MIAMIBEACH

City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
January 11, 2012

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

*Visit us at **www.miamibeachfl.gov** for agendas and video "streaming" of City Commission Meetings.*

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.

Special note: In order to ensure adequate public consideration, if necessary, the Mayor and City Commission may move any agenda item to the alternate meeting date which will only be held if needed. In addition, the Mayor and City Commission may, at their discretion, adjourn the Commission Meeting without reaching all agenda items.

Call to Order - 9:00 a.m.
Inspirational Message, Pledge of Allegiance
Requests for Additions, Withdrawals, and Deferrals

The City Commission will recess for lunch at approximately 1:00 p.m.

Presentations and Awards
PA Presentations and Awards

Consent Agenda
C2 Competitive Bid Reports
C4 Commission Committee Assignments
C6 Commission Committee Reports
C7 Resolutions

Regular Agenda
R2 Competitive Bid Reports
R5 Ordinances
R7 Resolutions
R9 New Business & Commission Requests
R10 City Attorney Reports

Reports and Informational Items

We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

Presentations and Awards

PA1 Presentation Of A Plaque And T-Shirt To The Mayor, City Commission, City Manager And City Attorney For Their Continued Support Of The City's Special Olympics Team Who Recently Represented The City And Participated In The State Games.
(Parks & Recreation Department)

PA2 Certificate Of Recognition To Be Presented To Café Avanti For Their Long Standing Contribution To The City Of Miami Beach.
(Requested by Michael Góngora)

PA3 Certificate Of Appreciation To Be Presented To The Gay And Lesbian Task Force Of Miami For Their Outstanding Fundraising Efforts For 2011.
(Requested by Michael Góngora)

PA4 Proclamation To Be Presented To Miami Beach Senior High School, Its Students, Parents, Administration And PTSA Board For Becoming An "A" School For The First Time.
(Requested by Commissioner Jonah Wolfson)

PA5 Certificates Of Appreciation To Be Presented To Octavio Rodriguez And Maria Makueria Of Walgreens Store #3942, For Their Toy Collection Drive For The Miami Beach Fire Department Toy Giveaway.
(Requested by Mayor Matti Herrera Bower)

PA6 Proclamation To Be Presented To Elsie Howard For Her Many Years Of Service At The Visitors And Convention Authority.
(Requested by Mayor Matti Herrera Bower)

CONSENT AGENDA

Action:
Moved:
Seconded:
Vote:

C2 - Competitive Bid Reports

C2A Request For Approval To Issue A Request For Qualifications (RFQ) For Citywide Surveying, Topographical, And Mapping Services On An As-Needed Basis.
(Capital Improvement Projects/Public Works/Procurement)

C2 - Competitive Bid Reports (Continued)

C2B Request For Approval To Issue A Request For Qualifications (RFQ) For Citywide Geotechnical And Laboratory Testing Services On An As-Needed Basis.
(Capital Improvement Projects/Procurement)

C2C Request For Approval To Issue A Request For Proposals (RFP) For Security Guard Services.
(Procurement)

C2D Request For Approval To Award A Contract To Miami Stagecraft, Inc., Pursuant To Invitation To Bid (ITB) No. 12-11/12, For Purchase And Delivery Of Stage Lighting For The Colony Theatre, In The Total Amount Of $41,323.25.
(Tourism & Cultural Development/Procurement)

C4 - Commission Committee Assignments

C4A Referral To The Neighborhoods/Community Affairs Committee - Discussion Regarding The Placement Of A Barbara Capitman Memorial Bust In Lummus Park.
(Requested by Mayor Matti Herrera Bower)

C4B Referral To The Land Use And Development Committee - Discussion Regarding An Ordinance Proposed By A Business Owner To Allow Alcohol Service In Nude Adult Establishments.
(Requested by Mayor Matti Herrera Bower)

C4C Referral To The Finance And Citywide Projects Committee - Proposed Amendment To Chapter 106, Article VI (Towing And Immobilization Of Vehicles) Providing For The City's Right To Audit Towing Permitees Engaged In Towing Vehicles On Private Property.
(Requested by Commissioner Jerry Libbin)

C6 - Commission Committee Reports

C6A Report Of The Capital Improvement Projects Oversight Committee Meeting On November 14, 2011: **1)** Attendance. **2)** Review And Acceptance Of Minutes. **3)** Public Comments. **4)** Old Business/Requested Reports: **4A)** Status Of Water Reclamation Project In Golf Courses; **4B)** Status Report: Sunset Island I & II; **4C)** Status Report: Sunset Island III & IV; **4D)** Status Report: Lower North Bay Road; **4E)** Status Report: Venetian Islands; **4F)** Status Report: Palm & Hibiscus Islands; **4G)** Status Report: Flamingo Park; **4H)** Status Report: Stormwater Master Plan.

C6 - Commission Committee Reports (Continued)

C6B Report Of The Finance And Citywide Projects Committee Meeting On December 6, 2011: **1)** Discussion Of A Proposed Modification Of The Promissory Note Dated February 5, 2007, Between MBCDC: Meridian Place, LLC, A Florida Limited Liability Corporation, To The Miami Beach Redevelopment Agency; And To Discuss A Subordination Of The City's Mortgages In Favor Of A Mortgage Made By A Commercial Lending Institution. **2)** Discussion Concerning City Fees And Charges For Gay Pride 2012. **3)** Discussion And Review Of City's Investment Policy. **4)** Discussion Regarding The Public Beachfront Concessions Agreement. **5)** Request For Approval To Issue A Request For Proposals (RFP) For Security Guard Services. **6)** Discussion Pertaining To The Issuance Of A Request For Proposals (RFP) For Auditing Services For The City's (CAFR), (OMB A-133 Single Audit), The Miami Beach Redevelopment Agency's Basic Financial Statements (RDA), (PSF), (VCA) Financial Statements, The Miami Beach Convention Center, As Managed By Global Spectrum, Financial Statements, The Children's Trust Program, The Building Better Communities Bonds Program, And The Safe Neighborhood Parks And Bond Program (SNP). **7)** Discussion Of Right-Of-Way Recycling Program. **8)** Discussion On FPL Franchise Payments To The City Of Miami Beach. **9)** Discussion On Outsourcing Of Lincoln Road Mall Maintenance Services.

C6C Report Of The Neighborhoods/Community Affairs Committee Meeting On December 8, 2011: **1)** Discussion Of Potential Policies For The Nomination/Number Of Memorials Or Commemorative Plaques. **2)** Follow-Up Discussion And Request For Direction Concerning The Continuation Or Termination Of The Dog Off-Leash Pilot Program Approved By The City Commission In South Pointe Park. **3)** Discussion Regarding Neighborhood Park/Street-Ends Bus Bench Issue. **4)** Discussion On The Viability Of Storing City Directed Towed Vehicles On Terminal Island. **5)** Discussion Regarding An Ordinance Which Prohibits Docking On City Owned Property, Specifically Seawalls. **6)** Discussion To Consider Leaving The Altos Del Mar Location As Passive Greenspace. **7)** Discussion Regarding A Proposal For A Donation Of Art Pieces To Be Displayed On Lincoln Road. **8)** Discussion Regarding The Ongoing Store Front Damages And Graffiti Issues On Washington Avenue.

C7 - Resolutions

C7A A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement Between The City Of Miami Beach, Florida, And The Cat Network, Inc., To Provide Low-Cost Spay/Neuter Services For Stray, Homeless And Abandoned Cats; In The Estimated Amount Of $80,000 Over Two Years, Funded By The Petsmart Charities® Grant To The City Of Miami Beach; Said Agreement Approval Is Subject To The Successful Execution Of The Grant Agreement With Petsmart Charities®.

(City Manager's Office)

C7B A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Agreement Between The City Of Miami Beach, Florida And Barry University To Be The Provider Of Home Visiting Services For The Parent-Child Home Program, In Accordance To The Children's Trust Contract #1128-1090, In An Estimated Amount Of $73,326.00.

(Community Services)

C7 - Resolutions (Continued)

C7C A Resolution Amending Resolution No. 2011-27713, Which Approved And Authorized The Mayor And City Clerk To Execute: 1) Amendment No. 1 To The Purchase And Sale Agreement, Dated July 14, 2010, Between The City Of Miami Beach And The Housing Authority Of The City Of Miami Beach (HACMB), For The Purchase Of A Perpetual Easement Over The Property Located At 1231-1251 17th Street, Miami Beach, Florida, For The Purpose Of Constructing A Bridge Connecting West Avenue And Dade Boulevard; Said Amendment To Extend The "Inspection Period", As Defined Therein; And 2) Amendment No. 1 To The Accompanying Development Agreement Between The City And HACMB, Having A Commencement Date Of September 15, 2010; Said Amendment To Extend The "Due Diligence Period", As Defined Therein; Said Amendment To Resolution No. 2011-27713 To Reference The Actual Dates Of The Extensions To The Inspection And Due Diligence Periods, As Granted By The HACMB, To May 11, 2012.
(Economic Development)

C7D A Resolution Amending The City's Investment Policy And Procedures, As Adopted By Resolution No. 95-21726 And Amended By Resolutions No. 97-22315 And No. 2007-26602 By Adding Israeli Bonds As Authorized Investments, Adding Maximum Percentage Per Issuer And Replacing The Investment Committee With The Investment Advisor.
(Finance Department)

C7E A Resolution Retroactively Approving A Month To Month Extension To The Services Framework Agreement Between The City And Parkeon Inc. For Technical Support Services, Parkfolio And Online Credit Card Processing, Maintenance, And Extended Hardware Warranty; Said Extension Commencing On December 24, 2011 And Expiring No Later Than June 30, 2013.
(Parking Department)

C7F A Resolution Authorizing The Administration To Issue Purchase Orders In The Amount Of $225,000 For The Maintenance And Repair Of The Gated Revenue Control Equipment For The City's Parking Garages From The Sole Source Provider, Consolidated Parking Equipment.
(Parking Department)

C7G A Resolution Approving And Appropriating Funding For The Sole Source Purchase Of Software Upgrades To The Gated Revenue Control Equipment From Consolidated Parking Equipment For The City's Parking Garages, In An Amount Not To Exceed $30,250.
(Parking Department)

C7H A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 1, In A Negotiated Not-To-Exceed Amount Of $164,102.94, To An Existing Agreement Between The City Of Miami Beach And Valleycrest Landscape Development, Dated October 13, 2010, For Landscape Maintenance Services On The Boardwalk, Beachwalk, Street Ends, And Spoil Areas Citywide, Said Amendment For The Inclusion Of The Miami Beach Soundscape.
(Parks & Recreation)

C7 - Resolutions (Continued)

C7I A Resolution Approving A Federal Equitable Sharing Agreement With The United States Department Of Justice And The United States Department Of The Treasury, And Authorizing The Mayor And The City Clerk To Execute The Agreement.
(Police Department)

C7J A Resolution Authorizing The City Of Miami Beach, On Behalf Of The Miami Beach Police Department, To Accept A Donation Of A T3 Motion Series ESV Three Wheel Electric Vehicle, With An Approximate Value Of $9,000.00, From Mr. Adam Rose, Which Will Be Utilized For Specialized Patrol Along Walkways, Beachwalks And Mall Areas.
(Police Department)

C7K A Resolution Setting A Public Hearing For The February 8, 2012 City Commission Meeting, To Consider Granting A Revocable Permit To 1790 Alton Holdings LLC, As Owner Of The Property Located At 1790 Alton Road, To Allow A Concrete "Eyebrow" To Extend Into The Public Right-Of-Way On 18th Street And The Service Road Adjacent To Alton Road (And A Minimum Of 14 Feet Above The Sidewalk).
(Public Works)

C7L A Resolution Authorizing The Administration And City Attorney's Office To Proceed With, And Take Any And All Required Actions Relative To The Condominiumization Of The City-Owned Property Located At 1661 Pennsylvania Avenue, Miami Beach, Florida.
(Real Estate, Housing & Community Development)

C7M A Resolution Retroactively Approving And Authorizing The Appropriation Of A Contribution From The Ocean Drive Association And Orange Bowl Committee Of $60,000 In Support Of The 2011-2012 New Year's Celebration.
(Tourism & Cultural Development)

End of Consent Agenda

REGULAR AGENDA

R2 - Competitive Bid Reports

R2A Request For Approval To Issue A Request For Qualifications (RFQ) From Qualified Developers For A Public-Private Mixed-Use Development In Miami Beach For The Enhancement Of The Miami Beach Convention Center Campus/District, Including The Expansion Of The Miami Beach Convention Center And Development Of A Convention Center Hotel.
(City Manager's Office)

R5 - Ordinances

R5A 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 0.833% Per Month Of The Late Outstanding Balance; Providing For Repealer, Severability, Codification And Effective Date. **10:15 a.m. Second Reading Public Hearing**
(Requested by Commissioner Jonah Wolfson)
(Legislative Tracking: Finance Department)
(First Reading on December 14, 2011)

R5B An Ordinance Amending Chapter 26 Of The Miami Beach City Code Entitled "Civil Emergencies," By Amending Article II, Entitled "State Of Emergency," By Repealing Section 26-32, Entitled "Automatic Emergency Measures" Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 70, Entitled "Miscellaneous Offenses," By Amending Article I, Entitled "In General," By Repealing Section 70-2, Entitled "Weapons; Discharging," Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 106 Of The Miami Beach City Code, Entitled "Traffic And Vehicles," By Amending Article III, Entitled "Parades," By Amending Division 2, Entitled "Permit," By Amending Section 106-375(A)(1) To Repeal Language Regarding The Regulation Of Firearms That Is Preempted By The State Of Florida, And To Provide That Weapons Shall Not Include Any Destructive Device Or Firearm As Defined Under Florida Law; Providing For Repealer, Severability, Codification, And An Effective Date. **10:20 a.m. Second Reading Public Hearing**
(Requested by Commissioner Jerry Libbin)
(Legislative Tracking: City Attorney's Office)
(First Reading on December 14, 2011)

R5 - Ordinances (Continued)

R5C An Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" To Cross-Reference Language In Section 10-11 Regarding Off-Leash Areas For Dogs; By Amending Section 10-11, Entitled "Running At Large Prohibited," By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until July 15, 2012, By Providing Off-Leash Hours In The Designated Area In The Morning From Sunrise To 10:00 A.M. Daily And Between 4:00 P.M. And 7:00 P.M. Monday Through Friday, And Relocating The Off-Leash Area To The South And East Of The Washington Avenue Entry Plaza; Providing For Repealer, Severability, Codification, And An Effective Date. **10:25 a.m. Second Reading Public Hearing**

(Requested by the Administration And Neighborhoods/Community Affairs Committee)
(Legislative Tracking: City Attorney's Office)
(First Reading on December 14, 2011)

R5D Recycling Ordinance
An Ordinance Amending Chapter 90 Of The Miami Beach City Code, Entitled "Solid Waste," By Amending The Definitions In Article I, Entitled "In General," By Amending Section 90-2, Entitled "Definitions"; By Amending Article II, Entitled "Administration" By Amending The Penalties For Solid Waste Violations And To Provide Provisions And Penalties Relative To Recycling For Multifamily Residences And Commercial Establishments; By Creating Article V, To Be Entitled "Citywide Recycling Program For Multifamily Residences And Commercial Establishments," To Provide Provisions For Recycling Requirements And Enforcement, A Public Education Program, A Warning Period, An Enforcement Date, Collector Liability, A "Red Tag" Noticing System, Penalties, And Special Master Appeal Procedures; Providing For Repealer, Severability, Codification, And An Effective Date. **10:35 a.m. Second Reading Public Hearing**

(Requested by Commissioner Jonah Wolfson)
(Legislative Tracking: Public Works)
(Continued from October 19, 2011, 2011/Referred to FCWP)

R5E RPS-4 Heights 2011
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District", Section 142-696 "Residential Performance Standard Area Requirements" To Modify The Maximum Height Requirements For Residential Apartment Structures; By Amending Section 142-697 "Setback Requirements In The R-PS 1, 2, 3, 4 District," To Modify The Setback Requirements For Oceanfront Buildings; Providing For Repealer, Codification, Severability And An Effective Date. **5:00 p.m. Second Reading Public Hearing**

(Requested by Commissioner Jonah Wolfson)
(Legislative Tracking: Planning Department)
(First Reading on December 14, 2011)

R5 - Ordinances (Continued)

R5F An Ordinance Granting To Florida Power And Light Company, Its Successors And Assigns, An Electric Franchise Imposing Provisions And Conditions Relating Thereto, Providing For Monthly Payments To The City Of Miami Beach, And Providing For An Effective Date. **5:05 p.m. Second Reading Public Hearing**

(Requested by the City Commission)
(Legislative Tracking: Public Works)
(First Reading on December 14, 2011)

R5G An Ordinance Amending Chapter 66, "Marine Structures, Facilities And Vehicles," Article IV, "Vessels," Section 66-151, "Launching And Hauling," To Prohibit Docking, Securing, Embarking Or Disembarking Vessels At Municipal Or Public Seawalls, Wharfs, Docks Or Bulkheads In Single Family Neighborhoods, Creating Exceptions, Providing For Repealer; Codification; Severability And An Effective Date. **First Reading**

(Requested by Vice-Mayor Deede Weithorn)
(Legislative Tracking: City Attorney's Office)

R5H An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administrative And Review Procedures," Article II, "Boards," Division 5, "Board Of Adjustment," Section 118-134, "Notification Of Hearings;" Article IV, "Conditional Use Procedure," Section 118-193 "Applications For Conditional Uses"; Article VI, "Design Review Procedures;" Article X, "Historic Preservation;" And Article XI "Neighborhood Conservation Districts (NCD);" To Clarify That Continuances Shall Be Noticed By Mail After The First Continuance Granted By A Land Use Board; Providing For Repealer; Codification; Severability And An Effective Date. **First Reading**

(Requested by Commissioner Jonah Wolfson)
(Legislative Tracking: Planning Department)

R5I Temporary Removal Of Parking Spaces
An Ordinance Amending The Code Of The City Of Miami Beach By Amending Chapter 82, "Public Property," Amending Section 82-384, "Permitted Sidewalk Café Frontage; Requests For Expansion," To Permit Sidewalk Cafes To Extend Into A Loading Zone Fronting A Restaurant; Providing For Repealer, Codification, Severability And An Effective Date. **First Reading**

(Requested by the Land Use & Development Committee)
(Legislative Tracking: Planning Department)

R7 - Resolutions

R7A A Resolution Granting And Authorizing The Mayor And City Clerk To Execute An After-The-Fact Revocable Permit To ASR Berwick Family LTD Partners, As Owner Of The Commercial Property Located At 335 West 47th Street, To Retain A/C Units, A Utility Room, And A Trash Enclosure, Currently Placed Within The Public City Right-Of-Way On West 47th Court. **10:30 a.m. Public Hearing**

(Public Works)

R7B Amendments To The FY 2010/11 And 2011/12 Budgets

1. A Resolution Adopting The Second Amendment To The FY 2010/11 General Fund Budget And The First Amendment To The Enterprise, Internal Service And Resort Tax Funds Budgets For Fiscal Year (FY) 2010/11.

