantee, and in favor of the State of Florida, Department of State, Division of Cultural Affairs in substantially the form attached to the Mayor’s Memorandum as Attachment “A” to be placed upon the County-owned land underlying the Military Museum and that is depicted in Exhibit A to Attachment A, in exchange for \$600,000.00 from a Cultural Facilities grant to the Grantee to be used in support of the acquisition, renovation and construction of the Military Museum.

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 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 Restrictive Covenant.

The foregoing resolution was offered by Commissioner **Joe A. Martinez** , who moved its adoption. The motion was seconded by Commissioner **Danielle Cohen Higgins** and upon being put to a vote, the vote was as follows:

Jose “Pepe” Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	aye
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 2nd day of March, 2021. 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

Melissa Adames

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

mjs

Melanie J. Spencer

ATTACHMENT A

RESTRICTIVE COVENANT

(Grantee owns building, leases land.)

THIS RESTRICTIVE COVENANT is hereby entered into this 8TH day of OCTOBER, 2020, by Miami-Dade County, Florida, hereinafter referred to as "the Land Owner"; Friends of the Military Museum of South Florida, 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 Land Owner is the fee simple title holder of the land located at Gold Coast Railroad Museum Park, 12450 SW 152nd Street, Miami, Florida 33176. A legal description of the subject property is attached as Exhibit A and is made a part of this covenant.

WHEREAS, the Grantee is the lessee of the land for 30 Years beginning January 24, 2012, but owns or will own the building(s) used or to be used as a cultural facility. "Facility" refers herein to the building(s) and associated land to be used as the "cultural facility," as defined herein.

WHEREAS, the Grantee has been approved to receive a Cultural Facilities Grant in the amount of \$600,000, to be administered by the Division and used only for the acquisition, renovation, and construction of the cultural facility as required by 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 ten (10) years following 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 agree to the following:

- 1.) This restrictive covenant shall run with the title to the facility and the associated land, shall encumber them, and shall be binding upon the Grantee, the Land Owner, and their successors in interest for the period of (10) ten years following execution of the grant award agreement.
- 2.) The grant award shall only be expended for: Project Title: Miami Military Museum and Memorial 2021 Cultural Facilities Appropriation - Line Item (21.c.cf.900.834)

3.) For the required duration of this covenant, the Parties agree that the Grantee shall own all improvements to the facility and to the associated land, funded in whole or in part by grant funds

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 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 Land Owner, or their successors in interest do not use or cease to use the facility as a cultural facility, as defined herein, within ten (10) years following execution of the grant award agreement as required by Section 265.701(4), Florida Statutes. If the Grantee violates this restrictive covenant, it shall repay the grant funds to the 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.) Any amount due from the Grantee as a result of a 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 property 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 or the Land Owner to obtain; and that no trial or hearing shall be necessary to make such a stipulated judgment legally effective. Such a stipulated judgment, when recorded, shall be considered a valid lien upon the Grantee's interest in the facility and the leased land, including improvements to the facility and the land, funded in whole or in part by grant funds.

- 9.) As a condition to receipt of grant funds, the Grantee shall:
- Record this covenant in the public records with the Clerk of the Circuit Court of Miami-Dade County, Florida;
 - Pay all fees associated with its recording; and
 - Provide certified copy of the recorded covenant to the Division and to the Land 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 Land 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:

Anthony D. Atwood
GRANTEE SIGNATURE

[Signature]
First Witness Signature

[Signature]
Second Witness Signature

MILITARY Museum of S. FLA
12460 SW 152 STREET
GRANTEE ADDRESS

Miami, FL 33177
City State Zip

PARTIES:

ANTHONY D. Atwood
GRANTEE NAME (print)

Jimmy R Ness
First Witness Name (print)

Steven Howell
Second Witness Name (print)

The State of Florida
County of Miami Dade

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this day of, October, by

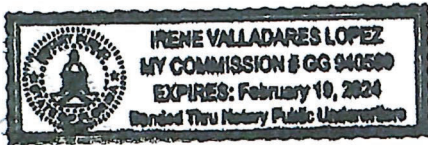
Anthony D. Atwood personally
(Name)

appeared as Executive Director for Military Museum
(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 Zoo Miami, Florida
on October 8, 2020.



[SEAL]

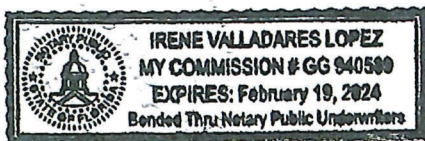
Notary Public in and for

The State of Florida

My commission expires: 2/19, 2024

Type of Identification Produced Personally Known

Executed and sealed by me at Miami, Florida
on October 8, 2020.



