



MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
December 14, 2011

Mayor Matti Herrera Bower
Vice-Mayor Deede Weithorn
Commissioner Jorge R. Exposito
Commissioner Michael Góngora
Commissioner Jerry Libbin
Commissioner Edward L. Tobin
Commissioner Jonah Wolfson

City Manager Jorge M. Gonzalez
City Attorney Jose Smith
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

C7 - Resolutions

- C7B A Resolution Retroactively Approving And Authorizing The First Year Renewal Option Of The Professional Services Agreements Between The City Of Miami Beach, Florida And TCBA Watson Rice LLP; RGL Forensics; And Marcum Rachlin; For The Audits Of Resort Taxes And For Other Internal Audits As Needed, Dated October 22, 2010; Further Amending Such Agreements To Allow The City Manager To Exercise The Remaining Future Renewal(s) Under The Agreements; At His Sole Option And Discretion.
(Budget & Performance Improvement)
(Resolution)

C7 - Resolutions (Continued)

- C7C A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Pursuant To Request For Proposals (RFP) No. 03-11/12, For Community Satisfaction Survey Services; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Proposer, Kerr & Downs Research; And Should The Administration Not Be Successful In Negotiating An Agreement With The Top-Ranked Proposer, Authorizing Negotiations With The Second-Ranked Proposer, Etc Institute; Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon Conclusion Of Successful Negotiations By The Administration.
(Budget & Performance Improvement/Procurement)
(Memorandum & Resolution)
- C7G A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Firms, Pursuant To Request For Qualifications (RFQ) No. 04-11/12, For A Design Criteria Professional To Prepare The Design Criteria Package For The Sunset Islands 3 And 4 Neighborhood Right-Of-Way Improvement Project, Which Is Intended To Be A Design-Build Contract; And To Serve As The City's Representative During The Selection Of The Design-Build Firm For The Project, Concerning The Evaluation Of The Responses Submitted By The Design-Build Firms; Review And Approve For Compliance Of The Detailed Working Drawings For The Project; And For Evaluation Of The Compliance Of The Project Construction With The Design Criteria Package; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Proposer, Corzo, Castella, Carballo, Thompson, Salman, PA (C3TS); And Should The Administration Not Be Successful In Negotiating An Agreement With The Top-Ranked Proposer, Authorizing Negotiations With The Second-Ranked Proposer, Calvin, Giordano, And Associates, Inc; And Should The Administration Not Be Successful In Negotiating An Agreement With The Second-Ranked Proposer, Authorizing Negotiations With The Third-Ranked Proposer, Atkins, Inc.
(Capital Improvement Projects/Procurement)
(Resolution)
- C7N Temporary Removal Of Parking Spaces
A Resolution Setting A First And Only Public Hearing Of A Proposed Ordinance That Would Consider Amending Section 82-384, "Permitted Sidewalk Café Frontage; Requests For Expansion," To Permit Sidewalk Cafes To Extend Into A Loading Zone Fronting A Restaurant.
(Planning Department)
(Resolution)
- C7R A Resolution Setting A Public Hearing For The January 11, 2012 City Commission Meeting, To Consider Granting An After-The-Fact Revocable Permit To ASR Berwick Family LTD. Partners, As Owner Of The Commercial Property Located At 335 W. 47th Street, To Retain A/C Units, Utility Room, And Trash Enclosure, Currently Placed Within The Public City Right Of Way On West 47th Court.
(Public Works)
(Resolution)
- C7S A Resolution Adopting And Appropriating The First Amendment To The Police Confiscation Trust Fund Budget For Fiscal Year 2011/2012 In The Amount Of \$41,000, For The Appropriation And Expenditure, Which Shall Be Funded From The Proceeds Of State Confiscated Funds.
(Police Department)
(Exhibit "A" - Settlement Agreement & Revised Certification)

R5 - Ordinances

- R5E An Ordinance Amending Chapter 110 Of The City Code, Entitled "Utilities," By Amending Article IV, Entitled "Fees, Charges, Rates And Billing Procedure," By Amending Division 3, Entitled "Billing Procedure," By Amending Section 110-191, Entitled "Payment Of Bills," By Amending 110-191(B) By Changing The Penalty For Late Utility Bills From Ten Percent Of The Current Bill To 1.5% Per Month Of The Late Outstanding Balance; Providing For Repealer, Severability, Codification And Effective Date.

(Requested by Commissioner Jonah Wolfson)
(Legislative Tracking: Finance Department)
(Ordinance)

R7 - Resolutions

- R7B Consideration Of A Resolution Effectuating The Towing Permittees Proposal For Extending The Towing Permits
A Resolution Approving And Authorizing An Extension Of The Towing Permits Issued Pursuant To Resolution No. 2006-26100, To Beach Towing Services, Inc., And Tremont Towing Services, Inc.; Said Extension Commencing On January 1, 2012, And Expiring On December 31, 2014; And Further Approving Amendment No. 1 To The Administrative Rules And Regulations For The Police Department And Parking Department Towing Permits; Said Amendment Providing, Among Other Things, For An Increase To The Permit Fees And Maximum Allowable Towing Rates; Providing For Certain "Enhancements," As Requested By The City And Set Forth In This Resolution; And Also, Providing, As A Condition Of Approval Of This Resolution, That Beach Towing Services, Inc., As The Petitioner In Those Certain Lawsuits Filed Against The City (As Such Lawsuits Are Set Forth In This Resolution), Dismiss Such Actions With Prejudice.

(Parking Department)
(Memorandum)

R7 - Resolutions (Continued)

R7C A Resolution Pertaining To That Certain City Construction Project Referred To As The "Biscayne Point Neighborhood Right-Of-Way Improvements Project" (The Project) And, With Respect To Such Project, Accepting The Findings And Recommendation Of The City Manager In Declaring An Emergency Pursuant To Subsections 287.055(3)(A)(1) And (9)(C)(6), Florida Statutes, All As More Specifically Set Forth In This Resolution And The Accompanying Commission Memorandum; And, As Permitted Pursuant To Section 2-367(E) Of The City Code, Waiving, By 5/7ths Vote, The Competitive Bidding Requirements, Finding Such Waiver To Be In The Best Interest Of The City, And Authorizing The City Manager To Take The Following Actions To Procure The Necessary Emergency Design And Construction Services For The Project, Pursuant To A Negotiated Design-Build Contract: 1) Prepare, Whether Through The City's Public Works Department Or Through Retention Of An Outside Design Criteria Professional, As Determined By The City Manager, A Design Criteria Package (DCP) Which Complies With The Specifications Set Forth Under Section 287.055(2)(J), Florida Statutes; 2) Upon Completion Of The DCP, Authorizing The City Manager To Negotiate And, If Successful, Execute A Design-Build Contract, With A Guaranteed Maximum Price (GMP) For The Remaining Water, Stormwater, Landscape And Streetscape Improvements For The Project, With The Firm Of David Mancini & Sons, Inc. (DMSI) Who, As The City's Contractor Currently Working On The Project Under That Certain Construction Contract Authorized Pursuant To Invitation To Bid No. 07-10/11 (The ITB), Is The One Appropriately Licensed Contractor Who Is Most Qualified To Assume The Remaining Work Under The Project Under The Proposed Design-Build Contract Because DMSI Is Currently Under Contract To Perform (And Is Performing) Work That Is Affiliated With The Project; And 3) Further Authorizing The City Manager To Terminate, For Convenience, The Remaining Portion Of The Current Construction Contract With DMSI (Entered Into Pursuant To The ITB) And Requiring That, As A Condition To The City And DMSI's Execution Of The Negotiated Design-Build Contract, The Parties Enter Into And Execute A Settlement Agreement And Release Of All Claims Against The City Under The Former Contract, Where The Combined Sum Of The Negotiated Design-Build GMP And The Amount Negotiated As Part Of The Settlement Of The Existing Contract Shall Not Exceed \$11,998,535, Which Includes The \$10,907,759 Construction Award Value Of The Current DMSI Construction Contract And The Approved Project Contingency Amount Of \$1,090,776.

(Capital Improvement Projects)
(Memorandum & Resolution)

R7D A Resolution Approving The City's State Legislative Agenda For The 2012 Session Of The Florida Legislature.

(Economic Development)
(Resolution)

R7F A Resolution Authorizing The City Administration To Enter Into Negotiations With Service America Corporation D.B.A. Centerplate Pertaining To The Renewal Of Its Existing Agreement With The City For Catering And Concession Services For The Miami Beach Convention Center, As Recommended By The Finance And Citywide Projects Committee.

(Tourism & Cultural Development)
(Memorandum & Resolution)

R7G A Resolution Consenting To And Confirming The Appointment Of Raymond A. Martinez As The Acting Chief Of Police For The City Of Miami Beach, Effective January 1, 2012.

(Human Resources)
(Memorandum & Resolution)

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING AND AUTHORIZING THE FIRST YEAR RENEWAL OPTION OF THE PROFESSIONAL SERVICES AGREEMENTS BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND TCBA WATSON RICE LLP; RGL FORENSICS; AND MARCUM RACHLIN; FOR THE AUDITS OF RESORT TAXES AND FOR OTHER INTERNAL AUDITS AS NEEDED, DATED OCTOBER 22, 2010; FURTHER AMENDING SUCH AGREEMENTS TO ALLOW THE CITY MANAGER TO EXERCISE THE REMAINING FUTURE RENEWAL(S) UNDER THE AGREEMENTS; AT HIS SOLE OPTION AND DISCRETION.

WHEREAS, the Mayor and City Commission, at its May 12, 2010 meeting, adopted Resolution No. 2010-27382, which accepted the City Manager's recommendation pertaining to the ranking of firms pursuant to Request for Proposals (RFP) No. 23-09/10 for Auditing Services, and authorized the Administration to enter into negotiations with Jefferson Wells International, Inc.; TCBA Watson Rice, LLP; RGL Forensics; Marcum Rachlin; and Sharpton, Brunson & Company for audits of Resort Taxes; and with the firms of Jefferson Wells International, Inc.; Marcum Rachlin; TCBA Watson Rice, LLP; RGL Forensics; CroweHorwath, LLP; and Sharpton, Brunson & Company for other internal audits, as needed; and further authorized the Mayor and City Clerk to execute agreements upon the completion of successful negotiations by the Administration; and

WHEREAS, professional services agreements for the aforesaid services were negotiated between with the following firms for audits of Resort Taxes and for other internal audits as needed; TCBA Watson Rice, LLP; RGL Forensics; Marcum Rachlin; Sharpton, Brunson & Company; and Jefferson Wells International, Inc, had a start date of November 15, 2010; and

WHEREAS, during the contract term, Sharpton and Brunson pulled out, and was no longer able to perform the audits; and

WHEREAS, the remaining firms were asked whether they would renew their agreements upon the same terms and conditions; and

WHEREAS, Jefferson Wells International, Inc declined; and

WHEREAS, the remaining three (3) firms, TCBA Watson Rice, LLP; RGL Forensics; and Marcum Rachlin, have agreed to the renewal of their agreements upon the same terms and conditions.

Agenda Item C7B
Date 12-14-11

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby retroactively approve and authorize the first year renewal of the professional services agreements with TCBA Watson Rice, LLP; RGL Forensics; and Marcum Rachlin for audits of Resort Taxes and for other internal audits, as needed; and further amending said agreements to allow the City Manager to exercise the remaining future renewal(s) under said agreements, at his sole option and discretion.

PASSED and ADOPTED this _____ day of _____, 2011

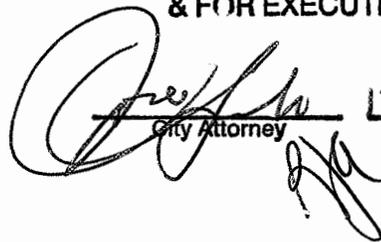
ATTEST:

CITY CLERK

MAYOR

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12/8/11

Date

Condensed Title:

A Resolution Of The Mayor And City Commission Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Proposals Pursuant To Request For Proposals (RFP) No. 03-11/12, For Community Satisfaction Survey Services; Authorizing The Administration To Enter Into Negotiations With The Top-Ranked Proposer, Kerr & Downs Research; And Should The Administration Not Be Successful In Negotiating An Agreement With The Top-Ranked Proposer, Authorizing Negotiations With The Second-Ranked Proposer, ETC Institute; Further Authorizing The Mayor And City Clerk To Execute An Agreement Upon Conclusion Of Successful Negotiations By The Administration.

Key Intended Outcome Supported:

Increase community satisfaction with City services.

Supporting Data (Surveys, Environmental Scan, etc.): N/A

Issue:

Shall the Mayor and the City Commission Adopt The Resolution?

Item Summary/Recommendation:

At the May 21, 2011 Commission retreat, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 03-11/12 for Community Satisfaction Survey Services. The purpose of this Request for Proposals (RFP) is to select a qualified consultant to conduct the next set of community satisfaction surveys and follow-on focus groups, if required.

The term of contract will be for two (2) years or when the scope of services are completed and accepted by the City. Additionally, at the sole option and discretion of the City, additional years surveys and/or focus groups (i.e., 2014 survey; 2015 focus group; 2016 survey; and 2017 focus group), will be negotiated and said services provided by successful proposer.

The RFP was issued on October 18, 2011, with an original opening date of November 21, 2011 and three (3) addenda were issued. A proposal conference to provide information to the proposers submitting a response was held on October 31, 2011. BidNet issued bid notices to 148 prospective proposers, and 74 proposers were notified via e-mail and fax circulation, which resulted in the receipt of ten (10) proposals

On December 1, 2011, the City Manager via Letter to Commission (LTC) No. 305-2011, appointed an Evaluation Committee ("the Committee") which convened on December 6 and 9, 2011. The Committee members were provided with Performance Evaluation Surveys and additional information provided by the responsive proposers. The Committee members were also provided with a 25-minute question and answer session with each proposer. The Committee ranked the proposers based on their individual perceptions of the proposer's qualifications, experience, price proposed, reference from similar engagements, methodology and approach, and competence.

A motion was presented by Ramiro Inguanzo, seconded by Kathie Brooks, and unanimously approved by all Committee members recommending that the City enter into negotiations with the top-ranked proposer, Kerr & Downs Research and, if negotiations were not successful with the top-ranked proposer, entering into negotiations with the second ranked proposer, ETC Institute.

THE ADMINISTRATION RECOMMENDS ADOPTING THE RESOLUTION

Advisory Board Recommendation: N/A

Financial Information:

Source of Funds:	Amount	Account	Approved
1	\$90,000	General Fund Citywide Account #011-9322-000367	
2			
OBPI	Total		

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Gus Lopez, ext: 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL <i>[Signature]</i> for Gus Lopez	KB <i>[Signature]</i> FOR KATHIE BROOKS	JMG <i>[Signature]</i>

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MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: December 14, 2011

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF PROPOSALS PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 03-11/12, FOR COMMUNITY SATISFACTION SURVEY SERVICES; AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE TOP-RANKED PROPOSER, KERR & DOWNS RESEARCH; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE TOP-RANKED PROPOSER, AUTHORIZING NEGOTIATIONS WITH THE SECOND-RANKED PROPOSER, ETC INSTITUTE; FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS BY THE ADMINISTRATION.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME SUPPORTED

Increase community satisfaction with City services.

FUNDING

Funds in the amount of \$ 90,000 are available from the General Fund Citywide Account #011-9322-000367.

BACKGROUND

In 2005, the City formalized a performance-based approach for allocating resources based on the City's Strategic Plan priorities and supporting department work plans based on the City's Excellence Model. The City's Excellence Model is a strategic measurement-based model for continuous improvement. It is driven by the City's Vision, with priorities established at the strategic level based on customer input and environmental scan information. Key Intended Outcomes (KIO's) are established as multi-year priorities, while more specific Citywide Initiatives are updated annually. Through the annual budget process, resources are allocated in support of these strategic priorities, and performance is monitored to track progress and make adjustments.

A key component of this process is the community satisfaction survey. The first sets of community surveys were conducted in 2005 and 2007. These were followed by focus groups in 2006 and 2008 to get more in-depth information on issues identified through the surveys. Another set of surveys was conducted in 2009.

Overall, survey results showed the community continues to have a very favorable view of the City of Miami Beach as an ‘excellent’ or ‘good’ place to live, work, play or visit, and a large majority feel it is getting better. Some of the key drivers of resident and business perceptions of quality of life; satisfaction with the City of Miami Beach government in meeting the community’s needs; and Miami Beach as a place to live or do business, include cleanliness, traffic flow, condition of infrastructure (storm drainage, condition of roads, condition of sidewalks), customer service and value of city services for tax dollars paid.

Monitoring these perceptions and how they change over time is an important component of the City’s strategic planning process and the allocation of resources. As an example, while cleanliness of streets in business/commercial areas continues to be a key driver for both resident and business perceptions, between 2005 and 2009, this changed from a negative driver to a positive driver, reflecting the City’s improved performance in this area.

At the May 21, 2011 Commission retreat, the Mayor and City Commission authorized the issuance of Request for Proposals (RFP) No. 03-11/12 for Community Satisfaction Survey Services. The purpose of this Request for Proposals (RFP) is to select a qualified consultant to conduct the next set of community satisfaction surveys and follow-on focus groups, if required.

The term of contract will be for two (2) years or when the scope of services are completed and accepted by the City. Additionally, at the sole option and discretion of the City, additional years surveys and/or focus groups (i.e., 2014 survey; 2015 focus group; 2016 survey; and 2017 focus group), will be negotiated and said services provided by successful proposer.

SCOPE OF SERVICES

Specifically, the consultant will be responsible for the following phases, each of which will be subject to the review and approval by the City Manager or his designee:

- Phase 1: Survey design including methodology, sampling plan, etc. to ensure statistically valid results by geographic area of the City (five areas for the resident surveys and three areas for the business surveys) and that are reflective of the City’s residents and businesses;
- Phase 2: Review and evaluate the current survey instrument and questions and propose recommended changes to ensure questions will generate unbiased responses while also ensuring that the City does not lose the ability to monitor and evaluate trends;
- Phase 3: Pretest survey instrument and revise as needed;
- Phase 4: Develop the communications plan for the survey
- Phase 5: Design format for an executive summary and/or detailed written report that will be used to present the survey findings.
- Phase 6: Survey Administration: Administer the survey to insure a ninety-five (95) percent confidence rating in the survey findings with a five point plus or minus variance for each geographic area, taking into consideration the following factors:
 - (i) Sample size, including sub-samples for demographic sub-groups that are reflective of census and business demographics citywide and for each geographic region;
 - (ii) Random selection of respondents to the survey;
 - (iii) Non-respondents not affecting survey results; and
 - (iv) Survey implementation, including select interviewers as appropriate.

Phase 7: Presentation of Survey Results:

- (i) Code the completed survey and computerize the data;
- (ii) Develop cross tabulations as required;
- (iii) Analyze key drivers of community satisfaction
- (iv) Compare results to other municipalities and jurisdictions;
- (v) Prepare an executive written summary summarizing key survey findings and detailed written report of the responses to survey questions, including actionable recommendations for customer service improvements;
- (vi) Make verbal presentation to the City Commission and/or City staff as required; and
- (vii) Determine that changes in survey results or trends identified by different surveys are statistically valid.

In addition, the consultant will be responsible for conducting follow-on focus groups, as necessary to delve further into issues identified through the community surveys.

RFP PROCESS

The RFP was issued on October 18, 2011, with an original opening date of November 21, 2011 and three (3) addenda were issued. A proposal conference to provide information to the proposers submitting a response was held on October 31, 2011.

BidNet issued bid notices to 148 prospective proposers, and 74 proposers were notified via e-mail and fax circulation, which resulted in the receipt of the following ten (10) proposals:

1. Responsive Management
2. Q-Q Research Consultants
3. Kerr & Downs Research
4. Profile Marketing Research
5. The Center for Research, Inc
6. Decision Analyst, Inc
7. Issues and Answer Network, Inc
8. ETC Institute
9. Inktel Direct / FIU Management
10. Behavioral Science Research

On December 1, 2011, the City Manager via Letter to Commission (LTC) No. 305-2011, appointed an Evaluation Committee (“the Committee”) consisting of the following individuals:

- Kathie Brooks, Director, OBPI;
 - Ramiro Inguanzo, Director, Human Resources;
 - Dennis Russ, Miami Beach Community Development Director;
 - Jon Gardner, Resident and member of the Budget Advisory Committee;
 - Lizette Lopez, Resident and member of the Parks and Recreation Board; and
- Alternates
- Michael Perlmutter, Resident and member of the Personnel Board.

On December 6 and 9, 2011, the Committee convened and a quorum was attained. The Committee members were provided with Performance Evaluation Surveys and additional information provided by the responsive proposers.

The Committee members were also provided with a 25-minute question and answer session with each proposer. The following Evaluation Criteria was used to evaluate and rank the proposers:

1. Experience and qualifications of the firm – **30 points.**
2. Experience and qualifications of the individual(s) assigned to provide all survey-related work – **15 points.**
3. Methodology and Approach – **15 points.**
4. Cost/Fees – **20 points.**
5. References from Similar Engagements – **20 points.**

The Committee ranked the proposers based on their individual perceptions of the proposer's qualifications, experience, price proposed, reference from similar engagements, methodology and approach, and competence. The final rankings are as follows:

FINAL RANKINGS

RFP#03-11/12 COMMUNITY SATISFACTION SURVEY SERVICES	Kathie Brooks	Ramiro Inguanzo	Denis Russ	Lizette Lopez	Michael Perlmutter	<u>LOW AGGREGATE TOTALS</u>
Kerr & Downs Research	(98) 2	(98) 1	(98) 1	(98) 2	(91) 1	(7) 1
ETC Institute	(100) 1	(97) 2	(95) 2	(100) 1	(86) 4	(10) 2
Responsive Management	(84) 5	(94) 5	(93) 3	(95) 4	(89) 2	(19) 3
Inktel	(86) 4	(95) 4	(91) 4	(97) 3	(76) 8	(23) 4
Profile Marketing Research	(87) 3	(96) 3	(87) 7	(94) 5	(85) 5	(23) 4
Behavioral Science	(76) 8	(92) 6	(85) 8	(94) 5	(88) 3	(30) 6
Issues and Answer	(83) 6	(82) 10	(90) 5	(89) 8	(78) 6	(35) 7
The Center for Research	(76) 8	(91) 7	(88) 6	(91) 7	(77) 7	(35) 7
Decision Analyst	(77) 7	(83) 9	(83) 9	(88) 9	(73) 10	(44) 9
Q-Q Research Consultant, LLC	(69) 10	(84) 8	(82) 10	(80) 10	(75) 9	(47) 10

A motion was presented by Ramiro Inguanzo, seconded by Kathie Brooks, and unanimously approved by all Committee members recommending that the City enter into negotiations with the top-ranked proposer, Kerr & Downs Research and, if negotiations were not successful with the top-ranked proposer, entering into negotiations with the second ranked proposer, ETC Institute.

The Committee further stated that either proposer, the first-ranked or second-ranked proposers would be well qualified to provide the services and could recommend any of them.

COMPANY'S PROFILE

Kerr & Downs Research's first experience with Community Opinion Surveys dates to 1979 when most, if not all, surveys were conducted by mail. During the mid 1980s, Kerr & Downs Research persuaded the City of Tallahassee to switch to telephone surveys to enhance the validity of the information generated. Kerr & Downs Research's methodology for Tallahassee community opinion surveys in the mid 1980s became the blueprint for many local governments' RFPs.

Many of the elements required by the City of Miami Beach in its opinion survey are reflected in their mid 1980s work for the City of Tallahassee. For example, they introduced random digit telephone dialing to catch the 25% to 55% of municipal populations that are voluntarily and involuntarily not listed in telephone directories. They introduced use of a randomized

selection process within households to make certain that the demographic mix for the entire sample was maintained. They introduced multiple calls to selected households to prevent ending up with a glorified convenience sample. They introduced pre-testing based on Downs' academic work involving misperceptions of questionnaire items.

Having conducted over 300 studies with local, state, and federal governmental units, Kerr & Downs Research understand the special constraints placed on government studies and the political implications. They understand the need for consensus, the need to consider citizens' input, and the importance of gaining support from elected officials. They also have a keen sense of the role of the media in government, and we will be available to represent the research methods and results to the media if desired.

Kerr & Downs Research has always specialized in market research. Their partners have won national awards for research methodologies and articles. Their academic excellence coupled with the "street" knowledge we have gained in over 1,000 studies will ensure that your study is cost effective, valid and actionable. With 3 Ph.D.s, Kerr & Downs Research will add value to the City's research dollar by developing action-oriented strategic recommendations.

Kerr & Downs has performed over 200 projects for local governments and has Corporate Experience with projects for United Airlines, Boeing, Federal Express, BellSouth, Publix, Delta Air Lines, Club Med, and Prudential, we understand a bottom line orientation.

Phillip Downs, Ph.D., will be the Project Director on City of Miami Beach's research. He will be intimately involved day-to-day on research design, questionnaire development, analysis, report preparation, and strategic recommendations. While all project team members will be intimately involved in the project, a key advantage in hiring Kerr & Downs Research is that the City of Miami Beach will have a senior person who is a recognized national expert in survey and market research working on its project day-to-day rather than merely managing the project from a distance both geographically and from an involvement perspective.

The following are a list of clients, whom Kerr & Downs Research has completed or is currently completing projects for, within the past three years:

- Publix
- The Kessler Collection
- Capital City Bank
- Innovation Park
- Tallahassee Museum
- Premier Health and Fitness
- The/zimmerman/agency
- Tallahassee Memorial Healthcare
- Florida State University
- University of Miami
- University of Louisville, KY
- Southwest Florida Water Management District
- VISIT FLORIDA
- Town of Davie
- South Walton TDC
- Florida Department of Transportation
- Florida Prepaid College Plans
- Florida Department of Health

- Gwinnett County Police Department
- Florida Quitline
- Connecticut Department of Health
- Orlando Department of Health
- Tampa Bay Water
- City of Winter Park
- Coastal Regional Commission (Georgia)

The following is the cost proposed by Kerr & Downs:

	Survey Design	Review Survey	Pretest Survey	Develop Comm.	Design Summary	Survey Admin.*	Presentation Results	Totals
Phillip Downs								
Hourly Rate	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	\$ 150.00	
Estimated Hours	18	6	2	2			20	48
Total Phillip Downs	\$ 2,700.00	\$ 900.00	\$ 300.00	\$ 300.00	\$ -	\$ -	\$ 3,000.00	\$ 7,200.00
Joseph St. Germain								
Hourly Rate	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	
Estimated Hours	10	2	2	2	2	10	16	44
Total Joseph St. Germain	\$ 1,250.00	\$ 250.00	\$ 250.00	\$ 250.00	\$ 250.00	\$ 1,250.00	\$ 2,000.00	\$ 5,500.00
Jennifer Burnside								
Hourly Rate	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	\$ 100.00	
Estimated Hours				4	2	20	14	40
Total Jennifer Burnside	\$ -	\$ -	\$ -	\$ 400.00	\$ 200.00	\$ 2,000.00	\$ 1,400.00	\$ 4,000.00
Carmen Hiers								
Hourly Rate	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	\$ 125.00	
Estimated Hours	4	2		4	2		10	22
Total Carmen Hiers	\$ 500.00	\$ 250.00	\$ -	\$ 500.00	\$ 250.00	\$ -	\$ 1,250.00	\$ 2,750.00
Supervisors								
Hourly Rate	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	\$ 40.00	
Estimated Hours			2			230		232
Total Supervisors	\$ -	\$ -	\$ 80.00	\$ -	\$ -	\$ 9,200.00	\$ -	\$ 9,280.00
Interviewers								
Hourly Rate	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	
Estimated Hours			20			2300		2320
Total Interviewers	\$ -	\$ -	\$ 500.00	\$ -	\$ -	\$ 57,500.00	\$ -	\$ 58,000.00
Total Hours								
	32	10	26	12	6	2560	60	2706
Total Personnel per Phase	\$ 4,450.00	\$ 1,400.00	\$ 1,130.00	\$ 1,450.00	\$ 700.00	\$ 69,950.00	\$ 7,650.00	\$ 86,730.00
Travel Charges**								
	\$ 800.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 800.00	\$ 1,600.00
Total Lump Sum Per Phase	\$ 5,250.00	\$ 1,400.00	\$ 1,130.00	\$ 1,450.00	\$ 700.00	\$ 69,950.00	\$ 8,450.00	\$ 88,330.00***

* Survey Administration includes 1,800 resident surveys and 500 business surveys

** Travel Cost is estimated and billed at cost

*** Follow-up focus groups are optional and will cost \$2,000/group or \$5,000/day for up to 4 focus groups

MANAGER'S DUE DILIGENCE

After considering the review and recommendation of Committee's recommendation, the City Manager exercised his due diligence and is recommending that the Mayor and the City Commission authorize negotiations with the top-ranked proposer, Kerr & Downs Research and, if negotiations were not successful with the top-ranked proposer, entering into negotiations with the second ranked proposer, ETC Institute; and further authorizing the Mayor and City Clerk to execute an agreement upon conclusion of successful negotiations by the Administration.