2. A Resolution Adopting The First Amendment To The General Fund, Enterprise, Internal Service And Special Revenue Funds Budgets For Fiscal Year (FY) 2011/12 To Appropriate Encumbrances And Prior Appropriations Carried Forward From FY 2010/11 And To Appropriate Funds Carried Forward For Special Revenue Budgets

(Budget & Performance Improvement)

(Memorandum & Resolutions to be Submitted in Supplemental)

R7C A Resolution Accepting The Recommendation Of The Finance And Citywide Projects Committee At Their October 27, 2011 Meeting To Extend The Current Management Agreement With Greensquare On A Month-To-Month Basis Until Such Time As The New Flamingo Tennis Center Is Nearing Completion And Coordinate The Issuance Of A New Tennis Centers Operations And Management Request For Proposals (RFP) In A Manner To Have The Selected Operator In Place To Coincide With The Grand Opening Of The New Flamingo Park Tennis Center Facility And Authorizing The Issuance Of The Above Referenced Request For Proposals As Described.

(Parks & Recreation)

R9 - New Business and Commission Requests

R9A Board And Committee Appointments.

(City Clerk's Office)

R9A1 Board And Committee Appointments - City Commission Appointments.

(City Clerk's Office)

R9B1 Dr. Stanley Sutnick Citizen's Forum. (12:30 p.m.)
R9B2 Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

R9 - New Business and Commission Requests (Continued)

R9C The Committee Of The Whole Will Meet During Lunch Recess In The City Manager's Large Conference Room To Discuss The Audit Committee.
(Budget & Performance Improvement)

R9D The Committee Of The Whole Will Meet During Lunch Recess In The City Manager's Large Conference Room To Discuss The Community Satisfaction Survey.
(Budget & Performance Improvement)

R9E Discussion And Update Regarding The Tennis Management Contract RFP.
(Requested by Commissioner Edward L. Tobin)
(Deferred from December 14, 2011)

R9F Discussion Regarding Creating A Tennis Committee.
(Requested by Commissioner Jonah Wolfson)
(Deferred from December 14, 2011)

R9G Discussion Regarding An Ordinance Amending The Miami Beach City Code By Amending Chapter 2, Entitled "Administration," By Amending Article III, Entitled "Agencies, Boards And Committees," By Creating Division 33, To Be Entitled "Tennis Advisory Committee," And By Creating Sections 2-190.148 Through 2-190.153 Thereto To Create A Tennis Advisory Committee And Provisions Establishing The Committee And Its Mission, Powers, Duties, Composition, And Supporting Department; And Providing For Repealer, Severability, Codification, And An Effective Date.
(Requested by Commissioners Michael Góngora)
(Deferred from December 14, 2011)

R9H Discussion And Update On The Citywide Dunes Maintenance Plan.
(Requested by Commissioner Edward L. Tobin)
(Deferred from December 14, 2011)

R10 - City Attorney Reports

R10A City Attorney's Status Report.
(City Attorney Office)

R10 - City Attorney Reports (Continued)

R10B Closed Attorney-Client Session
Pursuant To §286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

The City Of Miami Beach, Vs. Hargreaves Associates, Incorporated, Et Al, Eleventh Judicial Circuit Of Florida, Case No. 10-61979 CA 03, 11th Judicial Circuit In And For Miami-Dade County, Florida.

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On January 11, 2012 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matter.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Jorge Exposito, Michael Góngora, Jerry Libbin, Edward Tobin, Deede Weithorn And Jonah Wolfson; City Manager Jorge Gonzalez, City Attorney Jose Smith, First Assistant City Attorney Steven Rothstein, Special Counsel Richard Lydecker, And Special Counsel Meredyth Cooper.

R10C Closed Attorney-Client Sessions
Pursuant To §286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

1) 1100 West Properties, LLC V. City Of Miami Beach, Circuit Court Case No. 09-70789 CA 23

2) City Of Miami Beach V. 1100 West Properties, LLC, Circuit Court Appellate Division Case No.: 11-505 AP

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On January 11, 2012 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Strategy Related To Litigation Expenditures With Regard To The Above-Referenced Litigation Matters.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Jorge Exposito, Michael Góngora, Jerry Libbin, Edward Tobin, Deede Weithorn And Jonah Wolfson; City Manager Jorge Gonzalez, City Attorney Jose Smith, And First Assistant City Rhonda Montoya Hasan.

R10 - City Attorney Reports (Continued)

R10D Attorney Client Session
Pursuant To §286.011, Florida Statutes, The City Attorney Hereby Advises The Mayor And City Commission That He Desires Advice Concerning The Following Pending Litigation Matter:

Museum Walk Apartments V. City Of Miami Beach, Eleventh Judicial Circuit Of Florida, Appellate Jurisdiction, Case Nos. 11-058-061; 068-074; 076-084; 086-087; 115-124; 662; And 670

Therefore, A Private Closed Attorney-Client Session Will Be Held During The Lunch Recess Of The City Commission Meeting On January 11, 2012 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement Negotiations And/Or Litigation Strategy With Regard To The Above-Referenced Litigation Matters.

The Following Individuals Will Be In Attendance: Mayor Matti Herrera Bower; Members Of The City Commission: Vice Mayor Deede Weithorn, Edward Tobin, Jorge Exposito, Michael Góngora, Jerry Libbin And Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Rhonda Montoya Hasan And First Assistant City Attorney Steven Rothstein.

Reports and Informational Items

Reports and Informational Items (see LTC #004-2012)

End of Regular Agenda

Miami Beach Redevelopment Agency

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
January 11, 2012

Chairperson of the Board Matti Herrera Bower
Member of the Board Jorge Exposito
Member of the Board Michael Góngora
Member of the Board Jerry Libbin
Member of the Board Edward L. Tobin
Member of the Board Deede Weithorn
Member of the Board Jonah Wolfson

Executive Director Jorge M. Gonzalez
Assistant Director Jorge Gomez
General Counsel Jose Smith
Secretary Robert E. Parcher

AGENDA

1. NEW BUSINESS

A A Resolution Of The Chairperson And Members Of The Miami Beach Redevelopment Agency Adopting And Appropriating The First Amendment To The Operating Budget For The City Center Redevelopment Area And The Anchor Shops And Parking Garage For Items That Are Over-Budget; And, Retroactively Adopting And Appropriating The Budget For The Pennsylvania Avenue Shops And Parking Garage For Fiscal Year 2010/11.
(Budget & Performance Improvement)

January 11, 2012
Commission Meeting

LOBBYIST NAME	RETAINED BY	DATE REGISTERED	DISCLOSURE
C7K Set PH - Grant Revocable Permit to 1790 Alton Holdings, LLC			
Matthew Amster	1790 Alton Holdings, LLC	07/08/2011	$310 per hour
Michael Larkin	1790 Alton Holdings, LLC	07/08/2011	$435 per hour
R2A Approve RFQ, Enhancement of Miami Beach Convention Center/Expansion & Hotel Development			
Marcos Llorente	Philip Goldfarb	12/05/2011	$250 - $500/hour
Lyle Stern	Kim Sinatra	11/10/2011	No compensation
R5D Recycling Ordinance			
Ashley Ligas	SE Florida Apartment Assoc.	9/20/2011	Employee
Eston Melton, III	Waste Pro of Florida, Inc.	06/06/2011	$1,000 monthly
R7A Authorize After-The-Fact Revocable Permit, ASR Berwick Family LTD, 335 W. 47th Street			
Michael Larkin	ASR Berwick Family, LTD	12/02/2011	$435 per hour

CITY OF MIAMI BEACH
2012 MEETING DATES

COMMISSION MEETINGS	ALTERNATE MEETINGS
January 11 (Wednesday)	January 18 (Wednesday)
February 8 (Wednesday)	February 15 (Wednesday)
March 21 (Wednesday)	March 28 (Wednesday)
April 11 (Wednesday)	April 18 (Wednesday)
May 9 (Wednesday)	May 16 (Wednesday)
June 6 (Wednesday)	
July 18 (Wednesday)	July 25 (Wednesday)
August - City Commission in recess	
September 12 (Wednesday)	
October 24 (Wednesday)	October 31 (Wednesday)
November 14 (Wednesday)	November 21 (Wednesday)
December 12 (Wednesday)	December 19 (Wednesday)

PA

PRESENTATIONS AND AWARDS

Presentations and Awards

PA1 Presentation Of A Plaque And T-Shirt, To The Mayor, City Commission, City Manager And City Attorney For Their Continued Support Of The City's Special Olympics Team Who Recently Represented The City And Participated In The State Games.
(Parks & Recreation Department)

PA2 Certificate Of Recognition To Be Presented To Café Avanti For Their Long Standing Contribution To The City Of Miami Beach.
(Requested by Michael Góngora)

PA3 Certificate Of Appreciation To Be Presented To The Gay And Lesbian Task Force Of Miami For Their Outstanding Fundraising Efforts For 2011.
(Requested by Michael Góngora)

PA4 Proclamation To Be Presented To Miami Beach Senior High School, Its Students, Parents, Administration And PTSA Board For Becoming An "A" School For The First Time.
(Requested by Commissioner Jonah Wolfson)

PA5 Certificates Of Appreciation To Be Presented To Octavio Rodriguez And Maria Makueria Of Walgreens Store #3942, For Their Toy Collection Drive For The Miami Beach Fire Department Toy Giveaway.
(Requested by Mayor Matti Herrera Bower)

PA6 Proclamation To Be Presented To Elsie Howard For Her Many Years Of Service At The Visitors And Convention Authority.
(Requested by Mayor Matti Herrera Bower)

Agenda Item PA1-6
Date 1-11-12

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C2

COMPETITIVE BID REPORTS

Condensed Title:

Request For Approval To Issue A Request For Qualifications (RFQ) For Surveying, Topographical, And Mapping Services On An As-Need Basis.

Key Intended Outcome Supported:

Ensure well-maintained infrastructure

Supporting Data (Surveys, Environmental Scan, etc.): The 2009 Customer Satisfaction Survey indicated that 79% of businesses rated recently completed capital improvement projects as "excellent" or "good."

Issue:

Shall the Mayor and City Commission approve the issuance of the RFQ?

Item Summary/Recommendation:

The City of Miami Beach is required to have current boundary and topographical surveys for the projects in the Capital Improvement Program as well as right-of-way improvement projects for Public Works Department. The ability to have a rotating list of Surveyors available to update, and prepare boundary and/or topographical surveys for Capital Improvement Projects(CIP) and Public Works would enable the City to plan projects in an expedited manner.

It is the intent of the City of Miami Beach to select several firms under this RFQ, which will be contacted on an as-needed basis. This contract shall remain in effect for three (3) years from the date of contract execution by the Mayor and City Clerk and two (2), one (1) year renewal options at the sole discretion of the City Manager.

All survey work prepared for the City or through the City's Consultants shall comply with the Minimum Technical Standards for Land Surveys in the State of Florida for work in commercial/high risk areas and any applicable state laws, regulations or other requirements. All field data is to be collected in digital form (GPS, Total Station, etc.) and reference recorded in field books. The digital data shall be post processed and delivered to the City as specified.

All surveying work shall be conducted under the supervision of a Professional Surveyor and Mapper licensed in the State of Florida. The surveyor or his designee shall furnish and maintain, at his own expense, stakes and other such material, including qualified helpers during field survey activities.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	N/A	
OBPI	Total		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Fernando Vazquez ext. 6135

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL ____ FB ____ FV ____	DB ____	JMG ____

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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: January 11, 2012

SUBJECT: **REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR QUALIFICATIONS (RFQ) FOR CITYWIDE SURVEYING, TOPOGRAPHICAL, AND MAPPING SERVICES ON AN AS-NEEDED BASIS.**

ADMINISTRATION RECOMMENDATION

Approve issuance of the RFQ.

ANALYSIS

The City of Miami Beach is required to have current boundary and topographical surveys for the projects in the Capital Improvement Program as well as right-of-way improvement projects for Public Works Department. The ability to have a rotating list of Surveyors available to update, and prepare boundary and/or topographical surveys for Capital Improvement Projects(CIP) and Public Works would enable the City to plan projects in an expedited manner.

It is the intent of the City of Miami Beach to select several firms under this RFQ, which will be contacted on an as-needed basis. This contract shall remain in effect for three (3) years from the date of contract execution by the Mayor and City Clerk and two (2), one (1) year renewal options at the sole discretion of the City Manager.

All survey work prepared for the City or through the City's Consultants shall comply with the Minimum Technical Standards for Land Surveys in the State of Florida for work in commercial/high risk areas and any applicable state laws, regulations or other requirements. All field data is to be collected in digital form (GPS, Total Station, etc.) and reference recorded in field books. The digital data shall be post processed and delivered to the City as specified herein.

All surveying work shall be conducted under the supervision of a Professional Surveyor and Mapper licensed in the State of Florida. The surveyor or his designee shall furnish and maintain, at his own expense, stakes and other such material, including qualified helpers during field survey activities.

SCOPE OF SERVICES

- **Preliminary Engineering Surveys:** This type of work shall include establishing benchmarks, horizontal control utilizing existing right-of-way, locating all improvements and culture, measuring distances and angles, measuring elevations of existing improvements, and all other required by City of Miami Beach Public Works Department for Engineering surveys. Miscellaneous office calculations from field work may be required. All field work shall be kept in a City of Miami Beach field book using standard note keeping techniques, supplemented with digital data including data collector files, and .DXF or .DWG format drawings.

- **Boundary / Right-Of-Way Surveys/Legal Descriptions:** This work shall include locating all required public land corners, street monumentation, property corners, and gathering of parcel evidence as required to determine the existing land lines and/or right-of-way lines. Once the location of the actual boundary or right-of-way lines has been determined, monuments as required by the Rules and Regulations of the State Board of Professional Regulation, or Florida Statutes 472, shall be set by the Consultant at all angle points, points of curvature, block corners, property corners, etc. In addition to monumenting the actual right-of-way lines, a monument line or centerline, whichever the case may be, shall also be fully monumented. A Record of Survey shall be prepared in accordance with all applicable City, County and State regulations and Statutes, showing the results of the survey. Preparation of legal descriptions for acquisition or disposal of City property shall be accomplished to all State and local standards and approved by the City Surveyor.

- **Legal Descriptions:** The Consultant shall perform any and all Survey work that may be required to prepare a legal description to be used for any purpose. Any survey work performed for this function shall be in compliance with the conditions set forth in this contract.

- **Additional Survey Services:** The Consultant shall provide additional survey services such as, but not limited to, engineering, right-of-way, specific purpose surveys, topographical surveys, general land and aerial photography surveying services, mean high water line, submerged/filled lands, GPS (Global Positioning System) and GPR (Ground Penetration Radar) surveys, survey vertical control and elevations referenced to the North American Vertical Datum of 1988 (NAVD 1988), survey horizontal control and points referenced to Florida State Plane Coordinates North American Datum 1983/1990 (NAD 83/90), and elevation certificates in conjunction with City's Capital Improvement Projects program and Public Works Department.

MINIMUM REQUIREMENTS

For purposes of compliance with this minimum experience requirement, the term "Proposer" is hereby defined to mean the firm and/or business entity which is submitting a proposal pursuant to this RFQ. Accordingly, the firm and/or business entity must meet the minimum requirements listed below in order to be deemed responsive. Non-responsive bids will be disqualified from consideration.

Interested Firms shall address the following items in the RFQ response:

- **Team's Experience**
    - Indicate the firm's number of years of experience in providing Topographical Surveying and Mapping Services for diversified projects for public agencies as well as private clients..
    - List all successfully completed projects comparable in design, scope, size and complexity, undertaken in the past five (5) years. Describe the scope of each project in physical terms and by cost, describe the respondent's responsibilities, and provide the name and contact telephone number of an individual in a position of responsibility who can attest to respondent's activities in relation to the project. An SF254 can suffice this request.
    - List the firm's successfully completed projects comparable in design, scope, size and complexity, undertaken in the past five (5) years;
    - Provide the name(s) of the person, within your organization who was most actively concerned with managing each project;
    - List and describe all legal claims against any member of the team alleging

errors and/or omissions, or any breach of professional ethics, including those settled out of court, during in the past five (5) years.

- **Project Manager's Experience:** Provide a comprehensive summary of the experience and qualifications of the individual who will be selected to serve as the Project Manager. This individual must have a minimum of five (5) years experience in the preparation and coordination of Surveys to include but not limited to, engineering, right-of-way, specific purpose surveys, topographical surveys, general land and aerial photography surveying services, GPS (Ground Penetration Radar) surveys, and elevation certificates and should have served as Project Manager on a minimum of five previous surveying projects for private and public agencies.

- **Previous Similar Projects:** Provide a list of a minimum of ten (10) projects which demonstrates the Team's experience in providing the services outlined in this RFQ. Must provide the following information for each sample project.

    - Client name, address, phone number, email
    - Consultant name, address, phone number, fax and/or e-Mail address
    - Description of the scope of the work
    - Role of the firm and the responsibilities
    - Month and Year the project was started and completed
    - Total cost and/or fees paid to your firm
    - Total cost of the construction, estimated and actual

- **Qualifications of Project Team:** Provide a list of the personnel to be used on this project and their qualifications. A resume of each individual, including education, experience, and any other pertinent information shall be included for each team member to be assigned to this project.

RFQ PROCESS

The procedure for response, evaluation and selection will be as follows:

1. RFQ issued
2. Pre-qualification meeting
3. Receipt of qualificaiton packages
4. Opening and listing of all responses received.
5. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each response in accordance with the requirements of this RFQ. If further information is desired, respondents may be requested to make additional written submissions or oral presentations to the Evaluation Committee.
6. The Evaluation Committee will recommend to the City Manager the proposal(s) that the Evaluation Committee deem to be in the best interest of the City by using the following criteria for selection:

Total Points	Criteria
20	The experience, qualifications and portfolio of the Principal Firm
20	The experience, qualifications and portfolio of the Project Manager, as well as his/her familiarity with this project and a thorough understanding of the methodology and design approach to be used in this assignment.
15	Past performance based on quality of the Performance Evaluation Surveys and the Administration's due dilligence based upon reference checks performed of the Firm(s) clients.

10	The experience and qualifications of the professional personnel assigned to the Project Team and their familiarity with this project and a thorough understanding of the methodology and design approach to be used in this assignment.
5	Willingness to meet time and budget requirements as demonstrated by past performance, methodology and approach
5	Certified minority business enterprise participation. Either the Prime Consultant or the sub-Consultant team may qualify for proof of certification for minority business enterprise participation. Accepted minority business enterprise certifications include the Small Business Administration (SBA), State of Florida, or Miami-Dade County.
5	Location
5	Recent, current and projected workloads of the firms
5	The volume of work previously awarded to each firm by the City, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firm.
5	Local Preference – The Evaluation Committee will assign an additional five (5) points to Proposers, which are, or include as part of their proposal team, a Miami Beach-based vendor as defined in the City's Local Preference Ordinance.
5	Veterans Preference – The Evaluation Committee will assign an additional five (5) points to Proposers, which are, or include as part of their proposal team, a small business concern owned and controlled by a veteran(s) or a service-disabled veteran business enterprise, as defined in the City's Veterans Preference Ordinance.

7. The City Manager shall recommend to the City Commission the firm or firms, acceptance of which the City Manager deems to be in the best interest of the City.

8. The City Commission shall consider the City Manager's recommendation(s) in light of the recommendation(s) and evaluation of the Evaluation Committee and, if appropriate, approve the City Manager's recommendation(s). The City Commission may reject the City Manager's recommendation(s) and select another response or responses. In any case, City Commission shall select the response or responses, acceptance of which the City Commission deems to be in the best interest of the City. The City Commission may also reject all proposals.

9. Negotiations between the selected respondent and the City take place to arrive at agreement terms. If the City Commission has so directed, the City may proceed to negotiate an agreement with a respondent other than the top ranked respondent if the negotiations with the top ranked respondent fail to produce a mutually acceptable agreement within a reasonable period of time.