[SEAL]

Notary Public in and for

The State of Florida

My commission expires: 2/19, 2024

LAND OWNER SIGNATURE
(Print)

LAND OWNER NAME

First Witness Signature
(print)

First Witness Name

Second Witness Signature

Second Witness Name (print)

LAND OWNER ADDRESS

City State Zip

The State of Florida

County of _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this day of, _____, by

_____ 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 _____

[SEAL]

My commission expires: _____

For the Division of Cultural Affairs:

Sandy Shaughnessy Division Director

R.A. Gray Building
500 S. Bronough Street
Tallahassee, Florida 32399

First Witness Signature

First Witness Name (Print)

Second Witness Signature

Second Witness Name (print)

The State of Florida County of _____

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online notarization, this day of, _____, by

_____ 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 _____

[SEAL]

My commission expires: _____

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

GOLD COAST RAILROAD PROPERTY,
GOLD COAST RAILROAD MUSEUM PARK GENERAL PLAN, AND
MIAMI MILITARY MUSEUM AND MEMORIAL LICENSE AREA LEGAL DESCRIPTION

GOLD COAST RAILROAD PROPERTY



[illegible]

MIAMI MILITARY MUSEUM AND MEMORIAL LICENSE AREA LEGAL DESCRIPTION

LEGAL DESCRIPTION-

A PORTION OF LAND LYING IN THE NORTHWEST 1/4, NORTHEAST 1/4, AND SOUTHEAST 1/4, OF SECTION 26, AND ON THE SOUTHWEST OF 1/4 OF SECTION 25, TOWNSHIP 55 SOUTH, RANGE 39 EAST, MIAMI DADE COUNTY FLORIDA MORE particularly described as follows:

COMMENCE AT THE NORTHWEST CORNER OF THE NORTHEAST 1/4, CORNER OF SECTION 26, TOWNSHIP 55 SOUTH, RANGE 39 EAST, MIAMI DADE COUNTY, FLORIDA; THENCE S01° 44'01"E, ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 26, FOR A DISTANCE 35.00 FEET; THENCE S 88°05'03"W, ALONG A LINE PARALLEL WITH AND 35.00 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLE TO THE NORTH LINE OF THE NORTHWEST 1/4 OF SAID SECTION 26, FOR A DISTANCE OF 42.17 FEET; THENCE S38°47'18"W; ALONG THE SOUTHEASTERLY RIGHT OF WAY LINE OF CSX TRANSPORTATION, INC., FOR A DISTANCE OF 712.44 FEET TO A NON TANGENT POINT OF A CIRCULAR CURVE TO THE LEFT HAVING A BEARING OF S64°27'05"E TO THE RADIAL POINT; THENCE SOUTHWESTERLY, AND SOUTHEASTERLY, ALONG A CIRCULAR CURVE TO THE LEFT, HAVING A RADIUS OF 713.10 FEET, AND A CENTRAL ANGLE OF 77°17'46", FOR AN ARC DISTANCE OF 986.31 FEET TO A POINT OF TANGENCY; THENCE S51°44'51"E, FOR A DISTANCE OF 79.24 FEET; THENCE S58°51'18"E, FOR A DISTANCE OF 687.82 TO THE POINT OF BEGINNING OF THE HEREINAFTER DESCRIBED PARCEL OF LAND; THENCE CONTINUE S58°51'18"E FOR A DISTANCE OF 1229.35 FEET TO A POINT HEREINAFTER CALLED POINT "E"; THENCE CONTINUE S58°51'18"E, FOR A DISTANCE OF 40.00 FEET (THE LAST FIVE COURSES BEING ALONG THE NORTHWESTERLY RIGHT OF WAY LINE OF THE CSX TRANSPORTATION, INC., SPUR LINE); THENCE S31°08'07"W, FOR A DISTANCE OF 260.87 FEET; THENCE S58°51'08"E, FOR A DISTANCE OF 2,009.93; THENCE S58°39'01"W, FOR A DISTANCE OF 1,366.98 FEET; THENCE N58°55'54"W, FOR A DISTANCE OF 906.55 FEET; THENCE N28°48'50"W, FOR A DISTANCE OF 492.59 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CIRCULAR CURVE TO THE RIGHT HAVING A RADIUS OF 771.10 FEET, AND A CENTRAL ANGLE OF 24°32'45", FOR AN ARC DISTANCE OF 330.34 FEET TO A POINT OF TANGENCY; THENCE N04°16'05"W, FOR A DISTANCE OF 290.73 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CIRCULAR CURVE TO THE LEFT HAVING A RADIUS OF 741.10 FEET AND A CENTRAL ANGLE OF 40°24'46", FOR AN ARC DISTANCE OF 522.73 FEET TO A POINT OF TANGENCY; THENCE N31°08'42"E, FOR A DISTANCE OF 62.56 FEET TO THE POINT OF BEGINNING, LYING AND BEING IN MIAMI DADE COUNTY, FLORIDA.