CONCLUSION

The Administration recommends that the Mayor and City Commission of the City of Miami Beach, Florida accept the recommendation of the City Manager pertaining to the ranking of proposals pursuant to Request for Proposals (RFP) No. 03-11/12, for Community Satisfaction Survey Services; authorize the Administration to enter into negotiations with the top-ranked proposer, Kerr & Downs Research and, if negotiations were not successful with the top-ranked proposer, entering into negotiations with the second ranked proposer, ETC Institute; and further authorizing the Mayor and City Clerk to execute an agreement upon conclusion of successful negotiations by the Administration.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF PROPOSALS PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 03-11/12, FOR COMMUNITY SATISFACTION SURVEY SERVICES; AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE TOP-RANKED PROPOSER, KERR & DOWNS RESEARCH; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE TOP-RANKED PROPOSER, AUTHORIZING NEGOTIATIONS WITH THE SECOND-RANKED PROPOSER, ETC INSTITUTE; FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT UPON CONCLUSION OF SUCCESSFUL NEGOTIATIONS BY THE ADMINISTRATION.

WHEREAS, at the May 21, 2011 Commission retreat, the Mayor and City Commission authorized the issuance of Request for Proposals (RFP) No. 03-11/12 for Community Satisfaction Survey Services (the RFP); and

WHEREAS, the RFP was issued on October 18, 2011, with an original opening date of November 21, 2011 and three (3) addenda were issued; and

WHEREAS, a proposal conference to provide information to the proposers submitting a response was held on October 31, 2011; and

WHEREAS, BidNet issued bid notices to 148 prospective proposers, and 74 proposers were notified via e-mail and fax circulation, which resulted in the receipt of the following ten (10) proposals; and

WHEREAS, on December 1, 2011, the City Manager via Letter to Commission (LTC) No. 305-2011, appointed an Evaluation Committee ("the Committee") consisting of the following individuals:

- Kathie Brooks, Director, OBPI;
- Ramiro Inguanzo, Director, Human Resources;
- Dennis Russ, Miami Beach Community Development Director;
- Jon Gardner, Resident and member of the Budget Advisory Committee;
- Lizette Lopez, Resident and member of the Parks and Recreation Board; and

Alternates

- Michael Perlmutter, Resident and member of the Personnel Board; and

WHEREAS, on December 6 and 9, 2011, the Committee convened and a quorum was attained. The Committee members were provided with Performance Evaluation Surveys and additional information provided by the responsive proposers; and

WHEREAS, the Committee members were also provided with a 25-minute question and answer session with each proposer; and

WHEREAS, a motion was presented by Ramiro Inguanzo, seconded by Kathie Brooks, and unanimously approved by all Committee members recommending that the City enter into negotiations with the top-ranked proposer, Kerr & Downs Research and, if negotiations were not successful with the top-ranked proposer, entering into negotiations with the second ranked proposer, ETC Institute; and

WHEREAS, the City Manager has reviewed and concurs with the Evaluation Committee's recommendation.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the City Manager, pursuant to Request for Proposals (RFP) No. 03-11/12, for Community Satisfaction Survey Services; authorize the Administration to enter into negotiations with the top-ranked proposers, Kerr & Downs Research; and should the Administration not be successful in negotiating an agreement with the top-ranked proposer, authorize negotiations with the second-ranked proposer, ETC Institute; and further authorize the Mayor and City Clerk to execute an agreement upon conclusion of successful negotiations by the Administration.

PASSED AND ADOPTED THIS _____ DAY OF _____ 2011.

ATTEST:

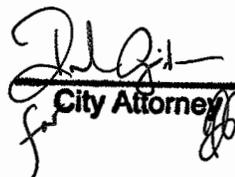
CITY CLERK

MAYOR

T:\AGENDA\2011\12-14-11\RFP-03-11-12 Community Satisfaction Survey - RESO.doc



**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12-9-11

Date

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF FIRMS, PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 04-11/12, FOR A DESIGN CRITERIA PROFESSIONAL TO PREPARE THE DESIGN CRITERIA PACKAGE FOR THE SUNSET ISLANDS 3 AND 4 NEIGHBORHOOD RIGHT-OF-WAY IMPROVEMENT PROJECT, WHICH IS INTENDED TO BE A DESIGN-BUILD CONTRACT; AND TO SERVE AS THE CITY'S REPRESENTATIVE DURING THE SELECTION OF THE DESIGN-BUILD FIRM FOR THE PROJECT, CONCERNING THE EVALUATION OF THE RESPONSES SUBMITTED BY THE DESIGN-BUILD FIRMS; REVIEW AND APPROVE FOR COMPLIANCE OF THE DETAILED WORKING DRAWINGS FOR THE PROJECT; AND FOR EVALUATION OF THE COMPLIANCE OF THE PROJECT CONSTRUCTION WITH THE DESIGN CRITERIA PACKAGE; AUTHORIZING THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE TOP-RANKED PROPOSER, CORZO, CASTELLA, CARBALLO, THOMPSON, SALMAN, PA (C3TS); AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE TOP-RANKED PROPOSER, AUTHORIZING NEGOTIATIONS WITH THE SECOND-RANKED PROPOSER, CALVIN, GIORDANO, AND ASSOCIATES, INC; AND SHOULD THE ADMINISTRATION NOT BE SUCCESSFUL IN NEGOTIATING AN AGREEMENT WITH THE SECOND-RANKED PROPOSER, AUTHORIZING NEGOTIATIONS WITH THE THIRD-RANKED PROPOSER, ATKINS, INC.

WHEREAS, on October 19, 2011, the Mayor and City Commission approved the issuance of Request for Qualifications (RFQ) No. 04-11/12, for a Design Criteria Professional to Prepare the Design Criteria Package for the Sunset Islands 3 and 4 Neighborhood Right of Way Improvement Project, which is Intended to be a Design-Build Contract; and to Serve as the City's Representative During the Selection of the Design-Build Firm for the Project, Concerning the Evaluation of the Responses Submitted by the Design-Build firms; Review and Approve for Compliance of the Detailed Working Drawings for the Project; and for Evaluation of the Compliance of the Project construction with the Design Criteria Package (the RFQ); and

WHEREAS, the RFQ was issued on October 20, 2011, with an opening date of November 20, 2011; and

WHEREAS, a pre-proposal conference to provide information to proposers was held on October 28, 2011; and

WHEREAS, BidNet issued bid notices to 281 prospective proposers, and over 180 local proposers were notified via mail, e-mail, which resulted in the receipt of four (4) proposals;

WHEREAS, on October 31, 2011, the City Manager via Letter to Commission (LTC) No. 267-2011, appointed an Evaluation Committee (the "Committee") consisting of the following individuals:

- Matilde Reyes, Senior Capital Project Coordinator, CIP; and
- Grace Escalante, Senior Capital Projects Coordinator, CIP; and

- Darlene Fernandez, Transportation Currency Coordinator, Public Works Department, and
- Elizabeth Camargo, Resident and Capital Improvement Projects Oversight Committee (CIPOC) member; and
- Jose Perez, Project Coordinator, CIP; and
- Terry Bienstock, Sunset Islands 3 and 4 Resident and Homeowners Association President; and
- Peter Luria, member of the Sunset Islands 3 and 4 Neighborhood Association; and

Alternates

- Christina Cuervo, Resident and Capital Improvement Projects Oversight Committee (CIPOC) member; and

WHEREAS, committee members Christina Cuervo and Matilde Reyes recused themselves from the Committee due to perceived conflicts of interest with firms being evaluated; and

WHEREAS, the Committee convened on November 29, 2011, and a quorum was attained; the Committee was provided with general information on the scope of services, Performance Evaluation Surveys and additional pertinent information from the responsive proposers; and

WHEREAS, the Committee was also provided with presentations from proposers with the intent of focusing the discussion on the scope of services relative to these projects, and the methodology and approach to be utilized by the proposer in order to represent the City of Miami Beach on said projects; and

WHEREAS, the Committee discussed their individual perceptions of the proposers' qualifications, experience, and competence, and further ranked the proposers accordingly; and

WHEREAS, a motion was made by Grace Escalante, amended and seconded by Peter Luria, and unanimously approved by all Committee members, to recommend entering into negotiations with the first ranked proposer, C3TS; and if negotiations were not successful with the first ranked proposer, authorizing negotiations with the second ranked proposer, Calvin, Giordano, and Associates, Inc.; and

WHEREAS, the Committee further recommended issuing a new RFQ, if negotiations were not successful with the first or second ranked proposers; and

WHEREAS, after considering the recommendation of the Committee, the City Manager exercised his due diligence and is recommending that the Mayor and the City Commission authorize negotiations with the top-ranked proposer, Corzo, Castella, Carballo, Thompson, Salman, PA (C3TS); and should the Administration not be successful in negotiating an agreement with the top-ranked proposer, authorizing negotiations with the second-ranked proposer, Calvin Giordano and Associates, Inc; and should the Administration not be successful in negotiating an agreement with the second-ranked proposer, authorizing negotiations with the third-ranked proposer, Atkins, Inc.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the City Manager pursuant to Request for Qualifications (RFQ) No. 04-11/12, for a Design Criteria Professional to Prepare the Design Criteria Package for the Sunset Islands 3 and 4 Neighborhood Right of Way Improvement Project, which is Intended to be a Design-Build Contract; and to Serve as the City's Representative During the Selection of the Design-Build Firm for the Project, Concerning the Evaluation of the Responses Submitted by the Design-Build firms; Review and Approve for Compliance of the Detailed Working Drawings for the Project; and for Evaluation of the Compliance of the Project construction with the Design Criteria Package; authorizing negotiations with the top-ranked proposer, Corzo, Castella, Carballo, Thompson, Salman, PA (C3TS); and should the Administration not be successful in negotiating an agreement with the top-ranked proposer, authorizing negotiations with the second-ranked proposer, Calvin Giordano and Associates, Inc ; and should the Administration not be successful in negotiating an agreement with the second-ranked proposer, authorizing negotiations with the third-ranked proposer, Atkins, Inc.

PASSED AND ADOPTED THIS _____ DAY OF _____ 2011.

ATTEST:

CITY CLERK

MAYOR

T:\AGENDA\2011\12-14-11\RFQ-04-11-12 Sunset 3 and 4 - RESO.doc

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

12/8/11

Date

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RESOLUTION No. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A FIRST AND ONLY PUBLIC HEARING OF A PROPOSED ORDINANCE THAT WOULD CONSIDER AMENDING SECTION 82-384, "PERMITTED SIDEWALK CAFÉ FRONTAGE; REQUESTS FOR EXPANSION," TO PERMIT SIDEWALK CAFES TO EXTEND INTO A LOADING ZONE FRONTING A RESTAURANT.

WHEREAS, on September 15, 2010, the Mayor and Commission referred the issue of permanent parking space removals from City inventory to the Land Use and Development Committee (LUDC); and

WHEREAS, on September 27, 2010, the LUDC held a discussion regarding strengthening the process by which permanent parking spaces may be removed from City inventory, for instance by limiting the purpose and/or requiring Commission approval; and

WHEREAS, at the May 18, 2011 meeting the LUDC discussed the temporary removal of parking spaces for additional sidewalk café seating and recommended to send it to the full City Commission; and

WHEREAS, on June 1, 2011 the full City Commission ratified this directive from the LUDC through approval of the LUDC Committee report on the Consent Agenda; and

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that a first and only public hearing shall be held on January ____, 2012, at ____ o'clock, ____, to consider the proposed amendment to the City Code, and the Clerk shall take appropriate action to notice this public hearing.

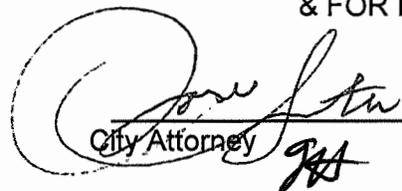
PASSED AND ADOPTED this ____ day of _____, 2011.

ATTEST:

MAYOR

CITY CLERK

APPROVED AS
TO FORM & LANGUAGE
& FOR EXECUTION



City Attorney
12/8/11
Date

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING FOR THE JANUARY 11, 2012 CITY COMMISSION MEETING, TO CONSIDER GRANTING AN AFTER-THE-FACT REVOCABLE PERMIT TO ASR BERWICK FAMILY LTD. PARTNERS, AS OWNER OF THE COMMERCIAL PROPERTY LOCATED AT 335 W. 47TH STREET, TO RETAIN A/C UNITS, UTILITY ROOM, AND TRASH ENCLOSURE, CURRENTLY PLACED WITHIN THE PUBLIC CITY RIGHT OF WAY ON WEST 47TH COURT.

WHEREAS, ASR Berwick Family Ltd. Partners (Applicant) is the owner of a commercial property located at 335 W. 47th Street (the Property); and

WHEREAS, the two-story commercial building was constructed in 1930 with zero lot lines on the north, west, and south sides; and

WHEREAS, there are currently ten (10) air conditioning units mounted on concrete pads that extend approximately five (5) feet into the adjacent City right of way on West 47th Court as well as a one-story utility room and wooden trash enclosure, that extend nine (9) feet into that City's right of way on the north side of the Property; and

WHEREAS, the Applicant has made application to the city for an after-the-fact revocable permit to be allowed to maintain the aforesated encroachments upon the right of way.

WHEREAS, the Public Works Department is in receipt of Applicant's completed application, and pursuant to section 82-93 (b) of the City Code, a public hearing to consider Applicant's request shall be set by the City Commission

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby set a public hearing for the January 11, 2012 City Commission meeting, to consider granting an after-the-fact revocable permit to ASR Berwick Family Ltd. Partners, as owner of the commercial property located at 335 w. 47th street, to retain A/C units, utility room, and trash enclosure, currently placed within the public city right of way on west 47th court

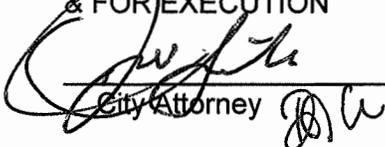
PASSED AND ADOPTED this 14th day of December, 2011.

ATTEST:

Robert H. Parcher, City Clerk

Matti Herrera Bower, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

12/9/11

Date

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SETTLEMENT AGREEMENT

Mercedes-Benz Financial Services, USA, LLC, on behalf of its Corporate Officers and in their Corporate capacities, and the City of Miami Beach, for themselves and all persons or entities claiming by or through them, and their directors, officers, principles, agents, successors in interest, and located at 1700 Convention Center Drive, Fourth Floor, Miami Beach, Florida 33139 (collectively "Miami Beach"), hereby enter into this Settlement Agreement (the "Settlement Agreement"), dated _____, 2011, to settle as follows:

RECITALS

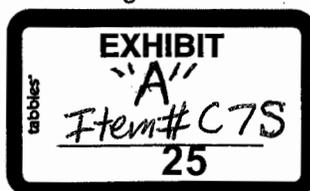
WHEREAS, Miami Beach and Mercedes-Benz Financial Services, USA, LLC referencing the loan account of Cenor Clauvens, Account No. 1024596629, desire to resolve and settle all pending disputes, claims and counterclaims between them, including without limitation, all claims and counterclaims that were or could have been asserted in this forfeiture proceeding, or any other civil case, past, present, or future, without any party admitting liability, as set forth herein; and

WHEREAS, the Parties believe it would be in their best interests, and the interests of the citizens and residents of Miami Beach to agree to the provisions of this Settlement Agreement; and

WHEREAS, in consideration of the mutual agreements, undertakings and representation contained in this Settlement Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, Mercedes-Benz Financial Services, USA, LLC and Miami Beach are in agreement.

NOW, THEREFORE, in consideration of the mutual agreements, undertakings and representations contained in this Settlement Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, Mercedes-Benz Financial Services, USA, LLC and Miami Beach agree as follows:

- A. The foregoing recitals are true, accurate and correct and are incorporated herein by this reference.
 1. The property that is the subject of this Agreement is a 2008 Mercedes CL550, VIN # WDDEJ71X38A015577, TX Tag No D18VD (the "Vehicle").
 2. Mercedes-Benz Financial Services, USA, LLC, for purposes of the Stipulation of Settlement and Agreement, certifies that it has an equitable, possessory and proprietary interest in the 2008 Mercedes CL550, VIN # WDDEJ71X38A015577, TX Tag No D18VD, loan account holder Cenor Clauvens, with Account No. 1024596629, and has standing to challenge this forfeiture as the lien holder of the Vehicle.



Agenda Item C75
 Date 12-14-11

3. Mercedes-Benz Financial Services, USA, LLC certifies that it is freely and voluntarily entering into this Agreement with the benefit of its counsel John S. Schoene, Esquire of John S. Schoene, P.A.
4. Mercedes-Benz Financial Services, USA, LLC agrees to release any and all equitable, possessory and proprietary interest in the Vehicle to the City of Miami Beach, and shall not assert any defense(s) to the forfeiture proceeding that may be initiated by the City of Miami Beach. The Vehicle shall be disposed of in accordance with the Florida Contraband Forfeiture Act, and as authorized by the City of Miami Beach Commission.
5. This Agreement shall be binding and inure to the benefit of the parties and their respective legal representatives, successors and assigns.
6. By entering into this Agreement, Mercedes-Benz Financial Services, USA, LLC in no way admits any alleged conduct, statements, facts, or interpretations or such conduct, statements or facts associated with the investigation and/or arrest of Mr. Clauvens Cenor, Jr., seizure of the Vehicle, or any allegations by the MIAMI BEACH POLICE DEPARTMENT's agents upon which the MIAMI BEACH POLICE DEPARTMENT bases its seizure and right to forfeiture of the Vehicle.
7. Each party agrees to this settlement and waives the Court's approval pursuant to Section 932.704(7), *Florida Statutes*, and the parties are to bear their own attorney's fees and costs.

B. Upon the full execution of this Settlement Agreement, Mercedes-Benz Financial Services, USA, LLC, shall receive the sum of Forty-One Thousand and 00/100 Dollars (\$41,000.00) and other good and valuable consideration which is hereby acknowledged, do agree to a full and final settlement of all claims, as may be alleged in the Notice of Seizure, or that which could have been alleged in the forfeiture proceedings initiated pursuant to the Florida Contraband Forfeiture Act.

C. The Parties shall agree to Dismissal with Prejudice regarding all claims for damages based on the allegations set forth in the Notice of Seizure, if any, and all claims that were or could have been brought pursuant to the Florida Contraband Forfeiture Act, and the City of Miami Beach shall receive a release as to all claims that were or could have been brought on behalf of Mercedes-Benz Financial Services, USA, LLC or the City of Miami Beach or any of their officers, directors, principals or agents in their corporate or in their individual capacities relative to the seized referenced 2008 Mercedes CL550, VIN No. WDDEJ71X38A015577, TX Tag No D18VD (the "Vehicle") under Miami Beach Police Case Number 2011-00091260.

D. The Parties shall bear their own attorney's fees and costs surrounding the forfeiture and seizure, except as to those attorney's fees and costs already awarded therein, if any, and this Settlement Agreement may authorize.

E. This Settlement Agreement shall be construed, enforced and interpreted in accordance with the laws of the State of Florida. In the event that an ambiguity or question of intent or interpretation arises, this Settlement Agreement shall be construed as if crafted jointly by each of the Parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any of the provisions of the Settlement Agreement. The Parties jointly conclude that should this Settlement Agreement be challenged by any of the Parties, that venue for bringing such challenges shall take place in the County of Miami-Dade, Florida.

F. Actions taken by any of the Parties hereto pursuant to or in furtherance of the provisions hereof shall not be admissible in any legal proceeding in the event the transactions contemplated hereunder are not performed or consummated, except as necessary to enforce the terms of this Settlement Agreement.

G. The Parties agree they will take any and all actions consistent with the intent and purpose of this Settlement Agreement and requirements of applicable law, and execute, acknowledge, subscribe and deliver any and all further documents and instruments as may be reasonably necessary to effectuate the purposes of this Settlement Agreement.

H. The Parties understand and agree that no party admits liability of any sort by reason of the above incidents, acts, casualties, events, representations, omissions, conduct, or interpretation. The Parties also understand and agree that this Settlement Agreement constitutes the good faith compromise of the forfeiture, and is made in good faith to terminate any further controversy respecting all claims for damages, causes of action, or potential liability which could have been ascertained by reasonable diligence which either Party to this Settlement Agreement may have asserted now, or may assert in the future because of any damages, incidents, acts, casualties, or events, described or alluded to in this Settlement Agreement.

I. The Parties acknowledge that this Settlement Agreement constitutes the entire agreement. They further acknowledge that they have read it and understand it; that the terms and conditions of this Settlement Agreement were arrived at in arm's-length negotiations between the Parties with all Parties provided the opportunity to seek the advice of legal counsel; that each Party's legal counsel did or could have reviewed this Settlement Agreement; and that each Party has given due and full consideration to the legal position of the other in regard to the provisions contained herein.

J. This Settlement Agreement shall be deemed drafted by all Parties and there shall be no presumption against any party relating to the drafting of the Settlement Agreement and the language used herein.

K. Any notices required or permitted to be given under this Settlement Agreement shall be in writing and shall be deemed to have been given if delivered by hand, sent by recognized overnight courier (such as Federal Express) or mailed by certified or registered mail, return receipt requested, in a postage prepaid envelope, and addressed as follows:

Settlement Agreement
Mercedes-Benz Financial Services, USA, LLC and City of Miami Beach
MBPD Case No.: 2011-91260

Kim Nguyen, authorized Person for Mercedes-Benz Financial Services, USA, LLC, personally known to me or have produced identification, named in the foregoing Settlement Agreement, and that she acknowledges executing the same freely and voluntarily.

WITNESS my hand and official seal in the County and State last aforementioned this 24 day of October, 2011.

My Commission Expires: 12/13/2011



Rita Barger
Notary Public, State of Texas

ATTEST:

CITY OF MIAMI BEACH,
a Florida municipal corporation

Robert Parcher, City Clerk

By: _____
Jorge M. Gonzalez, City Manager

STATE OF FLORIDA)
)SS:
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that on this date, before me, an officer duly authorized in this State and County to take acknowledgments, personally appeared Jorge M. Gonzalez, as City Manager, City of Miami Beach, personally known to me, named in the foregoing Settlement Agreement, and that he acknowledged executing the same freely and voluntarily on behalf of the City.

WITNESS my hand and official seal in the County and State last aforementioned this ____ day of _____, 2011.

My Commission Expires:

Notary Public, State of Florida

GENERAL RELEASE AND WAIVER

KNOW ALL MEN BY THESE PRESENTS:

That for value received and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, **Mercedes-Benz Financial Services, USA, LLC**, on behalf of the Corporation and its Corporate Officers, do hereby, for themselves, and their respective heirs, executors, administrators, personal representatives, insurers, reinsurers, agents, successors and assigns, and any person or entity claiming by, through, or for, or succeeding to the right of any of the foregoing (hereinafter referred to collectively as "Releasors"), release, remise, acquit, satisfy, waive and forever discharge the **City of Miami Beach**, its heirs, executors, administrators, personal representatives, insurers, reinsurers, agents, successors and assigns, and any person or entity acting for, by or through any of the foregoing (hereinafter referred to collectively as "Releasees") of and from any and all manner of actions, causes of action, suits, debts, costs, attorney's fees, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, controversies, loss of services, obligations, liabilities, agreements, promises, variances, disputes, trespasses, damages, repairs, injuries, losses, liens, judgments, executions, complaints, claims, counterclaims, cross-claims and all demands whatsoever, in law or in equity, whether known or unknown, direct or indirect, which Releasors ever had, now have or which may hereafter accrue for, upon or by reason of any matter, cause or thing whatsoever from the beginning of the world to the day of the date of this General Release and Waiver, including but not limited to all claims, demands, damages, liens, counterclaims, cross-claims, actions and causes of action on account of, in connection with or in any way arising out of, or relating to, or which were or could have been asserted regarding the dispute as set forth in the recitals of the Settlement Agreement.

Releasors agree that they will forever refrain and forbear from any action or other proceeding of any kind whatsoever, by way of action, defense, set-off, cross-complaint, counterclaim, third party action or otherwise, against Releasees, or any of them, based on, relating to, arising out of, or in connection with any of the Claims released and discharged hereunder.

Releasors hereby waive, to the fullest extent permitted by law, the benefits of any statute, law, rule, regulation or common law which may limit the scope of the covenants and releases contained herein.

Releasors intend by this General Release and Waiver to forever release, remise, acquit, waive, satisfy and forever discharge Releasees of and from any and all Claims and rights described above, it being understood that all of the Claims or rights which the Releasors or any persons who claim by, through or under the Releasors, or any of them, may have against the Releasees shall be forever released, remised, acquitted, waived, satisfied and forever discharged, and Releasors shall be forever barred from bringing or asserting the same in their own name or names, jointly, or with, or through any other person, natural, corporate or otherwise.

Releasors acknowledge that it is their intention that, upon execution hereof, this General Release and Waiver shall be effective as a full accord and satisfaction and settlement of, and as a bar to, each and every one of the Claims released hereunder, whether known or unknown.

Releasors represent and warrant that no claim which they have or might have had against Releasees has been assigned or transferred to any other person or entity, and agrees to indemnify Releasees and hold Releasees harmless from any and all liability or expense resulting from the assignment or transfer of any such claims.

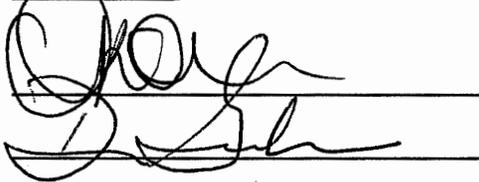
Releasors acknowledge and agree that this General Release and Waiver is given for the compromise of doubtful and disputed claims, and shall not be construed as an admission against interest or admission of liability on the part of the Releasors as to any claim, counterclaim, demand, controversy, dispute, defense, action, cause of action, or thing mentioned herein and compromised and settled hereby surrounding the dispute, and that Releasors deny liability therefor and intend merely to avoid the costs of litigation.