10. A proposed contract is recommemed by the City Manager to the City Commission for approval.

11. If and when a contract or contracts acceptable to the respective parties is approved by the City Commission, the Mayor and City Clerk sign the contract(s) after the selected respondent(s) has (or have) done so.

CONCLUSION

The Administration recommends that the Mayor and the City Commission authorize the issuance of a Request for Qualifications (RFQ) for citywide surveying, topographical, and mapping services on an as-needed basis.

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Condensed Title:

Request For Approval To Issue A Request For Qualifications (RFQ) For Geotechnical And Laboratory Services On An As-Need Basis.

Key Intended Outcome Supported:

Ensure well-maintained infrastructure

Supporting Data (Surveys, Environmental Scan, etc.): The 2009 Customer Satisfaction Survey indicated that 79% of businesses rated recently completed capital improvement projects as "excellent" or "good."

Issue:

Shall the Mayor and City Commission approve the issuance of the RFQ?

Item Summary/Recommendation:

Geotechnical, Soil Testing and/or Lab Testing Services are required steps in the proper pre-planning of construction projects for the City. Many of the City's CIP and Public Works projects will require, during one time or another, a Geotechnical, Soils or Lab Testing Report to validate either the City's Engineer's or any Architect's or Engineer of Records recommendations as to any site, building or any other project's unknown characteristics.

By issuing a Geotechnical Services RFQ and its subsequent Agreement(s), the City will be able to adequately plan and incorporate Geotechnical and Soil Testing Services as part of the pre-construction preparatory work, which is a phase that is part of every City construction project. In addition, the Geotechnical firm(s) would provide personnel that are qualified, trained and thoroughly familiar with the City's rules, policies, and procedures in inspection, sampling testing, and reporting various areas and stages of construction. The ability to have a rotating list of Geotechnical firms would enable the City to procure these services directly at a cost savings to the City. It will be the Administration's intent to select multiple firms to provide this service for the City.

It is the intent of the City of Miami Beach to select several firms under this RFQ, which will be contacted on an as-needed basis. This contract shall remain in effect for three (3) years from the date of contract execution by the Mayor and City Clerk and two (2), one (1) year renewal options at the sole discretion of the City Manager.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	N/A	
OBPI	Total		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Fernando Vazquez ext. 6135

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL ____ FB ____ FV ____	DB ____	JMG ____

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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: January 11, 2012

SUBJECT: **REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR QUALIFICATIONS (RFQ) FOR CITYWIDE GEOTECHNICAL AND LABORATORY TESTING SERVICES ON AN AS-NEEDED BASIS.**

ADMINISTRATION RECOMMENDATION

Approve issuance of the RFQ.

ANALYSIS

Geotechnical, Soil Testing and/or Lab Testing Services are required steps in the proper pre-planning of construction projects for the City. Many of the City's CIP and Public Works projects will require, during one time or another, a Geotechnical, Soils or Lab Testing Report to validate either the City's Engineer's or any Architect's or Engineer of Records recommendations as to any site, building or any other project's unknown characteristics.

By issuing a Geotechnical Services RFQ and its subsequent Agreement(s), the City will be able to adequately plan and incorporate Geotechnical and Soil Testing Services as part of the pre-construction preparatory work, which is a phase that is part of every City construction project. In addition, the Geotechnical firm(s) would provide personnel that are qualified, trained and thoroughly familiar with the City's rules, policies, and procedures in inspection, sampling testing, and reporting various areas and stages of construction. The ability to have a rotating list of Geotechnical firms would enable the City to procure these services directly at a cost savings to the City. It will be the Administration's intent to select multiple firms to provide this service for the City.

It is the intent of the City of Miami Beach to select several firms under this RFQ, which will be contacted on an as-needed basis. This contract shall remain in effect for three (3) years from the date of contract execution by the Mayor and City Clerk and two (2), one (1) year renewal options at the sole discretion of the City Manager.

SCOPE OF SERVICES

Geotechnical Services

- The Consultant shall provide all labor, materials, equipment, transportation, and other appurtenant work for performing subsurface explorations, obtaining representative samples, and performing all other geotechnical services.
- The Consultant shall comply with all federal, state, and local rules and regulations with regard to permits, bonds, drilling, plugging, and all other applicable aspects of drilling.
- The Consultant shall research and review all pertinent existing geologic and geotechnical data and information available from USGS, area development, and the company's own files.
- The Consultant shall review the proposed project information and requested scope of work indicated as a minimum level of services desired relative to the anticipated

subsurface conditions present. If localized subsurface conditions are expected to vary significantly, Consultant shall advise Owner of additional recommended services prior to commencing work.

- The Consultant shall be responsible for contacting the appropriate agencies (state/city utility check) for determining locations of utilities in the vicinity of the actual boring locations.
- Borings shall be backfilled to the original ground surface in accordance with all applicable local, state, and federal guidelines.
- Consultant shall perform the standard penetration test (SPT) in accordance with ASTM Designation D 1586.
- In soil that is predominantly cohesive (silty clays, sandy clays, and material with adhesive binder), Consultant shall use the thin-walled tube method for sampling in accordance with ASTM Designation D 1587.
- Rock coring shall be performed in accordance with ASTM Designation D 2113.
- Double-ring infiltration test shall be conducted in accordance with ASTM Designation D 5093.
- Laboratory tests shall be assigned and performed by the Consultant to classify soils and obtain geotechnical physical characteristics such as strength, compressibility, swell potential, compaction characteristics, and chemical characteristics such as corrosiveness. Perform laboratory testing consistent in quantity and quality with local geotechnical engineering practice to provide the required design parameters and recommendations. The quantity of tests to be performed will be dependent upon the type of soil and/or rock encountered during drilling and sampling with additional consideration of the foundation types that may be required to support the proposed structures.
- The Consultant shall prepare a geotechnical engineering report containing a discussion of the proposed construction, final boring logs, boring location plan, a description of the drilling and sampling program, a description of the geology and subsurface conditions encountered, groundwater conditions, laboratory test results, and foundation and earthwork recommendations and design parameters.

The following is a list of major items that shall appear in the geotechnical engineering report:

- Previous Construction Activity and Existing Fill (If present): A discussion of previous construction activity shall address any existing fills or subsurface openings, if encountered. Outline the engineering properties of any existing fills with regard to foundation design.
- Subsurface Conditions: Subsurface conditions encountered at the site shall be discussed, based upon stratigraphic sequence observed and local geology. Figures shall be provided displaying soil borings and generalized cross sections. A general description of the engineering properties or parameters determined from the investigation and applied to design recommendations shall be provided. Prevailing groundwater elevations observed and those recommended for design shall be noted.
- Site Preparation Recommendations: Provide grading and site preparation recommendations taking into consideration the conceptual grading plan for the site.
- Compaction Requirements: The report shall contain detailed and specific criteria for acceptable embankment, fill, or backfill materials and address whether the available borrow material on site is suitable for general or structural fill. The report shall contain recommendations for material usage at the site with regard to placement and compaction requirements as well as any recommended treatment. Compaction criteria, including acceptable gradations, moisture control, compactive effort, and need for proofrolling shall be discussed, including criteria for both granular and cohesive fill, if applicable. Preparation of subgrades for fill and backfill placement shall be discussed.

- Foundation Design: The geotechnical engineering report prepared by the Consultant will be used to size and structurally design stable foundations for the structures. To accomplish this task, the report shall contain recommendations in regard to the recommended foundation type for each structure, as loading and site conditions may require.

The report shall provide net allowable bearing pressures for shallow spread footings and mats, at recommended bearing depths, considering the types of materials supporting the mats, and note whether any overstressing is allowed under short-term loading such as dynamic, wind, or seismic loading conditions. If over-excavation of unsuitable materials and backfill with structural backfill are required to improve the foundation soils to allow the use of shallow foundations, provide estimated vertical and horizontal extent of the over-excavation and structural backfill. Provide estimated total and differential settlement for foundations using the recommended bearing pressures. Provide an estimate of the time of settlement. Note factors of safety included or recommended. Provide recommendations for resistance to lateral loads, such as passive earth pressures and sliding friction for the base of foundations. Provide recommended groundwater level for determination of buoyancy and means to resist buoyant forces, if needed.

Recommendations for deep foundations shall include diameter, depth, and any recommended installation requirements. Provide allowable design loading capacities for vertical downward loading, vertical upward loading, and horizontal loading, as appropriate to the site conditions.

Provide design parameters for analysis of laterally loaded drilled piers as required for input into lateral pile capacity software. All factors of safety utilized in developing the allowable load capacities shall be outlined in detail.

- Slope Stability and Excavations: The report shall address the recommended inclination of both temporary excavation and permanent slopes.
- Excavation Requirements: If necessary, a section of the report shall address the excavatibility of the soils and rock which may be exposed during foundation excavation and site grading. The effort and type of equipment utilized to perform excavations is dependent upon the size and depth of the excavation. Thus, the discussion shall be in regard to area-type excavations and confined excavations, such as utility trenches.
- Dewatering: Conditions present at the site requiring groundwater control, dewatering, or surface drainage during excavation for mats, footings, and other construction shall be discussed. Anticipated types of dewatering shall be described. Special consideration to exposed sub-soils within the bottom of excavations during construction shall be addressed.
- Corrosion Potential and Chemical Attack to Concrete: An evaluation of representative subsurface materials shall be performed to provide laboratory test results for chemical constituents, specifically pH, chloride ion, soluble sulfates, and sulfides as well as electrical resistivity. These parameters are required to evaluate the potential for corrosion to underground piping and grounding, and selection of cement type to resist potential sulfate attack.
- Pavements and Roadway: Provide typical pavement thickness suggestions in accordance with Miami Dade County and FDOT specifications.

Any other items of consideration as deemed necessary by the geotechnical company. The geotechnical engineering report shall be prepared by or under the direction of a Registered Professional Engineer registered under the regulatory laws of the State of Florida.

Roadway Reports

Roadway reports shall include, but not be limited to:

- Copies of SCS and USGS maps with project limits.
- A report of tests sheet that summarizes the laboratory test results, the soil stratification (i.e., soils grouped into layers of similar materials) and construction recommendations relative to the current Standard Indices.
- Estimated seasonal high and/or low groundwater levels, and review with respect to proposed pavement grades.
- Recommend type of geosynthetic for various applications.
- The Design LBR results from 90% and mean methods.
- Permeability/infiltration parameters for water retention areas/exfiltration trenches/swales.
- A description of the site and subsoil conditions, design recommendations and a discussion of any special considerations (i.e., removal of unsuitable material, recompression of weak soils, estimated settlement time/amount, groundwater control etc.).
- An appendix which contains stratified soil boring profiles, laboratory test data sheets, Design LBR calculations/graphs, and any other pertinent information.

In addition to the roadway report, the Consultant will also provide stratified boring profiles to the Designer and review the entire set of plans for completeness before each submittal as requested by the Department. The Consultant shall assist the Designer with detailing limits on the cross-sections of subsoil excavation. Up to four draft roadway reports shall be submitted to the District Geotechnical Engineer for each review prior to incorporation of the Consultant's recommendations in the project design.

Permits

The consultant is responsible for obtaining and maintaining all required City of Miami Beach and any Miami Dade County Public Works permits, including but not limited to, MOT, excavations, etc. Additionally, if required, the consultant shall be responsible for all special events permits from the City of Miami Beach and Miami Dade County Police Departments.

Additional Services

Other geotechnical services to perform geotechnical investigation and/or construction material testing at other locations to be determined at a later date, may be required beyond the scope of this work. Compensation for such additional services shall be negotiated based on hourly rates contained in the Agreement awarded under this RFQ.

Materials Testing, Inspection, and Reporting

The Consultant shall provide the City of Miami Beach with personnel that are qualified, trained and thoroughly familiar with the City's rules, policies, and procedures in inspection, sampling testing, and reporting in the following areas:

- Bituminous Construction Materials
- Sand, Coarse Aggregate, Limerock and Cemented Coquina Mine Inspection
- Base, Sub-Grade and Embankment Materials
- Pavement Parking Materials
- Portland Cement Concrete
- Precast Concrete Products
- Pre-Stressed Concrete Products

- Drilled Shaft Inspection
- Laboratory Information Management System (LIMS) Data Entry
- Pavement Coring Reporting (PCR) Data Entry
- Consultant Contract Project Management
- Construction Materials Investigations, Special Studies & Projects
- Miscellaneous Construction Related Activities
- Materials Inspection and Testing Related Maintenance Activities
- Asphalt Concrete Inspection/Evaluation

The Consultant shall provide (when required) qualified and experienced technicians in the following:

- Aggregate Field Testing
- Concrete Field Technician Level I and II
- Aggregate Laboratory Testing
- Concrete Laboratory Technician
- LBR Technician
- Asphalt Paving
- Asphalt Plant
- CTCI-Concrete Transportation Construction Inspections
- Pre-stress Inspector Technician
- Drilled Shaft Inspector
- Pile Driving Inspector

Laboratory Services

The Consultant shall have a capable materials laboratory. The Consultant laboratory shall have a Quality Control Program that includes provisions for checking test equipment and lab personnel proficiency. The laboratory must keep up-to-date records of calibration checks.

MINIMUM REQUIREMENTS

For purposes of compliance with this minimum experience requirement, the term "Proposer" is hereby defined to mean the firm and/or business entity which is submitting a proposal pursuant to this RFQ. Accordingly, the firm and/or business entity must meet the minimum requirements listed below in order to be deemed responsive. Non-responsive bids will be disqualified from consideration.

Interested Firms shall address the following items in the RFQ response:

- **Team's Experience**
    - Indicate the firm's number of years of experience in providing Geotechnical, Soil Testing, and Laboratory Testing Services for diversified projects for public agencies as well as private clients.
    - List all successfully completed projects undertaken in the past five (5) years. Describe the scope of each project in physical terms and by cost, describe the respondent's responsibilities, and provide the name and contact telephone number of an individual in a position of responsibility who can attest to respondent's activities in relation to the project. An SF254 can suffice this request.
    - Provide the name(s) of the person, within your organization who was most actively concerned with managing each project;
    - List and describe all legal claims against any member of the team alleging

errors and/or omissions, or any breach of professional ethics, including those settled out of court, during in the past five (5) years.

- **Project Manager's Experience:** Provide a comprehensive summary of the experience and qualifications of the individual who will be selected to serve as the Project Manager. This individual must have a minimum of five (5) years experience in the preparation and coordination of geotechnical services to include, but not limited to, subsurface explorations, obtaining representative samples, materials testing, inspections and reporting, and performing any other geotechnical services as required under this RFQ. The Project Manager must provide documentation as to their past experience in providing as to his/her past experience in providing geotechnical services.

- **Previous Similar Projects:** Provide a list of a minimum of ten (10) projects which demonstrates the Team's experience in providing the services outlined in this RFQ. Must provide the following information for each sample project.

    - Client name, address, phone number, email
    - Consultant name, address, phone number, fax and/or e-Mail address
    - Description of the scope of the work
    - Role of the firm and the responsibilities
    - Month and Year the project was started and completed
    - Total cost and/or fees paid to your firm
    - Total cost of the construction, estimated and actual

- **Qualifications of Project Team:** Provide a list of the personnel to be used on this project and their qualifications. A resume of each individual, including education, experience, and any other pertinent information shall be included for each team member to be assigned to this project.

- **Risk-Assessment Plan (RAP):** All Consultants must submit a Risk-Assessment Plan. The RAP must not be longer than two (2) pages front side of page only should be included within the RFQ response. The RAP should address the following items in a clear and generic language:

    - Potential project risks. (Areas that may cause the Contractor not to finish on time, not finish with budget, cause any change orders, or be a source of dissatisfaction with the owner)
    - Explanation of how the risks can be avoided/minimized
    - Propose any options that could increase the value of this project
    - Explain the benefits of the RAP. Address the quality and performance differences in terms of risk minimization that the City can understand and what benefits the option will provide to the user. No brochures or marketing pieces please.

RFQ PROCESS

The procedure for response, evaluation and selection will be as follows:

1. RFQ issued
2. Pre-qualification meeting
3. Receipt of qualificaiton packages
4. Opening and listing of all responses received.

5. An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each response in accordance with the requirements of this RFQ. If further information is desired, respondents may be requested to make additional written submissions or oral presentations to the Evaluation Committee.
6. The Evaluation Committee will recommend to the City Manager the proposal(s) that the Evaluation Committee deem to be in the best interest of the City by using the following criteria for selection:

Total Points	Criteria
20	Risk Assessment Plan that reflects a clear understanding of project objectives; a thorough review of existing conditions; familiarity with the project site; a thorough understanding of all permitting and regulatory requirements and impacts; and other considerations that may impact the design and construction of the proposed improvements.
15	The experience, qualifications and portfolio of the Principal Firm
15	The experience, qualifications and portfolio of the Project Manager, as well as his/her familiarity with this project and a thorough understanding of the methodology and design approach to be used in this assignment.
15	Past performance based on quality of the Performance Evaluation Surveys and the Administration's due dilligence based upon reference checks performed of the Firm(s) clients.
10	The experience and qualifications of the professional personnel assigned to the Project Team as well as their familiarity with this project and a thorough understanding of the methodology and design approach to be used in this assignment.
5	Willingness to meet time and budget requirements as demonstrated by past performance, methodology and approach
5	Certified minority business enterprise participation. Either the Prime Consultant or the sub-Consultant team may qualify for proof of certification for minority business enterprise participation. Accepted minority business enterprise certifications include the Small Business Administration (SBA), State of Florida, or Miami-Dade County.
5	Location
5	Recent, current and projected workloads of the firms
5	The volume of work previously awarded to each firm by the City, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firm.

7. The City Manager shall recommend to the City Commission the firm or firms, acceptance of which the City Manager deems to be in the best interest of the City.
8. The City Commission shall consider the City Manager's recommendation(s) in light of the recommendation(s) and evaluation of the Evaluation Committee and, if appropriate, approve the City Manager's recommendation(s). The City Commission may reject the City Manager's recommendation(s) and select another response or responses. In any case, City Commission shall select the response or responses, acceptance of which the City Commission deems to be in the best interest of the City. The City Commission may also reject all proposals.
9. Negotiations between the selected respondent and the City take place to arrive at agreement terms. If the City Commission has so directed, the City may proceed to negotiate an agreement with a respondent other than the top ranked respondent if the

negotiations with the top ranked respondent fail to produce a mutually acceptable agreement within a reasonable period of time.

10. A proposed contract is recommemed by the City Manager to the City Commission for approval.

11. If and when a contract or contracts acceptable to the respective parties is approved by the City Commission, the Mayor and City Clerk sign the contract(s) after the selected respondent(s) has (or have) done so.

CONCLUSION

The Administration recommends that the Mayor and the City Commission authorize the issuance of a Request for Qualifications (RFQ) for geotechnical and laboratory services on an as-needed basis.

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Condensed Title:

Request For Approval To Issue A Request For Proposals (RFP) For Security Guard Services.

Key Intended Outcome Supported:

Maintain crime rates at or below national trends

Supporting Data (Surveys, Environmental Scan, etc.): According to the 2009 Strategic Plan, 90% of the residents responded that they feel very safe or somewhat safe in their neighborhoods during the night.

Issue:

Whether the City Commission should approve the issuance of the RFP?

Item Summary/Recommendation:

At the March 9, 2011 the Mayor and City Commission approved the Administration's recommendation to renew the contract with Security Alliance for two additional one-year terms and issue a Request for Proposals (RFP) by October 1, 2011 for security guard services.

The current Security Guard Contract with Security Alliance expires on April 30, 2012. At the City's sole option and discretion, the contract may be renewed for one (1) additional one-year period.