Releasors confirm that they are competent and acknowledge that the terms of this General Release and Waiver are contractual and not a mere recital. Furthermore, the Releasors acknowledge that the Releasors have not been influenced in any manner in making this General Release and Waiver by any representations or statements made by or on behalf of the Releasees, that the Releasors have received the advice of counsel in connection with the effect of the execution and delivery of this General Release and Waiver, that the Releasors have carefully read and fully understand the contents of this General Release and Waiver, and that the Releasors have duly authorized the execution of this General Release and Waiver freely and voluntarily, intending and agreeing to be fully bound by the terms hereof.

This General Release and Waiver shall remain in full force and effect and survive any future dealings among the Releasors and Releasees, unless this General Release and Waiver shall hereafter be modified by an instrument in writing and signed by the Releasors and by duly authorized representative(s) of the Releasees.

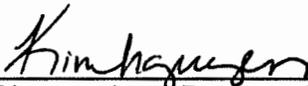
IN WITNESS WHEREOF, the Releasors and the Releasees have caused this General Release and Waiver to be executed in their names and its seal to be affixed, by its proper and duly authorized representative, this 24 day of October, 2011.

WITNESSES:



RELEASORS:

Mercedes-Benz Financial Services, USA, LLC



Kim Nguyen, Loss Recovery Team Specialist for Mercedes-Benz Financial Serv., USA, LLC

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that on this date, before me, an officer duly authorized in this State and County to take acknowledgments, personally appeared Kim Nguyen, Loss Recovery Team Specialist for Mercedes-Benz Financial Services, USA, LLC, Kim NGUYEN, personally known to me or has produced identification, named in the foregoing General Release and Waiver, and that she acknowledges executing the same freely and voluntarily.

WITNESS my hand and official seal in the County and State last aforementioned this 24 day of October, 2011.

My Commission Expires: 12/13/2011





Notary Public, State of Florida

RELEASEES:

CITY OF MIAMI BEACH,
a Florida municipal corporation

ATTEST:

By: _____
Jorge M. Gonzalez, City Manager

Robert Parcher, City Clerk

Dated: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

I HEREBY CERTIFY that on this date, before me, an officer duly authorized in this State and County to take acknowledgments, personally appeared Jorge M. Gonzalez, as City Manager, City of Miami Beach, personally known to me, named in the foregoing General Release and Waiver, and that he acknowledged executing the same freely and voluntarily on behalf of the City.

WITNESS my hand and official seal in the County and State last aforementioned this ____ day of _____, 2011.

My Commission Expires:

Notary Public, State of Florida

APPROVED AS TO FORM AND
LANGUAGE AND FOR EXECUTION:

City Attorney

EXHIBIT "B"

CERTIFICATION

I, Raymond Martinez, Assistant Chief of Police, City of Miami Beach, do hereby certify that the aforementioned proposed request for expenditures from the City of Miami Beach Police Confiscation Trust Fund, for the 2011/2012 fiscal year providing funds for expenditures, complies with the provisions of Section 932.7055(4)(a), Florida Statutes, and the Guide to Equitable Sharing of Federally Forfeited Property for Local Law Enforcement Agencies.



Raymond Martinez, Assistant Chief of Police
Miami Beach Police Department

Date

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ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 110 OF THE CITY CODE, ENTITLED "UTILITIES," BY AMENDING ARTICLE IV, ENTITLED "FEES, CHARGES, RATES AND BILLING PROCEDURE," BY AMENDING DIVISION 3, ENTITLED "BILLING PROCEDURE," BY AMENDING SECTION 110-191, ENTITLED "PAYMENT OF BILLS," BY AMENDING 110-191(B) BY CHANGING THE PENALTY FOR LATE UTILITY BILLS FROM TEN PERCENT OF THE CURRENT BILL TO 1.5% PER MONTH OF THE LATE OUTSTANDING BALANCE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.

WHEREAS, on July 13, 2011, the City of Miami Beach Commission referred a discussion item regarding the reduction of a utility bill's penalty percentage to the Finance And Citywide Projects Committee; and

WHEREAS, presently, a one-time ten percent penalty is added to the current portion of all past due water, sewer and stormwater utility bills.

WHEREAS, on October 19, 2011, at a meeting of the Finance and Citywide Projects Committee, the Committee recommended removing the one-time ten percent penalty on the current portion and instead adopted a recurring monthly charge of 1.5% on any portion of the account balance that is past due; and

WHEREAS, this recommendation came after the Finance and Citywide Projects Committee analyzed and compared penalties and interest from other utility companies; and

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1: That Chapter 110 of the City Code, Article IV, Division 3, Section 110-191(b), of the Miami Beach City Code is hereby amended as follows:

Sec. 110-191(b). – Payment of bills.

(b) All water, sewer, and stormwater utility bills, ..., shall be paid within 21 days from the date of the bill. A ~~ten~~ 1.5 percent penalty shall be added to the past due balance of all water, sewer, and stormwater utility bills..., if not paid within 21 days from the date of bill... A ~~ten~~ 1.5 percent penalty shall be added to the past due balance of all bills rendered...

SECTION 2. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 4. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity or constitutionality of the remaining portions of this Ordinance.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect on the _____ day of _____, 2011, which is 10 days after adoption.

PASSED and ADOPTED this _____ day of _____, 2011.

Mayor

ATTEST:

City Clerk

**Letters or numbers that are stricken through are deletions from existing ordinance.
Letters or numbers that are underlined are additions to existing ordinance.**

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12/9/11

Date

Condensed Title:

Consideration of a Resolution effectuating the towing Permittees proposal for extending the towing permits.

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, authorizing and approving an extension of the towing permits with Beach Towing Services, Inc. and Tremont Towing Services, Inc., respectively; said extensions commencing on January 1, 2012, and expiring on December 31, 2014; and further approving an amendment to the Administrative Rules and Regulations for the Police Department and Parking Department towing permits; said amendment providing for an increase to the maximum allowable towing rates.

Key Intended Outcome Supported:

Increase community satisfaction with City Services.

Supporting Data (Surveys, Environmental Scan, etc.): 74% of residents and 72% of businesses rate the availability of parking across the City as too little or much too little. Availability of parking was one of the changes residents identified to make Miami Beach a better to live, work or play.

Issue:

Shall the Mayor and City Commission approve a month-to-month extension of the towing permits and related referral to the Neighborhoods Committee? Or Alternatively, Approve a three (3) year extension and increases to the maximum allowable towing rates?

Item Summary/Recommendation:

Should the Commission feel satisfied with the towing Permittees proposed rate increase and acceptance of certain of amendments to the rules and regulations for the towing permits, then approval of the attached resolution is in order.

The Administration seeks further policy direction on the unresolved requirements to address accountability and operational enhancements. The Administration is also seeking policy direction on the issue of Terminal Island as the matter was tabled indefinitely by the Neighborhoods and Community Affairs Committee.

Provide direction to the Administration.

Advisory Board Recommendation:

The Finance and Citywide Projects Committee (FCWPC)/Permittees' Rates Analysis - At the December 6, 2011, Finance and Citywide Projects Committee (FCWPC), the Permittees jointly provided an analysis of the maximum allowable towing rates. The analysis suggests that the current towing rates are inadequate since they have not been increased since 2004. The analysis further suggests that a CPI (Consumer Price Index) of three percent (3%) be applied to certain towing rates. At the direction of the FCWPC, the Administration met with both Permittees on December 8, 2011, regarding rates and certain enhancements to the towing permits. Both Permittees agreed to various enhancements, as either requirements or on a voluntarily basis.

Financial Information:

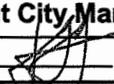
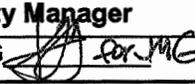
Source of Funds:		Amount	Account
<div style="border: 1px solid black; width: 40px; height: 20px; margin-bottom: 5px;"></div> OBPI	1		
	2		
	3		
	4		
	Total		

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Saul Frances, extension 6483

Sign-Offs:

Department Director	Assistant City Manager	City Manager
SF _____	JGG 	JMG 

T:\AGENDA\2011\Dec142011\TowingPermitExtension.sum.doc





MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: City Manager Jorge M. Gonzalez

DATE: December 14, 2011

SUBJECT: **CONSIDERATION OF A RESOLUTION EFFECTUATING THE TOWING PERMITTEES PROPOSAL FOR EXTENDING THE TOWING PERMITS.**

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING AN EXTENSION OF THE TOWING PERMITS ISSUED PURSUANT TO RESOLUTION NO. 2006-26100, TO BEACH TOWING SERVICES, INC., AND TREMONT TOWING SERVICES, INC.; SAID EXTENSION COMMENCING ON JANUARY 1, 2012, AND EXPIRING ON DECEMBER 31, 2014; AND FURTHER APPROVING AMENDMENT NO. 1 TO THE ADMINISTRATIVE RULES AND REGULATIONS FOR THE POLICE DEPARTMENT AND PARKING DEPARTMENT TOWING PERMITS; SAID AMENDMENT PROVIDING, AMONG OTHER THINGS, FOR AN INCREASE TO THE PERMIT FEES AND MAXIMUM ALLOWABLE TOWING RATES; PROVIDING FOR CERTAIN "ENHANCEMENTS," AS REQUESTED BY THE CITY AND SET FORTH IN THIS RESOLUTION; AND ALSO, PROVIDING, AS A CONDITION OF APPROVAL OF THIS RESOLUTION, THAT BEACH TOWING SERVICES, INC., AS THE PETITIONER IN THOSE CERTAIN LAWSUITS FILED AGAINST THE CITY (AS SUCH LAWSUITS ARE SET FORTH IN THIS RESOLUTION), DISMISS SUCH ACTIONS WITH PREJUDICE.

ADMINISTRATION RECOMMENDATION

Provide direction to the Administration.

ANALYSIS

The towing service providers Tremont Towing located at 1861 Bay Road, Miami Beach, Florida and Beach Towing, located at 1349 Dade Boulevard, Miami Beach, Florida, each currently have a permit issued by the City to provide towing services to the Police and Parking Departments. On November 20, 1996, the Mayor and City Commission waived, by a 5/7ths vote, the competitive bidding requirement, and approved an extension of the towing permits for a period of two years, to expire on November 30, 1998. On November 18, 1998, the Mayor and City Commission approved two (2) additional one (1) year options, to be renewed at the sole discretion of the City. The second one (1) year option expired on November 30, 2000. On October 18, 2000, the Mayor and City Commission waived, by a 5/7ths vote, the competitive bidding requirement, and approved a two (2) year contract, with three (3) one-year options, to be renewed at the sole discretion of the City. Subsequently, all renewal options were exercised. On January 11, 2006, the Mayor and Commission waived by 5/7th vote the competitive bidding requirement and approved a three (3) year agreement commencing on March 1, 2006 and expiring on February 28, 2009, with a two (2) year option for renewal, at the sole and absolute discretion of the City. On July 15, 2009, the Mayor and City Commission approved Resolution No. 2009-27151, approving an extension of the towing permits, commencing on September 1, 2009 and expiring on the date that Tremont

Towing was required to vacate its premises for construction of the Sunset Harbor Garage Project on August 31, 2011. On July 22, 2011, the Mayor and City Commission approved a month-to-month extension commencing on September 1, 2011 and expiring on December 31, 2011.

The City Commission discussed the viability of storing City directed towed vehicles on Terminal Island on June 1, 2011. The Administration was directed to conduct a traffic impact study for the proposed facility on Terminal Island for the storage of towed vehicles. The results of that study were placed on the Neighborhoods and Community Affairs Committee agenda and after deferring discussions for two months, the Committee decided at the December 8, 2011 meeting to table this item until such time as the Commission decides to place it back on the agenda for discussion.

The Administration began meeting with the Towing Permittees in early November to discuss the terms of the renewal/extension of the towing permits. The discussions were to center on certain requirements that would enhance accountability and increase operational accountability. The following provisions were identified for discussion:

Conditional Use Requirements:

The City's Planning Board required a number of conditions for the Tremont Towing relocation to 1861 Bay Road. The Administration recommends that any conditions that mitigate the impact of the operation on the surrounding neighborhood also be required of both towing service providers. These conditions include but are not limited to: on-site cameras; restricted access to the facility through the neighborhood, landscaping, etc. (Note: The Permittees have not agreed to this).

Accountability:

- In-Vehicle Cameras (Video and Audio Recording) – Towing service providers would be required to record video and audio of all tows, public and private. Recording equipment shall be mounted on the vehicle (wrecker) and any and all footage (video/audio) shall be provided to the City, upon request.
(Note: Permittees have only agreed to do this at their sole discretion).
- RSI/GPS Tracking Devices (Wreckers) - Radio Satellite Integrators (RSI) is a third party provider of state-of-the-art vehicle tracking systems. The City has contracted RSI to provide a web based vehicle tracking system to manage its fleet, including location, speed, and idle times of City vehicles. Each towing service provider would be required to engage RSI and deploy GPS tracking devices for all wreckers and/or service vehicles; and would be required to provide access to the RSI system to the Police and Parking Departments.
(Note: Permittees have only agreed to do this at their sole discretion).
- Towing Software (Dispatch and Tracking Solutions) - Dispatch and Tracking Services (DTS) – DTS is a third party provider of state-of-the-art towing software. Each towing service provider shall be required to engage DTS, a web based towing software provider, to manage public and private property tows. Both towing service providers would be required to use the DTS system for all tows. A DTS tow fee is assessed for each tow.
(Note: Permittees have only agreed to do this at their sole discretion).

- Defamation Provision (video/audio depiction of public tows) – This provision is intended to develop protections for the City from potential defamation that may arise from towing service providers intending to either pursue on their own or engage a third party to film depictions of public property tows.
(Note: This was agreed to by both Permittees and can be required by the permit).
- Employee Drug Screening - Towing service providers would perform drug test screening on all employees and provide pass/fail results to the City upon request.
(Note: This was agreed to by both Permittees and can be required by the permit).
- Drivers License Screening – Each towing service provider would perform driver's license screening on all employees with driving responsibilities.
(Note: This was agreed to by both Permittees and can be required by the permit).
- Penalties/Fine Schedule – The existing towing permit with both towing services providers allows for the City Manager to suspend the towing permit for a period of time as a penalty. The Administration recommends a fine schedule, as a financial disincentive, for violation(s) of the towing permit. Fines for typical violations may include but are not limited to; employees out of uniform; illegal storage of vehicles; overcharging/assessment of drop fees; violations of the conditional use requirements, etc.
(Note: Both Permittees have agreed to continue discussing this issue).

Enhance Operational Efficiencies:

- Uniforms – Towing service providers would be required to provide all employees with uniforms. Uniforms shall be approved by the City Manager or his designee.
(Note: This was agreed to by both Permittees and can be required by the permit).
- Temporary [Towed] Vehicle Storage – The Administration recommends an amendment to the City Code allowing for temporary storage of towed vehicles during high impact events in the City.
(Note: Permittees have not agreed to this provision).
- Extend the number of hours of storage at no charge to the customer from eight (8) hours to 12 hours.
(Note: Permittees have not agreed to this provision).

Finance and Citywide Projects Committee (FCWPC) – Permittees' Rates Analysis

At the December 6, 2011, Finance and Citywide Projects Committee (FCWPC), the Permittees jointly provided an analysis of the maximum allowable towing rates. The analysis suggests that the current towing rates are inadequate since they have not been increased since 2004. The analysis further suggests that a CPI (Consumer Price Index) of three percent (3%) be applied to certain towing rates (see attached Permittees' Analysis). The summary (Table 2) of the Permittees' Analysis was inserted into the chart for comparative purposes.

The Administration conducted a survey of maximum allowable towing rates for local and regional jurisdictions. The survey below identifies Miami Beach as having the highest maximum allowable rates locally (Miami-Dade and Broward Counties) and second highest in the State of Florida, second only to Key West.

Rate Analysis:

Maximum Allowable Towing Rates in Florida – Please note that the Average Tow Fee (ATF) includes a Class “A” Tow; Administrative Fee; Mileage one (1) mile; Labor; Storage; and After Hours Fee.

<u>Cities in Florida</u>	<u>Total ATF*</u>	<u>Class A</u>	<u>Adm Fee</u>	<u>Mileage</u>	<u>Labor</u>	<u>Storage</u>	<u>After Hours</u>	<u>City Fee***</u>
Bal Harbor**	\$225.00	\$115.00	\$30.00	\$5.00	\$25.00	\$20.00	\$30.00	\$40.00
Coral Gables	\$138.50	\$88.00	\$25.00	\$3.50	\$22.00	\$0.00	\$0.00	\$25.00
Fort Lauderdale	\$154.80	\$100.00	\$30.00	\$4.80	\$0.00	\$20.00	\$0.00	\$0.00
Jacksonville	\$196.30	\$91.75	\$0.00	\$2.62	\$32.76	\$19.65	\$49.52	\$15.00
Key West	\$183.00	\$135.00	\$25.00	\$3.00	\$0.00	\$20.00	\$0.00	\$0.00
Miami Dade	\$154.00	\$101.00	\$30.00	\$3.00	\$0.00	\$20.00	\$0.00	\$0.00
MPA	\$188.00	\$113.00	\$30.00	\$3.00	\$22.00	\$20.00	\$0.00	\$25.00
Orlando	\$170.00	\$100.00	\$50.00	\$0.00	\$0.00	\$20.00	\$0.00	\$0.00
Surfside**	\$230.00	\$115.00	\$30.00	\$5.00	\$25.00	\$25.00	\$30.00	\$25.00
CMB (CURRENT)	\$230.00	\$115.00	\$30.00	\$5.00	\$25.00	\$25.00	\$30.00	\$25.00
Average	\$186.96	\$107.38	\$28.00	\$3.49	\$15.18	\$18.97	\$13.95	\$15.50
Permittees' Proposed rates applied to an average tow								
2012	\$271.00	\$140.00	\$35.00	\$6.00	\$30.00	\$30.00	\$30.00	\$30.00
2013	\$289.00	\$150.00	\$41.00	\$6.00	\$32.00	\$30.00	\$30.00	\$35.00
2014	\$305.00	\$155.00	\$44.00	\$7.00	\$33.00	\$36.00	\$30.00	\$40.00

NOTES:

***ATF (Average Tow Fee) = Class "A" Tow + Adm Fee + Mileage + Labor + Storage + After Hours (in bold).**

****CMB Towing Permit Piggyback**

*****City Fee is included in the Class A Fee**

The Permittees have proposed a rate increase that will raise the average tow fee to \$305.00 over a three year period. This represents a 33% increase over the current Average Tow Fee.

The Class A Base Fee (the most common type of tow) is proposed by the Permittees to increase from \$115 over the three year period, or an increase of 35% over the current rate. The Permittees have also proposed to increase the City's fee, which they collect for the municipality, from the current \$25per tow to \$30per tow in year one, \$35 in year two, up to the maximum of \$40 in year three. This increase is passed on to the customer as part of the Class A Base Fee in the example Average Tow Fee above.

Public Benefits:

The Administration was also seeking to include a public benefit provision in the discussions with the Permittees. This could result in the development of a menu of options of public benefits for Miami Beach residents, including but not limited to discount(s) for towing services; lock-out service; dead battery; flat tire service, etc.
 (Note: Permittees have not committed to provide any additional benefits).

TOWING PERMIT ENHANCEMENTS

At the direction of the FCWPC, the Administration met with both Permittees on December 8, 2011, staff reviewed the proposed rate of increase and discussed with the Permittees certain enhancements to the towing permits. Both Permittees agreed to the following enhancements, as requirements, of the towing permits:

- Uniforms – Towing service providers shall be required to provide all employees with uniforms. Uniforms shall be approved by the City Manager or his designee.
- Employee Drug Screening - Towing service providers shall perform drug test screening on all employees and provide pass/fail results to the City upon request.
- Drivers License Screening – Each towing service provider shall perform driver's license screening on all employees with driving responsibilities.
- Reduce storage requirement within the City limits from seven (7) days to one (1) day.
- Temporary [Towed] Vehicle Storage – An amendment to the City Code is necessary to allow temporary storage of towed vehicles in locations other than currently permitted by the City Code during high impact events in the City.

Both Permittees agreed that the following list of enhancements be considered on a voluntary basis. It should be noted that Tremont Towing agreed to implement the following enhancements; however, Beach Towing, has decided not to implement any of the enhancements at this time:

- In-Vehicle Cameras (Video and Audio Recording) – Towing service providers would be required to record video and audio of all tows, public and private. Recording equipment shall be mounted on the vehicle (wrecker) and any and all footage (video/audio) shall be provided to the City, upon request.
- RSI/GPS Tracking Devices (Wreckers) - Radio Satellite Integrators (RSI) is a third party provider of state-of-the-art vehicle tracking systems. The City has contracted RSI to provide a web based vehicle tracking system to manage its fleet, including location, speed, and idle times of City vehicles. Each towing service provider would be required to engage RSI and deploy GPS tracking devices for all wreckers and/or service vehicles; and would be required to provide access to the RSI system to the Police and Parking Departments.
- Towing Software (Dispatch and Tracking Solutions) - Dispatch and Tracking Services (DTS) – DTS is a third party provider of state-of-the-art towing software. Each towing service provider shall be required to engage DTS, a web based towing software provider, to manage public and private property tows. Both towing service providers would be required to use the DTS system for all tows. A DTS tow fee is assessed for each tow.

The Permittees have also requested to reduce the minimum number of days a vehicle is required to remain within city limits from seven days to one day.

ACCOUNTABILITY

Both Permittees have agreed to include an "Enforcement" provision to the towing permit to ensure accountability and protections. The Enforcement provision shall be jointly developed between the Administration and both Permittees and shall be substantially based upon: (1) Minor Violations such as: employee uniforms; distribution of Towing Bill of Rights information; etc. and (2) Major Violations such as: overcharging; illegal storage; etc.

LEGAL ISSUES

One of the permittees, Beach Towing, has offered to dismiss with prejudice, all of the various court actions filed against the City. Each party would bear their own costs and attorneys' fees. This offer is subject to final approval by the City Attorney, City Manager, and City Commission.

CONCLUSION

Should the Commission feel satisfied with the towing Permittees proposed rate increase and acceptance of certain of amendments to the rules and regulations for the towing permits, then approval of the attached resolution is in order.

The Administration seeks further policy direction on the unresolved requirements to address accountability and operational enhancements. The Administration is also seeking policy direction on the issue of Terminal Island as the matter was tabled indefinitely by the Neighborhoods and Community Affairs Committee.

Attachments

JMG/JGG/SF

T:\AGENDA\2011\12-14-11\towpermitdec142011.cme3.docx

Beach Towing Services, Inc.

ANALYSIS OF MAXIMUM ALLOWABLE TOWING RATES

City of Miami Beach

ANALYSIS IN SUPPORT OF AMENDING SECTION 22, ENTITLED, "MAXIMUM ALLOWABLE RATES," OF THE CITY OF MIAMI BEACH ADMINISTRATIVE RULES AND REGULATIONS FOR POLICE AND PARKING TOWING PERMITS, AS REVISED ON JULY 22, 2009, AND AMENDED ON MAY 11, 2011, BY INCREASING THE MAXIMUM ALLOWABLE RATES TO REFLECT THE ANNUAL CONSUMER PRICE INDEX FOR THE MIAMI-FORT LAUDERDALE REGION SINCE 2004 OR EARLIER

Cáceres & Gómez, CPA, P.L.
Certified Public Accountants

1035 SW 8th Avenue
Miami, Florida 33174
(305) 265-8607

www.cacerescpa.com

December 6, 2011

Beach Towing Services, Inc.
1349 Dade Boulevard
Miami Beach, Florida

To The Board of Director's:

Following is the analysis requested and adopted by your management relating to the increase of the Maximum Allowable Towing Rates for FY2012 through FY2014, from the base rate of FY2004, or earlier, adjusted by the Consumer Price Index applicable to the Miami-Fort Lauderdale area. The FY2004 Maximum Allowable Towing Rates were obtained from the City of Miami Beach Administrative Rules and Regulations For Police and Parking Towing Permits, Revised as of July 22, 2009 (see Appendix 1 of the Analysis), which rates were recommended in the Commission Memorandum dated January 14, 2004 (see Appendix 2 of the Analysis).

The analysis is intended for internal use only and your management's presentation to the Mayor and City Commission of the City of Miami Beach, Florida, which is responsible for setting the Maximum Allowable Towing Rates and should not be used for any other purpose. The actual results may vary from those presented, and the variations may be material.

Cáceres & Gómez, CPA, P.L.

Cáceres & Gómez, CPA, P.L.

Over the past ten years there has been a substantial increase in the CPI published by the U.S. Bureau of Labor Statistics. The increase translates to an average CPI annual increase of about 2.97% over a 10 year period or an increase in expenses of about the same rate. More importantly, CPI adjustments increased at a rate of 4.7% in 2005, 4.90% in 2006, 4.20% in 2007, and 4.60% in 2008. The CPI decreased at a rate of -0.30% in 2009. The CPI increased at a rate of 0.80% in 2010. The trend for 2011 is a CPI increase of approximately 3.70%. The data tables from the U.S. Bureau of Labor Statistics are attached hereto in as Appendix "3."

The rapid rise in costs has severely dampened the financial sustainability of operating a towing business in the City of Miami Beach, particularly if the Maximum Allowable Towing Rates are not adjusted in a timely manner. The rates have remained stagnant ranging from 2001 for several fees and for all fees since January 14, 2004, resulting in unavoidable losses of income for companies engaged in the towing business in the City of Miami Beach.

Thus, Beach Towing Services, Inc., believes the CPI increases from the base rates ranging from 2001 and from the 2004 to the present warrant an increase to the "Maximum Allowable Rates," set forth in Section 22 of the City of Miami City of Miami Beach Administrative Rules and Regulations For Police and Parking Towing Permits, Revised as of July 22, 2009 (attached hereto as Appendix "1"). It is vital to note that the same conditions and justifications cited in the Commission Memorandum dated January 14, 2004 (attached hereto as Appendix "2"), to warrant an increase to the Maximum Allowable Towing Rates are present today.

The following Table 1, broken out into two (2) pages, reflects the application of the CPI to the FY2004 Maximum Allowable Towing Rates. Immediately following the CPI calculations are Beach Towing Services, Inc., proposed blended rates (rounded for simplicity) until such time as the rates approximate the CPI adjusted rates through FY 2014. Table 2, summarizes the effect of the CPI increases to the Average Tow.

Table 1, PG 1 - The Annual Consumer Price Index obtained from the U.S. Department of Labor for Miami-Fort Lauderdale Region, not seasonally adjusted, applied to the applicable Maximum Tow Rates Established in January 14, 2004 or earlier applicable base rate.

CPI Adjusted Rates from Applicable Base Rate to FY2012 through FY2014									
Year	Outside Storage Fee Moto/Scooters	Outside Storage Fee Any Vehicle <20ft L & <8ft W	Outside Storage Fee Any Vehicle <20ft L or >8ft W	Class A Towing Fee	Class B Towing Fee	Class C Towing Fee	Class D Towing Fee	Class B & C Towing Fee Car Carrier	Annual CPI % increase
Sections:	22.A.(2)(a)	22.A.(2)(b)	22.A.(2)(c)	22.B. see note (a)	22.C. see note (a)	22.D. see note (a)	22.E. see note (a)	22.F.	
2001	\$ 10.00	\$ 25.00	\$ 30.00					\$ 125.00	3.10%
2002	\$ 10.31	\$ 25.78	\$ 30.93					\$ 128.88	1.40%
2003	\$ 10.45	\$ 26.14	\$ 31.36					\$ 130.68	2.90%
2004	\$ 10.76	\$ 26.89	\$ 32.27					\$ 134.47	2.80%
2005	\$ 11.06	\$ 27.65	\$ 33.18	\$ 115.00	\$ 145.00	\$ 175.00	\$ 200.00	\$ 138.23	4.70%
2006	\$ 11.58	\$ 28.95	\$ 34.74	\$ 120.41	\$ 151.82	\$ 183.23	\$ 209.40	\$ 144.73	4.90%
2007	\$ 12.15	\$ 30.36	\$ 36.44	\$ 126.30	\$ 159.25	\$ 192.20	\$ 219.66	\$ 151.82	4.20%
2008	\$ 12.66	\$ 31.64	\$ 37.97	\$ 131.61	\$ 165.94	\$ 200.28	\$ 228.89	\$ 158.20	4.60%
2009	\$ 13.24	\$ 33.10	\$ 39.71	\$ 137.66	\$ 173.58	\$ 209.49	\$ 239.42	\$ 165.48	-0.30%
2010	\$ 13.20	\$ 33.00	\$ 39.60	\$ 137.25	\$ 173.06	\$ 208.86	\$ 238.70	\$ 164.98	0.80%
2011	\$ 13.30	\$ 33.26	\$ 39.91	\$ 138.35	\$ 174.44	\$ 210.53	\$ 240.61	\$ 166.30	3.70%
2012	\$ 13.80	\$ 34.49	\$ 41.39	\$ 143.47	\$ 180.89	\$ 218.32	\$ 249.51	\$ 172.45	3.00%
2013	\$ 14.21	\$ 35.53	\$ 42.63	\$ 147.77	\$ 186.32	\$ 224.87	\$ 256.99	\$ 177.63	3.00%
2014	\$ 14.64	\$ 36.59	\$ 43.91	\$ 152.20	\$ 191.91	\$ 231.62	\$ 264.70	\$ 182.96	3.00%

Blended Increase of Rates with Embedded CPI Increase

2012	\$ 12.00	\$ 30.00	\$ 35.00	\$ 135.00	\$ 165.00	\$ 200.00	\$ 230.00	\$ 145.00
2013	\$ 12.00	\$ 30.00	\$ 35.00	\$ 145.00	\$ 180.00	\$ 220.00	\$ 250.00	\$ 160.00
2014	\$ 15.00	\$ 36.00	\$ 44.00	\$ 150.00	\$ 190.00	\$ 230.00	\$ 265.00	\$ 180.00

LEGEND - TABLE 1 (PG 1,2)

- a) The analysis of CPI increases was applied as of FY2005, since the January 14, 2004 determined increases were scaled in 2004 and 2005.
- b) For the periods FY2013 and FY2014, the CPI Increase used was the 10 year average CPI, calculated at approximately 3.0% (rounded).

Table 1, PG 2- The Annual Consumer Price Index obtained from the U.S. Department of Labor for Miami-Fort Lauderdale Region, not seasonally adjusted, applied to the applicable Maximum Tow Rates Established in January 14, 2004 or earlier applicable base rate.

CPI Adjusted Rates from the Applicable Base Rate to FY2012 through FY2014								
Year	Extra Labor Fee/Waiting Time Per hour	Mileage Charge	Administrative Fee	Dollies/Flat Bed Services	Labor to Engage/Tow	Administrative Charge	Miami Beach City Fee	Annual CPI % increase
Sections:	22.H.1.	22.H.2.	22.H.3.	22.H.4.	22.H.5. See Note (a)	22.K.	-	
2001	\$ 16.50	\$ 5.00	\$ 30.00					3.10%
2002	\$ 17.01	\$ 5.16	\$ 30.93	\$ 35.00		\$ 30.00	\$ 25.00	1.40%
2003	\$ 17.25	\$ 5.23	\$ 31.36	\$ 35.49		\$ 30.42	\$ 25.35	2.90%
2004	\$ 17.75	\$ 5.38	\$ 32.27	\$ 36.52		\$ 31.30	\$ 26.09	2.80%
2005	\$ 18.25	\$ 5.53	\$ 33.18	\$ 37.54	\$ 25.00	\$ 32.18	\$ 26.82	4.70%
2006	\$ 19.10	\$ 5.79	\$ 34.74	\$ 39.31	\$ 26.18	\$ 33.69	\$ 28.08	4.90%
2007	\$ 20.04	\$ 6.07	\$ 36.44	\$ 41.23	\$ 27.46	\$ 35.34	\$ 29.45	4.20%
2008	\$ 20.88	\$ 6.33	\$ 37.97	\$ 42.96	\$ 28.61	\$ 36.83	\$ 30.69	4.60%
2009	\$ 21.84	\$ 6.62	\$ 39.71	\$ 44.94	\$ 29.93	\$ 38.52	\$ 32.10	-0.30%
2010	\$ 21.78	\$ 6.60	\$ 39.60	\$ 44.81	\$ 29.84	\$ 38.40	\$ 32.00	0.80%
2011	\$ 21.95	\$ 6.65	\$ 39.91	\$ 45.16	\$ 30.08	\$ 38.71	\$ 32.26	3.70%
2012	\$ 22.76	\$ 6.90	\$ 41.39	\$ 46.83	\$ 31.19	\$ 40.14	\$ 33.45	3.00%
2013	\$ 23.45	\$ 7.11	\$ 42.63	\$ 48.24	\$ 32.12	\$ 41.35	\$ 34.46	3.00%
2014	\$ 24.15	\$ 7.32	\$ 43.91	\$ 49.69	\$ 33.09	\$ 42.59	\$ 35.49	3.00%

Blended Increase of Rates with Embedded CPI Increase

2012	\$ 20.00	\$ 6.00	\$ 35.00	\$ 40.00	\$ 30.00	\$ 35.00	\$ 30.00
2013	\$ 22.00	\$ 6.00	\$ 41.00	\$ 47.00	\$ 32.00	\$ 40.00	\$ 32.00
2014	\$ 24.00	\$ 7.00	\$ 44.00	\$ 50.00	\$ 33.00	\$ 43.00	\$ 35.00

LEGEND - TABLE 1 (PG 1,2)

- a) The analysis of CPI increases was applied as of FY2005, since the January 14, 2004 determined increases were scaled in 2004 and 2005.
- b) For the periods FY2013 and FY2014, the CPI Increase used was the 10 year average CPI, calculated at approximately 3.0% (rounded).

Beach Towing Services, Inc.
Consulting Engagement

Table 2- The following table summarizes the effect of the Proposed CPI increases on the Maximum Allowable Tow Rates for the Average Tow.

Effect of Proposed CPI Increase to Average Tow Fee							
Year	Class A Towing Fee	Mileage Charge	Administrative Fee	Labor to Engage/Tow	Outside Storage Fee Any Vehicle <20ft L & <8ft W	Miami Beach City Fee	Average Tow Fee Increase
Sections:	22.B.	22.H.2.	22.H.3.	22.H.5.	22.A.(2)(b)	-	-
Base	\$ 115.00	\$ 5.00	\$ 30.00	\$ 25.00	\$ 25.00	\$ 25.00	-
2012	\$ 135.00	\$ 6.00	\$ 35.00	\$ 30.00	\$ 30.00	\$ 30.00	\$ 31.00
2013	\$ 145.00	\$ 6.00	\$ 41.00	\$ 32.00	\$ 30.00	\$ 33.00	\$ 15.00
2014	\$ 150.00	\$ 7.00	\$ 44.00	\$ 33.00	\$ 36.00	\$ 35.00	\$ 14.00

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING AN EXTENSION OF THE TOWING PERMITS ISSUED PURSUANT TO RESOLUTION NO. 2006-26100, TO BEACH TOWING SERVICES, INC., AND TREMONT TOWING SERVICES, INC.; SAID EXTENSION COMMENCING ON JANUARY 1, 2012, AND EXPIRING ON DECEMBER 31, 2014; AND FURTHER APPROVING AMENDMENT NO. 1 TO THE ADMINISTRATIVE RULES AND REGULATIONS FOR THE POLICE DEPARTMENT AND PARKING DEPARTMENT TOWING PERMITS; SAID AMENDMENT PROVIDING, AMONG OTHER THINGS, FOR AN INCREASE TO THE PERMIT FEES AND MAXIMUM ALLOWABLE TOWING RATES; PROVIDING FOR CERTAIN "ENHANCEMENTS," AS REQUESTED BY THE CITY AND SET FORTH IN THIS RESOLUTION; AND ALSO, PROVIDING, AS A CONDITION OF APPROVAL OF THIS RESOLUTION, THAT BEACH TOWING SERVICES, INC., AS THE PETITIONER IN THOSE CERTAIN LAWSUITS FILED AGAINST THE CITY (AS SUCH LAWSUITS ARE SET FORTH IN THIS RESOLUTION), DISMISS SUCH ACTIONS WITH PREJUDICE.

WHEREAS, Chapter 106, Article V, Division 2 of the Miami Beach City Code, provides for the issuance by the City Commission of towing permits, for the towing of vehicles identified by the City as requiring removal from the public way; and

WHEREAS, on January 11, 2006, the Mayor and City Commission approved Resolution No. 2006-26100, waiving, by 5/7^{ths} vote, the competitive bidding requirement and approving the issuance of towing permits to Beach Towing Services, Inc., and Tremont Towing Services, Inc. (also referred to herein as the Permittees); said permits having a three (3) year term, commencing on March 1, 2006, and expiring on February 28, 2009, with a two (2) year renewal option, at the sole and absolute discretion of the City; and

WHEREAS, on January 28, 2009, the Mayor and City Commission approved Resolution No. 2009-26999, approving a month-to-month extension of the aforesated permits, commencing on March 1, 2009, and expiring on August 31, 2009; and

WHEREAS, on July 15, 2009, the Mayor and City Commission approved Resolution No. 2009-27151, approving an extension of the permits, commencing on September 1, 2009, and expiring on August 31, 2011; and

WHEREAS, on July 13, 2011, the Mayor and City Commission approved Resolution No. 2011-27689, approving a month to month extension of the permits, commencing on September 1, 2011, and expiring on December 31, 2011; and

WHEREAS, the permits expire on December 31, 2011; therefore, a further extension is necessary; and

WHEREAS, the proposed extension would commence on January 1, 2012, and expire on December 31, 2014; and

WHEREAS, in conjunction with the aforesated extension of the permits, Permittees are requesting an increase in the Permit Fee, as currently set forth in Section 3 of the City's Administrative Rules and Regulations for Police and Parking Towing Permits (the Rules and Regulations); said increase from \$25 for each vehicle towed, to \$30, effective as of January 1, 2012; \$35, effective as of January 1, 2013; and \$40, effective as of January 1, 2014; and

WHEREAS, the Permittees are also requesting an amendment to the Maximum Allowable Towing Rates, as set forth in Section 22 of the Rules and Regulations, increasing such rates as follows:

1) amending the rate in Section 22.A.(2)(a) of the Rules and Regulations, from \$10, to \$12, effective as of January 1, 2012; and \$15, effective as of January 1, 2014;

2) amending the rate in Section 22.A(2)(b), from \$25, to \$30, effective as of January 1, 2012; and \$36, effective as of January 1, 2014;

3) amending the rate in Section 22.A(2)(c), from \$30, to \$35, effective as of January 1, 2012; and \$44, effective as of January 1, 2014;

4) amending the rate in Section 22.B, from \$115, to \$140, effective as of January 1, 2012; \$150, effective as of January 1, 2013, and \$155, effective as of January 1, 2014;

5) amending the rate in Section 22.C, from \$145, to \$165, effective as of January 1, 2012; \$180, effective as of January 1, 2013, and \$190, effective as of January 1, 2014;

6) amending the rate in Section 22.D, from \$175, to \$200, effective as of January 1, 2012; \$220, effective as of January 1, 2013; and \$230, effective as of January 1, 2014;

7) amending the rate in Section 22.E, from \$200, to \$230, effective as of January 1, 2012; \$250, effective as of January 1, 2013; and \$265, effective as of January 1, 2014;

8) amending the rate in Section 22.F, from \$125, to \$145, effective as of January 1, 2012, \$160; effective as of January 1, 2013; and \$180, effective as of January 1, 2014;

9) amending the rate in Section 22.H.1, from \$16.50, to \$20, effective as of January 1, 2012; \$22, effective as of January 1, 2013; and \$24, effective as of January 1, 2014;

10) amending the rate in Section 22.H.2, from \$5, to \$6, effective as of January 1, 2012; and \$7, effective as of January 1, 2014;

11) amending the rate in Section 22.H.3, from \$30, to \$35, effective as of January 1, 2012; \$41, effective as of January 1, 2013; and \$44, effective as of January 1, 2014;

12) amending the rate in Section 22.H.4, from \$35, to \$40, effective as of January 1, 2012, \$47; effective as of January 1, 2013; and \$50, effective as of January 1, 2014;

13) amending the rate in Section 22.H.5, from \$25, to \$30, effective as of January 1, 2012; \$32, effective as of January 1, 2013; and \$33, effective as of January 1, 2014;

14) amending the rate in Section 22.K, from \$30, to \$35; effective as of January 1, 2012; \$40, effective as of January 1, 2013; and \$43, effective as of January 1, 2014; and

WHEREAS, on December 6, 2011, the Permittees jointly presented an analysis of the Maximum Allowable Towing Rates to the Finance and Citywide Projects Committee (FCWPC); and

WHEREAS, at the direction of the FCWPC, the Administration met with both Permittees on December 8, 2011; staff reviewed the proposed rate of increase, and also discussed with the Permittees' provision of the following "enhancements," which would be also required and memorialized pursuant to an amendment to the Rules and Regulations:

- Uniforms – Permittee shall be required to provide all employees with uniforms, which shall be approved by the City Manager or his designee.
- Employee Drug Screening - Permittee shall perform drug test screening on all employees, and provide pass/fail results to the City Manager or his designee, upon request.
- Driver's License Screening – Permittee shall perform driver's license screening on all employees with driving responsibilities.
- Reduce storage requirement within the City limits from seven (7) days to one (1) day; and

WHEREAS, the City has been a party to the following litigation arising out of disputes between Permittees:

1. *Beach Towing Services, Inc. v. The City of Miami Beach*, Case No. 11-37364 CA 31, Eleventh Judicial Circuit, General Jurisdiction Division (complaint challenging the adoption of Ordinance No. 2008-3617 on robotic and mechanical parking);

2. *Beach Towing Services Of Miami, Inc. v. The City of Miami Beach*, Case No. 11-465 AP, Eleventh Judicial Circuit, Appellate Division (petition for writ of certiorari challenging the Board of Adjustment's opinion upholding the decisions of the Planning Director with respect to a towing garage in the I-1 district);

3. *Beach Towing Services Of Miami, Inc. v. The City of Miami Beach*, Case No. 11-466 AP, Eleventh Judicial Circuit, Appellate Division (petition for writ of certiorari challenging the Board of Adjustment's opinion upholding the decisions of the Planning Director with respect to a towing garage in the I-1 district); and

WHEREAS, as a condition of the approval of this Resolution, the above referenced petitioners have agreed to, and shall, within five (5) days of adoption of this Resolution, dismiss with prejudice their lawsuits and petitions, each party to bear its own costs and attorney's fees, and with the City drafting the Orders of Dismissal.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby authorize and approve an extension of the towing permits issued pursuant to Resolution No. 2006-26100, to Beach Towing Services, Inc., and Tremont Towing Services, Inc.; said extension commencing on January 1, 2012, and expiring on December 31, 2014; and further approving Amendment No. 1 to the Administrative Rules and Regulations for the Police Department and Parking Department Towing Permits; said Amendment providing, among other things, for an increase to the Permit Fees and Maximum Allowable Towing Rates, providing for certain "enhancements," as requested by the City and set forth in this Resolution; and also, providing, as a condition of approval of this Resolution, that Beach Towing Services, Inc., as the petitioner in those certain lawsuits filed against the City (as such lawsuits are set forth in this Resolution), dismiss such actions with prejudice.

PASSED AND ADOPTED this _____ day of _____, 2011

MAYOR

ATTEST:

CITY CLERK

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12-12-11

Date

**AMENDMENT NO. 1 TO THE ADMINISTRATIVE RULES AND REGULATIONS FOR
THE POLICE DEPARTMENT AND PARKING DEPARTMENT TOWING PERMITS**

(Dated December 14, 2011)

* * * *

3. PERMIT FEE/MONTHLY BILLING

Permittee shall pay to the City a monthly Permit fee, in the amount of ~~\$25.00~~ \$30.00, effective as of January 1, 2012; \$35.00 effective as of January 1, 2013; and \$40.00, effective as of January 1, 2014, for each vehicle towed.

The City shall bill Permittee by the 10th of each month for all tows occurring in the previous month. A late charge of \$50.00, plus the greater of (i) eighteen percent (18%) interest per annum, or ii) the maximum rate allowable under Florida law, shall be assessed on all payments received after the 20th day of the billing month.

Payments to the City shall be by check and remitted to the City of Miami Beach Finance Department (Revenue Section). Checks shall be clearly marked "Police Tow" or "Parking Department Tow."

* * * *

5. STORAGE AREA/STORAGE FACILITY(IES)

Permittee shall have available outside storage for a minimum of one hundred (100) vehicles. Said storage area will be enclosed in accordance with applicable zoning requirements. At a minimum, Permittee shall surround the storage area with a chain-link fence or solid-wall type fence at least six (6') feet high. The storage area shall be sufficiently illuminated to reveal persons and vehicles at a distance of at least 150 feet during evening hours. Permittee shall use such security measures as necessary to prevent theft, vandalism, stripping and dismantling of parts from vehicles in all storage areas.

Permittee shall provide a completely enclosed inside storage area (solid walls, roof, and access door) for at least five (5) vehicles. Said area will be secured against entry by unauthorized persons.

All vehicle keys shall be secured separately.

In the event Permittee's storage areas are filled to capacity, the Permittee shall not be relieved of its responsibility with regard to storage of vehicles pursuant to the Permit, and shall be required to make alternate arrangements for storage (as required to comply with the terms of the Permit). Any storage area proposed to be utilized by Permittee, which was not identified in its Permit application, must obtain the prior written approval of the City Manager or his designee prior to commencement of such use.

Permittee's storage area must be located within the city limits of Miami Beach. Vehicles shall be stored for a minimum of ~~seven (7)~~ one (1) days, after which they may be removed to a storage area outside the city limits of Miami Beach, but within Miami-Dade County, Florida.

Any vehicle with a "police hold," shall not be stored outside the city limits of Miami Beach.

* * * *

12. EMPLOYEES OF PERMITTEE

Permittee shall be solely responsible for selecting, training and employing (or otherwise retaining) such personnel as is necessary for Permittee to satisfy the requirements of the Permit and to satisfactorily perform the work and services required under the Permit.

a. Permittee shall perform driver's license screening on all employees with driving responsibilities and a copy of each employee's drivers license shall be kept on file by Permittee and made available upon request of the City Manager or his designee.

b. Permittee shall be required to provide all employees with uniforms, which shall be subject to approval by the City Manager or his designee.

c. Permitttee shall perform drug test screening on all employees and provide pass/fail results to the City Manager or his designee, upon request.

Any and all employees and/or other individuals retained by Permittee, shall not, for any purposes, be considered to be employees of the City of Miami Beach, and Permittee shall be solely responsible for their supervision and daily direction and control.

It is the intent of the City and Permittee, and Permittee acknowledges, that the Permittee is legally considered to be an independent contractor and that neither it, nor its officers, directors, employees, agents, contractors or servants, shall, under any circumstances, be considered officers, directors, employees, contractors, agents or servants of the City, and that the City shall at no time be legally responsible or liable for any negligent acts, errors, omissions, or misconduct on the part of Permittee, or any of its officers, directors, employees, contractors, agents or servants. Additionally, toward that end, Permittee agrees to have no markings on either vehicles, buildings, or correspondence that indicates or tends to indicate any official relationship between the Permittee and the City of Miami Beach.

* * * *

22. MAXIMUM ALLOWABLE RATES

The City Commission shall establish the maximum rates for towing, removal, and storage services provided under the Permit. The Permittee shall not charge in excess of the following maximum allowable rates established by the City (as same may be amended from time to time):

A. The first eight (8) hours of storage shall be without charge. Thereafter the following storage rates shall apply per day:

(1) Inside-Interior

- (a) Motorcycles or Scooters \$12.00
- (b) Any vehicle less than 20 feet in length and 8 feet in width \$30.00
- (c) Any vehicle over 20 feet in length \$40.00

(2) Outside-Exterior

- (a) Motorcycles or Scooters ~~\$10.00~~ \$12.00, effective as of January 1, 2012
\$15.00, effective as of January 1, 2014
- (b) Any vehicle less than 20 feet in length and 8 feet in width
~~\$25.00~~ \$30.00, effective as of January 1, 2012
\$36.00, effective as of January 1, 2014
- (c) Any vehicle over 20 feet in length
~~\$30.00~~ \$35.00, effective as of January 1, 2012
\$44.00, effective as of January 1, 2014

(3) Boat and Trailer (Owner's Unit)

- (a) Unit under 20 feet in length \$20.00
- (b) Unit 21 feet to 35 feet in length \$35.00
- (c) Unit over 35 feet in length \$45.00

B. Tow Rate Class "A" Tow Truck and Class "A" Car Carrier, including:

- 1. First 30 minutes at scene
- 2. Unlocking door

3. Dropping/hooking up linkage
4. Wheel lift equipment
5. Use of Dolly

~~\$115.00~~ \$140.00, effective as of January 1, 2012

\$150.00, effective as of January 1, 2013

\$155.00, effective as of January 1, 2014

C. Class "B" Tow Truck including:

1. First 30 minutes at scene
2. Unlocking door
3. Dropping/hooking up linkage
4. Under reach equipment

~~\$145.00~~ \$165.00, effective as of January 1, 2012

\$180.00, effective as of January 1, 2013

\$190.00, effective as of January 1, 2014

D. Class "C" Tow Truck including:

1. First 30 minutes at scene
2. Unlocking door
3. Dropping/hooking up linkage
4. Removal of air dams, shafts, or axles
5. Air hookup
6. Under reach equipment

~~\$175.00~~ \$200.00, effective as of January 1, 2012

\$220.00, effective as of January 1, 2013

\$230.00, effective as of January 1, 2014

E. Tow Rate Class "D" Tow Truck including:

1. First 30 minutes at scene
2. Unlocking door
3. Dropping/hooking up linkage
4. Removal of air dams, shafts, or axles
5. Air hookup
6. Under reach equipment

~~\$200.00~~ \$230.00, effective as of January 1, 2012

\$250.00, effective as of January 1, 2013

\$265.00, effective as of January 1, 2014

F. Tow Rate Class "B" or "C" Car Carrier including:

1. First 30 minutes at scene
2. Unlocking door
3. Dropping/hooking up linkage

~~\$125.00~~ \$145.00, effective as of January 1, 2012

\$160.00, effective as of January 1, 2013

\$180.00, effective as of January 1, 2014

G. Use of Contractor's Boat Trailer, any length, including storage, per day:

- | | |
|------------------------------------|----------|
| 1. Trailer up to 18 feet in length | \$50.00 |
| 2. Trailer 18 to 30 feet in length | \$75.00 |
| 3. Trailer over 30 feet in length | \$150.00 |

H. Special and additional charges

1. Extra labor or extra waiting time per hour after the first 30 minutes at the scene and prorated after the 1st hour in 15 minute increments.

~~\$16.50~~ \$20.00, effective as of January 1, 2012

\$22.00, effective as of January 1, 2013

\$24.00, effective as of January 1, 2014

2. Mileage charges (per mile):

~~\$5.00~~ \$6.00, effective as of January 1, 2012

\$7.00, effective as of January 1, 2014

Maximum per tow:

~~\$35.00~~ \$42.00, effective as of January 1, 2012

\$49.00, effective as of January 1, 2014

3. Administrative fee:

Maximum per tow

~~\$30.00~~ \$35.00, effective as of January 1, 2012

\$41.00, effective as of January 1, 2013

\$44.00, effective as of January 1, 2014

4. Dollies or Flatbed Services (per job): ~~\$35.00~~ \$40.00, effective as of January 1, 2012

\$47.00, effective as of January 1, 2013

\$50.00, effective as of January 1, 2014

5. Labor to Engage/Tow:

This is not an automatic fee and may only be imposed when access to enter the vehicle is required to properly engage/tow vehicle.

~~\$25.00~~ \$30.00, effective as of January 1, 2012

\$32.00, effective as of January 1, 2013

\$33.00, effective as of January 1, 2014

I. Road Service. Jump start, delivery of gas, door opening, tire change when there is no tow \$20.00

J. Cost of any waiting time or extra labor (i.e., "retrieving", special handling) accomplished within thirty (30) minutes of arrival at the scene of a tow shall be included in the base tow rate. If, and only if, such waiting time or extra labor consumes more than thirty (30) minutes, an extra waiting time or extra labor charge, per fifteen (15) minutes or any fraction thereof, may be assessed (commencing thirty (30) minutes after arrival at the scene). Any extra waiting time or extra labor charge authorization should be made by the MBPD officer or Parking Enforcement Specialist on the scene, whenever possible, and shall be so indicated in writing on the vehicle storage receipt.

K. A maximum administrative charge, not exceeding:

~~\$30.00~~ \$35.00, effective as of January 1, 2012

\$41.00, effective as of January 1, 2013

\$44.00, effective as of January 1, 2014

(and not as an automatic "add-on", but only when required to comply with Florida Statutes), may be imposed by Permittee for administrative services such as processing of paperwork, clerical work, or title research. "Administrative charges" are defined as costs associated with verification of a vehicle identification number; search of vehicle for ownership information; preparation of paperwork required by Florida Statutes; preparation and mailing of the notification letter(s); and preparation of vehicle for auction (including notification to owner or lien holder). Administrative charges shall not be

imposed on vehicles with a “police hold” until or unless the hold is removed. Storage for City (confiscated) vehicles with “police holds” is free of charge to the City.

Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, pertaining to that certain City construction project referred to as the "Biscayne Point Neighborhood Right-of-Way Improvements Project" (the Project) and, with respect to such Project, accepting the findings and recommendation of the City Manager in declaring an emergency pursuant to Subsections 287.055(3)(a)(1) and (9)(c)(6), Florida Statutes, all as more specifically set forth in this Resolution and the accompanying Commission Memorandum; and, as permitted pursuant to Section 2-367(e) of the City code, waiving, by 5/7ths vote, the competitive bidding requirements, finding such waiver to be in the best interest of the City, and authorizing the City Manager to take the following actions to procure the necessary emergency design and construction services for the Project, pursuant to a negotiated design-build contract: 1) prepare, whether through the City's Public Works Department or through retention of an outside Design Criteria Professional, as determined by the City Manager, a Design Criteria Package (DCP) which complies with the specifications set forth under Section 287.055(2)(j), Florida Statutes; 2) upon completion of the DCP, authorizing the City Manager to negotiate and, if successful, execute a design-build contract, with a Guaranteed Maximum Price (GMP) for the remaining water, stormwater, landscape and streetscape improvements for the Project, with the firm of David Mancini & Sons, Inc. (DMSI) who, as the City's Contractor currently working on the Project under that certain construction contract authorized pursuant to Invitation to Bid No. 07-10/11 (the ITB), is the one appropriately licensed contractor who is most qualified to assume the remaining work under the Project under the proposed design-build contract because DMSI is currently under contract to perform (and is performing) work that is affiliated with the Project; and 3) further authorizing the City Manager to terminate, for convenience, the remaining portion of the current construction Contract with DMSI (entered into pursuant to the ITB) and requiring that, as a condition to the City and DMSI's execution of the negotiated design-build contract, the parties enter into and execute a settlement agreement and release of all claims against the City under the former contract, where the combined sum of the negotiated design-build GMP and the amount negotiated as part of the settlement of the existing contract shall not exceed \$11,998,535, which includes the \$10,907,759 construction award value of the current DMSI construction contract and the approved project contingency amount of \$1,090,776.