As a result of today's market conditions, the Administration has consistently elected not to exercise its renewal options, but rather has elected to issue new RFPs. It is the intent of this RFP to use the "Best Value" Procurement process to select a Security Guard Contractor with the experience and qualifications; the ability; capability, capacity; and proven past successful performance in providing high quality unarmed security guard services.

The results of the new RFP process will be compared to the existing contract, to determine if it's in the City's best interest to reject proposals or award a new contract.

APPROVE ISSUANCE OF THE RFP.

Advisory Board Recommendation:

The Finance and Citywide Projects Committee (the Committee) at its January 27, 2011 meeting retroactively approved the first-year renewal of Security Alliance's contract from May 1, 2010 to April 30, 2011; prospectively approved the second-year renewal of Security Alliance's contract from May 1, 2011 to April 30, 2012; and further authorized the issuance of a Request for Proposals (RFP) by October 1, 2011 (six months prior to contract expiration). The Committee also approved the issuance at its September 26, and at its December 6, 2011 meeting, recommended that the results of the RFP process be compared with the existing contract, and if it's not in the City's best interest to award a contract, we can reject all proposals received and renew the existing agreement.

Financial Information:

Source of Funds:		Amount	Account	Approved
	1			
OBPI	Total			

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Gus Lopez, extension 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
SF RM RAM	JGG PDW	JMG

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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: January 11, 2012

SUBJECT: **REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR SECURITY GUARD SERVICES.**

ADMINISTRATIVE RECOMMENDATION

Approve the issuance of the RFP.

KEY INTENDED OUTCOMES (KIOs) SUPPORTED

Increase resident rating of public safety services; and maintain crime rates at or below national trends.

BACKGROUND

The Finance and Citywide Projects Committee, at its January 26, 2010 meeting, recommended the issuance of a new Request for Proposals (RFP) for Security Guard Services and that the following information be incorporated as part of the RFP:

1. Training as an evaluation criteria;
2. Financial stability as requirement of the Successful Contractor; and
3. Language which states that the Living Wage rates are under review and is subject to change.

At its March 10, 2010 meeting, the Mayor and City Commission approved the issuance of an RFP for Security Guard Services.

The RFP was posted on BidSync and the Procurement's City website on March 10, 2010, with an original bid opening date of April 9, 2010. The bid was also advertised on the March 12, 2010, Daily Business Review publication.

A pre-proposal submission meeting was held on March 25, 2010, at which 42 interested agencies attended (includes telephone call-in).

At the May 20, 2010 Finance and Citywide Projects Committee, the deadline for submission of the proposals for the RFP for security guard services was extended to allow for an analysis on paid time off for employees covered by the Living Wage Ordinance, and the possible inclusion of paid time off in the RFP requirements. Subsequently, the RFP opening date was postponed.

The Finance and Citywide Projects Committee at its January 27, 2011 meeting, retroactively approved the first-year renewal of Security Alliance of Florida's ("Security Alliance") contract from May 1, 2010 to April 30, 2011; prospectively approved the second-year renewal of Security Alliance's contract from May 1, 2011 to April 30, 2012; and further authorized the issuance of a Request for Proposals (RFP) at least six (6) months prior to the expiration of the current contract.

The Mayor and City Commission at its March 9, 2011 meeting, approved the Finance and Citywide Projects Committee's recommendation, to exercise the first and second renewal option for the unarmed security services contract with Security Alliance and to issue a Request for Proposals (RFP) for the Security Guard Services Contract at least six (6) months prior to the expiration of the current contract.

The Finance and Citywide Projects Committee at its September 26, 2011 meeting, discussed an investigation that involved Security Alliance and "Rooms To Go" employees. After being briefed by the City Attorney's Office, the Committee's recommendation was to issue the RFP immediately. Subsequently, the item to approve the issuance of an RFP for Security Guard Services was presented to the Mayor and City Commission at its October 19, 2011 meeting, at which time it was referred to the Finance and Citywide Projects Committee ("the Committee") meeting, December 6, 2011 for further discussion. At its December 6, 2011 meeting, the Committee recommended that the results of the RFP process be compared with the existing contract, and if it's not in the City's best interest to award a contract, we can reject all proposals received and renew the existing agreement

CONTRACT TERM

Contract No. 34-05/06, was awarded to Security Alliance on April 2, 2007, with an effective date of May 1, 2007. The contract's basic term expired on April 30, 2010, and has been renewed for two additional one-year terms set to expire April 30, 2012. At the City's sole option and discretion, the contract may be renewed for one (1) additional one-year period through April 30, 2013.

As a result of today's market conditions, the Administration has consistently elected not to exercise its renewal options, but rather has elected to issue new RFPs. It is the intent of this RFP to use the "Best Value" Procurement process to select a Security Guard Contractor with the experience and qualifications; the ability; capability, capacity; and proven past successful performance in providing high quality unarmed security guard services.

The results of the new RFP process will be compared to the existing contract, to determine if it's in the City's best interest to reject proposals or award a new contract.

EVALUATION CRITERIA

The Evaluation Committee appointed by the City Manager will review all responsive proposals received and score and rank the Contractors based on the following criteria:

1. The experience and qualifications of the Contractor (**35 points**);
2. The experience and qualifications of the Management Team (**20 points**).
3. Past performance based on number and quality of the Performance Evaluation Surveys (**10 points**); and

4. Financial Strength as evidenced by financial statements (**10 points**);
5. Total cost (**25 points**).

FINANCIAL STATEMENTS

The selected Contractor shall have a minimum "A" rating from Standard & Poor or Moody's as of the due date of this RFP, if the company has a rating by either of those agencies. If the selected Contractor has no such rating because it is a non-profit entity or it is a non-stock organization and it has no long-term debt, then the selected Proposer shall submit financial statements showing a strong financial position, including strong asset to liability ratio, to be determined by the City. Additionally, the Successful Contractor must provide the City with a 100% Performance Bond.

COST PROPOSAL

The billing rate quoted shall include full compensation for labor, equipment use, travel time, hiring of security guards and any and all cost associated to the proposer in order to provide the City of Miami Beach with a Best Value Contract for Unarmed Security Guard Services.

Contractors will be asked to submit cost information based on the following:

DESCRIPTION	[1]EST. HOURS	BILLING RATES	TOTAL
UNARMED GUARDS	130,000/year	$_____/hour	$_____
SUPERVISORS	30,000/year	$_____/hour	$_____
		GRAND TOTAL	$_____

ADD ALTERNATES	BILLING RATE
1. Issuance of warnings and violations as the City determines to be warranted to include:	
a. dog off leash laws;	$_____/violation
b. pooper scooper laws; and	$_____/violation
c. littering.	$_____/violation
2. Appearance of security guards and/or supervisors at Special Master Hearings when needed in support of the City's efforts to ensure compliance with City Code.	
a. Security Guard	$_____/appearance
b. Supervisor	$_____/appearance
3. Guards certified in traffic control procedures	$_____/hour

[1] **The City is not guaranteeing the number of hours and will reserve the right to adjust hours either up or down on an "as needed" basis.**

4. Issuance of warnings and violations as the City determines to be warranted to include:

   a. Skateboarding on Lincoln Road $_____/violation
   b. Skateboarding and Bicycle riding on the Boardwalk $_____/violation

5. Taking photographs of violations as the City determines to be warranted. $_____/photograph

6. Costs associated with additional vehicle(s) $_____/vehicle

The City reserves the right, at its sole discretion, to select none, any, or all Add Alternates.

MINIMUM REQUIREMENTS / QUALIFICATIONS

a) The Security Guard Contractor shall submit incorporation or other business entity/form documentation with their proposal. Contractor shall have provided continuous and successful security guard services for a minimum of five (5) years.

b) The Security Guard Contractor must provide a drug and alcohol free workplace.

c) **The Security Guard Contractor must have a proven track record of paying its employees as regularly scheduled. Security Guard Contractors who have failed to pay its employees on time will be disqualified and not receive any consideration.**

d) The minimum requirements of the Unarmed Security Guards are as follows:

UNARMED SECURITY GUARDS

a. A minimum of 40 hours of training as required by the State of Florida Department of Licensing pursuant to Section 493.6123 (1) F.S., and must possess a Florida Class "D" License and a minimum of 16 hours of site-specific training at their assigned post.
b. Specialized training, as requested by the City of Miami Beach Police Department, on an as needed basis per post assignments (e.g. building evacuations, hurricane evacuations, training, traffic control, etc.).
c. Pass a Florida Department of Law Enforcement (FDLE) criminal background check.
d. Ability to write a report to document incidents as required.
e. Ability to follow all the terms and conditions in the City of Miami Beach Post Order Bid Manual.
f. Ability to speak English (multilingual desirable) and write all reports in English.
g. Ability to communicate, provide information, and gives directions in a courteous matter to tourists and residents.
h. Pass a drug screening test.
i. Ability to respond to and take command of emergency situation.
j. Ability to provide effective access control and maintain a safe and secure environment.
k. Ability to provide protection with professionalism.

l. Ability to provide a professional level of personal interaction services.
m. Trained and certified in first aid and rendering Cardiopulmonary Resuscitation (CPR).
n. Physically capable of pursuing and detaining individuals who have committed criminal acts.
o. Have a minimum of 6 months of security officer experience, law enforcement or equivalent military training.
p. Ability to issue written warnings and code citations as City determines it is warranted.
q. Ability to take photographs and document violations and incidents as required.

SCOPE OF SERVICES

The Successful Contractor will provide the following:

- A minimum of three (3) roving shift supervisors equipped with an automobile on duty within the City limits of Miami Beach at all times. The supervisors will be able to respond to any site within 15 minutes. A list must be submitted in writing, identifying the name(s) of each roving shift supervisor, and all security personnel under their supervision, to the Miami Beach Police Department (MBPD), Contract Administrator.
- A written street/park lighting report, where applicable, forwarded to the MBPD within 48 hours of any "lights out" occurrence.
- All drug screening, background checks, and psychological testing of employees assigned to Miami Beach posts at the Successful Contractor expense.
- All sensors/readers at contracted posts to ensure that security officers are making required rounds at assigned frequencies and times and provide a weekly computerized printout downloaded from sensors installed at each post to the Police Department. The location of the sensors will be submitted to the MBPD for approval.
- A supervisor, who will be required to meet with the MBPD, authorized representative, upon request.
- All uniforms, radios, firearms, rain gear, traffic vests, tools and equipment necessary to perform the required security services in accordance with the bid documents.
- Uninterrupted services under all conditions, to include but not limited to the threat of a strike or the actually to the threat of a strike or the actuality of a strike, adverse weather conditions, a disaster, or emergency situations, at the agreed upon hourly contractual rate.
- Compliance by their personnel assigned to City of Miami Beach posts with the Security Contractor's Post Order and Rules and Regulations Manual.
- Any holiday and sick-time pay to assigned personnel.
- A written quarterly statistical analysis report of security incidents forwarded to the City of Miami Beach Police Department on a quarterly basis.
- Certify in writing, the names of all employees who will provide security services to the City of Miami Beach, of which will have a valid Florida Armed Security Guard Licenses (D) and G). Copies of State license(s) will be keep in employee personnel file for immediate viewing if necessary and produced in hard copy

within five business days (excluding weekends and holidays) upon receipt of request from the MBPD.

The City reserves the right to take any action necessary to ensure that the security forces are fully staffed in order to protect the City of Miami Beach property, personnel, and assets. This may include contractual arrangements with others contractors for the purpose of obtaining additional resources in the event that the Successful Contractor cannot perform.

If such arrangements are deemed necessary, then the Successful Contractor may, at the sole discretion of the City of Miami Beach, be terminated, and any cost incurred by the City of Miami Beach may be withheld from funds owed to the Successful Contractor.

The City of Miami Beach reserves the right to an employee from a duty assignment, and /or bar the employee from further service under this Contract.

The Successful Contractor will be responsible for advertising and recruiting help, training the security guards, preparing paychecks, payroll taxes, Social Security and Withholding taxes, preparing W-2's, Unemployment and Workmen's Compensation claims and liability insurance.

The obligation of the City of Miami Beach will be solely to compensate the Successful Contractor for the number of hours provided monthly in accordance with the contract price schedule. The Successful Contractor will provide a Schedule of Values/Payment Schedule to the City's Contract Administrator for review and approval, prior to the commencement of work.

Should the Successful Contractor be asked to provide additional coverage and support for major events, or emergencies, and the Successful Contractor cannot provide the additional coverage/support with its own employees, then the Successful Contractor must request in writing that the City approve its sub-contractor, and the City Manager or designee, will reserve its right approve the sub-contractor prior to any sub-contracting or performance of any work.

RECORDS

The Successful Contractor will submit all invoices to the City of Miami Beach containing an itemized employee time record, to include the employee name and hours worked/shift, for the time period identified on the invoice. The computerized printout from the downloaded sensors will accompany the weekly invoices. These printouts will be the same date and time frame of the submitted invoices.

All correspondence, records, vouchers and books of account insofar as work done under this Contract is concerned, will be open to inspection, by an authorized City of Miami Beach representative, during the course of the Contract and for a period of two (2) years after expiration of the Contract.

The Successful Contractor will maintain accurate and complete records of personnel criteria, training criteria and biographical data of all personnel affiliated with this Contract. The Successful Contractor will keep on file a separate personnel file for each employee employed under the Miami Beach contract. This file will specifically, along with the above mentioned criteria, include:

- Personal information of the employee, sex/race/ DOB/ and social security number.
- Copies of Florida Drivers license and security guard class "D" license.
- Copies or notification of all discipline actions taken by the vendor or City of Miami Beach. This will include all verbal or written documentation of warnings or discipline.
- Proof of successful Background Check, Drug Screen, and Polygraph examination.

The City reserves the right to perform audit investigations of the Successful Contractor payroll and related records of employees assigned to the City of Miami Beach to ascertain that such employees' records indicate payment received for the specific hours worked for the City. Such audit will be at the discretion of and at the option of the City.

Successful Contractor will be required to provide any/all records in its possession which contain information concerning hours worked and payment received based on the contractor's invoices to the City of Miami Beach. All required documentation and personnel files will be readily available for inspection by any authorized City of Miami Beach representative, during initial research and during the course of this Contract. Failure to have the required documentation will be deemed as non-compliance to the Terms and Conditions of the contract.

Each guard must have their individual "D" and "G" license in their possession while performing work for the City of Miami Beach, and if operating a vehicle have a valid driver's license.

WORK FORCE AND WORK ASSIGNMENTS

Unarmed security guards will be provided to work various locations, including patrolling numerous City of Miami Beach facilities. All Security Guards will be required to carry 2-way radios and electronic scanner wards unless specifically exempted by the City of Miami Beach Contract Administrator.

REGULAR SECURITY OFFICER DUTIES

1. All security personnel furnished by the Successful Contractor to Miami Beach will be required to monitor the facilities by walking the Facility, riding a golf cart and/or whatever other means the City of Miami Beach considers best for each facility and/or location.
2. All security personnel furnished by Successful Contractor to the City of Miami Beach will provide all phases of building and personnel security, personal property protection and vehicle protection, both within and out of the facility. This will include, but not limited to, making rounds and clock rounds of assigned areas and key locations; checking lights; assuring locks of gates and doors.
3. The Successful Contractor's personnel will take proper steps to prevent unauthorized entrance and access to the Facility or contents thereof.
4. While fulfilling regular security duties, Successful Contractor's personnel may detain any person using reasonably necessary measures, in or about the premises, until

said personnel is able to turn such person(s) over to the police.

5. Reporting in detail daily reports to employee's Supervisor verbally and in writing, in a prescribed manner, regarding the performance of his/her shift and special reports regarding any problems or incidents occurring during his/her shift of all unusual situations and circumstances. Such daily reports will be submitted to the City of Miami Beach on a weekly basis.
6. Conducting and/or undertaking initial incident investigations and submitting appropriate detail reports to the City of Miami Beach without undue delay. Special incident reports will be submitted to the City of Miami Beach the following business day.
7. All security personnel furnished to City of Miami Beach will give instructions or information to visitors upon request, or direct them to the appropriate administrative office if any questions cannot be answered. Security personnel will, escort from time to time, patrons to their vehicles at patron's request.
8. Utilizing their two-way radio, security personnel must contact their supervisor or their base station, which can contact and dispatch police if the need arises.
9. The Successful Contractor and their assigned personnel will follow all terms, conditions, and procedures as outline in the attached "Post Orders for the City of Miami Beach Security Guard Contracts.
10. Responding to alarms, suspicious activities, fires, injuries, security incidents or any emergency situation.
11. Performing any other duties or functions not specifically outlined or set forth above but which are identified as falling within the scope and realm of a security officer's responsibilities.
12. The Successful Contractor will provide an adequate supply of flashlights and batteries, raingear, uniforms, clipboards and any other personnel equipment required for the Security Guard to perform their duties.
13. The Successful Contractor will provide all related forms, pencils, pens and miscellaneous office supplies.
14. All equipment utilized by the Successful Contractor in the execution of this contract shall be maintained by the Successful Contractor.
15. All Successful Contractor personnel will read, understand and follow the attached "Current Security" Posts for the City of Miami Beach Security Guard Contracts.

SUPERVISOR DUTIES

The Successful Contractor's supervisors in charge of its employees to the City of Miami Beach shall:

1. Review the day or night activities and report in writing to the proper City of Miami Beach authorities any unusual incident.
2. Ensure proper inventory of keys, electronic key cards and supplies.
3. Coordinate with proper City of Miami Beach designees all security operations and services for regular and event assignments to insure that all are properly

staffed. In some instances, this requires daily contact with City of Miami Beach staff to learn of authorized activities.

4. Conduct daily visual inspection of assigned personnel verifying all post are manned and all security guard are fully equipped and in proper uniform. Additional locations may be added and some existing locations may be deleted from service requirements.
5. Install scanner buttons where directed by the City of Miami Beach Contract Administrator.
6. Provide weekly downloads of all the City of Miami Beach Posts where scanner buttons are installed. The downloaded information will accompany the weekly invoices.

SERVICE LOCATIONS AND ASSIGNMENT HOURS

See Attachment A - "Post Orders for City of Miami Beach Security Contracts" for locations/shifts requiring service. It will be the sole discretion of the City of Miami Beach as to locations, number of guards, and hours of services needed. The City of Miami Beach reserves the right to add other possible locations and to change the required hours of service during the term of the Contract.

OVERTIME

No overtime for either regularly scheduled or special event guards will be paid by City for security personnel supplied by the Successful Contractor unless pre-approved by the Police Department Contract Administrator.

PERSONNEL PROBATION

The City's Contract Administrator or designated representative personnel may observe each employee of the Successful Contractor for a period of thirty (30) consecutive days. If during this probation, the City of Miami Beach is not satisfied with the performance of that employee, the City of Miami Beach will notify the vendor of such performance and the vendor will replace such employees immediately.

Additionally, the City of Miami Beach reserves the right to demand in writing that the Successful Contractor relieve an employee from a duty assignment, and/or ban the employee from further service under the contract, at the sole discretion of the City of Miami Beach.

Personnel must not be employed by the Successful Contractor under the Contract if they have currently or have in the past been involved in:

a. Military conduct resulting in dishonorable or undesirable discharge.
b. Any pattern of irresponsible behavior, including but not limited to unreasonable driving or a problem employment record.
c. Personnel employed by Successful Contractor to provide services for the City of Miami Beach must successfully complete a polygraph examination, to be conducted at the Successful Contractor's expense, prior to assignment, and whose minimum testing parameters will include:

1. Nature of discharge from military service.
2. Substance abuse (drug and alcohol).
3. Child abuse and/or molestation.
4. Convictions (misdemeanors and/or felony).
5. Dismissal other than layoff.