Key Intended Outcome Supported:

Ensure well designed quality capital projects.

Supporting Data (Surveys, Environmental Scan, etc.):
 Completed Capital Improvement Projects are a key positive driver in resident perceptions on overall quality of life. The 2009 Customer Satisfaction Survey indicated that 51.8% and 85.0% of North-Beach residents rated storm drainage and landscape maintenance in right-of-ways and public areas as excellent or good, respectively. Completing this Project will add to the needed upgrades in this area and improve overall rating.

Issue:

Shall the Mayor and City Commission approve the Resolution?

Item Summary/Recommendation:

On March 9, 2011, the Mayor and City Commission approved the award of the construction contract adopted Resolution No. 2011-27621 for the Project to David Mancini & Sons, Inc. (DMSI or Contractor), as the selected bidder pursuant to ITB #07-10/11. The Contractor submitted a value engineering proposal consisting of a conceptual design that would reduce the number of stormwater pump stations in the Project from four (4) specified by Consultant, to two (2); affirming that a two pump station design could meet the same level of service provided by the Consultant. The City's Public Works Department (PWD) evaluated Contractor's proposal, and determined that the two (2) pump station design met the City's minimum requirements. The Contractor's value engineering proposal would require a re-design and re-permitting of the stormwater system.

A concern was raised during permitting of the drainage wells regarding the 90-second detention design provisions for the stormwater runoff. The PWD determined that detention structures would be required to meet the 90-second detention treatment requirement from the Florida Department of Environmental Protection (FDEP). A permit for construction of the drainage wells could not be obtained from FDEP or PWD, requiring a re-design of the stormwater system to incorporate the required detention structures. The City agreed that the value engineering re-design would address the reduction in the number of pump stations; however, incorporation of the detention structures would be considered additional scope of work. The City also agreed to issue the 2nd Notice-to-Proceed (NTP), on August 24, 2011, with the understanding that the revisions to the design of the stormwater system, and associated permitting, could be procured prior to finalizing the water main construction.

As construction of the water main improvements progressed, various inconsistencies between the construction documents, technical specifications, and the construction contract were raised by the Contractor. The Project team encountered multiple errors and omissions in the construction documents.

The current construction contract with DMSI requires the Contractor to proceed based on the Consultant's design, as the engineer-of-record, and does not allow for a "design" component, which would allow the Contractor to undertake a redesign of the stormwater system. Therefore, any subsequent agreement to provide design services under the existing contract is prohibited under Section 287.055, Florida Statutes (also known as the "Consultants Competitive Negotiation Act" or CCNA). As such, any desired re-design would have to be undertaken by the Consultant, as the Engineer of Record, or be re-bid. However, due to the Consultant's performance, the Administration recommends that the Consultant not be used for the re-design of the stormwater system, and that a new design professional be retained for delivering the required corrective design services.

The Contractor is finalizing the construction of the watermain improvements and, with the stormwater system re-design pending, will have no alternative but to demobilize. Demobilization and delays would be detrimental to the Project construction budget and result in various hardships for the residents of this community.

These hardships include:

1. A life safety concern due to the water main pressure tests results conducted by PWD on the existing water distribution system along Stillwater Drive and the system connection. The pressure tests on the existing system have resulted in pressures lower than anticipated. The low pressure results could mean that the required fire suppression pressures may

not be available in the event of a high flow demand. The proposed water main improvements along Stillwater Drive were anticipated to resolve these concerns; however, these improvements are currently non-constructable.

2. The community will continue to deal with a stormwater system which provides a low level of service, allowing right-of-ways and residences to experience above average flooding during regular stormwater events; a prolonged period that residents could risk potential flooding of private residences and associated financial repercussions.
3. Accessibility concerns due to unfinished pavement conditions; violations of the Americans with Disabilities Act (ADA) due to the disturbance of grade transitions to existing sidewalks; and potential increases in incidental crime due to poor lighting conditions.
4. The potential for change orders for corrective work which may result in the City incurring additional costs, including delay damages.

The Administration believes continuing with the current construction contract is a non-viable option. It is critical that the Administration be able to retain a new design professional to perform the necessary re-design services and continue with construction of the Project with minimal or no disruption and/or interruption.

To that end, the Administration has been meeting with the City Attorney's Office to determine the most practical approach that would allow the City to meet the aforesaid goals, without violating CCNA laws which require municipalities to publicly bid certain professional services except in cases of valid public emergencies. In this instance, the Administration believes that current unsafe site and neighborhood conditions; potential community hardships; quality of life issues; and potential impacts to the Project budget and schedule as a result of corrective work necessitating change orders all giving ample support to find that a public emergency, necessitating a CCNA waiver of the bidding requirements, exists here. As required by the CCNA statute, "the agency head must declare an emergency and authorize negotiations with the best qualified design-build firm available at that time". In the case of the City, the agency head is the City Manager.

Accordingly, given that the facts support the existence of a public emergency, and for the purpose of waiving the bidding requirements under the CCNA, the Administration recommends the following action: 1) that competitive bidding requirements be waived by 5/7ths vote as permitted pursuant to Section 2-367(e) of the City Code, finding such waiver to be in the best interest of the City, and authorize the City Manager to procure a design-build contract, allowing the City Manager to prepare a Design Criteria Package (DCP) which complies with the specifications set forth under F.S. 287.055(2)(j), whether through the City's Public Works Department or through retention of an outside Design Criteria Professional, as determined by the City Manager; 2) upon completion of the DCP, authorize the City Manager to negotiate and, if successful, execute a design-build contract with a Guaranteed Maximum Price (GMP) for the remaining water, stormwater, landscape and streetscape improvements for the Project with DMSI, as the appropriately licensed Contractor who is most qualified to undertake the Project under the proposed design-build contract; 3) authorize the City Manager to terminate, for convenience, the remaining portion of the current construction Contract with DMSI and enter into and execute a settlement agreement and release of all claims against the City under the former Contract, as a condition to the City and DMSI's execution of the negotiated design-build contract; and 4) cap the total sum of the combined negotiated design-build GMP and the negotiated settlement of the existing contract at \$11,998,535, which includes the \$10,907,759 construction award value of the current DMSI construction contract and the approved project contingency amount of \$1,090,776. The above stated conditions have been reviewed with DMSI Inc. (see attachment No. 1: Letter from DMSI Inc. dated December 8, 2011).

The Administration believes this course of action would serve as the most responsible avenue having the following benefits, thus avoiding public inconvenience and public safety concerns:

- absorb the majority of the delays attributed to the redesign of the stormwater system;
- incorporate the design of the required detention and associated costs;
- capitalize on a shared savings (50/50) for the deletion of the two (2) stormwater pump stations and other credits;
- rectify the errors and omission in the construction plans;
- keep the Contractor mobilized onsite; and
- maintain the Project on budget.

Advisory Board Recommendation:

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Financial Information:

Source of Funds:		Amount	Account
OBPI	1		
	Total		

Financial Impact Summary: No additional funding is required.

City Clerk's Office Legislative Tracking:

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Sign-Offs:

Department Director	Assistant City Manager	City Manager
FV <i>[Signature]</i>	DB <i>[Signature]</i>	JMG <i>[Signature]</i>

JMG/DB/FV

Attachment No. 1: Letter from DMSI Inc. dated December 8, 2011

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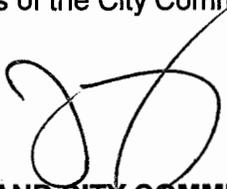


COMMISSION MEMORANDUM

TO: Mayor Matti H. Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: December 14, 2011



SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PERTAINING TO THAT CERTAIN CITY CONSTRUCTION PROJECT REFERRED TO AS THE "BISCAYNE POINT NEIGHBORHOOD RIGHT-OF-WAY IMPROVEMENTS PROJECT" (THE PROJECT) AND, WITH RESPECT TO SUCH PROJECT, ACCEPTING THE FINDINGS AND RECOMMENDATION OF THE CITY MANAGER IN DECLARING AN EMERGENCY PURSUANT TO SUBSECTIONS 287.055(3)(A)(1) AND (9)(C)(6), FLORIDA STATUTES, ALL AS MORE SPECIFICALLY SET FORTH IN THIS RESOLUTION AND THE ACCOMPANYING COMMISSION MEMORANDUM; AND, AS PERMITTED PURSUANT TO SECTION 2-367(E) OF THE CITY CODE, WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENTS, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE CITY MANAGER TO TAKE THE FOLLOWING ACTIONS TO PROCURE THE NECESSARY EMERGENCY DESIGN AND CONSTRUCTION SERVICES FOR THE PROJECT, PURSUANT TO A NEGOTIATED DESIGN-BUILD CONTRACT: 1) PREPARE, WHETHER THROUGH THE CITY'S PUBLIC WORKS DEPARTMENT OR THROUGH RETENTION OF AN OUTSIDE DESIGN CRITERIA PROFESSIONAL, AS DETERMINED BY THE CITY MANAGER, A DESIGN CRITERIA PACKAGE (DCP) WHICH COMPLIES WITH THE SPECIFICATIONS SET FORTH UNDER SECTION 287.055(2)(J), FLORIDA STATUTES; 2) UPON COMPLETION OF THE DCP, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND, IF SUCCESSFUL, EXECUTE A DESIGN-BUILD CONTRACT, WITH A GUARANTEED MAXIMUM PRICE (GMP) FOR THE REMAINING WATER, STORMWATER, LANDSCAPE AND STREETScape IMPROVEMENTS FOR THE PROJECT, WITH THE FIRM OF DAVID MANCINI & SONS, INC. (DMSI) WHO, AS THE CITY'S CONTRACTOR CURRENTLY WORKING ON THE PROJECT UNDER THAT CERTAIN CONSTRUCTION CONTRACT AUTHORIZED PURSUANT TO INVITATION TO BID NO. 07-10/11 (THE ITB), IS THE ONE APPROPRIATELY LICENSED CONTRACTOR WHO IS MOST QUALIFIED TO ASSUME THE REMAINING WORK UNDER THE PROJECT UNDER THE PROPOSED DESIGN-BUILD CONTRACT BECAUSE DMSI IS CURRENTLY UNDER CONTRACT TO PERFORM (AND IS PERFORMING) WORK THAT IS AFFILIATED WITH THE PROJECT; AND 3) FURTHER AUTHORIZING THE CITY MANAGER TO TERMINATE, FOR CONVENIENCE, THE REMAINING PORTION OF THE CURRENT CONSTRUCTION CONTRACT WITH DMSI (ENTERED INTO PURSUANT TO THE ITB) AND REQUIRING THAT, AS A CONDITION TO THE CITY AND DMSI'S EXECUTION OF THE NEGOTIATED DESIGN-BUILD CONTRACT, THE PARTIES ENTER INTO AND EXECUTE A SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS AGAINST THE CITY UNDER THE FORMER CONTRACT, WHERE THE COMBINED SUM OF THE NEGOTIATED DESIGN-BUILD GMP AND THE AMOUNT NEGOTIATED AS PART OF THE SETTLEMENT OF THE EXISTING CONTRACT**

SHALL NOT EXCEED \$11,998,535, WHICH INCLUDES THE \$10,907,759 CONSTRUCTION AWARD VALUE OF THE CURRENT DMSI CONSTRUCTION CONTACT AND THE APPROVED PROJECT CONTINGENCY AMOUNT OF \$1,090,776.

ADMINISTRATION RECOMMENDATION

Approve the Resolution.

KEY INTENDED OUTCOME

Ensure value and the timely delivery of a quality capital project. Includes

FUNDING

Funding has been previously appropriated; no additional funding will be required.

BACKGROUND

On July 27, 2005, the Mayor and City Commission adopted Resolution No. 2005-25973, approving and authorizing the Mayor and City Clerk to execute a professional services agreement, pursuant to Request for Qualifications (RFQ) No. 42-03/04, with EAC Consulting, Inc. (the Consultant), to provide engineering and landscape architecture consulting services for the Biscayne Point Neighborhood Right-of-Way (ROW) Improvement Project.

After the design and permitting phase of the Project was substantially completed, Consultant submitted Phase III 100% Bid Plans were submitted to the City. On November 30, 2010, Invitation to Bid No. 07-10/11, for the Biscayne Point Neighborhood Right-of-Way Improvements Project (the Project) was issued with an opening date of January 27, 2011 (the ITB or the Bid). The City received six (6) responsive bids, of which David Mancini & Sons, Inc. (DMSI or Contractor) submitted the lowest bid, at \$10,907,758.61 (on a Project with an estimated construction cost of \$13.4-million at the time of Bid). The Technical Review Panel (TRP) convened to shortlist and interview bidders on February 14, 2001 and February 17, 2011, respectively. The TRP scored and ranked DMSI as the lowest and best bidder. Therefore, after considering the review and recommendation of the TRP, the City Manager conducted his due diligence and, in concurrence, recommended that the Mayor and City Commission award the construction contract to DMSI. On March 9, 2011, the Mayor and City Commission approved the award of the construction contract pursuant to the ITB to DMSI. Resolution No. 2011-27621 approved and authorized the Mayor and City Clerk to execute the construction contract with DMSI, and authorized the Administration to engage in value engineering to further reduce the cost and time for completion of the Project. The construction contract was finalized on April 4, 2011, and the 1st Notice-to-Proceed was issued on May 5, 2011.

During the value engineering phase, various meetings were held with DMSI and the Consultant to evaluate value engineering proposals presented by DMSI. One of DMSI's proposals consisted of a conceptual design that would reduce the number of stormwater pump stations in the Project from the four (4) specified by Consultant, to two (2); affirming that a two pump station design could meet the same level of service provided by the Consultant. This proposal was presented to the City's Public Works Department (PWD), which evaluated and determined that the two (2) pump station design met the City's minimum requirements, and offered a more desirable approach to the stormwater improvements for the Biscayne Point priority basin. However, implementation of DMSI's value engineering proposal would require a re-design of the stormwater system and re-permitting through the Public Works Departments and the Miami-Dade Department of Environmental Resources Management (DERM).

Prior to the award of the construction contract to DMSI, but after receiving approvals from DERM, the

Consultant had submitted for conceptual permit approval from the Florida Department of Environmental Protection (FDEP) for the gravity and pressurized drainage wells (injection wells), a component of the stormwater system. FDEP regulates the injection, via wells, of nonhazardous fluids into the State of Florida's Underground Sources of Drinking Water (USDW) and, as such, reviews and approves only the drainage well component of the stormwater design. A stormwater design which includes drainage wells must be approved by three (3) permitting agencies: DERM, FDEP, and PWD.

A conceptual approval was being sought in lieu of a standard permit approval since the Contractor and Well Drilling Subcontractor's information would be determined after the construction contract award, and such information is required by FDEP to finalize the approval and issue a permit. The Consultant continued processing the conceptual permit approval through FDEP after the construction contract award, while value engineering discussions were underway.

On March 28, 2011, a concern was raised after FDEP issued a Request for Information (RFI) to the Consultant, regarding the design provisions for the required 90-second detention of stormwater run-off prior to being discharged through the drainage wells. Florida Administrative Code, Chapter 62-25, requires the treatment of stormwater run-off prior to its disposal to a USDW. An acceptable method of treatment is the use of appropriately sized stormwater structures, based on a 90-second detention time, that retain sediment and oils prior to entering waters of the State (detention structures). The Consultant argued that a waiver of the 90-second detention provision was granted by DERM. The waiver cited that incorporation of the required detention structures would be difficult, or impossible, due to the physical limitations requiring utility relocations. Relocation of utilities, for the purpose of incorporating detention structures, was considered an undue hardship by DERM. Although the Consultant managed to obtain a waiver from DERM, they failed to obtain same waiver from FDEP or PWD. After various interactions among the three (3) regulatory agencies, the Consultant, and DMSI, it was determined that the design would be acceptable to DERM and FDEP if PWD would approve a modified 90-second detention concept where the detention of solids would occur within the stormwater structures and piping in lieu of providing detention structures. After careful consideration, PWD stated that the modified concept would require additional maintenance concerns for the City; therefore, the detention structures would be required.

Since a permit for construction of the drainage wells cannot be obtained from FDEP or PWD, and since the system, as a whole, will not function without the drainage wells, the entire stormwater design is essentially unpermittable, and must be re-designed to incorporate the required detention structures or other means of satisfying the stormwater pre-treatment requirements.

Value engineering discussions were prolonged due to the aforementioned FDEP permitability concerns. In July 2011, after multiple discussions regarding the pump station reduction, level of service, and 90-second detention requirements, the City agreed that the value engineering re-design would address the reduction in the number of pump stations. However, the incorporation of the detention structures would be considered additional scope of work. The shared cost of implementing the value engineering re-design by DMSI would be approved via deductive change order, and the addition of the detention structures would be addressed via separate change order. Moreover, in efforts to move forward with the water main improvements, which were not a part of any value engineering discussions, the City agreed to issue the 2nd Notice-to-Proceed with the understanding that the revisions to the design of the stormwater system, and associated re-permitting, could be procured prior to finalizing the water main construction, allowing construction of the stormwater improvements to proceed with no impact to the construction schedule. The 2nd Notice-to-Proceed was issued to the Contractor on August 24, 2011, establishing the commencement of construction with a 15-month duration, having an anticipated construction completion of November 2011.

As construction of the water main improvements progressed, various inconsistencies between the construction documents, technical specifications, and the construction contract were raised by the Contractor, which included the following:

1. Ambiguity regarding the trench compaction requirements;
2. Limitations and requirements relating to the removal of organic soils;
3. Under-sizing and over-sizing of proposed water mains;
4. Changes to the designed water main connections;
5. Additional water services needed to meet PWD single water meter service requirements; and
6. Discrepancy in the limerock base and subbase specifications delineated in the bid documents for the utility trench restoration associated with the water main installation.

In addition, PWD's requirement to provide detention structures in the re-design of the storm water system would likely impact the realignment of the proposed water main along Stillwater Drive, since the structures would take up a substantial area within the right-of-way and impact the location of the main. In combination with the Consultant's failure to size the Stillwater Drive watermain to the satisfaction of PWD, and in accordance with the minimum pressure requirement as specified in the permitting application executed by the Department, the water main along this stretch of right-of-way is currently non-constructable. The construction of this portion of the water main infrastructure will be exclusively dependant on the final redesign of the stormwater system, as it will need to conform to the revised design and allow for proper clearances from this gravity system.

It is currently estimated that change order costs for potential errors and omissions in the plans, as well as the addition of the detention structures, would exceed the allocated Project construction contingency, and are also currently attributing to delays to the Project. The Consultant has not responded in a timely fashion to the inconsistencies raised throughout construction, and has not provided clear directives to the Contractor. The delays in response and general lack of guidance have attributed to further delays to the Project schedule, and raises the concern of whether, going forward, the City should proceed using the current Consultant.

ANALYSIS

The current construction contract with DMSI (the one awarded pursuant to the ITB) is a straight construction contract, requiring the Contractor to proceed based on the Consultant's design, as the engineer-of-record, and does not allow for a "design" component, which would, should the City determine, allow the Contractor to undertake a redesign of the stormwater system. Any subsequent agreement to for the provision of design services is subject to competitive bidding under Section 287.055, Florida Statutes (also known as the "Consultants Competitive Negotiation Act" or CCNA).

Consequently, any desired re-design of the stormwater system, under the existing contract structure, per the value engineering proposal provided by the Contractor, would either have to be undertaken by the Consultant, as the engineer-of-record, or re-bid. Due to the fact that the Consultant has already provided an unpermissible set of plans; the ongoing discovery of discrepancies in the Consultant's plans; Consultant's inability to make sound engineering decisions in a timely manner; and the Consultant's general lack of guidance during the construction of the Project thus far, the Administration recommends that the Consultant not be used for the re-design of the stormwater system, and that a new design professional be retained for delivering the required corrective design services.

The Contractor is currently finalizing water main installations within the Biscayne Point Island and Biscayne Beach sub-neighborhoods. A portion of the water main installations along Stillwater Drive commenced in early December. At this time, DMSI is scheduled to be completed with all water main installations by the end of this month, with the exception of the remaining portions along Stillwater Drive. Once this work is completed, and without a permissible stormwater system, the City will have no alternative but to allow DMSI to demobilize until this matter is resolved; abandoning the construction site and most likely causing additional delays to the Project schedule. The cost of demobilization would also be detrimental to the Project construction budget. The additional delays will result in additional hardships for the residents of this community.

An abandoned construction site can create public safety concerns, such as a lack of emergency accessibility due to unfinished pavement conditions; violations of the Americans with Disabilities Act (ADA) due to the disturbance of grade transitions to existing sidewalks; and potential increases in incidental crime due to poor lighting conditions. Construction sites which have been abandoned may be prone to blight in surrounding neighborhoods. Conditions such as these can be detrimental to the welfare of the community; contribute to the decline of property values throughout the neighborhood; and jeopardize the City's credibility with the community for failing to provide essential services in return for tax payer's hard-earned money.

The postponement of the long-awaited stormwater improvements for this priority basin will also contribute to community hardships. The community will continue to deal with a stormwater system which provides a low level of service, allowing right-of-ways and residences to experience above average flooding during regular stormwater events. An extended postponement of the stormwater improvements means a prolonged period that residents must risk flooding of private residences and the associated financial repercussions.

PWD has conducted water main pressure tests on the existing water distribution system along Stillwater Drive and the system connection. The pressure tests on the existing system have resulted in pressures lower than anticipated. The low pressure results are cause for concern because it could mean that the required fire suppression pressures may not be available in the event of a high flow demand within this area. The proposed water main improvements along Stillwater Drive were anticipated to resolve these concerns. However, since the Consultant provided an under-sized design, and the proposed water main is non-constructable, this situation may persist for a longer period of time than the City anticipated, since part of the scope of work in the Project was intended to correct this.

The ongoing discrepancies in the Consultant's plans; the added cost due to changes in the scope of work due to potential errors and omissions; the pending delays to the construction schedule; and the hardships facing the community, lends support to an elevated level of urgency, necessitating an immediate need for a comprehensive solution to remedy the current situation. For the reasons already set forth herein, the Administration believes continuing with the current construction contract is a non-viable option. In the alternative, it is critical that the Administration be able to immediately avail itself of a process which would enable it to: 1.) retain a new design professional to perform the necessary re-design services and any other corrective actions; and 2.) continue with construction of the Project with minimal or no disruption and/or interruption. To that end, the Administration has been meeting with the City Attorney's Office to determine the most practical approach which would allow the City to meet the aforesaid goals, while complying with public procurement laws including, without limitation, the CCNA.

While the CCNA requires municipalities to publicly bid certain professional services, including architecture and engineering services, this requirement can be waived in cases of valid public emergencies. In the instant case (and for the reason previously, and hereinafter, set forth in this Memorandum), the Administration believes that given: 1.) current conditions, both at the Project site and within the neighborhood; 2.) the potential community hardships, quality of life issues, and unsafe conditions that will continue to result, potentially aggravated due to a postponement of the current work in order to undertake a procurement process; and 3.) the likely potential, should the City continue on the current path and continue to prosecute the Work based on a design that the City not only has concerns over, but that the Contractor has stated may affect the Project budget and timeline (as a result of corrective work necessitating change orders), the City Administration, in assessing the totality of factors giving rise to this situation, believes there is ample support to find that a public emergency, necessitating a CCNA waiver of the bidding requirements, exists here.

For example, if the City Commission does not waive the public bidding requirement (as both the CCNA and City Code allow it to do, should it find that, based on the facts set forth herein, the urgency of the situation merits it), the alternative approach would be to issue an RFQ to obtain a design consultant to

revise the stormwater system; provide the new design consultant with an adequate amount of time to re-design and permit the stormwater system; and then procure another construction contract through the standard bidding process. It is estimated that this alternative could potentially take between nine (9) to twelve (12) months; leaving, in the interim, an abandoned construction site for the duration of the procurement process.

Given that the facts do indeed support the existence of a public emergency, to the extent that a waiver of the bidding requirements under the CCNA is justified, the Administration recommends the following course of action:

1. That the competitive bidding requirements be waived by 5/7ths vote as permitted pursuant to Section 2-367(e) of the City Code, finding such waiver to be in the best interest of the City, and that the City Manager be authorized to take further actions to procure the necessary emergency design and construction services for the project, via a design-build contract, including authorizing the preparation of a Design Criteria Package (DCP) which complies with the specifications set forth under F.S. 287.055(2)(j) (whether through the City's Public Works Department or through retention of an outside Design Criteria Professional, as determined by the City Manager);
2. That upon completion of the DCP, the City Manager be authorized to negotiate and, if successful, execute a Design-Build contract in a not-to-exceed amount [essentially, a Guaranteed Maximum Price (GMP)] for the remaining water, stormwater, landscape and streetscape improvements for the Project, with DMSI (as the appropriately licensed Contractor who is most qualified to undertake the Project under the proposed Design-Build contract because DMSI is currently under contract to perform work and is currently working on the Project);
3. That the City Manager be authorized to terminate, for convenience, the remaining portion of the current construction contract with DMSI and that, as a condition to the City and DMSI's execution of the negotiated Design-Build contract, the parties enter into and execute a settlement agreement and release of all claims against the City under the former contract; and
4. That the total sum of the combined negotiated Design-Build contract and the negotiated settlement release of the existing contract be capped at \$11,998,535 (which includes the \$10,907,759 construction award value of the current DMSI construction contract and the approved Project contingency amount of \$1,090,776).

The above recommended alternative would absorb the majority of the delays attributed to the redesign of the stormwater system, keep the Contractor mobilized on-site; and only extend the construction schedule by three (3) months, bringing the new anticipated Project completion date to February 2013, versus an original completion date of November 2012.

In addition to the immediate time related benefits realized by keeping the current Contractor on-site, there are also inherent benefits in having DMSI finalize the improvements of the Project via the Design-Build method. DMSI has invested a substantial amount of time and effort researching every aspect of the Project. It has a working knowledge of the area, the community, and the challenges lying ahead. The current Project team has overseen several major capital projects throughout the City. Some examples include water main and drainage replacements along Sheridan Avenue and West 41st Street; water main installations along 6th Street and Espanola Way; installation of sanitary sewer, water mains, and drainage along 5th to 15th Streets; and the water main improvements along 86th Street. During these first four (4) months of construction of the Project, the Administration has received praises by community representatives on the work being performed by DMSI, despite the ongoing issues. Most importantly, DMSI is immediately available at this time, as they are currently mobilized on the site, and are willing to work with the City to minimize the impacts to the community.

The proposed Design-Build contract shall incorporate all remaining scope of work elements of the

Project, and provide any additional scope of work required to modify the current construction documents, as required by PWD under the original scope, and construct a permissible stormwater system. In general, the water main improvements and lighting improvements within Biscayne Point Island and Biscayne Beach shall be completed, in their entirety, as part of the current construction contract. DMSI will be required to finalize and place into service those portions of the water main installation work that has been completed, to-date, as part of the current construction contract. The current construction contract also includes landscape improvements within Biscayne Point Island. The remaining scope of work will be performed as part of the proposed Design-Build contract. This scope of work includes, but not limited to, the following:

1. The stormwater improvements, in their entirety;
2. The remainder of the watermain improvements along Stillwater Drive;
3. The paving and hardscape improvements within Biscayne Point Island, Biscayne Beach, and Stillwater Drive;
4. The landscape improvements within Biscayne Beach and Stillwater Drive;
5. The lighting improvements along Stillwater Drive;
6. The irrigation improvements, in their entirety; and
7. The incorporation of the stormwater detention.

As a condition to the City and DMSI's execution of the negotiated Design-Build contract, the parties shall enter into and execute a settlement agreement that will release the City of all claims pursuant to the current construction contract. The exact amount of the settlement agreement shall be determined based on the actual cost of the Work performed through the date of termination of the current construction contract. The negotiated settlement shall capitalize on a shared savings (50/50) for the deletion of the two (2) stormwater pump stations and other credits to offset the cost of the stormwater system redesign effort, delay claims, time extensions, and absorbed risk. In no event shall the combined amount of both the current construction contract settlement and the Design-Build contract exceed \$11,998,535 (which includes the approved Project contingency amount of \$1,090,776). The above stated conditions have been reviewed with DMSI Inc. (see attachment No. 1: Letter from DMSI Inc. dated December 8, 2011).

PWD has requested that certain additional work be added to the Project. The Administration is currently evaluating and identifying funding for this additional scope, which would include:

1. Upsizing the existing 6-inch watermain with an 8-inch watermain along 84th Street, within Biscayne Beach;
2. Replacing existing water services along 85th Street, within Biscayne Beach;
3. Replacement of direct buried electrical street lighting cable within the Biscayne Beach sub-neighborhood;
4. Design and construction of drainage improvements at three (3) locations ("hot spots") within Biscayne Point Island:
 - Intersection of Normac Avenue/ S. Biscayne Point Road;
 - In front of 7955 Biscayne Point Circle; and
 - In front of 1825 Daytonia Road;
5. A retrofit of the new water distribution system (already constructed as part of the current Project contract) to connect the future 8-inch watermain connection between Biscayne Point Island and Normandy Isle; and
6. Traffic signal modifications at the intersections of Hawthorne Avenue/ 77th Street and Hawthorne Avenue/ Crespi Boulevard.

Upon determination of appropriate funding, the Administration will proceed with the additional scope of work either via JOC or as an amendment to the proposed Design-Build contract; the request for additional scope would be presented to the City Commission for approval at a future date.

CONCLUSION

The Administration recommends that the Mayor and City Commission approve the Resolution pertaining to that certain City construction project referred to as the "Biscayne Point Neighborhood Right-of-Way Improvements Project" (the Project) and, with respect to such Project, accepting the findings and recommendation of the City Manager in declaring an emergency pursuant to Subsections 287.055(3)(a)(1) and (9)(c)(6), Florida Statutes, all as more specifically set forth in this Resolution and the accompanying Commission Memorandum; and, as permitted pursuant to Section 2-367(e) of the City code, waiving, by 5/7ths vote, the competitive bidding requirements, finding such waiver to be in the best interest of the City, and authorizing the City Manager to take the following actions to procure the necessary emergency design and construction services for the Project, pursuant to a negotiated design-build contract: 1) prepare, whether through the City's Public Works Department or through retention of an outside Design Criteria Professional, as determined by the City Manager, a Design Criteria Package (DCP) which complies with the specifications set forth under Section 287.055(2)(j), Florida Statutes; 2) upon completion of the DCP, authorizing the City Manager to negotiate and, if successful, execute a design-build contract, with a Guaranteed Maximum Price (GMP) for the remaining water, stormwater, landscape and streetscape improvements for the Project, with the firm of David Mancini & Sons, Inc. (DMSI) who, as the City's Contractor currently working on the Project under that certain construction contract authorized pursuant to Invitation to Bid No. 07-10/11 (the ITB), is the one appropriately licensed contractor who is most qualified to assume the remaining work under the Project under the proposed design-build contract because DMSI is currently under contract to perform (and is performing) work that is affiliated with the Project; and 3) further authorizing the City Manager to terminate, for convenience, the remaining portion of the current construction Contract with DMSI (entered into pursuant to the ITB) and requiring that, as a condition to the City and DMSI's execution of the negotiated design-build contract, the parties enter into and execute a settlement agreement and release of all claims against the City under the former contract, where the combined sum of the negotiated design-build GMP and the amount negotiated as part of the settlement of the existing contract shall not exceed \$11,998,535, which includes the \$10,907,759 construction award value of the current DMSI construction contract and the approved project contingency of \$1,090,776.

JMG/DB/FV/DM

Attachment No. 1: Letter from DMSI Inc. dated December 8, 2011

F:\T_Drive\AGENDA\2011\12-14-11\Biscayne Point\Biscayne Point - GMP Contract - MEMO.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PERTAINING TO THAT CERTAIN CITY CONSTRUCTION PROJECT REFERRED TO AS THE "BISCAYNE POINT NEIGHBORHOOD RIGHT-OF-WAY IMPROVEMENTS PROJECT" (THE PROJECT) AND, WITH RESPECT TO SUCH PROJECT, ACCEPTING THE FINDINGS AND RECOMMENDATION OF THE CITY MANAGER IN DECLARING AN EMERGENCY PURSUANT TO SUBSECTIONS 287.055(3)(a)(1) AND (9)(c)(6), FLORIDA STATUTES, ALL AS MORE SPECIFICALLY SET FORTH IN THIS RESOLUTION AND THE ACCOMPANYING COMMISSION MEMORANDUM; AND, AS PERMITTED PURSUANT TO SECTION 2-367(e) OF THE CITY CODE, WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENTS, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE CITY MANAGER TO TAKE THE FOLLOWING ACTIONS TO PROCURE THE NECESSARY EMERGENCY DESIGN AND CONSTRUCTION SERVICES FOR THE PROJECT, PURSUANT TO A NEGOTIATED DESIGN-BUILD CONTRACT: 1) PREPARE, WHETHER THROUGH THE CITY'S PUBLIC WORKS DEPARTMENT OR THROUGH RETENTION OF AN OUTSIDE DESIGN CRITERIA PROFESSIONAL, AS DETERMINED BY THE CITY MANAGER, A DESIGN CRITERIA PACKAGE (DCP) WHICH COMPLIES WITH THE SPECIFICATIONS SET FORTH UNDER SECTION 287.055(2)(j), FLORIDA STATUTES; 2) UPON COMPLETION OF THE DCP, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND, IF SUCCESSFUL, EXECUTE A DESIGN-BUILD CONTRACT, WITH A GUARANTEED MAXIMUM PRICE (GMP) FOR THE REMAINING WATER, STORMWATER, LANDSCAPE AND STREETScape IMPROVEMENTS FOR THE PROJECT, WITH THE FIRM OF DAVID MANCINI & SONS, INC. (DMSI) WHO, AS THE CITY'S CONTRACTOR CURRENTLY WORKING ON THE PROJECT UNDER THAT CERTAIN CONSTRUCTION CONTRACT AUTHORIZED PURSUANT TO INVITATION TO BID NO. 07-10/11 (THE ITB), IS THE ONE APPROPRIATELY LICENSED CONTRACTOR WHO IS MOST QUALIFIED TO ASSUME THE REMAINING WORK UNDER THE PROJECT UNDER THE PROPOSED DESIGN-BUILD CONTRACT BECAUSE DMSI IS CURRENTLY UNDER CONTRACT TO PERFORM (AND IS PERFORMING) WORK THAT IS AFFILIATED WITH THE PROJECT; AND 3) FURTHER AUTHORIZING THE CITY MANAGER TO TERMINATE, FOR CONVENIENCE, THE REMAINING PORTION OF THE CURRENT CONSTRUCTION CONTRACT WITH DMSI (ENTERED INTO PURSUANT TO THE ITB) AND REQUIRING THAT, AS A CONDITION TO THE CITY AND DMSI'S EXECUTION OF THE NEGOTIATED DESIGN-BUILD CONTRACT, THE PARTIES ENTER INTO AND EXECUTE A SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS AGAINST THE CITY UNDER THE FORMER CONTRACT, WHERE THE COMBINED SUM OF THE NEGOTIATED DESIGN-BUILD GMP AND THE AMOUNT NEGOTIATED AS PART OF THE SETTLEMENT OF THE EXISTING CONTRACT SHALL NOT EXCEED \$11,998,535, WHICH INCLUDES THE \$10,907,759 CONSTRUCTION AWARD VALUE OF THE CURRENT DMSI

**CONSTRUCTION CONTACT AND THE APPROVED PROJECT
CONTINGENCY AMOUNT OF \$1,090,776.**

WHEREAS, on November 30, 2010, Invitation to Bid No. 07-10/11 for the Biscayne Point Neighborhood Right-of-Way Improvements Project (the Project) was issued with an opening date of January 27, 2011 (the ITB or the Bid); and

WHEREAS, on March 9, 2011, the Mayor and City Commission adopted Resolution No. 2011-27621, approving and authorizing the Mayor and City Clerk to execute a construction contract with David Mancini & Sons, Inc. (DMSI or Contractor), as the successful bidder pursuant to the ITB, and also authorized the Administration to engage in value engineering to further reduce the cost and time for completion of said Project (the Construction Contract); and

WHEREAS, the Construction Contract was fully executed on April 4, 2011; and

WHEREAS, the first Notice-to-Proceed (NTP) was issued to Contractor on May 5, 2011; and

WHEREAS, the Contractor's value engineering proposal consisted of a conceptual design that would reduce the number of stormwater pump stations in the Project from the four (4) specified by EAC Consulting, Inc., the City's consultant and engineer-of-record for the Project (Consultant), to two (2); affirming that a two pump station design could meet the same level of service provided by the Consultant; and

WHEREAS, the City's Public Works Department (PWD) evaluated Contractor's proposal, and determined that the conceptual design would meet its minimum requirements, and provide lower operation and maintenance costs for the City; and

WHEREAS, the Contractor's value engineering proposal would require a re-design and re-permitting of the stormwater system, which the Contractor agreed could be finalized and re-permitted during construction; and

WHEREAS, a concern was raised after the Florida Department of Environmental Protection (FDEP) issued a Request for Information (RFI) to Consultant regarding the 90-second detention design provisions for the stormwater runoff prior to being discharged through the drainage wells; and

WHEREAS, PWD determined that detention structures would be required to meet the 90-second detention treatment requirement; and

WHEREAS, a permit for construction of the drainage wells could not be obtained from FDEP or PWD, requiring a re-design of the stormwater system to incorporate the required detention structures or other means of satisfying the stormwater pre-treatment requirements; and

WHEREAS, the City agreed that the value engineering re-design would address the reduction in the number of pump stations; and

WHEREAS, the incorporation of the detention structures would be considered

additional scope of work; and

WHEREAS, the City further agreed that the shared cost of implementing the value engineering re-design would be approved via deductive change order as per the Administration's interpretation of the provisions in the construction contract; and

WHEREAS, the City agreed to issue the 2nd Notice-to-Proceed for the Project on August 24, 2011, with the understanding that the revisions to the design of the stormwater system, and associated re-permitting, could be procured prior to finalizing the water main construction, allowing construction of the stormwater improvements to proceed with no impact to the construction schedule; and

WHEREAS, the Project was scheduled to be completed within a 15-month period, contingent on the Contractor's procurement of the design and all the necessary construction permit revisions; and

WHEREAS, as construction of the water main improvements progressed, various inconsistencies between the construction documents, technical specifications, and the construction contract were raised by the Contractor; and

WHEREAS, the Project team has encountered multiple potential errors and omissions in the construction documents; and

WHEREAS, the change order costs for these potential errors and omissions will exceed the allocated construction contingency early in the Project, and are also attributing to delays to the Project schedule; and

WHEREAS, the Administration is also concerned that the Consultant has not responded in a timely fashion to the inconsistencies raised throughout construction, nor provided clear directives to the Contractor; and

WHEREAS, the current Construction Contract requires the Contractor to proceed based on the Consultant's design (as the engineer-of-record), and does not allow for a "design" component, which would allow the Contractor to assume re-design of the stormwater system (by retaining its own design professional); and

WHEREAS, any desired re-design would either have to be undertaken by the Consultant, or re-bid in compliance with the provisions of Section 287.055, Florida Statutes (also known as the "Consultants Competitive Negotiation Act" or CCNA); and

WHEREAS, due to the Consultant's performance, the Administration recommends that the Consultant not be used for the re-design of the stormwater system, and that a new design professional be retained for delivering the required corrective design services; and

WHEREAS, the Contractor is finalizing the construction of the watermain improvements and, with the stormwater system re-design pending, will have no alternative but to demobilize; and

WHEREAS, the demobilization and delays would be detrimental to the Project construction budget and result in additional hardships for the residents of this community, including: a life safety concern due to existing low water main pressure which could result in

issues with fire suppression, should the need arise; a prolonged period that residents could risk potential flooding of private residences and associated financial repercussions; accessibility concerns due to unfinished pavement conditions; violations of the Americans with Disabilities Act (ADA) due to the disturbance of grade transitions to existing sidewalks; and potential increases in incidental crime due to poor lighting conditions; and

WHEREAS, it is critical that the Administration be able to pursue an alternative methodology in prosecuting the re-design and construction of the Project which would include: 1.) retaining a new design professional to perform the necessary re-design services and any other corrective actions; and 2.) continuing with construction of the Project with Contractor, with minimal or no disruption and/or interruption; and

WHEREAS, the CCNA permits an exemption (or waiver) of its competitive bidding requirement in cases of valid public emergencies; and

WHEREAS, in this instance, and for the aforementioned reasons, the Administration believes that potentially unsafe site conditions; potential community hardships; quality of life issues; and potential impacts to the Project budget and schedule (as a result of corrective work necessitating change orders) all lend ample support to the existence of a potential public emergency; and

WHEREAS, accordingly, finding that a public emergency exists, and for purposes of waiving the bidding requirements under the CCNA, the Administration further recommends that the City Commission authorize it to proceed with the following course of action relative to the Project: 1) that competitive bidding requirements be waived, by 5/7ths vote, as permitted pursuant to Section 2-367(e) of the City Code, finding such waiver to be in the best interest of the City, and authorize the City Manager to negotiate a Design-Build contract with Contractor and authorizing the City Manager to prepare a Design Criteria Package (DCP) which complies with the specifications set forth under F.S. 287.055(2)(j), whether through the City's Public Works Department or through retention of an outside Design Criteria Professional, as determined by the City Manager; 2) upon completion of the DCP, authorize the City Manager to negotiate and, if successful, execute a Design-Build contract in a not-to-exceed amount [essentially, the equivalent of a Guaranteed Maximum Price (GMP)] for the remaining water, stormwater, landscape and streetscape improvements for the Project with DMSI, as the appropriately licensed contractor who is most qualified to undertake the Project under the proposed Design-Build contract; 3) authorize the City Manager to terminate, for convenience, the remaining portion of the current Construction Contract with DMSI, and enter into and execute a settlement agreement and release of all claims against the City under such Contract, as a condition to the City and DMSI's execution of the negotiated Design-Build contract; and 4) cap the total sum of the combined negotiated Design-Build contract and the negotiated settlement of the existing Construction Contract, at \$11,998,535 [which includes the \$10,907,759 construction award value of the current Construction Contract, and the approved Project contingency amount of \$1,090,776]; and

WHEREAS, as referenced in the attached letter from DMSI (Attachment No. 1), DMSI has agreed to close-out the existing Construction Contract, and enter into the proposed Design-Build contract for the agreed total amount (which is inclusive of the work under the Construction Contract and the work under the proposed Design-Build Contract) of \$11,998,535.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Clerk be authorized to execute the Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, pertaining to that certain City construction project referred to as the "Biscayne Point Neighborhood Right-of-Way Improvements Project" (the Project) and, with respect to such Project, accepting the findings and recommendation of the City Manager in declaring an emergency pursuant to Subsections 287.055(3)(a)(1) and (9)(c)(6), Florida Statutes, all as more specifically set forth in this Resolution and the accompanying Commission Memorandum; and, as permitted pursuant to Section 2-367(e) of the City code, waiving, by 5/7ths vote, the competitive bidding requirements, finding such waiver to be in the best interest of the City, and authorizing the City Manager to take the following actions to procure the necessary emergency design and construction services for the Project, pursuant to a negotiated design-build contract: 1) prepare, whether through the City's Public Works Department or through retention of an outside Design Criteria Professional, as determined by the City Manager, a Design Criteria Package (DCP) which complies with the specifications set forth under Section 287.055(2)(j), Florida Statutes; 2) upon completion of the DCP, authorizing the City Manager to negotiate and, if successful, execute a design-build contract, with a Guaranteed Maximum Price (GMP) for the remaining water, stormwater, landscape and streetscape improvements for the Project, with the firm of David Mancini & Sons, Inc. (DMSI) who, as the City's Contractor currently working on the Project under that certain construction contract authorized pursuant to Invitation to Bid No. 07-10/11 (the ITB), is the one appropriately licensed contractor who is most qualified to assume the remaining work under the Project under the proposed design-build contract because DMSI is currently under contract to perform (and is performing) work that is affiliated with the Project; and 3) further authorizing the City Manager to terminate, for convenience, the remaining portion of the current construction Contract with DMSI (entered into pursuant to the ITB) and requiring that, as a condition to the City and DMSI's execution of the negotiated design-build contract, the parties enter into and execute a settlement agreement and release of all claims against the City under the former contract, where the combined sum of the negotiated design-build GMP and the amount negotiated as part of the settlement of the existing contract shall not exceed \$11,998,535, which includes the \$10,907,759 construction award value of the current DMSI construction contract and the approved project contingency amount of \$1,090,776.

PASSED and ADOPTED this _____ day of _____ 2011.

ATTEST:

ROBERT H. PARCHER, CITY CLERK

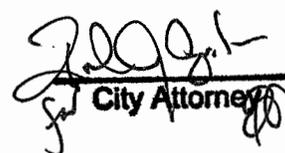
MATTI HERRERA BOWER, MAYOR

JMG/DB/FV

Attachment No. 1: Letter from DMSI Inc. dated December 8, 2011

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12/9/11

Date



DAVID MANCINI
& SONS, INC.

GENERAL CONTRACTOR

1247 Alton Road, Miami Beach, FL 33139
PH: (305) 532-8827 FAX: (305) 532-8835

1939 NW 40a Ct. Pompano Beach, FL 33064
PH: (954) 977-3556 FAX: (954) 944-2040

December 8, 2011

Via Email and U.S. Mail

Mr. Raul J. Aguila
Chief Deputy City Attorney
Office of the City Attorney
City of Miami Beach
1700 Convention Center Drive, Fourth Floor
Miami Beach, Florida 33139

Re: City of Miami Beach Biscayne Point Neighborhood No. 1 Right of Way Infrastructure Improvement Project, Project No. CIP 07-10/11

Dear Mr. Aguila:

This follows recent correspondence and discussions relating to David Mancini & Sons, Inc.'s ("DMSI") contract on the above referenced Project.

As previously discussed with the City of Miami Beach ("City"), DMSI agrees to close out and cancel the existing Project contract under which DMSI is currently working, and simultaneously enter into a new contract between DMSI and the City on a design-build basis, on the terms detailed below. DMSI's agreement to cancel the existing Project contract is subject to the successful negotiation and execution of the new design-build contract.

DMSI agrees to close out the existing Project work, cancel the existing contract, and recommence to prosecute the Project work under the new Project design build contract for a total price (inclusive of the old contract work and the work under the new design build contract) of \$11,998,535.00. The new design build contract will meet the same level of service included in the original contract that is being cancelled, although DMSI will provide an improved design under the new contract for that work. Any changes to DMSI work directed by the City beyond the scope of the existing Project work and/or unforeseen conditions will be the basis of negotiated change order(s). Also, the above price includes only costs and claims under the old contract existing as of today.

In order to continue the work, DMSI must be awarded (and the parties must enter into) the new design-build contract as soon as possible to avoid further impacts to both the City and DMSI under the present contract.

Please contact me if there is any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be "DM", written over a white background.

David Mancini
David Mancini & Sons, Inc.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE CITY'S STATE LEGISLATIVE AGENDA FOR THE 2012 SESSION OF THE FLORIDA LEGISLATURE.

WHEREAS, State legislation may need to be enacted to protect and enhance the City's interests; and

WHEREAS, State legislation may be proposed which may negatively impact the City; and

WHEREAS, the City must avail itself of all potential sources of funds; and

WHEREAS, it is imperative that the City's legislative consultant is aware of, and has a list of, City priorities; and

WHEREAS, the City's numerous State-level needs have been assessed and prioritized to produce the most effective use of its legislative team.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the State Legislative Agenda for the 2012 Session of the Florida Legislature be approved, as more specifically set forth in the attached Exhibit A.

PASSED and ADOPTED this _____ day of _____, 2012.

Mayor

ATTEST:

City Clerk

T:\AGENDA\2011\1-19-11\STATE LEGISLATIVE PRIORITIES RESO.DOC

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12/9/11
Date



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Condensed Title:

A resolution authorizing the city administration to enter into renewal negotiations with Service America Corporation D.B.A. Centerplate pertaining to the renewal of its existing agreement with the City for catering and concession services for the Miami Beach Convention Center, as recommended by the Finance and Citywide Projects Committee.

Key Intended Outcome Supported:

Improve the convention center facility

Supporting Data (Surveys, Environmental Scan, etc.): The 2009 Community Satisfaction Survey reported more than two-thirds of residential respondents, 69.2%, suggested the tourism industry in Miami Beach contributes "about the right amount" to the quality of life for residents. Additionally, resident respondents said they attended events at the Miami Beach Convention Center on average 2.70 times per year.

Issue:

Shall the City Commission authorize the Administration to enter into negotiations with Centerplate to renew their contract?

Item Summary/Recommendation:

On April 11, 2006, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 22-05/06, to Provide Professional Food and Beverage Facilities Management Services for the Miami Beach Convention Center. On September 6, 2006, the City Commission adopted Resolution No. 2006-26316 authorizing the Mayor and Clerk to execute an agreement upon completion of successful negotiations by the Administration with Centerplate, the competitively selected provider. Centerplate's Agreement expired on February 28, 2007. The City and Centerplate didn't conclude negotiations until December 13, 2007, which is when the final agreement was executed. The terms of the Agreement were retroactive to March 1, 2007 and expires on September 30, 2012. The Agreement also includes two (2) successive, five (5) year renewal options at the City's discretion.

The Agreement includes the following:

- Guaranteed Minimum Annual Rent of \$1,250,000, representing 25.5% of gross revenue up to \$4 million. Above \$4 million, the commission increases in tiers up to 33%.
- Capital Investment: Centerplate invested \$800,000 towards food and beverage capital projects to enhance the foodservice facilities at the Miami Beach Convention Center.
- Centerplate also allocates 1.5% of Gross Receipts towards a Capital Reserve Fund.
- Marketing Reserve Fund: Centerplate allocates the greater of an annual contribution of \$20,000 or 1.5% of Catering Gross Receipts to a Marketing Reserve Fund to promote the food and beverage offerings (catering, concessions, etc.). In addition, Centerplate also pre-funded \$50,000 towards the Marketing Reserve Fund.
- Scholarship Fund: Centerplate contributes \$20,000 annual toward the City's tourism and hospitality scholarship program.

Although Centerplate's client survey scores continue to be among the lowest scores received by Convention Center users (meeting planners, etc.), specifically in food quality and food presentation of the concession operation, they have improved their scores in each of the past three (3) years (see attached). Centerplate informed the City on March 4, 2011, that they had replaced their General Manager with an Interim General Manager, Nick Tierno. Mr. Tierno has since revised Exhibitor Booth Catering Menus, adjusted pricing and made operational improvements.

The Finance and Citywide Projects Committee recommended the City exercise the first renewal option with Service America Corporation D.B.A. Centerplate for catering and concession services for the Miami Beach Convention Center for two (2) years with three one (1) year renewals. The Administration is seeking direction from the full City Commission whether to exercise the first renewal option or to issue an RFP.

Advisory Board Recommendation:

CONVENTION CENTER ADVISORY BOARD

The CCAB reviewed Centerplate's history and recommended, by a 6 – 1 vote, that the City issue a new RFP for catering and concession services at the Convention Center. This recommendation was based largely on widespread interest in the contract when the RFP was last issued six (6) years ago and the fact that their survey scores are the lowest-rated area of the Convention Center's operations.

FINANCE AND CITYWIDE PROJECTS COMMITTEE

The Finance and Citywide Projects Committee discussed this item at their October 27, 2011, meeting. The Committee recommended that the City exercise the option to renew for two (2) years with three one (1) year renewals. It is important to note that the Convention Center Advisory Board was not notified of the Finance Committee meeting due to an unintentional oversight from staff and, therefore, was not in attendance during this discussion. The CCAB, at their November 1, 2011 meeting, expressed their concern that they were not given an opportunity to attend the Finance Committee discussion.

Financial Information:

Source of Funds: N/A	Amount	Account
1		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Max Sklar, Tourism and Cultural Development Director Ext. 6116

Sign-Offs:

Department Director	Assistant City Manager	City Manager
MAS	HF <i>Fabrizio Jernandez</i> JMG	<i>Jane</i>



MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: December 14, 2011

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH SERVICE AMERICA CORPORATION D.B.A. CENTERPLATE PERTAINING TO THE RENEWAL OF ITS EXISTING AGREEMENT WITH THE CITY FOR CATERING AND CONCESSION SERVICES FOR THE MIAMI BEACH CONVENTION CENTER, AS RECOMMENDED BY THE FINANCE AND CITYWIDE PROJECTS COMMITTEE.**

BACKGROUND

On April 11, 2006, the Mayor and City Commission approved the issuance of Request for Proposals (RFP) No. 22-05/06, to Provide Professional Food and Beverage Facilities Management Services for the Miami Beach Convention Center; with an option to manage food and beverage services at other city cultural facilities to include: 1) the Jackie Gleason Theater of the Performing Arts; 2) the Colony Theater; and 3) the Byron Carlyle Theater. This RFP was issued in advance of Centerplate's expiring contract on February 28, 2007. Centerplate, doing business originally as Volume Services America, Inc., held the exclusive food and beverage services contract at the Miami Beach Convention Center since December 17, 1986. The original contract had an initial term of fifteen years, and the City Commission exercised a five (5) year renewal term on May 16, 2001 via Resolution No. 2001-24393.

During the initial 20 years of the agreement, the Convention Center's food and beverage concessionaire was restricted from hosting local catering events such as banquets, weddings, and galas, when those events did not book an exhibit hall and were not conventions, trade, public or consumer shows. Prior to the issuance of the RFP, the social catering restriction was reviewed by several City committees and organizations, and a recommendation was made to remove the prohibition. The City Commission subsequently endorsed the removal of the social catering prohibition; the subsequent RFP allowed for the successful proposer to host local catering events at the Miami Beach Convention Center, and specific attention was given to this area.

Following a review of all proposals received, the RFP Evaluation Committee and the City Administration recommended Centerplate as the top-ranked firm. This recommendation was made in large part due to Centerplate's proposed partnership with Barton G. At the time, Centerplate had formed an exclusive relationship with Barton G., a Miami-based event planning and production company with a strong base of social, corporate and philanthropic clients. On September 6, 2006, the City Commission adopted Resolution No. 2006-26316 authorizing the Mayor and Clerk to execute an agreement upon completion of successful negotiations by the Administration.

As stated previously, Centerplate's Agreement expired on February 28, 2007. The City and

**Convention Center Catering and Concessions Services Agreement
Commission Memorandum
December 14, 2011
Page 2 of 3**

Centerplate didn't conclude negotiations until December 13, 2007, which is when the final agreement was executed. Much of the delay in agreeing to terms centered around the partnership with Barton G and operational issues involved with booking social catering business. The terms of the Agreement were retroactive to March 1, 2007 and expires on September 30, 2012. The Agreement also includes two (2) successive, five (5) year renewal options at the City's discretion.