UNIFORMS

All security personnel furnished to the City of Miami Beach will be well groomed and neatly uniformed. Each guard supplied by the Successful Contractor will wear a nameplate bearing the guard's name. Successful Contractor's name will appear either on guard's nameplate or as a patch on guard's uniform. Uniforms will be readily distinguishable from the City of Miami Beach Police uniforms.

TRAINING

The Successful Contractor is required to provide training to all field personnel in order that the City of Miami Beach may be assured said personnel are capable of assuming the responsibilities of respective assignments.

The cost for such training will be considered as a part of the Successful Contractor's operational expenses and should be considered when proposing overall hourly rate. The time spent by staff in such a program, though required, is not billable to the City of Miami Beach. All security personnel are to successfully complete and pass such training course prior to assumption of duty under this contract. This training course, to be developed or made available by the Successful Contractor, is to include minimum requirements for subject matter and hours of instruction, and must be approved by the City of Miami Beach. The City of Miami Beach evaluation of proposed training will include, but not be limited to, previews of techniques and methods of instruction, quality of instructions, motivation, adequacy of classroom and supportive adjunct training materials, test content, and individual retentiveness.

All formal training is to be administered by persons, corporations, and/or institutions that have been expressly approved by the City of Miami Beach. A written certification of each employee's training will be made available as part of the employee's personnel file. The Successful Contractor's supervisors must have also completed required training and worked for six (6) continuous months as an actual guard; additionally, basic supervisory skills are required, as well as an overall knowledge of operations, locations, etc.

The Successful Contractor is required to ensure that all security guards providing traffic control services are certified.

ASSIGNMENT OF CONTRACT

Successful Contractor will **not** assign, transfer, convey or otherwise dispose of the Contract, or of any or all of its rights, title or interest therein, or its power to execute such Contract to any person, company or corporation without prior **written consent of the City of Miami Beach.**

PROTECTION OF PROPERTY

The Successful Contractor will at all times guard against damage to or loss of property to the City and will replace or repair any loss or damage unless the damage is caused by The

City of Miami Beach, another Successful Contractor and/or contractors. The City of Miami Beach may withhold payment or make such deductions as it might deem necessary to insure reimbursement for loss or damage to property through negligence of the Successful Contractor, its employees or agents.

EXPENDITURES

The Successful Contractor understands that any expenditure that it makes, or prepares to make in order to perform the Services required by the City of Miami Beach, is a business risk which the Successful Contractor must assume.

FINES

Fines may be imposed on the Successful Contractor for violations by its personnel by deducting the amount of the fine from a subsequent invoice for that location. Notice of a violation and the intent to impose a fine will be given to the Successful Contractor by sending a copy of the site representative's report, through the Contract Administrator, promptly after the site representative submits it. This allows the Successful Contractor time to bring any extenuating circumstances to the site and contract administrator's attention. All fines are assessed by the City of Miami Beach Contract Administrator, whose decisions are final.

Violations that may result in a fine includes but are not limited to those listed below. Fines imposed will be **$100.00** per infraction.

Management/Administrative Violations:

1. Not properly equipped for specific detail;
2. No radio or inoperative radio;
3. No scanner wand, improper scanning buttons, failure to fix inoperative scanning Buttons;
4. Leaving an abandoned post unattended or failure to fill post assignment within one and one half (1-1/2) hours of scheduled event;
5. Lack of contract supervision;
6. Excessive hours on duty (more than 10 hour shift not approved in advance by the Contract Administrator;
7. Assigning any guard previously suspended from duty by the Contract Administrator;
8. Failure to follow all Vendor Rules and Regulations; and Incidents where Vendor Rules and Regulations where discipline was insufficient.

Violations that may result in a fine include but are not limited to those listed below. Fines imposed will be **$100.00** per infraction.

Security Officer Violations:

1. Inappropriate behavior (reading, lounging, inattention, etc.);
2. Failing to make a report promptly;
3. Improper clock rounds;
4. Failing to follow post orders;
5. Improper or badly soiled uniforms;
6. Acts of theft or vandalism; and
7. Failure to adhere to City of Miami Beach policies, procedures and locations

guidelines.

Security Officer Significant Violations **($250.00):**

1. Late for duty;
2. Sleeping on duty;
3. Abandoning post;
4. Participating or attempting to; in any criminal act; and
5. Any action that would cause the City harm, physically, financially, or in repetition.

Repeated violations of any type at the same location will be taken as proof of a general incapacity on the part of the Successful Contractor to perform in accordance with contract requirements.

PRE-AWARD INSPECTION OF FACILITY

The Successful Contractor will have the personnel, equipment and organization necessary to satisfactorily provide the services required in this contract to include, but not limited to:

- Performing required background checks on all guards and to provide all required training and supervision. Successful Contractor will provide written documentation, which states in detail, that these requirements have been met, prior to the assignment of security personnel.

- Radios are to be utilized by all assigned security personnel. The Successful Contractor will maintain a South Florida office with supervisory personnel reachable by telephone (only) on a 24-hour basis.

COMMUNICATION SYSTEM

The Successful Contractor will be responsible for the following:

1. HAND-HELD RADIOS

Two-way hand-held radios, licensed for use by the Federal Communications Commission (FCC), will be provided by the Successful Contractor to all on-duty contract security officers and supervisors as required unless otherwise accepted by the City of Miami Beach Police Department Contract Administrator.

2. SUCCESSFUL CONTRACTOR CENTRAL DISPATCH

The Successful Contractor will provide a centralized dispatching service through use of a stationary base station manned by experienced personnel on a 24-hour per day basis, to include a taped back-up system. A mobile transmitter/receiver, operated by field personnel, **will not** be considered sufficient to adequately provide such service.

Successful Contractor personnel must be available at the Central Dispatch Station who has the ability and authority to take immediate action on behalf of the Successful Contractor, as required. The Successful Contractor will provide the names, with all pertinent information of these assigned personnel, to the City's Contract Administrator.

SYSTEM QUALITY

The Successful Contractor will at all times, have high quality radio communications transmitting and receiving). The Successful Contractor will be totally responsible for providing and maintaining required system quality, as follows:

1. The Successful Contractor will provide/lease a network of transceivers and repeaters of sufficient strength and capacity to service all sites specifically identified in this Invitation to Bid.
2. The Successful Contractor must provide/lease an exclusive radio frequency operated exclusively by the Contractor. Radios will have printout identification and emergency capability.
3. The Successful Contractor must implement a program of maintenance and repair for all equipment to be used in the performance of this contract. Such a program will ensure the optimum performance of all equipment at all times, thereby, allowing the system to meet the service requirements and quality standards specified above.

The Successful Contractor will ensure that all radio equipment has sufficient operating power at all times during a tour of duty. It may be necessary for the Successful Contractor to implement a system by which fresh batteries, adequate supply of flashlights or charged radios, are delivered to the posts in order to meet this requirement.

EVALUATION OF RADIO COMMUNICATIONS SYSTEM

All aspects of the Successful Contractor's radio communications system will be evaluated by the City of Miami Beach prior to award of Contract. Should the system be judged inadequate to provide service within the contractual standards specified herein, and the Successful Contractor is unable and/or unwilling to make changes deemed necessary by the City of Miami Beach, then the Successful Contractor will be considered non-responsive to the required Terms and Conditions of this Contract. Likewise, should there be a deterioration of performance during the term of this contract, and the Successful Contractor is unable or unwilling to make the required improvements, the City of Miami Beach may terminate, in accordance with the **Termination for Default Clause** of this Contract. The City of Miami Beach will address, in writing to the Contractor, any/all identified inadequacies of the required radio communications, and prior to any termination procedures.

PROVIDED BY THE CITY OF MIAMI BEACH

The City of Miami Beach will provide to Successful Contractor, for the duration of the contract, the Post Order and Rules and Regulation Manual. Changes to Post Orders, if needed, will be provided by the Contract Administrator through written addendum to these orders.

PERFORMANCE OF CONTRACT

This contract may be terminated upon thirty days written notice to the Successful Contractor due to lack of performance and after Successful Contractor fails to correct deficiencies after written notification.

Performance items include, but are not limited to the following:

A. Security Guard timeliness in responding to assigned post;
B. Security Guard dressed incomplete uniform, to include (serviceable radio, fire arm, etc.);
C. Security Guard completion of all assignments, in a timely manner;
D. Successful Contractor not providing required training to all assigned security guards;
E. Successful Contractor not providing the required trained supervisory personnel;
F. Successful Contractor to ensure compliance of Miami Beach Security Contractor's Post Orders Manual;
G. Successful Contractor reporting of any/all missing City supplies, equipment, property; and
H. Excessive non-compliance incidences.

Additionally, the City of Miami Beach reserves the right to have any security guards removed from Miami Beach assigned posts for violation of the Post Orders Manual. The City of Miami Beach Police Department will not pay Successful Contractor billing charges for times in excess of thirty (30) minutes between security officer rounds made between sensors, unless there are extenuating circumstances or this requirement is waived by the City of Miami Beach Police Department on a post by post basis.

LICENSES AND PERMITS

Successful Contractor will abide by all ordinances and laws pertaining to his operation and will secure, at his expense, all licenses and permits necessary for these operations.

PERFORMANCE EVALUATION MEETINGS

The Successful Contractor will assign two (2) Contract Managers to meet with the City of Miami Beach Contract Administrator on a daily basis, if required. Regularly scheduled meetings will be held on a monthly basis. Additionally, a meeting will be held whenever a Contract Discrepancy Report is issued by the City Contract Administrator.

A mutual effort will be made to resolve all problems identified. The written minutes of these meetings will be signed by the Successful Contractor's Contract Administrator and the City's Contract Administrator, and a copy will be forwarded to the Procurement Director. Should the Successful Contractor not concur with the minutes, he will state in writing to the Procurement Director any areas wherein he does not concur.

Fine assessment procedure
Once a violation which has the possibility of a fine assessment is identified and written notification of intent to fine ("Contract Discrepancy Report") is issued to the Successful Contractor. The Successful Contractor will have seven (7) days to provide a written response to the CMB Contract Administrator.

The Contract Administrator will review all written documents, conduct a cursory investigation if the needed and a final determination will be forwarded to the Successful Contractor and the CMB Procurement Dept. Security Contract Administrator's decision is final.

KEY CONTROL

The Successful Contractor will establish and implement methods of ensuring that all keys issued to the Successful Contractor by the City are not lost, or misplaced, and are not used by unauthorized person(s). No keys issued the Successful Contractor by the City will be duplicated. The Successful Contractor will develop procedures covering key control that will be included in his/her quality control plan, which will be submitted to the City's Contract Administrator and Procurement Director. The Successful Contractor may be required to replace, re-key, or to reimburse the City for replacement of locks or re-keying as a result of Successful Contractor losing keys.

In the event a master key is lost or duplicated, all locks and keys for that system will be replaced by the City and the total cost deducted from the monthly payment due.

The Successful Contractor will report the occurrence of a lost key immediately to the City's Contract Administrator but no later than the next workday.

CONSERVATION OF UTILITIES

The Successful Contractor will be directly responsible for instructing employees in utilities conservation practices. The Successful Contractor will be responsible for operating under conditions, which preclude the waste of any/all utilities.

FIRE AND SECURITY

Successful Contractor is to comply with all fire regulations and is responsible for securing the buildings during and after clean up. The City may have security personnel on duty during night cleaning hours.

SERVICE EXCELLENCE STANDARDS

Excellent Customer Service is the standard of the City of Miami Beach. As contract employees of the City, security guards will be required to conduct themselves in a professional, courteous and ethical manner at all times and adhere to the City's Service Excellence standards.

PHOTO IDENTIFICATION

Work hereunder requires Successful Contractor employees to have on their person photo identification at all times. The City of Miami Beach reserves the right to verify a guard's identity and required credentials, upon that guard reporting to work.

If for any reason, any Successful Contractor employee is terminated; the Police Department Contract Administrator will be advised in writing.

CONCLUSION

The Administration recommends the issuance of the RFP for Security Guard Services with the scope of services; evaluation criteria; and other provisions as set forth in this memo.

JMG/CN/JGG/RM/SF/GL
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"ATTACHMENT A"

SECURITY CONTRACT GENERAL POST ORDERS

I TYPE OF POSTS

This is an Unarmed Security Officer Post.

II HOURS OF COVERAGE

1. **PARKING DEPARTMENT**
   - **a.** Two security supervisors 24/7.
   - **b.** Two security office officers, one posted at 7th street garage office, one posted at 17th street garage office, 24/7.
2. **POLICE DEPARTMENT**
   - **a.** One security supervisor per shift.
   - **b.** One or more guards patrolling (depending on location and hours)
   - **c.** At any of the 14 city location (parking not included-see parking post orders).

III EQUIPMENT REQUIRED

1. Current State of Florida "D" license, properly displayed.
2. Complete Company issued Uniform and ID card.
3. Incident Report Form.
4. Company-issued Radio.
5. Flash Light.
6. Deggy Wand.
7. One vehicle per Rover Supervisor

IV SPECIFIC POST ORDERS (Primary Orders)

SECURITY FUNCTIONS, REQUIRED SKILLS AND TOOLS

Security Guards have to maintain the following functions:

1. Observe, Report and Document any safety concerns / issues including but not limited to customer complaints regarding property loss or damage and personal injury.
2. Enforce various city quality of life ordinances.
3. Address homeless issues and have working knowledge of applicable laws.
4. Provide traffic control as directed. (Police Department guards only)
5. Control access in and out of parking garages and lots. (Parking Department guards only)

Required Skills:

1. Ability to communicate effectively in the English Language, provide information and give directions in a courteous manner to tourist and residents.
2. Ability to provide protection with professionalism.
3. Ability to write in clear legible fashion in the English Language.
4. Ability to carry out instructions.

5. Full understanding of proper safety conditions within a parking structure. This will include but are not limited to:

    a. Lighting
    b. Elevators
    c. Emergency Doors
    d. Emergency Lights
    e. Cleanliness
    f. Foreign Objects
    g. Suspicious Activity

6. Full understanding of proper safety conditions in and around assigned area (Police Department). This will include but are not limited to:
    a. Lighting
    b. Suspicious persons and activity
    c. Emergency doors and lights (if assigned to a building)

7. Full understanding of emergency procedures. This will include but are not limited to:

    a. Robbery/In Progress
    b. Battery/Assault
    c. Sick or injured person
    d. Personal and Property Injury
    e. Fire
    f. Flooding

Tools:

1. Security Vehicle
2. Vehicle Inventory Form
3. Log-book
4. Open Lot Access Form
5. Maintenance Check List Form
6. CCTV video cameras
7. Bicycle equipped with proper lighting and rider with a helmet. "Security" must be affixed to the back of uniform jacket or shirt worn by rider.
8. Incident Form
9. Two Way Radios
10. Deggy wand
11. Reflective traffic vest to be worn when directing traffic.
12. Any other tool(s) deemed appropriate or necessary.

SECURITY GUARDS OFFICE POSITION - PARKING DEPARTMENT

Two locations require an office guard to be posted at the office at all times, the 17th street garage and the 7th street garage. The guards are responsible of the following:

1. Monitor and report all activities in the office and surrounding area.
2. Log money bag #, cashier name, supervisor name and ensure that bag is dropped in available safe deposit box.
3. Answer the phones and intercoms, log and convey any messages.

4. Monitor and convey any maintenance or incidents to the City of Miami Beach on duty supervisor.
5. Monitor garage counts; convey information to Labor Contractor supervisor and City of Miami Beach on duty supervisor.
6. Monitor CCTV cameras, report / log any incidents to City of Miami Beach on duty supervisor.
7. Monitor / Review daily vehicle inventory.
8. Control secure access into the office.

SECURITY GUARD OFFICER POSITION - POLICE DEPARTMENT

1. Monitor and report all suspicious activities to supervisor and police.
2. Respond to all calls for service.
3. Complete written report of any enforcement action taken and of any incident that took place during officer's shift.
4. Monitor and report any city observed city maintenance issue to immediate supervisor and or the appropriate city department and document same.
5. Provide assistance to city on duty police supervisor to include traffic control and specific security detail.
6. Maintain key control as appropriate to a given assignment.
7. Control secure access to a building or structure as appropriate to an assigned post.
8. Enforce city / county quality of life ordinances as directed

SECURITY SUPERVISOR POSITION - PARKING DEPARTMENT

We have seven garages that are patrolled by two security supervisors 24 hours 7 days a week. The supervisors are responsible of the following:

1. Patrol all garages as directed by the city for any suspicious activity.
2. Supervise the two office positions.
3. Inspect / Patrol the stairwells and document and report the city of any problems.
4. Inspect / Patrol all garage levels for homeless activity, proceed to escort out of the building and document and report to the city.
5. Do vehicle inventories at night as requested by the city.
6. Be knowledgeable of all security guard office position duties.
7. Fill out and report trip sheet activity report to the city.
8. Document and report any incidents that took place during officers shift.
9. Maintain constant communication with City on duty supervisors via two way radios.
10. Provide assistance to city on duty supervisor to include, traffic control and specific security detail.

SECURITY SUPERVISOR POSITION - POLICE DEPARTMENT

The supervisor must be able to perform all the duties of the security guard but additionally be able to:

1. Patrol area of assignment and actively supervisor all officers under command.

2. Ensure all on duty officers have a valid security license on their person and that their company identification cards are being properly displayed at all times.
3. Ensure that all officers are wearing a uniform appropriate to his / her assignment and that they present a neat and professional image at all times.
4. Ensure that all tools and equipment used by subordinates are in proper working condition.
5. Be knowledgeable of all security officer position and duties.
6. Document and report any incident that took place during an officer's shift.
7. Maintain constant communication with subordinates via two way radios.
8. Be knowledgeable of all city /county ordinances as applicable to quality of life issues.
9. Respond and take command of emergency situations.
10. Be trained in and be able to effectively perform CPR.
11. Be capable of pursuing and detaining individuals who have committed criminal acts.

Condensed Title:

Request For Approval To Award A Contract To Miami Stagecraft Inc. Pursuant To Invitation To Bid 12-11/12, For Purchase And Delivery Of Stage Lighting For The Colony Theatre, In The Total Amount Of $41,323.25.

Key Intended Outcome Supported:

Maximize Miami Beach as a destination brand

Supporting Data (Surveys, Environmental Scan, etc.): According to the 2009 Strategic Plan, there were 33,317 attendees at the Colony Theatre which indicates a significant improvement from a few years before.

Issue:

Shall the City Commission Approve The Award of Contract?

Item Summary/Recommendation:

In light of deficiencies with the current stage lighting at the Colony Theatre, this project was added to the FY 2011/2012 Capital Projects Program list, and subsequently approved.

On November 21, 2011, Invitation to Bid (ITB) No. 12-11/12 was issued with an opening date of December 21, 2011. A Pre-bid conference to provide information to prospective bidders was held on December 7, 2011, and a site visit of the Colony Theatre was offered via addendum for December 10, 2011. BidNet issued bid notices to 47 prospective bidders. Additionally, the Procurement division notified 20 local contractors via e-mail, which resulted in the receipt of four (4) bids.

An administrative review of the responsive bidders' qualifications, experience, capability, and performance evaluations was conducted. Based on the analysis of the four (4) responsive bids received, two of the three reviewers recommended the lowest bidder, Miami Stagecraft, Inc. based on surveys, price and experience in working with theatres such as the Adrienne Arsht Center, the Miami City Ballet, and the South Miami Dade Cultural Arts Center. A third reviewer recommended Barbizon Delta Corporation, the third lowest bidder, based on past performance and their ongoing technical support after completion of previous projects at the Colony Theatre.