The Agreement includes the following:

- Guaranteed Minimum Annual Rent of \$1,250,000, representing 25.5% of gross revenue up to \$4 million. Above \$4 million, the commission increases in tiers up to 33%.
- Capital Investment: Centerplate invested \$800,000 towards food and beverage capital projects to enhance the foodservice facilities at the Miami Beach Convention Center.
- Centerplate also allocates 1.5% of Gross Receipts towards a Capital Reserve Fund.
- Marketing Reserve Fund: Centerplate allocates the greater of an annual contribution of \$20,000 or 1.5% of Catering Gross Receipts to a Marketing Reserve Fund to promote the food and beverage offerings (catering, concessions, etc.). In addition, Centerplate also pre-funded \$50,000 towards the Marketing Reserve Fund.
- Scholarship Fund: Centerplate contributes \$20,000 annual toward the City's tourism and hospitality scholarship program.

Some early social catering business was booked at the Convention Center in partnership with Barton G. However, due to issues with the relationship between Centerplate and Barton G, on May 15, 2008, the City was officially notified the partnership would not continue. Section 10.17 of the Agreement between the City and Centerplate stipulates that any replacement for Barton G is subject to the prior written approval of the City Manager. Centerplate immediately began searching for a new social catering partner and on August 28, 2008 Centerplate proposed Touch Catering. After reviewing the material and Touch Catering's history and track record, the City approved the replacement of Barton G with Touch Catering on December 19, 2008.

Centerplate hired a dedicated social catering salesperson to focus on booking more of this business. They have been successful in booking numerous social catering events at the Convention Center and continue to focus heavily in this area. Centerplate, in partnership with Touch Catering, also completed a new Kosher kitchen and has booked several Kosher events. Although Centerplate's client survey scores continue to be among the lowest scores received by Convention Center users (meeting planners, etc.), specifically in food quality and food presentation of the concession operation, they have improved their scores in each of the past three (3) years (see attached).

Centerplate informed the City on March 4, 2011, that they had replaced their General Manager with an Interim General Manager, Nick Tierno. Mr. Tierno has since revised Exhibitor Booth Catering Menus, adjusted pricing and made operational changes.

CONVENTION CENTER ADVISORY BOARD

As previously stated, Centerplate's agreement with the City expires on September 30, 2012. In anticipation of such, the Convention Center Advisory Board (CCAB), at their June 7, 2011 meeting, discussed whether or not the City should exercise a five (5) year renewal option available in the

current Agreement, or issue a new Request for Proposals (RFP). The CCAB reviewed Centerplate's history and recommended, by a 6 – 1 vote, that the City issue a new RFP for catering and concession services at the Convention Center. This recommendation was based largely on widespread interest in the contract when the RFP was last issued six (6) years ago and the CCAB felt the City should gauge the level of interest in this contract by issuing a new RFP. The CCAB also felt their client survey scores being the lowest-rated area of the Convention Center's operations was another important reason to issue an RFP.

FINANCE AND CITYWIDE PROJECTS COMMITTEE

The Finance and Citywide Projects Committee discussed this item at their October 27, 2011, meeting. The Committee discussed the survey scores overall, and expressed general satisfaction with Centerplate.

Staff recommended that, should a renewal be proposed, it be broken down into a smaller term, with year-by-year renewals. In that manner, any performance issues could be addressed. The Committee recommended that the City exercise the option to renew for two (2) years with three one (1) year renewals.

The CCAB, at their November 1, 2011 meeting, expressed their concern that they were not given an opportunity to attend the Finance Committee discussion.

CONCLUSION

The Finance and Citywide Projects Committee recommends that the Mayor and the City Commission authorize the Administration to enter into negotiations with Service America Corporation D.B.A. Centerplate for catering and concession services for the Miami Beach Convention Center for two (2) years with three one (1) year renewals. The Administration is seeking direction from the full City Commission whether to exercise the first renewal option or to issue an RFP.

JMG/HMF/MAS

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH SERVICE AMERICA CORPORATION D.B.A. CENTERPLATE PERTAINING TO THE RENEWAL OF ITS EXISTING AGREEMENT WITH THE CITY FOR CATERING AND CONCESSION SERVICES FOR THE MIAMI BEACH CONVENTION CENTER, AS RECOMMENDED BY THE FINANCE AND CITYWIDE PROJECTS COMMITTEE.

WHEREAS, on September 6, 2006, the City Commission adopted Resolution No. 2006-26316, authorizing the Mayor and Clerk to execute an agreement with Service America Corporation D.B.A. Centerplate, for catering and concession services for the Miami Beach Convention Center (the Agreement); and

WHEREAS, the initial term of the Agreement expires on September 30, 2012, and includes two (2) successive, five (5) year renewal options at the City's discretion; and

WHEREAS, at its June 7, 2011 meeting, the Convention Center Advisory Board recommended that the City issue a new Request for Proposals for catering and concession services at the Convention Center; and

WHEREAS, the Finance and Citywide Projects Committee discussed this item at its October 27, 2011 meeting; the Committee discussed Centerplate's survey scores overall; expressed general satisfaction with Centerplate; and recommended that the City exercise the first option to renew the Agreement.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby authorize the City Administration to enter into negotiations with Service America Corporation D.B.A. Centerplate pertaining to the renewal of its existing Agreement with the City for catering and concession services for the Miami Beach Convention Center, as recommended by the Finance and Citywide Projects Committee.

PASSED AND ADOPTED this 14th day of ____December____, 2011.

ATTEST:

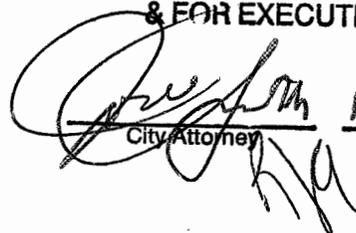
MAYOR

CITY CLERK

JMG/HMF/mas

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney

12/6/11

Date

**Miami Beach Convention Center Client Response Results
October 2010 - September 2011**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Sales										
Knowledgeable	41	85.42%	6	12.50%	0	0.00%	1	2.08%	97.92%	2.08%
Responsiveness to your needs	41	83.67%	7	14.29%	0	0.00%	1	2.04%	97.96%	2.04%
Professionalism	41	83.67%	7	14.29%	0	0.00%	1	2.04%	97.96%	2.04%
Readily Accessible	39	81.25%	8	16.67%	0	0.00%	1	2.08%	97.92%	2.08%
Clarity of Information	38	82.61%	6	13.04%	1	2.17%	1	2.17%	95.65%	4.35%
Sales Subtotal	200	83.32%	34	14.16%	1	0.43%	5	2.08%	97.48%	2.52%
Event Manager										
Knowledgeable	45	91.84%	4	8.16%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	44	89.80%	4	8.16%	1	2.04%	0	0.00%	97.96%	2.04%
Professionalism	44	93.62%	3	6.38%	0	0.00%	0	0.00%	100.00%	0.00%
Readily Accessible	44	89.80%	5	10.20%	0	0.00%	0	0.00%	100.00%	0.00%
*Pre-Event	40	86.96%	5	10.87%	1	2.17%	0	0.00%	97.83%	2.17%
*On-Site	45	91.84%	4	8.16%	0	0.00%	0	0.00%	100.00%	0.00%
Clarity of Information	38	86.36%	6	13.64%	0	0.00%	0	0.00%	100.00%	0.00%
Event Manager Subtotal	300	90.03%	31	9.37%	2	0.60%	0	0.00%	99.40%	0.60%
Building Operations										
Courtesy of Building Staff	38	79.17%	9	18.75%	0	0.00%	1	2.08%	97.92%	2.08%
Cleanliness	30	62.50%	15	31.25%	3	6.25%	0	0.00%	93.75%	6.25%
Accuracy of Setups	38	80.85%	9	19.15%	0	0.00%	0	0.00%	100.00%	0.00%
Timeliness of Setups	38	79.17%	6	12.50%	3	6.25%	1	2.08%	91.67%	8.33%
Building Signage	27	60.00%	12	26.67%	5	11.11%	1	2.22%	86.67%	13.33%
Building Operations Subtotal	171	72.34%	51	21.66%	11	4.72%	3	1.28%	94.00%	6.00%
Global Spectrum Subtotal	671	81.89%	116	15.06%	14	1.91%	8	1.12%	96.95%	3.03%
Smart City										
Knowledgeable	17	68.00%	8	32.00%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	17	68.00%	5	20.00%	3	12.00%	0	0.00%	88.00%	12.00%
Professionalism	17	68.00%	8	32.00%	0	0.00%	0	0.00%	100.00%	0.00%
Readily Accessible	17	68.00%	6	24.00%	1	4.00%	1	4.00%	92.00%	8.00%
Clarity of Information	17	68.00%	4	16.00%	3	12.00%	1	4.00%	84.00%	16.00%
Accuracy of Setups	17	68.00%	8	32.00%	0	0.00%	0	0.00%	100.00%	0.00%
Timeliness of Setups	15	65.22%	7	30.43%	1	4.35%	0	0.00%	95.65%	4.35%
Priority Networks Subtotal	117	67.60%	46	26.63%	8	4.62%	2	1.14%	94.24%	5.76%

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Proudly Managed By: GLOBAL SPECTRUM

**Miami Beach Convention Center Client Response Results
October 2010 - September 2011**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Audio Visual										
Knowledgeable	16	76.19%	4	19.05%	0	0.00%	1	4.76%	95.24%	4.76%
Responsiveness to your needs	16	76.19%	4	19.05%	0	0.00%	1	4.76%	95.24%	4.76%
Professionalism	16	76.19%	4	19.05%	0	0.00%	1	4.76%	95.24%	4.76%
Readily Accessible	15	71.43%	4	19.05%	1	4.76%	1	4.76%	90.48%	9.52%
Clarity of Information	13	61.90%	6	28.57%	1	4.76%	1	4.76%	90.48%	9.52%
Accuracy of Setups	16	76.19%	4	19.05%	0	0.00%	1	4.76%	95.24%	4.76%
Timeliness of Setups	16	76.19%	4	19.05%	0	0.00%	1	4.76%	95.24%	4.76%
Courtesy of AV floor Operations Staff	13	72.22%	4	22.22%	0	0.00%	1	5.56%	94.44%	5.56%
Audio Visual Subtotals	121	73.31%	34	20.63%	2	1.19%	8	4.86%	93.95%	6.05%
Centerplate										
Knowledgeable	31	83.78%	5	13.51%	0	0.00%	1	2.70%	97.30%	2.70%
Responsiveness to your needs	30	81.08%	5	13.51%	1	2.70%	1	2.70%	94.59%	5.41%
Professionalism	31	83.78%	5	13.51%	1	2.70%	0	0.00%	97.30%	2.70%
Readily Accessible	29	78.38%	6	16.22%	1	2.70%	1	2.70%	94.59%	5.41%
Clarity of Information	26	78.79%	6	18.18%	1	3.03%	0	0.00%	96.97%	3.03%
Courtesy of Catering Staff	30	81.08%	6	16.22%	0	0.00%	1	2.70%	97.30%	2.70%
Food Quality	23	62.16%	10	27.03%	2	5.41%	2	5.41%	89.19%	10.81%
Food Presentation	27	72.97%	9	24.32%	1	2.70%	0	0.00%	97.30%	2.70%
Menu Selection/Variety/Flexibility	27	72.97%	8	21.62%	2	5.41%	0	0.00%	94.59%	5.41%
Accuracy of Setups	32	86.49%	5	13.51%	0	0.00%	0	0.00%	100.00%	0.00%
Timeliness of Setups	31	86.11%	5	13.89%	0	0.00%	0	0.00%	100.00%	0.00%
Courtesy of Concessions Staff	20	66.67%	9	30.00%	1	3.33%	0	0.00%	96.67%	3.33%
Food Quality	18	62.07%	6	20.69%	4	13.79%	1	3.45%	82.76%	17.24%
Food Presentation	18	62.07%	7	24.14%	4	13.79%	0	0.00%	86.21%	13.79%
Menu Selection	18	62.07%	7	24.14%	4	13.79%	0	0.00%	86.21%	13.79%
Cleanliness and Setup of Outlets	17	62.96%	9	33.33%	0	0.00%	1	3.70%	96.30%	3.70%
Centerplate Subtotals	408	73.96%	108	20.24%	22	4.34%	8	1.46%	94.20%	5.80%
Other Services										
Valet Parking	15	50.00%	13	43.33%	1	3.33%	1	3.33%	93.33%	6.67%
Business Center	10	62.50%	6	37.50%	0	0.00%	0	0.00%	100.00%	0.00%
Convention Concierge	9	60.00%	6	40.00%	0	0.00%	0	0.00%	100.00%	0.00%
Miami Beach Fire Marshall	20	68.97%	8	27.59%	1	3.45%	0	0.00%	96.55%	3.45%
Other Services Subtotal	54	60.37%	33	37.10%	2	1.70%	1	0.83%	97.47%	2.53%
Building Subtotal	1,371	74%	337	21%	48	3%	27	2%	95%	5%

Surveys Sent 90
 Surveys Received 50
 Percent Received 55%



Proudly Managed By: GLOBAL SPECTRUM

**Miami Beach Convention Center Client Response Results
October 2009 - September 2010**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Sales										
Knowledgeable	35	77.78%	10	22.22%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	37	82.22%	6	13.33%	2	4.44%	0	0.00%	95.55%	4.44%
Professionalism	39	86.67%	5	11.11%	1	2.22%	0	0.00%	97.77%	2.22%
Readily Accessible	37	82.22%	7	15.56%	1	2.22%	0	0.00%	97.77%	2.22%
Clarity of Information	32	78.05%	8	19.51%	1	2.44%	0	0.00%	97.56%	2.43%
Sales Subtotal	180	81.39%	36	16.35%	5	2.27%	0	0.00%	97.73%	2.26%
Event Manager										
Knowledgeable	37	80.43%	9	19.57%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	40	86.96%	6	13.04%	0	0.00%	0	0.00%	100.00%	0.00%
Professionalism	41	89.13%	5	10.87%	0	0.00%	0	0.00%	100.00%	0.00%
Readily Accessible	40	86.96%	6	13.04%	0	0.00%	0	0.00%	100.00%	0.00%
*Pre-Event	35	76.09%	11	23.91%	0	0.00%	0	0.00%	100.00%	0.00%
*On-Site	41	89.13%	5	10.87%	0	0.00%	0	0.00%	100.00%	0.00%
Clarity of Information	34	79.07%	9	20.93%	0	0.00%	0	0.00%	100.00%	0.00%
Event Manager Subtotal	268	83.97%	51	16.03%	0	0.00%	0	0.00%	100.00%	0.00%
Building Operations										
Courtesy of Building Staff	31	67.39%	15	32.61%	0	0.00%	0	0.00%	100.00%	0.00%
Cleanliness	25	54.35%	16	34.78%	4	8.70%	1	2.17%	89.13%	10.86%
Accuracy of Setups	29	63.04%	13	28.26%	3	6.52%	1	2.17%	91.30%	8.69%
Timeliness of Setups	29	63.04%	13	28.26%	4	8.70%	0	0.00%	91.30%	8.69%
Building Signage	21	46.67%	16	35.56%	6	13.33%	2	4.44%	82.22%	17.77%
Building Operations Subtotal	135	58.90%	73	31.89%	17	7.45%	4	1.76%	90.79%	9.20%
Global Spectrum Subtotal	583	74.75%	160	21.42%	22	3.24%	4	0.58%	96.61%	3.38%
Priority Networks										
Knowledgeable	21	72.41%	8	27.59%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	21	72.41%	6	20.69%	1	3.45%	1	3.45%	93.10%	6.89%
Professionalism	21	72.41%	7	24.14%	1	3.45%	0	0.00%	96.55%	3.44%
Readily Accessible	20	68.97%	5	17.24%	3	10.34%	1	3.45%	86.20%	13.79%
Clarity of Information	21	72.41%	6	20.69%	2	6.90%	0	0.00%	93.10%	6.89%
Accuracy of Setups	21	72.41%	6	20.69%	2	6.90%	0	0.00%	93.10%	6.89%
Timeliness of Setups	18	69.23%	6	23.08%	2	7.69%	0	0.00%	92.30%	7.69%
Priority Networks Subtotal	143	71.47%	44	22.02%	11	5.53%	2	0.99%	93.48%	6.51%

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Proudly Managed By: GLOBAL SPECTRUM

**Miami Beach Convention Center Client Response Results
October 2009 - September 2010**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Audio Visual										
Knowledgeable	18	78.26%	5	21.74%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	18	78.26%	5	21.74%	0	0.00%	0	0.00%	100.00%	0.00%
Professionalism	18	78.26%	5	21.74%	0	0.00%	0	0.00%	100.00%	0.00%
Readily Accessible	18	78.26%	5	21.74%	0	0.00%	0	0.00%	100.00%	0.00%
Clarity of Information	17	73.91%	5	21.74%	1	4.35%	0	0.00%	95.65%	4.34%
Accuracy of Setups	18	78.26%	5	21.74%	0	0.00%	0	0.00%	100.00%	0.00%
Timeliness of Setups	18	78.26%	5	21.74%	0	0.00%	0	0.00%	100.00%	0.00%
Courtesy of AV floor Operations Staff	15	75.00%	5	25.00%	0	0.00%	0	0.00%	100.00%	0.00%
Audio Visual Subtotals	140	77.31%	40	22.15%	1	0.54%	0	0.00%	99.46%	0.54%
Centerplate										
Knowledgeable	29	65.91%	15	34.09%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	28	63.64%	10	22.73%	4	9.09%	2	4.55%	86.36%	13.63%
Professionalism	30	68.18%	14	31.82%	0	0.00%	0	0.00%	100.00%	0.00%
Readily Accessible	25	56.82%	14	31.82%	3	6.82%	2	4.55%	88.63%	11.36%
Clarity of Information	28	65.12%	13	30.23%	1	2.33%	1	2.33%	95.34%	4.65%
Courtesy of Catering Staff	28	68.29%	8	19.51%	5	12.20%	0	0.00%	87.80%	12.19%
Food Quality	22	55.00%	11	27.50%	6	15.00%	1	2.50%	82.50%	17.50%
Food Presentation	24	58.54%	12	29.27%	3	7.32%	2	4.88%	87.80%	12.19%
Menu Selection/Variety/Flexibility	20	48.78%	17	41.46%	2	4.88%	2	4.88%	90.24%	9.75%
Accuracy of Setups	29	70.73%	11	26.83%	1	2.44%	0	0.00%	97.56%	2.43%
Timeliness of Setups	31	79.49%	6	15.38%	1	2.56%	1	2.56%	94.87%	5.12%
Courtesy of Concessions Staff	19	54.29%	12	34.29%	3	8.57%	1	2.86%	88.57%	11.42%
Food Quality	16	50.00%	10	31.25%	4	12.50%	2	6.25%	81.25%	18.75%
Food Presentation	16	50.00%	10	31.25%	5	15.63%	1	3.13%	81.25%	18.75%
Menu Selection	16	50.00%	10	31.25%	5	15.63%	1	3.13%	81.25%	18.75%
Cleanliness and Setup of Outlets	17	56.67%	9	30.00%	2	8.33%	2	6.67%	86.66%	13.33%
Centerplate Subtotals	378	61.97%	182	29.29%	45	7.71%	18	3.02%	89.38%	10.61%
Other Services										
Valet Parking	7	24.14%	18	62.07%	2	6.90%	2	6.90%	86.20%	13.79%
Business Center	5	23.81%	13	61.90%	2	9.52%	1	4.76%	85.71%	14.28%
Convention Concierge	8	34.78%	14	60.87%	1	4.35%	0	0.00%	95.65%	4.34%
Miami Beach Fire Marshall	23	71.88%	8	25.00%	0	0.00%	1	3.13%	96.87%	3.12%
Other Services Subtotal	43	38.65%	53	52.46%	5	5.19%	4	3.70%	91.11%	8.88%
Building Subtotal	1,287	64.83%	479	29.46%	54	4.22%	28	1.65%	94.00%	5.98%

Surveys Sent 92
 Surveys Received 51
 Percent Received 55.43



Proudly Managed By:
GLOBAL SPECTRUM

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**Miami Beach Convention Center Client Response Results
October 2008 - September 2009**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Sales										
Knowledgeable	44	88.00%	6	12.00%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	45	90.00%	5	10.00%	0	0.00%	0	0.00%	100.00%	0.00%
Professionalism	44	89.80%	5	10.20%	0	0.00%	0	0.00%	100.00%	0.00%
Readily Accessible	44	89.80%	4	8.16%	1	2.04%	0	0.00%	97.96%	2.04%
Clarity of Information	39	84.78%	6	13.04%	1	2.17%	0	0.00%	97.82%	2.17%
Sales Subtotal	216	88.47%	26	10.68%	2	0.84%	0	0.00%	99.16%	0.84%
Event Manager										
Knowledgeable	36	70.59%	15	29.41%	0	0.00%	0	0.00%	100.00%	0.00%
Responsiveness to your needs	38	74.51%	7	13.73%	5	9.80%	1	1.96%	88.24%	11.16%
Professionalism	40	78.43%	9	17.65%	2	3.92%	0	0.00%	96.08%	3.92%
Readily Accessible	38	74.51%	7	13.73%	5	9.80%	1	1.96%	88.24%	11.76%
*Pre-Event	37	74.00%	11	22.00%	1	2.00%	1	2.00%	96.00%	4.00%
*On-Site	38	74.51%	8	15.69%	5	9.80%	0	0.00%	90.20%	9.80%
Clarity of Information	35	71.43%	10	20.41%	4	8.16%	0	0.00%	91.84%	8.16%
Event Manager Subtotal	262	74.00%	67	18.94%	22	6.21%	3	0.85%	92.94%	6.97%
Building Operations										
Courtesy of Building Staff	34	68.00%	14	28.00%	2	4.00%	0	0.00%	96.00%	4.00%
Cleanliness	29	58.00%	14	28.00%	5	10.00%	2	4.00%	86.00%	14.00%
Accuracy of Setups	26	52.00%	19	38.00%	5	10.00%	0	0.00%	90.00%	10.00%
Timeliness of Setups	28	56.00%	17	34.00%	4	8.00%	1	2.00%	90.00%	10.00%
Building Signage	21	46.67%	15	33.33%	8	17.78%	1	2.22%	80.00%	20.00%
Building Operations Subtotal	128	56.13%	79	32.27%	24	9.96%	4	1.64%	88.40%	11.60%
Global Spectrum Subtotal	606	72.87%	172	20.63%	48	5.67%	7	0.83%	93.50%	6.47%
Priority Networks										
Knowledgeable	19	63.33%	10	33.33%	1	3.33%	0	0.00%	96.66%	3.33%
Responsiveness to your needs	18	60.00%	9	30.00%	1	3.33%	2	6.67%	90.00%	10.00%
Professionalism	17	56.67%	10	33.33%	3	10.00%	0	0.00%	90.00%	10.00%
Readily Accessible	17	56.67%	10	33.33%	1	3.33%	2	6.67%	90.00%	10.00%
Clarity of Information	17	56.67%	9	30.00%	3	10.00%	1	3.33%	86.67%	13.33%
Accuracy of Setups	20	66.67%	8	26.67%	2	6.67%	0	0.00%	93.34%	6.67%
Timeliness of Setups	19	70.37%	5	18.52%	0	0.00%	3	11.11%	88.89%	11.11%
Priority Networks Subtotal	127	61.48%	61	29.31%	11	5.24%	8	3.97%	90.79%	9.21%

**Miami Beach Convention Center Client Response Results
October 2008 - September 2009**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Smart Source										
Knowledgeable	18	69.23%	7	26.92%	0	0.00%	1	3.85%	96.15%	3.85%
Responsiveness to your needs	17	68.00%	6	24.00%	1	4.00%	1	4.00%	92.00%	8.00%
Professionalism	16	64.00%	6	24.00%	2	8.00%	1	4.00%	88.00%	12.00%
Readily Accessible	16	64.00%	8	32.00%	1	4.00%	0	0.00%	96.00%	4.00%
Clarity of Information	16	64.00%	7	28.00%	1	4.00%	1	4.00%	92.00%	8.00%
Accuracy of Setups	16	64.00%	6	24.00%	2	8.00%	1	4.00%	88.00%	12.00%
Timeliness of Setups	16	64.00%	7	28.00%	0	0.00%	2	8.00%	92.00%	8.00%
Courtesy of AV floor Operations Staff	17	73.91%	4	17.39%	2	8.70%	0	0.00%	91.30%	8.70%
Smart Source Subtotals	132	66.39%	51	25.54%	9	4.59%	7	3.48%	91.93%	8.07%
Centerplate										
Knowledgeable	28	66.67%	12	28.57%	2	4.76%	0	0.00%	95.24%	4.76%
Responsiveness to your needs	31	73.81%	7	16.67%	3	7.14%	1	2.38%	90.48%	9.52%
Professionalism	31	73.81%	9	21.43%	2	4.76%	0	0.00%	95.24%	4.76%
Readily Accessible	28	66.67%	9	21.43%	5	11.90%	0	0.00%	88.10%	11.90%
Clarity of Information	23	60.53%	11	28.95%	4	10.53%	0	0.00%	89.48%	10.53%
Courtesy of Catering Staff	28	66.67%	10	23.81%	4	9.52%	0	0.00%	90.48%	9.52%
Food Quality	19	45.24%	16	38.10%	6	14.29%	1	2.38%	83.34%	16.67%
Food Presentation	19	45.24%	16	38.10%	6	14.29%	1	2.38%	83.34%	16.67%
Menu Selection/Variety/Flexibility	22	52.38%	14	33.33%	6	14.29%	0	0.00%	85.71%	14.29%
Accuracy of Setups	26	61.90%	9	21.43%	5	11.90%	2	4.76%	83.33%	16.66%
Timeliness of Setups	23	57.50%	10	25.00%	5	12.50%	2	5.00%	82.50%	17.50%
Courtesy of Concessions Staff	16	45.71%	14	40.00%	5	14.29%	0	0.00%	85.71%	14.29%
Food Quality	11	31.43%	17	48.57%	7	20.00%	0	0.00%	80.00%	20.00%
Food Presentation	12	33.33%	16	44.44%	8	22.22%	0	0.00%	77.77%	22.22%
Menu Selection	13	36.11%	16	44.44%	7	19.44%	0	0.00%	80.55%	19.44%
Cleanliness and Setup of Outlets	12	36.36%	16	48.48%	5	15.15%	0	0.00%	84.84%	15.15%
Centerplate Subtotals	342	53.33%	202	32.67%	80	12.94%	7	1.06%	86.01%	13.99%

66



Proudly Managed By: GLOBAL SPECTRUM

**Miami Beach Convention Center Client Response Results
October 2008 - September 2009**

	Excellent	Pctg	Good	Pctg	Fair	Pctg	Poor	Pctg	Positive	Negative
Other Services										
Valet Parking	3	9.68%	24	77.42%	3	9.68%	1	3.23%	87.10%	12.91%
Business Center	5	19.23%	17	65.38%	2	7.69%	2	7.69%	84.67%	15.38%
Convention Concierge	3	15.00%	14	70.00%	2	10.00%	1	5.00%	85.00%	15.00%
Miami Beach Fire Marshall	17	44.74%	17	44.74%	3	7.89%	1	2.63%	89.48%	10.52%
Other Services Subtotal	28	22.16%	72	64.39%	10	8.82%	5	4.64%	86.56%	13.45%
Building Subtotal										
	1,235	55.25%	558	34.51%	158	7.45%	34	2.80%	89.76%	10.24%

Surveys Sent 92
 Surveys Received 51
 Percent Received 55.43



Proudly Managed By:



Condensed Title:

Consenting to the appointment of Assistant Chief of Police Raymond A. Martinez as the Acting Chief of Police for the City of Miami Beach Effective January 1, 2012.

Key Intended Outcome Supported:

Increase resident ratings of public safety services. Increase visibility of police. Maintain crime rates at or below national trends.

Supporting Data (Surveys, Environmental Scan, etc.): The results of 2009 Community Survey indicated that 83.9% of residents and businesses rate the overall City of Miami Beach Police services quality as "good" or "excellent."

Issue:

Shall the Mayor and City Commission adopt the attached Resolution consenting and confirming Raymond A. Martinez as the Acting Chief of Police for the City of Miami Beach?

Item Summary/Recommendation:

The Police Department is tasked with providing and enhancing quality police services to the Miami Beach community by promoting a safe environment through police and citizen interactions with an emphasis on integrity, fairness, and professionalism.

With the anticipated retirement of Police Chief Carlos Noriega (separation date is December 31, 2011), and while the City continues with the recruitment process for a new Police Chief, as described in my Memo to you dated September 27, 2011 (attached), an Acting Police Chief should be appointed effective January 1, 2012. Article IV, Section 4.02, of the City of Miami Beach Charter requires the consent of the City Commission for the appointments of Department Directors. While this provision has been traditionally applied to the permanent appointment of Department Directors, it has been recently suggested that similar consent should be granted for "Acting" Director appointments that occur from time to time as Department Director positions become vacant pending the recruitment and selection process. Assistant Chief Raymond Martinez is currently the 2nd highest ranking sworn officer in the Miami Beach Police Department and routinely serves as acting Chief when Chief Noriega has been away or on leave.

Assistant Chief Martinez is a 32 year veteran of the law enforcement profession serving with both the City of Miami and the City Miami Beach Police Departments. During his career with the Miami Police Department he has served in numerous capacities and ranks leading up to the position of Assistant Chief of Police. After retiring from the City of Miami, Assistant Chief Martinez accepted a position with the Miami Beach Police Department as Assistant Chief of Police overseeing the Administration Bureau, and later the Operations Bureau of the department. Assistant Chief Martinez is committed to continuing to provide a high level of law enforcement service to the City of Miami Beach.

Financial Information:

Source of Funds:	Amount	Account	Approved
1			
2			
3			
4			
Total			

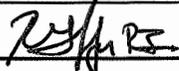
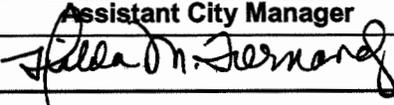
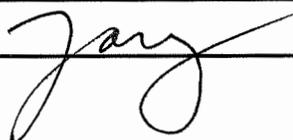
OBPI

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Ramiro Inguanzo, Human Resources

Sign-Offs:

Department Director	Assistant City Manager	City Manager
		

T:\AGENDA\2011\12-14-11\Raymond Martinez ITEM SUMMARY.docx





MIAMIBEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: December 14, 2011

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CONSENTING TO THE APPOINTMENT OF RAYMOND A. MARTINEZ AS THE ACTING CHIEF OF POLICE FOR THE CITY OF MIAMI BEACH EFFECTIVE JANUARY 1, 2012.**

ADMINISTRATION RECOMMENDATION

It is recommended that the Mayor and Commission adopt the attached resolution consenting and confirming Raymond A. Martinez as the Acting Chief of Police for the City of Miami Beach effective January 1, 2012.

Article IV, Section 4.02, of the City of Miami Beach Charter requires the consent of the City Commission for the appointments of Department Directors. While this provision has been traditionally applied to the permanent appointment of Department Directors, it has been suggested that similar consent should be granted for "Acting" Director appointments that occur from time to time as Department Director positions become vacant pending the recruitment and selection process.

ANALYSIS

With the anticipated retirement of Police Chief Carlos Noriega (separation date is December 31, 2011), and while the City continues with the recruitment process for a new Police Chief, as described in my Memo to you dated September 27, 2011 (attached), an Acting Police Chief should be appointed effective January 1, 2012. Article IV, Section 4.02, of the City of Miami Beach Charter requires the consent of the City Commission for the appointments of Department Directors. While this provision has been traditionally applied to the permanent appointment of Department Directors, it has recently been suggested that similar consent should be granted for "Acting" Director appointments that occur from time to time as Department Director positions become vacant pending the recruitment and selection process. Assistant Chief Raymond Martinez is currently the 2nd highest ranking sworn officer in the Miami Beach Police Department and routinely serves as acting Chief when Chief Noriega has been away or on leave.

Assistant Chief Raymond A. Martinez is a 32 year veteran of the law enforcement profession, serving with both the City of Miami and the Miami Beach Police Departments. Prior to beginning his law enforcement career, Chief Martinez served in the United States Marine Corps for three years.

During his 22 years with the City of Miami Police Department, he served in numerous capacities and ranks, leading up to the position of Assistant Chief of Police. He was a

patrol officer, firearms instructor, academy training advisor, robbery detective, motorcycle supervisor, general investigations commander, communication unit commander, and a member of the Special Weapons and Tactics (SWAT) team. Assistant Chief Martinez received several awards during his career with the Miami Police Department, including the Unit Citation (twice), Officer of the Month, Gold Medal of Heroism, and the Purple Heart for being shot two times in the line of duty.

While serving as the Assistant Chief of the Miami Police Department, Assistant Chief Martinez commanded both the Administrative Division as well as the Operations Division, comprising of over 850 personnel. He coordinated numerous major projects, which included the Florida Police Chiefs Annual Conference in 1994; security for the U.S. Conference of Mayors in 1995; and the International Association of Chiefs of Police Conference in 1995. He also served as the Miami Police Department's representative on labor relations activities, including collective bargaining negotiations. Assistant Chief Martinez was intricately involved in the Department's community policing strategies and served on the United States Justice Department COPS Office Community Policing Resource Board. He was appointed by the President of the International Association of Chiefs of Police (IACP) to serve on the Police Administration Committee for the IACP.

After 22 years of service with the City of Miami, Assistant Chief Martinez was hired by the City of Miami Beach as the Assistant Chief of Police overseeing the Administration Bureau. In January 2004 he took over the Operations Bureau of the department. In 2007, Assistant Chief Martinez assumed both the Administrative and Operational responsibilities for the department. He spearheaded the successful bid to bring the 2005 IACP conference back to Miami Beach. While commanding the Operations Division, Chief Martinez has been instrumental in the development of evolving tactics to deal with large scale special events in our City. During January 2009, Assistant Chief Martinez led a contingent of 54 Miami Beach officers to the Nation's Capital to assist in providing security during the inauguration of President Barack Obama. Chief Martinez serves as the Chairperson for the Department's CAD/RMS/FR technology conversion initiative.

Assistant Chief Martinez has a Master's degree in Public Administration from Florida International University and a Bachelor's degree from Barry University. He is a graduate of the Southern Police Institute Administrative Officers Course. He has also attended Harvard University's John F. Kennedy School of Government Executive Education Program for Government Performance and Florida International University's Academy for Strategic Management. He has been married for 23 years and is the proud father of three children.

Attached is Assistant Chief Martinez's resume.

CONCLUSION

The appointment of Raymond A. Martinez as the Acting Chief of Police will ensure that the Police Department will continue providing and enhancing quality police services to the entire Miami Beach community by promoting a safe environment through police and citizen interactions with an emphasis on integrity, fairness, and professionalism all while the recruitment for the permanent Police Chief continues.

It is recommended that the Mayor and City Commission adopt the resolution consenting and confirming Raymond A. Martinez as the Acting Chief of Police.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CONSENTING TO AND CONFIRMING THE APPOINTMENT OF RAYMOND A. MARTINEZ AS THE ACTING CHIEF OF POLICE FOR THE CITY OF MIAMI BEACH EFFECTIVE JANUARY 1, 2012.

WHEREAS, the City Manager has appointed Raymond A. Martinez as the Acting Chief of Police for the City of Miami Beach; and

WHEREAS, pursuant to Section 4.02 of the City of Miami Beach Charter, the City Manager has power to appointment directors of the City departments with the consent and conformance of the Mayor and the City Commission; and

WHEREAS, the Mayor and the City Commission wish to consent to and confirm the appointment of Raymond A. Martinez as the Acting Chief of Police for the City of Miami Beach.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and the City Commission have consented to and confirmed the appointment of Raymond A. Martinez as the Acting Chief of Police for the City of Miami Beach effective January 1, 2012.

PASSED and ADOPTED this ____ day of _____, 2011.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


CITY ATTORNEY AB DATE 12/12/11

Resume

Text Resume

Raymond A. Martinez
A/Chief of Police
Miami Beach Police Department
1100 Washington Avenue
Miami Beach , FL 33139
305 673-7925

QUALIFICATIONS

Over 32 years of law enforcement experience with the City of Miami and Miami Beach Police Departments

Solid breadth and depth of departmental experience, in both operations and administration
Law enforcement professional with an uncompromising commitment to duty and honor
Motivational leader who guides by example and inspires loyalty and exceptional performance
Readily accepts challenges; resolute, even under the most difficult circumstances

PROFESSIONAL EXPERIENCE

2001 – Present Police Department, City of Miami Beach, Florida
Built a record of distinguished service in law enforcement for a community of 95,000 residents with ten million visitors annually. Performed many diverse roles throughout career and gained familiarity with every aspect of departmental operations. Received numerous honors and awards.

CURRENT ASSIGNMENT

2011 – Present A/Chief of Police, City of Miami Beach, FL
Command of the Department's two Bureaus (Operations and Administration), 362 sworn officers, and 139 civilian employees. Oversight of \$81 million departmental budget.

Summary

Furthered the implementation of comprehensive community policing by initiating a district sector plan for the Patrol Division with specific areas of responsibility for all officers and supervisors.

Oversight of a wide variety of major events including Memorial Day (with over 250,000 attendees), Art Basel, Art Deco Weekend, Spring Break, 4th of July, Labor Day, and New Years Eve.

Lead MBPD contingent to the 2009 Presidential Inauguration in Washington DC

Adjunct Professor for the School of Policy and Management, College of Urban and Public Affairs, Florida International University and the University of St. Francis

Served with the United States Marine Corps (1976 – 1979) Honorable Discharge as Lance Corporal, served as a Field Radio Operator, 2nd Battalion, 6th Marine Regiment, 2nd Marine Division

PREVIOUS ASSIGNMENTS

2007-2011 MBPD Assistant Chief of Operations and Administration Bureau – oversees all operations within the Miami Beach Police Department.

2004-2007 MBPD Assistant Chief of the Operations Bureau. This includes the Patrol Division consisting of uniform patrol, motorcycle patrol, accident investigation, marine patrol K-9, bicycle patrol, beach patrol, SWAT, Crime Suppression Teams, and Problem Solving Teams for the

Redevelopment Areas. Also includes the Criminal Investigations Division consisting of Homicide, Violent Crimes, Robbery, Burglary, Auto Theft, Economic Crimes, and Juvenile Crimes, the Strategic Investigations Unit (Vice, Narcotics, and Terrorism).

2001-2004 MBPD Assistant Chief of the Administration Bureau. This includes the Technical Services Division and the Support Services Division. The area of responsibility includes hiring, training, personnel, background investigations, budget, confiscations, 911 communications, property and evidence, fleet management, records management, information technology, and off-duty employment.

1994-2001 Miami Police Department – Assistant Chief of Police
Chief of the Field Operations Division, November 1999 through present, which includes overseeing all patrol operations, District Investigations to include robbery and burglary, tactical operations to include K-9, Mounted Patrol, Marine Patrol, Motorcycle Patrol, SWAT, street level tactical operations and drug enforcement. Assistant Chief Martinez is responsible for overseeing the department's community policing efforts, which includes the department's Neighborhood Enhancement Teams (NET), Problem Solving Teams (PST), Neighborhood Resource Officers (NRO), School Resource Officers (SRO), and Citizens on Patrol programs.

Chief of the Administration Division July 1994-November 1999, which includes the Business Management Section, Personnel Resource Management Section, Communications Section, and the Support Services Section. The area of responsibility includes hiring, training, personnel, recruitment and selection, budget, property and evidence, forfeitures, 911 communications, planning and research, grants management, records management, information technology, and vehicle fleet services.

Related Duties: Has been instrumental in the strategic development and implementation of the department's community policing philosophy. Has been the point person on all federal grants for the police department. Has coordinated the department's efforts to obtain over \$95 million in grants as well as match waivers from the COPS Office in Washington, DC. Assistant Chief Martinez is the department's labor relations representative, which negotiated the labor agreements with the Fraternal Order of Police in 1995 and 1998. Coordinated the 1995 International Association of Chiefs of Police Conference and successfully spearheaded the bid to bring the 2005 IACP conference back to Miami. Currently serves as an active member of the United States Department of Justice COPS Community Policing Resource Board. Was invited and served on the International Association of Chiefs of Police Summit on Hate Crime in America, June 25-26, 1998. Served as the City of Miami Police representative for the selection committee for the Federal Government Lobbyist and Consulting Services and the committee for the Test Developer and Provider for the police lieutenant promotional process.

1991-1994 Miami Police Department – Major of Police
Commander, Business Management Section (1993-1994)
Commander, Field Support Section (1991-1993)
Commander, Communications Section (1991)
Commander, Special Weapons and Tactics Team (SWAT) (1991-1994)

May 1994 Miami Police Department – promoted to the civil service rank of Captain while serving in the unclassified rank of Major

1989-1991 Miami Police Department – Lieutenant of Police
Commander, General Investigations Unit (1990-1991)
Commander, Patrol (1989-1990)
Commander, Special Weapons and Tactics Team (SWAT) (1989-1991)

1984-1989 Miami Police Department – Sergeant of Police
Supervisor, Enforcement Detail (Motorcycle) (1986-1989)
Supervisor, Patrol (1984-1986)

Supervisor, Special Weapons and Tactics Team (SWAT) (1984-1986)

1979-1984 Miami Police Department – Police Officer

Robbery Investigator (1983-1984)

Training Advisor at Police Academy (1982-1983)

Patrol (1979-1982)

Officer, Special Weapons and Tactics Team (SWAT) (1981-1984)

AWARDS

Up & Comers Award recipient 1996, Government category, South Florida Business Journal and Price Waterhouse LLP

Purple Heart (Shot in the line of duty 1981)

Gold Medal of Heroism

Officer of the Month

Unit Citation (Twice, Enforcement Detail, Coordinator Florida Police Chiefs Conference)

EDUCATION AND TRAINING

Master of Public Administration. Florida International University, Miami, Florida, December 1993.

Bachelor of Liberal Studies. Barry University, Miami, Florida, 1990.

Administrative Officers Course, Southern Police Institute. University of Louisville, Louisville, Kentucky, 1990.

Academy for Strategic Management, Florida International University, Certificate Program, April 1999.

Federal Bureau of Investigations, Florida Executive Development Seminar, Certificate Program, May 2005.

Driving Government Performance, Harvard University, John F. Kennedy School of Government, Certificate Program, November 2006

CERTIFICATIONS AND LICENSURE

Law Enforcement Officer, State of Florida

Police Instructor, State of Florida

PROFESSIONAL AFFILIATIONS

International Association of Chiefs of Police

Miami-Dade County Association of Chiefs of Police

Fraternal Order of Police Lodge #20

Florida Police Chiefs Association

Police Executive Research Forum

Police Officer Assistance Trust (P.O.A.T.)

COMMUNITY SERVICE

Executive Board Member, Miami Beach Police Athletic League

University of Miami Baseball Team Coach's Committee

Past Chairman, Board of Trustees, Plymouth Congregational Church

Teen Youth Advisor, Plymouth Congregational Church in Coconut Grove

Manager and Coach, Howard Palmetto Baseball



MIAMIBEACH

OFFICE OF THE CITY MANAGER

MEMORANDUM

To: Mayor Matti Herrera Bower and Members of the City Commission
From: Jorge M. Gonzalez, City Manager
Date: September 27, 2011
Subject: Chief of Police Recruitment

The purpose of this memorandum is to provide an overview of the recruitment process for the City of Miami Beach Chief of Police. As you know, Chief Carlos Noriega is in the DROP and will separate from the City on December 31, 2011.

As discussed at the September 14, 2011 City Commission meeting, an internal/external recruitment will be conducted to identify and select the next Chief of Police for Miami Beach. In order to ensure a fair and open recruitment, which will aid me in identifying and selecting the best candidate for the position, the process I intend to follow is outlined below.

As City Manager, I have conducted numerous executive level recruitments over the past several years and I have used a variety of methods to ensure that we fully evaluate prospective candidates. Typically, the City's recruitment process includes the following phases: (1) Recruitment; (2) Evaluation; and (3) Selection/Appointment.

The process for the Police Chief recruitment will be similar to the City's standard process which we have used for other senior level recruitments for department directors, including the two most recent appointments – the CIP Director and Building Director. This process will include input from many different perspectives and stakeholders to ensure that a fair and unbiased selection is made. Other elements may be incorporated to the process to help with the City's recruitment efforts. Such a process will help protect the City from any challenges that may arise after the process is concluded from any non-selected candidate. The timelines described below are subject to some fluctuation depending on how the process progresses.

Recruitment

The recruitment phase of the process is already underway and the City has already begun to accept applications.

Before the recruitment phase began, the Human Resources Department updated the Police Chief job description (as it had not been revised since 1997) to more accurately capture the current nature of work; essential duties; knowledge, skills and abilities; and minimum requirements of the position. Based on the updated job description, a position announcement was developed (attached).

This position announcement has been posted on the City's website and job boards and has

been submitted to the following organizations for posting on their respective websites and employment outlets:

- International Association of Chiefs of Police (IACP)
- Florida Police Chiefs Association (FPCA)
- Miami-Dade County Association of Chiefs of Police (MDCACP)
- International City/County Management Association (ICMA)
- Florida City/County Management Association (FCCMA)
- Miami-Dade City/County Management Association (MDCCMA)

In addition, the City will forward the position announcement to contacts in the industry and ask that the announcement be distributed to individuals or groups that may be interested or may know of individuals who may be interested. Human Resources will also identify candidates through referrals, networking and available online services.

The position will be posted for two full months (from September 23, 2011 through November 23, 2011) to allow adequate time for prospective candidates to consider the opportunity and to complete and submit an application to the City for consideration. Although the City will continue to accept applications after this date, the evaluation phase will become the priority.

Evaluation

The City will continuously review and evaluate all applications as they are received. The evaluation process includes the following:

1. Review of Qualifications

Initially, the Human Resources Department will screen applications to ensure they meet the minimum requirements of the position. In addition, the applications are sorted into categories based on their relative experience and whether they meet the qualities described in the position description. Following this initial review of paper qualifications, I also will personally review the candidate applications to determine an initial list of candidates who will be asked to participate further in the process. This is expected to be completed by early December 2011.

2. Telephone Interviews

The telephone interview is intended to reduce the initial list of potential candidates down to a more manageable number of candidates (usually between eight and twelve). An informal interview with candidates is conducted to refine items included in their application and get a better understanding of their unique skills, abilities and experience. A determination is made as to whether the candidate warrants continued consideration.

At this time, a determination is also made as to whether the overall pool of candidates is sufficiently acceptable and diverse enough that a selection can be made from the list and the evaluation process should continue. If not, the City will expand recruitment efforts to attract additional candidates. This is expected to be completed by December 2011.

3. Panel Interviews

The next step involves inviting the candidates to come to the City for a structured panel interview. At this step, the process is much more formal. Specific questions are developed and a specific routine is followed. The panels will consist of a mix of individuals to ensure that we get the benefit of many different perspectives. This step will identify more specifically the

candidate's technical abilities and other skills for the position. This has, on some occasions, included more than one panel ("Internal" and "External" evaluators).

For this position, it is my intention to have at least two different panels interview the candidate and give me their opinions. The panels will include individuals from the community who have a particular perspective or who have occasion to interact with the Police Department and can provide valuable insight to the process as well as internal individuals (employees) who interact frequently with the Police Chief or Police Department.

The panel interview portion should reduce the candidate list down to the top three to five candidates for further consideration. This is expected to be completed in early January 2012.

Selection/Appointment

Upon completion of the panel interviews, a short list of candidates will be identified and will be further considered for selection. This process will include a final interview panel, as well as other assessment tools to ensure that the candidate who is best qualified and is the best fit for the community and the organization is identified.

Final Interview

I will conduct one or more final interviews with the candidates. Typically, I will include others on this panel to again, ensure a variety of perspectives in our consideration. At this stage, management, leadership and personality traits are also considered. The aim is to ensure a highly qualified candidate with not only the technical skills to do the job, but also someone who has the appropriate other skills to succeed in our community, our organization and our environment. I expect that this step will be completed by the end of January 2012.

Other Assessments

Given the high degree of public contact that the Police Chief will have with our community, I would also expect to create an opportunity for our community (both resident and business) to have an opportunity to meet and question the candidates. This exercise is still under development but would entail a public meeting (or series of meetings) to give the broader community an opportunity to give me their thoughts and suggestions as I make my final determination on selection. The expected completion for this is January 2012.

In addition to the process mentioned above, further research and evaluation takes place. The short list of candidates and/or final candidate will also have to go through a thorough background check and criminal history check. A pre-employment physical is conducted. I will also conduct a series of reference checks on the final candidate to cross check and verify the information we have collected and get to know the candidate better. Finally, the salary, benefits and start date negotiations are conducted. This is expected to be completed in early to mid February 2012.

Commission Ratification

As the Police Chief position is a department director, the City Charter requires that the City Commission consent to his/her appointment. It is my intention to introduce the selected candidate to each of you prior to the item being heard by the Commission. You each will have an opportunity to individually meet with, ask questions of and give your thoughts to me or to the selected candidate prior to consenting to the appointment. This is expected to take place at either the February or March 2012 commission meeting (depending on dates and completion of above process).

The recruitment process and timeline described above is aggressive and should yield a highly qualified and competent selection for the Chief of Police. As previously mentioned, timelines are subject to change based on several factors including how the process progresses.

If you have any questions or need additional information regarding this issue, please feel free to contact me directly or Ramiro Inguanzo, Human Resources Director, at extension 6697.

F:cmgr/Jorge/Memo/Police Chief Recruitment

MIAMI BEACH

CITY OF MIAMI BEACH
invites applications for the position of:

Police Chief

EOE/AA/ADA/VET PREF

SALARY: \$60.75 - \$98.12 Hourly
\$4,860.30 - \$7,849.81 Biweekly

OPENING DATE: 09/22/11

CLOSING DATE: 11/23/11 05:00 PM

NATURE OF WORK:

Miami Beach is a 24-hour/7-day-a-week, entertainment / residential full service community, encompassing seven square miles, populated by approximately 90,000 year-round residents, but with a daily population of nearly 200,000. Miami Beach's international appeal brings over 10 million tourists annually to its beaches, restaurants, clubs, cultural facilities, convention center and other establishments.

The City of Miami Beach was incorporated in 1915 and operates on a Commission/City Manager form of government. The Commission consists of an elected Mayor and six Commissioners who serve as the policy-making body of the City. The City Manager ensures that policies, directives, resolutions and ordinances adopted by the City Commission are enforced and implemented. The City Manager is also charged with all the daily operations of the City. All Department Directors, including the Police Chief, are appointed by and report to the City Manager.

The Miami Beach Police Department (MBPD) is responsible for the enforcement of all laws within the City limits of Miami Beach. The MBPD has an annual budget of approximately \$90 million and approximately 500 employees (of which approximately 370 are sworn officers). The Fraternal Order of Police (FOP) represents the non-command staff sworn employees and three other general employee unions represent most other employees. The MBPD is one of approximately 20 citywide departments that all work together to accomplish the City's overall mission and vision.

The MBPD is nationally accredited by the Commission on Accreditation for Law Enforcement Agencies (CALEA). Additionally, the MBPD is currently recognized as an elite "Flagship Agency," an accomplishment attained by a limited number of police departments. Flagship Agencies are selected by CALEA based upon their past awards, current assessments, and overall professional standing in the public safety community.

The current Police Chief is retiring after a 28 year career with the MBPD.

The Police Chief is a highly responsible senior level management position that involves the planning, organizing, staffing, directing and controlling of all of the Police Department's functions and activities. This position requires extreme confidentiality and professionalism. The Chief exercises extensive independent judgment and professional managerial knowledge in the administration of a large and complex 24-hour/7-day-a-week public safety and law enforcement department to provide the highest level of protection to the City. The position requires the ability to proactively and successfully work with staff at all levels and with the City Administration to deal with personnel, safety and administrative issues. Supervision is exercised through various levels of command staff in the Police Department over a variety of sworn, technical professional, administrative, specialized, and clerical employees with assigned responsibilities in various operations of the department. The Police Chief reports to the City Manager. The Police Chief is responsible for the attainment of desired objectives, the professional management of all of the MBPD operations, and for the quality of services provided by MBPD employees to the City and its customers.

The selected Police Chief will lead the transformation and transition of the MBPD to an even higher performing organization with particular emphasis on developing a well trained and well respected organization applying traditional community-based and problem-oriented policing strategies. Special attention to the use and implementation of technology and automation to ensure increased accountability and transparency of the

department is expected. The Chief will also deal with a number of other challenges, including: (1) striking the balance between more community-oriented services delivered to our residents and the demands and workload generated as a 24-hour tourist destination; (2) Managing and policing several large scale events that take place in the City which attract large crowds particularly during holiday weekends ie: (New Year's Eve, July 4th, Memorial Day etc.), spring break, the winter season and other special events throughout the year; (3) Focusing on streamlining the organization in light of extremely challenging budget constraints; (4) Collectively bargaining with the FOP and other unions in 2012 as the current contracts expire on September 30, 2012 with particular focus on wages, benefits and pension issues; (5) Ensuring that all MBPD employees are committed and connected to the City's and MBPD's mission, vision, and values, and are held accountable at all levels and at all times, (6) Ensuring the Delivery of good customer service by police personnel and the attainment of high employee morale; and, (7) focusing on other high priority tasks to be addressed immediately.

ILLUSTRATIVE EXAMPLES OF ESSENTIAL DUTIES:

- Plans, programs, directs and evaluates all the operations of the Police Department;
- Develops annual budget proposal and controls budgeted expenses;
- Formulates and implements police policies, procedures, rules, regulations and programs;
- Prepares and reviews operational and administrative reports;
- Participates as a member of the City's labor relations collective bargaining negotiations team;
- Develops and maintains effective partnerships with local, state and federal law enforcement agencies;
- Proactively develops and implements plans to address challenges unique to the Department and City;
- Promotes, assigns and disciplines department personnel;
- Supervises maintenance of all records and materials associated with law enforcement activities or administration;
- Makes periodic public addresses;
- Attends meetings and serves on committees, boards and agencies related to promoting crime prevention and improving law enforcement;
- Ensures the delivery of good customer service by departmental personnel
- Evaluates the work of departmental personnel; and
- Performs related work as required.

MINIMUM REQUIREMENTS:

- A minimum of fifteen (15) years of progressively responsible law enforcement experience, which must include at least five to seven (5-7) years of executive management and police command staff experience.
- Certification as a Florida law enforcement officer in accordance with Chapter 943, Florida Statutes (or ability to obtain within six months of employment).
- Bachelor's degree from an accredited institution, in Public Administration, Political Science, Criminal Justice, Law Enforcement, Public Safety Management, or related field.
- Other combination of experience and education that meet the minimum requirements may substitute the education prerequisites.
- Progressively responsible senior-level police command staff experience in Florida law enforcement. **(Not a minimum requirement but highly desired)**
- Graduation from a nationally recognized executive development command-training program (i.e. FBI National Academy, Southern Police Institute, Northwestern, or other related professional law enforcement programs). **(Not a minimum requirement but highly desired)**
- Master's degree from an accredited institution, in Public Administration, Political Science, Criminal Justice, Law Enforcement, Public Safety Management, or related field. **(Not a minimum requirement but highly desired)**

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