The Administration concluded that it would be in the best interest of the City to recommend the lowest bidder, Miami Stagecraft, Inc. **The Administration recommends Approving the Award.**

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	$41,323.25	RDA City Center Projects No. 365-2057-000674
	2		
OBPI	Total		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Gus Lopez, Director Ext # 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL _____ MS_____	HP _____ PDW____	JMG _____

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MIAMIBEACH

AGENDA ITEM C2D

DATE 1-11-12

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: January 11, 2012

SUBJECT: **REQUEST FOR APPROVAL TO AWARD A CONTRACT TO MIAMI STAGECRAFT, INC., PURSUANT TO INVITATION TO BID (ITB) NO. 12-11/12, FOR PURCHASE AND DELIVERY OF STAGE LIGHTING FOR THE COLONY THEATRE, IN THE TOTAL AMOUNT OF $41,323.25.**

ADMINISTRATION RECOMMENDATION

Approve the Award of the contract.

KEY INTENDED OUTCOME

Ensure well-maintained facilities

FUNDING

$41,323.25 from City Center RDA previously appropriated in FY 2011/12 Capital Budget.

ANALYSIS

The purpose of this bid was to establish a contract to furnish all labor, material, equipment, supervision and transportation necessary to supply and deliver stage lighting for the City of Miami Beach Colony Theatre, from a source of supply that will give prompt and efficient service. This Contract shall remain in effect from the time of award by the Mayor and City Commission until completion of delivery. This project was approved as part of the FY 2011/2012 Capital Budget Program, and is intended to address deficiencies in the current stage lighting at the Colony Theatre.

BID PROCESS

On November 21, 2011, Invitation to Bid (ITB) No. 12-11/12 was issued with an opening date of December 21, 2011. A Pre-bid conference to provide information to prospective bidders was held on December 7, 2011, and a site visit of the Colony Theatre was offered via addendum for December 10, 2011. BidNet issued bid notices to 47 prospective bidders. Additionally, the Procurement division notified 20 local contractors via e-mail, which resulted in the receipt of four (4) bids from the following vendors:

1. Barbizon Lighting Company
2. Mainstage Theatrical Supply
3. Miami Stagecraft, Inc.
4. SECOA

In determining the lowest and best bidder, the City utilized the "Best Value" Procurement process to select a contractor with the experience and qualifications; the ability; capability, and capacity; and proven past successful performance for the purchase and delivery of stage lighting.

An administrative review of the responsive bidders' qualifications, experience, capability, and performance evaluations was conducted by the following individuals:

- Max Sklar, Division Director, Tourism and Cultural Development Department;
- Valentino Medina, Technical Director, Colony Theatre; and
- Angelo Grande, Director of Operations, Miami Beach Convention Center.

Based on the analysis of the four (4) responsive bids received, Mr. Max Sklar and Mr. Angelo Grande recommended the lowest bidder, Miami Stagecraft, Inc. based on surveys, price and experience in working with theatres such as the Adrienne Arsht Center, the Miami City Ballet, and the South Miami Dade Cultural Arts Center. Mr. Valentino Medina recommended Barbizon Delta Corporation, the third lowest bidder, based on past performance and their ongoing technical support after completion of previous projects at the Colony Theatre.

The Administration concluded that it would be in the best interest of the City to recommend the lowest bidder, Miami Stagecraft, Inc.

CONCLUSION

Based on the aforementioned, the Administration recommends that the Mayor and City Commission Award a Contract to Miami Stagecraft, Inc., pursuant to ITB No. 12-11/12, for Purchase and Delivery of Stage Lighting for the Colony Theatre in the total amount of $41,323.25.

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C4

COMMISSION COMMITTEE ASSIGNMENTS

MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Matti Herrera Bower, Mayor RW for MHB

DATE: December 28, 2011

SUBJECT: Consent Agenda Item: Referral to Neighborhoods Committee

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Please place on the Jan. 11, 2012 Commission meeting agenda a referral to the Neighborhoods Committee of a discussion regarding placement of a Barbara Capitman memorial bust in Lummus Park.

I thank you in advance for your cooperation in this matter. If you have any questions, please do not hesitate to contact Rebecca Wakefield at extension 6157.

Thank you.

MHB/rw

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Matti Herrera Bower, Mayor RW for MHB

DATE: January 4, 2012

SUBJECT: Consent Agenda Item: Referral to Land Use Committee

Please place on the Jan. 11, 2012 Commission meeting agenda a referral to the Land Use Committee of a discussion regarding an ordinance proposed by a business owner to allow alcohol service in nude adult establishments.

I thank you in advance for your cooperation in this matter. If you have any questions, please do not hesitate to contact Rebecca Wakefield at extension 6157.

Thank you.

MHB/rw

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge Gonzalez, City Manager

FROM: Jerry Libbin, Commissioner JL/er

DATE: January 5, 2012

SUBJECT: Referral to the Finance and Citywide Projects Committee of a Proposed Amendment to Chapter 106, Article VI (Towing and Immobilization of Vehicles) providing for the City's Right to Audit Towing Permittees Engaged in Towing Vehicles on Private Property.

Similar to the requirements in the City's Administrative Rules and Regulations governing the towing of vehicles on public property, which allow the City the right to audit towing Permittees that are issued permits for police and parking tows, I am proposing a simple amendment to the Code section which addresses the Permittees' right to tow on private property, to also provide the City with audit rights as to those activities and records pertaining thereto.

The City's Administrative Rules and Regulations also allow consumer to pay for towed vehicles (on public property), and require permittees to accept such payment, via cash, check or credit card; accordingly, I would like to propose an amendment to the Code section pertaining to private tows, to allow for similar forms of payment.

Please refer this item so that it can be heard in conjunction with the towing item already scheduled for discussion at the January 19th Finance and Citywide Projects Committee meeting.

The City Attorney's office is preparing the necessary Code amendment, which will be provided at the Finance Committee Meeting.

Please contact my office at ext. 7106 if you have any questions.

JL/er

Agenda Item C4C
Date 1-11-12

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C6

COMMISSION COMMITTEE REPORTS

MIAMIBEACH

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

COMMITTEE MEMORANDUM

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

From: Jorge M. Gonzalez, City Manager

Date: January 11, 2012

Subject: **REPORT OF THE CAPITAL IMPROVEMENT PROJECTS OVERSIGHT COMMITTEE MEETING OF NOVEMBER 14, 2011**

The meeting was called to order at 5:45 p.m.
Please note: These minutes are not a full transcript of the meeting.
Full audio and visual record of this meeting available online on the City's website:
http:// www.miamibeachfl.gov/video/video.asp

1. ATTENDANCE
See attendance sheet copy attached.

2. REVIEW AND ACCEPTANCE OF MINUTES **5:46 pm**
Report of the Capital Improvement Oversight Committee Meeting of October 17, 2011
MOTION: Acceptance of Minutes of the September 12, 2011 CIPOC Meeting.
MOVED: T. Trujillo 2nd: E. Carney
PASSED: Unanimous - WITH REVISIONS as per D. Kraai

3. PUBLIC COMMENTS **5:56 pm**
Greg Carney, President of the Venetian Islands Homeowner Association, requested an update on the rebidding for a contractor for the Venetian Islands project.

Aaron Sinnes, Senior Capital Projects Coordinator, presented the status of the project. The Commission rejected all the bids that had been submitted through the ITB process. They did not recommend a timeline on when the project should go into construction.

CIP staff met with the Engineer of Record (EOR – Schwebke Shiskin) and electrical engineers. Savings have been identified for the electrical components, through this value engineering process and staff plans to follow an aggressive timeline with the intention of awarding this project to a contractor as early as February, followed by possible commencement of construction in March or April. The first step is to amend the consultant's contract. Because the changes fall under $25,000, there is no need to go back to Commission for these changes. The goal through the value-engineering process here is to seek alternatives that result in cost savings, not redesign of the project. Savings have already been identified in the concrete encasement and wiring of the lighting, as well as some other areas.

The contract provides a range of up to 15% for the consultant to come in with an opinion of cost. Saul Gross felt that this was too liberal and asked that staff look into this tolerance level for future contracts.

STAFF ACTION: Look at the tolerance range provided for in the standard contract form for consultants to provide opinions of estimate of costs. Compare with State guidelines and other guidelines.

Agenda Item C6A
Date 1-11-12

Eleanor Carney clarified that Schwebke Shiskin was not contracted to do the electrical estimate. Hillers Electric is the consultant who did the electrical. Probable cost estimate was not included in the scope of work for Schwebke Shiskin. The cost estimate came from Hillers, hired under the contract of the last EOR.

STAFF ACTION: Bring standard contract and the contract for consultant with information about the probable cost estimate to CIPOC for review.

County work on Causeway – Greg Carney contacted Roberto Rodriguez just prior to the CIPOC meeting, with concerns about safety practices in the County project. Sidewalks on the north side of the causeway are presently unfinished, posing a safety hazard for walkers and bikers. Mr. Carney had contacted the County project manager several weeks before, and was told that there were conflicts with utilities which delayed the completion of the sidewalks. Mr. Carney requested that some temporary fill material be placed in the holes until the sidewalks could be completed, but was unsuccessful in getting his request filled. He asked the City to intervene. According to staff at the meeting, the County was going to fill the holes with crushed rock that day.

4. OLD BUSINESS / REQUESTED REPORTS — 6:30 pm

Status of Water Reclamation Project in Golf Courses

Kevin Smith, Parks and Recreation Department Director, was prepared to present. Saul Gross said that the request was actually made about the AMERESCO project, which he confused with the lake reclamation project.

Mr. Smith did not give the presentation. Instead, ACM Duncan Ballantyne gave an update on the AMERESCO project. He said that the most recent document analysis was provided to Mr. Kraai.

The administration has evaluated the material presented by AMERESCO and determined that there is no cost benefit to the project. There would be what was determined an excessive period of time before realizing a cost benefit.

Mr. Smith took the opportunity to invite the Committee members to the re-opening of the new playground at South Pointe Park.

Status Report: Sunset Island I & II — **6:16 pm**

Maria Hernandez, Senior Capital Project Coordinator, stated that some issues are being worked out with the contractor. A Community Pre-construction meeting is planned to take place Wednesday, November 16 and the first round of encroachment notices are planned to go out the same day.

Staff reviewed the schedule submitted by the contractor and that has been the source of issues between the City and DMSI. DMSI had submitted a new schedule just before the CIPOC meeting, but staff had not yet had a chance to review this newest schedule. Issuance of the second Notice to Proceed (NTP2) is contingent on acceptance of the schedule. The other item that needed some resolution is the schedule of values.

The first NTP was issued in late August. Some instances in other projects that this contractor is in involved in appear to have affected the contractor's performance in Sunset Islands. The contractor promised certain items, such as concurrent crews, during the Technical Review Panel (TRP), and now not providing that in the schedule. Some line items on the schedule of values

have also changed in quantity since the TRP. This results in significant reduction in the cost of the project. The contractor has invoked the 20% rule and has resubmitted a price that the City is not willing to accept. Specifically, this has had an impact to cost in the area of water meter relocations.

William Goldsmith, 1820 West 25th Street, member of the Sunset Island Homeowners Association, gave his opinion on the situation. He first asked if the new schedule that was submitted responded sufficiently to the requests made by the City on November 14 (in a letter that is included in the Nov. 14 CIPOC agenda packet).

Fernando Vazquez stated that the contractor had just submitted the requested schedule before the meeting, but staff had not yet had a chance to review it and that staff and the contractor also needed to iron out the water meter pricing in the schedule of values.

Maria Hernandez handed Mr. Goldsmith a copy of the material that she had just received from DMSI, Inc.

Mr. Goldsmith further pointed out his concerns with the construction schedule and the schedule of values. He made the point, when Mr. Gross said that he had confidence in the work that Albert Dominguez (Principal with DMSI) had done for the City before, that DMSI is not the same company as Ric-Man International; and that DMSI had not done a lot of work with the City since incorporating. Mr. Gross responded that the principals, superintendent and other key DMSI personnel were the main people involved in City projects when they were with Ric-Man International.

At the TRP, Mr. Goldsmith confirmed with Albert Dominguez that the number of meters listed on the contract (200) was an over-estimate and requested a pro-rata reduction in the cost that would reflect this and was told that, yes DMSI would do that. The last schedule of values submitted by DMSI showed an increase in the cost of the meters. Also at the TRP, the panel asked if the contractor will provide a construction trailer and, if not, a $25,000 credit (He did not finish his statement, but was insinuating that the contractor reneged on this item. Mr. Gross asked if the items mentioned at the TRP were included in the contract, offering direction to the City that material representations made at the TRP should be passed on to the Legal Department for inclusion in contracts. Maria Hernandez stated that she tried to do just that, particularly because the material promise of parallel crews on site would ensure that the project stuck to a ten-month schedule, as represented at the TRP. Recently, a contractor on another project under Ms. Hernandez's direction, failed to provide concurrent crews as promised and it affected the schedule adversely. She was unable to pursue action against this contractor because that item was not included in the contract. Now, DMSI on this schedule has to stick to a new schedule of 12 months. Correspondence pertaining to the schedule is included in the agenda packet. The final schedule, once agreed upon, will be certified.

Albert Dominguez, DMSI, said that the company presented many different ideas at the TRP. Some ideas included different type of pipe, and installation at shallower depths, for example. Mr. Dominguez stated that some parts of their proposal were rejected. He claimed that some of their proposals actually reflect value-engineering towards getting better value in the project.

Saul Gross asked why the City rejected the idea of installing the pipe above the muck line. Fernando Vazquez responded that the proposal was to install the pipe under the valley gutter, which posed a problem for the Public Works Department and they rejected that proposal. Mr. Dominguez said that item impacted other portions of the proposed schedule. If the City rejects certain proposed means and methods, DMSI cannot guarantee the shorter schedule.

Mr. Dominguez said that some issues that are currently affecting DMSI crews at the Biscayne Point project are now delaying the use of parallel crews for the Sunset Islands project. DMSI had planned to roll some crews from Biscayne Point to Sunsets I & II, but now the work seems to be delayed by almost 8 months.

Mr. Vazquez said that the City is working very hard to try and resolve the issue with the EOR on Biscayne Point so that the schedule can be accommodated and approved for Sunset Islands. Staff is confident that the issues will be ironed out before the next CIPOC meeting and then be brought to Commission in December.

More deliberations continued. The conclusion of the discussion was that staff was working on reaching a meeting of the minds among all parties, and if the City and the contractor cannot come to an agreement, that staff proceed accordingly.

Status Report: Sunset Island III & IV **7:09 pm**

Mattie Reyes, Senior Capital Project Coordinator said that the RFQ was advertised for a design criteria professional and four companies responded. A selection committee was scheduled for November 29.

Status Report: Lower North Bay Road **7:10 pm**

Maria Hernandez told the Committee that a 2nd Notice to Proceed will be issued the second week in December. Encroachment surveys are being conducted and encroachment letters will go out soon. Construction will begin by the end of the year (the contractor will take some time off for the holidays). The EOR and the City are still reviewing the change order that was submitted, but that will not delay the start of construction. The change order reflects $250,000 in the overall $5 million contract.

Saul Gross asked about water meter relocations and the process for those homeowners who want to install a second meter. Residents who are interested in purchasing a second meter are encouraged to call the Public Works Department to make arrangements for the meter. PWD will coordinate with CIP for the properties that fall within a project.

Ms. Hernandez indicated that interested residents can call CIP and staff would coordinate/facilitate the process, but the best course of action is to contact Public Works Engineering directly at 305-673-7080 to request an additional meter. Once all the permitting is in place and fees are collected, the CIP contractor would receive the work order from Public Works.

STAFF ACTION: Bring information about the process for obtaining sub-meters and irrigation meters during a CIP ROW project to the next meeting. Clarify whether the process is slightly streamlined when it takes place in conjunction with a CIP ROW project.

Status Report: Venetian Islands **7:14 pm**

*See above – topic was covered during Public Comments at 5:56.
Eleanor Carney had an additional question about the status of the encroachment notices for the Venetian Islands. At the last meeting, CIPOC requested a schedule of notices to be provided. This was not reflected on the staff action items. Robert Rodriguez responded that the surveys are currently being done to determine encroachments at this stage. Ms. Carney expressed her opinion that residents "are being held hostage" in the meantime. But there is a process and typically, the encroachment notices do not go out until NTP 1 is issued after a contractor has been hired, since coordination for removal involves the contractor. (There are other projects where construction is imminent and encroachment notices are being sent out for those, since they now take priority status). Stacy Kilroy stated that encroachments are such a bone of contention for residents that sending notification as early as possible would give them time to deal

with relocation of the encroachments should they choose that. Fernando Vazquez stated that staff could go outside of regular procedure and send notices before a contractor is hired, but CIP staff will first concentrate on those neighborhoods that are closer to construction. NTP for Venetian Islands is expected in March or April. Ms. Carney reiterated that she wants notices sent out as early as possible.

STAFF ACTION: Bring an outline of encroachment process to CIPOC that outlines the general guidelines and timelines for encroachment removal.

Status Report: Palm and Hibiscus Islands **7:21 pm**

Senior Capital Project Coordinator Grace Escalante told the Committee that the drawings and binding estimate from FPL for undergrounding of utilities were received on October 27. The City submitted the drawings to Atlantic Broadband and AT&T as well as a JOC contractor. At the time of the CIPOC meeting, a meeting was planned for the following Thursday to coordinate all the estimates for the work from all parties involved. Staff submitted the drawings to the Public Works Department on November 3 for their review. Another meeting was scheduled with the top ranked Design Criteria Professional (DCP). Since the proposal for the DCP have remained high, it is likely that the second ranked firm will be recommended for negotiation, and the City may terminate negotiations with the first-ranked firm. As soon as the City gets the total cost estimates for the project, they will submit this to the County, and then the County will pursue a bond issue and draft the inter-local agreement. The County promised that this would take four weeks. Once the attorneys review the inter-local agreement, the package will be taken to City Commission for approval.

Status Report: Flamingo Park **7:24 pm**

Ms. Escalante stated that Pirtle Construction submitted an executed contract for pre-construction services for the Tennis Center. The project is on schedule. An award, if we remain on schedule, will be issued in February. The City has 100% permitted drawings for the Tennis Center. Once Pirtle conducts a constructability review, and makes any necessary changes, they will submit a guaranteed maximum price to go to Commission. If approved in February, construction can begin in March of 2012 and is expected last one year.

Status Report: Stormwater Master Plan **7:27 pm**

Rick Saltrick stated that the City is working with FDOT to finalize the connection with the Alton Road project. He is confident in the progress. Saul Gross asked if the Sunset Harbor pump station was tied in with the Flamingo stormwater project. Mr. Saltrick responded that the consulting firm of APCTE recommended replacements with larger pumps rather than the original plan to retro-fit the pump station. Once the DERM and DEP permits are acquired, the project can start with a JOC contractor. Eleanor Carney clarified that the replacements are a better solution than adding an additional station. Mr. Saltrick confirmed this. Mr. Gross asked if the engineers who designed the currently inadequate stations are culpable for negligence or something similar. The City has not pursued any action against the engineers.

Additional Discussion **7:30 pm**

Dwight Kraai said he had still not received appropriate information on stormwater and sea-level models that he had asked for. Mr. Ballantyne replied that the City will provide Mr. Kraai with information prior to meeting with the consultant and the City Manager. Mr. Ballantyne has performed a preliminary review of the proposal for the stormwater master plan from CDM, and asked Public Works to get some additional information from the consultant, especially the information about sea-level rise that had been requested by Mr. Kraai. Once the proposal is complete, the plan is to present it to the Finance and Citywide Projects Committee. There are opportunities for Public input in this process. After the consultants have finalized design that would satisfy criteria for FDOT, Mr, Saltrick will meet with FDOT and at that time the City can

schedule a meeting with the City Manager and Mr. Kraai on this topic. The administration recognizes that Mr. Kraai wants the opportunity to provide some input based on his professional expertise in this matter before the process is closed.

STAFF ACTION: Bring back information to the next meeting on the timeline for this process and a proposed date for meeting with Dwight Kraai. Mr. Ballantyne, in response to Mr. Kraai's inquiries, has asked the consultant to re-evaluate the plans based on a more accurate range of sea-level rise.

Meeting Adjourned: **7:35 pm**

Next CIPOC meeting is scheduled for Monday, December 12, 2011 at 5:30 p.m. in Commission Chambers.

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COMMITTEE MEMORANDUM

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

FROM: City Manager Jorge M. Gonzalez

DATE: January 11, 2012

SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF December 6, 2011.**

OLD BUSINESS

NEW BUSINESS

1. **A discussion of a proposed modification of the promissory note dated February 5, 2007, between MBCDC: Meridian Place, LLC, a Florida Limited Liability Corporation, to the Miami Beach Redevelopment Agency; and to discuss a subordination of the City's Mortgages in favor of a mortgage made by a commercial lending institution**

ACTION

The Committee asked that the item be brought to the full Commission without a recommendation.

Anna Parekh, Director of Real Estate, Housing, and Community Development, presented the item.

Meridian Place was built in 1940 and had been operating as a 72-unit transient hotel, located at 530 Meridian Avenue, which was purchased for rehabilitation by Carrfour Supportive Housing in 2001. An August 22, 2006 appraisal by J.B. Alhale & Assosicated, Inc., determined the "as-is" value to be $3,800,000 and the "upon-completion" value of $6,525,000. As a result of ongoing issues with its funders, Carrfour Supportive Housing indicated that it would no longer pursue completion of the re-named "Sunsouth Place Apartments" project. Miami Beach Community Development Corporation (MBCDC) was approached regarding its interest in acquiring the property to ensure its continued availability to the community as affordable housing. To complete the transactions, MBCDC requested funding from the City to assist in the acquisition of the property. In July 2006, MBCDC entered into a purchase agreement with Carrfour Supportive Housing for acquisition of the property. At that time, there was no debt service contemplated for the RDA's $1,500,000 contribution. On October 11, 2006, the

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Miami Beach Redevelopment Agency (RDA) approved Resolution No. 538-2006 authorizing an appropriation of South Pointe Redevelopment Area funds in the amount of $1,500,000 to be utilized by MBCDC for the purpose of MBCDC's acquisition and rehabilitation of the building located at 530 Meridian Avenue to provide 34 units of affordable housing for elderly, formerly homeless persons. On February 5, 2007, a Mortgage and Security Agreement and a corresponding Promissory Note were executed by MBCDC: Meridian Place, LLC, a Florida limited liability corporation (the Promissory Note), committing to a repayment schedule in the amount of $150,000, commencing December 31, 2011, and continuing each December 31 thereafter annually.

At the time of MBCDC's acquisition of Meridian Place, total project costs were estimated at $6,629,000, including acquisition. Since that time, the City's regulatory processes as well as HUD's regulations concerning the size of the units, necessitated significant modifications to the plans, including complete reconfiguration of the floor plans to reduce the number of units to 34, the addition of an elevator, and the configuration of the lobby for ADA compliance. The total costs are currently projected at $8,117,797, including the $3,800,000 acquisition cost. Until the HUD and County General Obligation Bond funds, $355,012 and $440,431 respectively, are paid to MBCDC, the funding gap to complete the construction of the project is $977,975. Based on the current rental income projected for this affordable housing project, the RDA debt service which is scheduled to commence this December and the current market value of the property, MBCDC has been unable to obtain a commitment for private bank financing to fill the current funding gap.

Based on cash flow projections outlined in MBCDC's Meridian Place Profoma dated 9/21/11, the annual RDA debt payments would create negative cashflow of more than $100,000 in each of the next ten years. This position is further compounded by an additional $1,000,000 in negative cashflow if the State debt is repaid in the year 2020, as required. MBCDC states that if the RDA Promissory Note is modified to reflect a deferred or forgivable status, then the project will be provided with a modest net cash flow average of approximately $20,000 for each of the next ten years; with the exception of the first year of operation. This also presumes that MBCDC is successful in receiving its requested payment deferral and extended amortization of the State debt.

The Administration recommended that the RDA loan repayment terms be restructured to be consistent with other affordable housing grants (loans) from the City which defer the repayment of the funding as long as the project is kept "affordable" in accordance with HUD guidelines. The project's "affordability period" is currently thirty (30) years, commencing at the issuance of the Final Certificate of Completion. It was also recommended that should the deferral of the RDA repayment be approved, that the expiration of the 30-year affordability period, the City may be given the option to either call in the note, extend the affordability period (e.g. another thirty years), or otherwise modify the note. Commissioner Jorge Exposito asked at what time the debt repayments normally begin. Ms. Parekh stated that normally the City does not give debt service on affordable housing loans; rather they are turned into forgivable grants as long as the project is kept affordable. Chairperson Deede Weithorn asked what would happen if the repayment is not deferred. Assistant City Manager Hilda Fernandez stated that project would not be able to continue. Chairperson Weithorn asked how much money is left to finish the project. Ms. Fernandez stated that there is a $900,000 funding gap. Discussion ensued. The Committee asked that the item be brought to the full Commission without a recommendation.

2. **Discussion concerning City Fees and Charges for Gay Pride 2012**

ACTION

Item Deferred

3. **Discussion and review of City's Investment Policy**

ACTION

The Committee recommended that the item be brought to the full Commission with the recommended changes.

Chief Financial Officer Patricia Walker presented and gave a brief history of the item.

On September 27, 1995 the City's Investment Policy and Procedures were officially adopted in writing with the passage and adoption of Resolution No. 95-21726. This was a result of the passing of Chapter 218.415 of the Florida Statues that require the adoption of a formal written investment policy by local governments. The last amendment to the Investment Policy was done in 2007 by the request of then Mayor David Dermer who wanted to add certain investments that the City should not invest in. He wanted to incorporate the State's "Protecting Florida's Investment Act" to the City's policy. This Act prohibited the investment of public funds managed by the City in any "Scrutinized Companies" with active business operations in Sudan or Iran, as listed by the State Board of Administration (SBA) on a quarterly basis. Thus this Act was incorporated into the City's Investment Policy by the adoption and passage of Resolution No. 2007-26602 on July 11, 2007. The State of Florida, in the passing of Chapter 218.415, has allowed investment in Israeli bonds. Due to the State allowing investments in Israeli bonds, the City will be adding the investment of Israeli bonds as an allowable City investment. In addition, it was recommended that Section L-Investment Committee was removed from the Investment Policy and replaced with the City's current practice of using an Investment Advisor.

Chairperson Deede Weithorn suggested that the policy be reviewed on a regular basis. Ms. Walker stated that provision will be added stating that the policy shall be reviewed no longer than five (5) years from the last review date or at the time of a change of any significant accounting pronouncement or change in the City's market treasury services. The Committee recommended that the item be brought to the full Commission with the recommended changes.

4. **Discussion regarding the public beachfront concessions agreement**

ACTION

The Committee recommended bringing the item to the full Commission with the language of the old agreement regarding the renewal provision, including benchmarks to be developed by Staff for the consideration of the Commission, and requested that two options be presented regarding the increase to the minimum guarantee: the greater of the Consumer Price Index (CPI) or three percent (3%); or the lesser of CPI or three percent (3%).

Assistant City Manager Hilda Fernandez presented the item and gave a brief synopsis of the memo.

On February 21, 2001, the Mayor and City Commission authorized the issuance of a Request for Proposals (RFP) which resulted in the selection of Boucher Brothers Miami Beach, LLC (Boucher Brothers) for the operation and management of beachfront concessions including beach equipment rentals, food and beverage sales, and water sport rentals on the beaches seaward of Lummus Park, Ocean Terrace and North Shore Open Space Park. The agreement commenced on November 4, 2001, and expired on November 4, 2006 with an option to renew for an additional five (5) year term. An amended and restated concession agreement was entered into on May 18, 2005, which clarified and memorialized operational issues. An amendment to the amended and restated concession agreement was entered into on January 11, 2006, which granted a renewal term through November 5, 2011, and memorialized value enhancements form the Concessionaire to the City. A second amendment to amend the amended and restated beachfront concession agreement was executed on April 16, 2008, said amendment providing for the addition of a concession area adjacent to Bandshell Park. A third amendment to the amended and restated beachfront concession agreement was executed on July 15, 2008, which provided for the reconfiguration of a fenced storage area for storage and for a dumpster facility.

In light of satisfaction with the performance of the current concessionaire, and a desire to ensure that the concession agreement addressed desirable items, such as non-motorized water sports in North Beach, additional cleaning services, and the installation of beach lockers, Staff was directed by the Commission (following the Commission Retreat) to negotiate a new concession agreement with Boucher Brothers. The current opportunities afforded under the existing contract, as well as other options that can generate potential new revenue for the City, were researched and negotiated. In addition to allowing the rental of new types of luxury beachfront equipment, servicing new areas, and allowing for "heating' of certain foods, Boucher Brothers expressed a willingness to develop a non-motorized water sports program in North Beach, as well as continuing to provide (and offer additional) "Value-Added Enhancements" (VAE). The VAE would continue to include annual donations to the City for scholarships, for environmental programming, and in support of the promotion of the City of Miami Beach. Additionally, the proposed new Agreement requires that the Concessionaire shall provide, at its sole cost, support in cleanliness in Lummus Park, including the area outside of the Concession Areas. Furthermore, under the proposed new agreement, the Concessionaire will provide a public beachfront outdoor ashtray program and implement a beach locker program. The proposed terms reflect a flat minimum guarantee for Year One (same as year ten of current Agreement) and a deferred escalator that is intended to offset the capital investment necessary to implement the non-motorized sports concession in North Beach, the beach locker program and the additional services.

Ms. Fernandez stated that last month, the Concession Agreement was extended on a month-to-month basis pending the review and consideration by the City Commission of a new concession agreement, therefore, retroactive approval would be needed on this. Discussion ensued. Commissioner Jorge Exposito asked what the timeframe was for adding the non-motorized sports water channel. Ms. Fernandez stated that Staff will research what the timeframe and requirements are for a non-motorized water sports channel. The Boucher Brothers were asked for their comments on the proposed agreement. They mentioned that they had two issues of concern for them: the renewal language as proposed in the agenda item, and the escalator provision. On the former,

Perry Boucher requested that the language from the last agreement be included. Ms. Fernandez explained that the current language does not provide for an automatic renewal, but requires further Commission action. She also added that under the previous agreement, Boucher had to meet certain benchmarks for a renewal to even be considered. On the latter, staff explained that the current proposed escalator is a reduction from the flat 5% and that the CPI over the past ten years has never exceeded 2.5% (by calculations provided by Boucher), so the possibility of the escalator being greater than 3% was not likely. Following discussion, the Committee recommended bringing the item to the full Commission with the language of the old agreement regarding the renewal provision, including benchmarks to be developed by staff and included, and requested that two options be presented for the Commission's consideration regarding the increase to the minimum guarantee: the greater of the Consumer Price Index (CPI) or three percent (3%); or, the lesser of CPI or three percent (3%).

5. **Request for approval to issue a Request for Proposals (RFP) for security guard services**

ACTION

The Committee recommended:

- **the criterion for Financial Strength be made a minimum requirement;**
- **the criterion for character, integrity, judgment and reputation be removed;**
- **five (5) points from the removed criterion be added to experience and qualifications of the Contractor;**
- **five (5) points be added to experience and qualifications of the Management Team;**
- **that Staff determine the location and types of enforcement assistance for the trial basis**

Procurement Director Gus Lopez presented the item and gave a brief synopsis of the memo.

Chairperson Deede Weithorn suggested that the criterion for Financial Strength be made a minimum requirement, the character, integrity, judgment and reputation criterion be removed and that the points be added to experience and qualifications of the Contractor and experience and qualifications of the Management Team.

Chairperson Weithorn then asked if the City would save money if the Request for Proposals (RFP) went out. Mr. Lopez stated that in the past, the results of the RFP have been compared to the existing contract and if it is in the City's best interest, the City reserves the right to renew the existing contract and reject all proposals.

Commissioner Jorge Exposito asked if the purview of the security guards could be extended to include issuing citations. City Attorney Jose Smith stated that the issue would be if the City would pay more to have a more qualified security guard that is able to issue code violations. Assistant City Manager Hilda Fernandez stated that the difference would be approximately $5 per hour for this level of officer. Chairperson Weithorn suggested that this be tested in South Pointe Park on a trial basis. Commissioner Exposito asked that should the City decide to move forward with this, what the training timeframe would be. Ms. Fernandez stated that the types of enforcement assistance would have to be narrowed down to determine the amount of training that would be needed.

The Committee recommended that the criterion for Financial Strength be made a minimum requirement; the criterion for character, integrity, judgment and reputation be removed; and that five (5) points from the removed criterion be added to experience and qualifications of the Contractor; five (5) points be added to experience and qualifications of the Management Team; and that Staff determine the location and types of enforcement assistance for the trial basis.

6. **Discussion pertaining to the issuance of a Request for Proposals (RFP) for auditing services for the City's (CAFR), (OMB A-133 Single Audit), The Miami Beach Redevelopment Agency's basic financial statements (RDA), ...(PSF), (VCA) financial statements, The Miami Beach Convention Center, as managed by Global Spectrum, financial statements, The Children's Trust Program, The Building Better Communities Bonds Program, and The Safe Neighborhood Parks and Bond Program (SNP)**

ACTION

Item Deferred

7. **Discussion of Right-of-way recycling program**

ACTION

The Committee recommended that a pilot program proposal be brought to the January Finance & Citywide Projects Committee Meeting.

Public Works Director Fred Beckmann presented the item.

Since 2009, the City installed 74 dual recycling bins and 74 silver urban style standalone recycling bins throughout the City's Right of Way (ROW), beach entrances, and in select parks. The bins were financed through negotiations with the City's franchise waste haulers. Also, through these negotiations the City's franchise waste haulers provide in-kind solid waste and recycling pick-up. Waste haulers service the ROW waste receptacles on a regular schedule to ensure a high level of service in City parks, beach entrances, and ROW locations.

Currently, the City is negotiating a partnership agreement with Coca-Cola. As part of this agreement, Coca-Cola will assist with developing signage for existing recycling bins to improve recycling rates. All future recycling receptacles purchased by the City would also include this updated message to create a uniform design throughout the City.

A number of companies have presented dual trash and recycling receptacle products to the Sustainability Committee including Go Green Eco-Bins and Big Belly Solar. Both of these companies' business models include an option to use advertising to offset the cost of providing these public benefits. Other concerns that have been identified with selecting new recycling receptacles include size constraints in ROW, uniformity with current receptacles, and odor problems associated with the compacting models of decomposing organic waste in Miami Beach's hot, humid climate. Neither the Go Green Eco-Bins nor the Big Belly Solar bin could be installed in the standard 5-foot wide sidewalks as they would not leave enough space to provide compliance with ADA standards. It was also noted that both the Go Green Eco-Bins and the Big Belly Solar design would require a concrete slab foundation for installation adjacent to the beach.

The Florida Department of Environmental Protection regulates construction activities west of the Coastal Construction Control Line (CCCL) and would require the City to obtain a CCCL Permit to move forward with installing these receptacles. Bruce Renard, President of Go Green stated that their proposal was not to place the bins on the ROW but rather in beach areas.

The Committee recommended that a pilot program proposal be brought to the January Finance & Citywide Projects Committee Meeting.

8. Discussion on FPL Franchise Payments to the City of Miami Beach

ACTION

None Required

Assistant City Manager Duncan Ballantyne presented the item.

The City's current thirty (30) year non-exclusive franchise agreement with Florida Power & Light (FPL) expires on January 22, 2012. Since January 2011, representatives of the City Manager and City Attorney's Office have been negotiating the terms and conditions of a new franchise agreement with FPL. A public workshop was held on November 28, 2011 at the Miami Beach Golf Course Clubhouse to discuss the terms of the proposed new agreement. A major concern at the workshop was the 30-year term, which, notwithstanding the City's continuous efforts to reduce, FPL indicated could not be modified. Residents from Sunset Islands 3 & 4 neighborhood addressed concerns regarding the difficulties surrounding the process of undergrounding. The Committee discussed the calculation of the current and proposed franchise payments. Chairperson Deede Weithorn opened the floor to public comment which included requests for research regarding the process of undergrounding.

9. Discussion on Outsourcing of Lincoln Road mall Maintenance Services

ACTION

The Committee asked that a detailed analysis about the positions that would be eliminated by the outsourcing of Lincoln Road Mall maintenance services be completed before the item is brought to the full Commission and that staff reply to the public records request by CWA.

Chairperson Deede Weithorn was concerned about positions being eliminated by the outsourcing of Lincoln Road Mall maintenance services. Fred Beckman, Public Works Director, stated that anyone that gets displaced due to the outsourcing will be placed in another job within the City. Chairperson Weithorn then asked for more detail about the positions that would be eliminated including how many positions and if any of the employees holding those positions would be retiring in the near future. The Committee asked that detailed analysis about the positions that would be eliminated by the outsourcing of Lincoln Road Mall maintenance services be completed before the item is brought to the full Commission. Discussion ensued. Commissioner Jonah Wolfson asked Richard McKinnon, Communications Workers of America (CWA) President Local

3178, what he was seeking to understand from the detailed analysis being asked for. Mr. McKinnon stated that he would like to show the difference in cost between outsourcing the maintenance services and having City employees provide the maintenance services was minimal. CWA Secretary Jonathan Sinkes added that union workers that work on Lincoln Road have not been sent out in several weeks because parts necessary to complete the work orders are not available. Discussion ensued. The Committee requested a Letter to Commission regarding open work orders and the Standard Operating Procedures for obtaining supplies. Chairperson Weithorn opened the floor to public comment which included requests for a workshop for the business on Lincoln Road to discuss policy changes. The Committee recommended a workshop be held with both business and property owners to discuss the scope of current Lincoln Road maintenance services as well as the possibility of out sourcing the maintenance services.

Additional Item (not on agenda): Discussion regarding towing permits

ACTION

The Committee directed Staff to meet with the towing companies before the December 14, 2011 Commission Meeting to work on the unresolved issues and bring their recommendations or policy questions to the Commission meeting.

Chairperson Deede Weithorn asked that the Administration bring the item to the December 14, 2011 Commission Meeting. Assistant City Manager Jorge Gomez stated that a memo had been drafted stating that the contract was to continue on a month-to-month basis, the issues that have not reached a conclusion were outlined, and asked for the Commissions to refer the item to the appropriate committee. Mr. Gomez then asked that the Commission give their direction regarding the unresolved issues at the December 14, 2011 Commission Meeting. Chairperson Weithorn recommended that Administration meet with the towing companies before the Commission Meeting to try to resolve the outstanding issues so that the policy decisions could be made and the item can move forward. The Committee directed Staff to meet with the towing companies before the December 14, 2011 Commission Meeting to work on the unresolved issues and bring their recommendations or policy questions to the Commission meeting.

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COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: January 11, 2012

SUBJECT: **REPORT OF THE NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE MEETING HELD ON THURSDAY, DECEMBER 8, 2011.**

A meeting of the Neighborhoods/Community Affairs Committee was scheduled for Thursday, December 8, 2011 at 3:00 pm in the City Manager's Large Conference Room, 4th Floor in City Hall. **Commissioners in attendance**: Commissioners Jerry Libbin, Deede Weithorn, and Michael Góngora. Members from the Administration and the public were also in attendance. Please see the attached sign-in sheet.

THE MEETING OPENED AT 3:20 PM

1. **DISCUSSION OF POTENTIAL POLICIES FOR THE NOMINATION/NUMBER OF MEMORIALS OR COMMEMORATIVE PLAQUES.** *(Referred at February 9, 2011 Commission, Item R7A), Requested by Commissioner Tobin)* **(3:45 PM)**

   Kevin Smith, Parks and Recreation Department Director, reviewed the history of this item and the options listed in the memo included in the agenda package.

   David Coggin spoke.

   Commissioner Libbin expressed his concern with sudden proliferation of requests for monuments/memorials. His preference was to limiting Commissioners and the Mayor to one (1) request per term of elected office.

   Commissioner Góngora stated that while the proposal is logical and correct, the Commission should just start saying no instead of just going along with recommendations/requests.

   Commissioner Weithorn made the motion to recommend limiting Commissioners and the Mayor to one (1) monument/memorial recommendation per term of elected office and that if the request is coming from a third party, then the cost and maintenance will be their responsibility, and allowing the Commission, with a 6/7 vote, to waive that financial responsibility requirement. Commissioner Libbin seconded. Commissioner Góngora voted no.

   Commissioner Góngora made a motion to include Commissioner Weithorn's motion and adding that the individual be in good standing and if convicted/adjudicated of a felony, their name shall be removed. Commissioner Weithorn also added to the motion to direct the Administration to add whatever language is necessary for any administrative cleanup.

   Hilda Fernandez, Assistant City Manager, reviewed the recommended alternative for streamlining the process for handling the monuments/memorials as follows:

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- Recommendations for monuments or memorials are referred by the sponsoring commissioner to the appropriate Commission committee.
- If the committee approves (with the required majority) the placement of a memorial plaque, that recommendation is forwarded to the full City Commission for the full City Commission to set a public hearing.
- If the Committee approves a monument or a memorial that is not a plaque (e.g. a site, bust, sculpture, structure, art work), the recommendation is forwarded to the Art in Public Places Committee (AiPP) for their review and recommendation as to location, aesthetic quality, maintenance, and other related issues (in accordance with their criteria); the AiPP recommendation is subsequently forwarded to the full City Commission to set a public hearing.
- At the close of the public hearing, the City Commission may approve the establishment of the monument or memorial, subject to consistency with the criteria established in the Code.

These recommendations were added to the motion by Commissioner Góngora and seconded by Commissioner Weithorn. The vote was unanimous. Ms. Fernandez stated that the amendments to the ordinance will be brought to the Commission.

ACTION: The Committee (Commissioners Libbin, Weithorn, and Góngora present) moved to recommend the following to the Commission:

- Limit Commissioners and the Mayor to one (1) monument/memorial recommendation per term of elected office.
- In the event the request comes from a third party, then the cost and maintenance is the requestor's responsibility.
- Add language to allow for the financial responsibility of the third-party requestor to be waived with a 6/7 vote of the City Commission.
- Include recommended wording that the individual be in good standing and if convicted/adjudicated of a felony, their name shall be removed.
- Administration to add whatever language is necessary for administrative cleanup.
- Streamline the process for handling monuments/memorials as recommended.
    - Recommendations for monuments or memorials are referred by the sponsoring commissioner to the appropriate committee
    - If the committee approves (with the required majority) the placement of a memorial plaque, that recommendation is forwarded to the full City Commission for the full City Commission to set a public hearing
    - If the Committee approves a monument ora memorial that is not a plaque (e.g. a site, bust, sculpture, structure, art work), the recommendation is forwarded to the Art in Public Places Committee (AiPP) for their review and recommendation as to location, aesthetic quality, maintenance, and other related issues (in accordance with their criteria); the AiPP recommendation is subsequently forwarded to the full City Commission to set a public hearing
    - At the close of the public hearing, the City Commission may approve the establishment of the monument or memorial, subject to consistency with the criteria established in the Code.
- Monuments/memorials must comply with all established City Policies, procedures, standards and guidelines.

2. FOLLOW-UP DISCUSSION AND REQUEST FOR DIRECTION CONCERNING THE CONTINUATION OR TERMINATION OF THE DOG OFF-LEASH PILOT PROGRAM APPROVED BY THE CITY COMMISSION IN SOUTH POINTE PARK. *(Originally referred at January 28, 2009, Commission, Item C4I), returning from February 3, 2011 NCAC meeting. Originally requested by City Manager Jorge M. Gonzalez)* **(3:20 PM)**

Kevin Smith, Parks and Recreation Department Director, reviewed the history of the dog off-leash area in South Pointe Park. He requested direction from the Committee as to whether the pilot program should be continued, not continued, or made permanent. Additionally, he asked that if the pilot program is continued or made permanent, where the off-leash area should be located.

Commissioner Libbin stated that he would like the program to be continued and that he would like to include a low, green hedge placed to enclose the area.

Commissioner Weithorn stated that she is happy with the peer pressure that has been managing the dogs in the park and the limited hours that help create a sense of community. She added that she is okay with a visual barrier however she wants to make sure that the hedge selected not be a delicate plant as people and dogs will most likely be walking over it.

David Coggin spoke.
Maryann Marcous spoke.
Larry Wyman spoke.
Brian Harris spoke.
Jeff Atlas spoke.
Ulrich Lachler spoke.
Renato Mariani spoke.
Thomas Butler spoke.

Assistant City Manager Hilda M. Fernandez stated she will need to confer with the City Attorney's Office regarding the concept of a hedge, as she believes the placement of the hedge, although low, would make this an enclosed dog park. In addition, she added for the record that the proposal of a hedge would need to go before the Design Review Board (DRB) for approval.

Commissioner Libbin added that if it is the desire of the commission to place a hedge around the off-leash area, it is essential for the public to attend the DRB meetings to voice their opinions.

Ms. Fernandez explained that a few things will need to happen concurrently, including working through the DRB process and identification of funding sources, which would happen after estimates are received for the hedge.

Commissioner Weithorn made the motion to extend of the current program and in the meantime work on the hedge and the permanent location. Commissioner Góngora agreed and in response to requests made by residents at the meeting, recommended adding an hour to the morning and evening off-leash hours. Commissioner Weithorn agreed with the adding of the hour prior to the permanent decision on continuing the program, to allow for possible adjustments if there is a problem. Commissioner Góngora seconded the motion. Commissioner Libbin clarified the motion to extend the pilot program for six months, add one hour to the morning and evening off-leash hours, ask the Administration to come up with an estimate for the proposed hedge and recommend to the Commission a referral to the DRB regarding the proposed hedge.

ACTION: The Committee (Commissioners Libbin, Weithorn, and Góngora present) unanimously recommended the Administration be directed to:

- Extend the South Pointe Dog Off-leash Pilot Program for a six (6) month period in its current location, with an extension of one hour in both the morning and the evening sessions;
- Prepare a site plan of the South Pointe off-leash area in its present location, which is approximately 18,000 SF in the green space just to the east of the Washington Avenue Plaza, bordered by the Cut Walk to the south and the sidewalk to the north, with a cost estimate to install a hedge of the appropriate species and height, to enclose the area;
- Take the steps necessary to have the site plan presented to the DRB for review and approval;
- Return to the Neighborhoods/Community Affairs Committee for final review and action;
- Based on the direction of the Neighborhoods/Community Affairs Committee prepare the appropriate commission action to implement the directions; and
- Return to the Neighborhoods/Community Affairs Committee in five (5) months (if need be) to extend the existing program again, if the final version and plan is not completed.

3. **DISCUSSION REGARDING NEIGHBORHOOD PARK/STREET-ENDS BUS BENCH ISSUE.** *(Referred during the July 28, 2011 Finance & Citywide Projects meeting; see September 14, 2011 Commission Item C6E)* **(4:02 PM)**

Fernando Vazquez, Capital Improvement Projects Office Director, explained that this item was brought up at the Finance and Citywide Projects Committee meeting in July.

After some discussion, Commissioner Weithorn made a motion to recommend removing benches at street-ends from inclusion in Basis of Design Reports (BODR) unless there is greater general community consensus. The motion was seconded by Commissioner Góngora.

ACTION: The Committee (Commissioners Libbin, Weithorn, and Góngora present) unanimously moved to recommend removing benches at street-ends from inclusion in Basis of Design Reports (BODR) unless there is greater general community consensus.

4. **DISCUSSION ON THE VIABILITY OF STORING CITY DIRECTED TOWED VEHICLES ON TERMINAL ISLAND.** *(Referred at June 1, 2011 Commission, Item R9F, Requested by Commissioner Tobin)* **(4:00 PM)**

The Committee recommended tabling the discussion of this item (defer indefinitely) until it is specifically requested again.

ACTION: The Committee (Commissioners Libbin, Weithorn, and Góngora present) unanimously recommended tabling the discussion of this item until it is specifically requested again.

5. **DISCUSSION REGARDING AN ORDINANCE WHICH PROHIBITS DOCKING ON CITY OWNED PROPERTY, SPECIFICALLY SEAWALLS.** *(Referred at October 19, 2011 Commission, Item R9D, Requested by Commissioner Weithorn)* **(4:05 PM)**

Commissioner Weithorn explained her concern with boaters docking on seawalls in single-family neighborhoods.

David Coggin spoke.

After some discussion, Commissioner Weithorn moved to recommend the proposed ordinance to the Commission. Motion seconded by Commissioner Góngora.

ACTION: The Committee (Commissioners Libbin, Weithom, and Góngora present) unanimously moved to recommend the proposed ordinance to the City Commission.

6. **DISCUSSION TO CONSIDER LEAVING THE ALTOS DEL MAR LOCATION AS PASSIVE GREENSPACE.** *(Referred at October 19, 2011 Commission Item C4E; requested by Commissioner Exposito)* **(4:11 PM)**

Commissioner Libbin advised that since nothing is happening with the Altos Del Mar location at this time, the Committee will not discuss the subject at this time. It will be dealt with if and when anything comes up.

ACTION: No discussion was held. Commissioner Libbin advised that since nothing is happening with the Altos del Mar location at this time, the Committee will not discuss the subject at this time. It will be dealt with if and when anything comes up.

7. **DISCUSSION REGARDING A PROPOSAL FOR A DONATION OF ART PIECES TO BE DISPLAYED ON LINCOLN ROAD.** *(Referred at October 19, 2011, Commission Item C4G; requested by Commissioner Libbin)* **(4:12 PM)**

Commissioner Libbin explained that the artist making this proposal was unable to attend the meeting today. The artist's idea was not to get credit for this but to make the area look nicer.

Max Sklar, Cultural Affairs and Tourism Development Director, commented that if it is desired to do a project on the balls on Lincoln Road then perhaps a Call to Artists can be done to get different proposals to be reviewed by the Art in Public Places Committee for a recommendation to bring to the Neighborhoods/Community Affairs Committee for a decision. Certainly this artist can make a proposal along with others.

Commissioner Libbin expressed his concern regarding the poor conditions of Lincoln Road that need addressing. He asked the Administration to reach out to the manager of the Meat Market to address some of his concerns with the condition of Lincoln Road.

David Coggin spoke.

Commissioner Góngora made a motion to refer a discussion to the Art in Public Places committee as to what can be done with a Call to Artists for Lincoln Road and bring back as soon as possible to the Neighborhoods/Community Affairs Committee. Motion seconded by Commissioner Weithorn.

ACTION: The Committee (Commissioners Libbin, Weithorn, and Góngora present) unanimously moved to recommend a referral for discussion to the Art in Public Places committee as to what can be done with a Call to Artists for Lincoln Road and bring back as soon as possible to the Neighborhoods/Community Affairs Committee.

8. DISCUSSION REGARDING THE ONGOING STORE FRONT DAMAGES AND GRAFFITI ISSUES ON WASHINGTON AVENUE. *(Referred at October 19, 2011, Commission Item C4H; requested by Commissioner Góngora)* **(4:20 PM)**

Commissioner Góngora spoke of his concerns about the condition of Washington Avenue. Commissioner Libbin suggested scheduling a public workshop to discuss this.

Police Captain Mark Causey explained the Police Department's improved efforts on Washington Avenue that began in November.

- Washington Avenue is now being patrolled by a beat detail including two officers daily from 11:00am – 9:00pm
- RDA has mandated a foot-patrol on the 1600 block of Washington Avenue
- New bike squads are also patrolling Washington Avenue

Commissioner Góngora stated that he would like to receive regular reports from the Police Department regarding what is happening on Washington Avenue.

Code Compliance Division Director Robert Santos-Alborná detailed improvements made through efforts made by Code, Police, and the Homeless Outreach Office to address concerns impacting the condition of Washington Avenue from the residents of Oceanview, an Adult Living Facility located at 9th Street and Pennsylvania Avenue.

Commissioner Weithorn stated that a comprehensive effort must be made to improve Washington Avenue.

David Coggin spoke.

The committee recommendation is for the Administration to hold a public workshop regarding improvements to Washington Avenue and for the Police Department to provide a quarterly report on Washington Avenue to be included in their current quarterly crime report to the Neighborhoods/Community Affairs Committee.

ACTION: The Committee recommended that the Administration schedule a public workshop regarding improvements to Washington Avenue and for the Police Department to provide a quarterly report on Washington Avenue to be included in their current quarterly crime report to the Neighborhoods/Community Affairs Committee.

THE MEETING ADJOURNED AT 4:35 PM.

JMG/HMF/SS/KT/BH/rfm
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MIAMIBEACH

NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE

December 8, 2011

SIGN-IN SHEET

PLEASE PRINT LEGIBLY

NAME	ORGANIZATION / DEPT.	PHONE NO.	EMAIL
DUSTY MELTON	GLOBAL PROJECTS INC	305.905.2400	
TIM ROSE	PHS ISLANDS ASSN	305-209-2617	TIM.ROSE@PHSISLANDS.ORG
ULRICH LACHLER	MURANO CONDO ASSOC.	786 423-3873	ULACHLER@GMAIL.COM
Rachel Harris	Murano resident		
Brian Harris	Murano resident	786-238-7224	brian@bdharris.com
JUAN TORO	Veritiani Assoc.	305.774.1774	TOROJ@BELLSOUTH.NET
Sue Atlas	Murano Resident	845 596 9408	Sue Atlas111@gmail.com
Thomas Butler	Portofino resident	305-582-7461	appellatelaw@bellsouth.net
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We are committed to providing excellent public service and safety to all who live, work, and play in our vibrant, tropical, historic community.

MIAMIBEACH

NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE

December 8, 2011

SIGN-IN SHEET

PLEASE PRINT LEGIBLY

NAME	ORGANIZATION / DEPT.	PHONE NO.	EMAIL
Laura Cullen	SoFi K9	954-270-7720	laurac@clarkesmiamibeach.com
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Helen Swartz	DAC	616 639 6424	hswartz25@comcast.net
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FERNANDO VISOSO	CIP	" " "	fernandovisoso@ "
PLATON ALEXANDRAKIS	BERNUTH	786-277 6380	platon@bernuth.com
Stephen Scott	City	ext.	stephenscott@miamibeachfl.gov
BAPTISTE YIVOSEPH	SECURITY ALLIANCE	305 604 1486	

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MIAMIBEACH

NEIGHBORHOODS/COMMUNITY AFFAIRS COMMITTEE

December 8, 2011

SIGN-IN SHEET

PLEASE PRINT LEGIBLY

NAME	ORGANIZATION / DEPT.	PHONE NO.	EMAIL
Candice Loper	SoFI Resident	850-501-6279	Dulcecandice1@me.com
KEVIN SMITH	CMB P&R	7730	

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RESOLUTIONS

Condensed Title:

A Resolution Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Approving And Authorizing The Mayor and City Clerk To Execute An Agreement Between The City Of Miami Beach, Florida, And The Cat Network, Inc., To Provide Low-Cost Spay/Neuter Services For Stray, Homeless And Abandoned Cats In The Estimated Amount Of $80,000 over two years, Funded By The PetSmart Charities®; Said Agreement Approval Is Subject To The Successful Execution Of The Grant Agreement With PetSmart Charities®;.

Key Intended Outcome Supported: Maximize efficient delivery of services

Supporting Data (Surveys, Environmental Scan, etc.): In the 2009 business and resident satisfaction surveys, 65% of businesses and 55% of residents rated the overall value of City services for tax dollars paid as "good" or "excellent."

Issue:

Whether the Mayor and City Commission should approve the agreement with the Cat Network?

Item Summary/Recommendation:

The Mayor and City Commission at its September 14, 2011 meeting, passed and adopted Resolution No. 2011-27007, which retroactively approved and authorized the City Manager, or his designee, to submit an application to PetSmart Charities® in the approximate amount of $80,000 to fund the city's cat spay/neuter program. The free-roaming cat grant offered by PetSmart Charities® is intended to provide funding, strategic planning and mentoring for a comprehensive trap-neuter-return (TNR) program for free-roaming cats. The City applied for this grant in partnership with the Cat network. The goal is to build a program that is community-wide in scope, effective in reducing the local feral and stray cat population, efficient in its use of resources, measurable in impact and sustainable over a period of years to come.

The City has been collaborating with the Cat Network for approximately two (2) years to address animal issues in the community, namely spay and neutering of pets. Over these years, the City and the Cat Network have held monthly spay and neutering events, yielding an average of 40 surgeries per event. The goal of both the City and the Cat Network is to sterilize 1000 cats per year for two consecutive years. In September 26, 2010, The Cat Network began receiving the City's annual allocation for the sterilization of stray and feral cats. Since September 26, 2010, 715 stray and feral cats in Miami Beach have been spayed using these funds, as well as a grant from a charitable foundation and donations. The Cat Network is dedicated to reducing the overpopulation of stray and feral cats in South Florida through the humane practice of sterilization, vaccination, and release.

On October 18, 2011, the City received notification from PetSmart Charities® that it was selected to receive the grant funding. The total grant is for $80,000, or $40,000 for each year of this two-year grant. City staff has been working with the City Attorney's office on the contract execution. Once the grant agreement with PetSmart Charities® is executed, the City would be able to start expending funds. It is necessary to have an agreement in place with the Cat Network for such. **IT IS RECOMMENDED THAT THE MAYOR AND COMMISSION APPROVE THE AGREEMENT WITH THE CAT NETWORK, SUBJECT TO THE CITY'S EXECUTION OF THE AGREEMENT WITH PETSMART CHARITIES®.**

Advisory Board Recommendation:

Financial Information:

Source of Funds: n/a		Amount	Account
	1	$80,000	Funded By The PetSmart Charities® Subject To The Successful Execution Of The Grant Agreement With PetSmart Charities®.

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Lynn Bernstein, 6178

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL_____	HF_____	JMG_____

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MIAMIBEACH

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

COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA, AND THE CAT NETWORK, INC., TO PROVIDE LOW-COST SPAY/NEUTER SERVICES FOR STRAY, HOMELESS AND ABANDONED CATS; IN THE ESTIMATED AMOUNT OF $80,000 OVER TWO YEARS, FUNDED BY THE PETSMART CHARITIES® GRANT TO THE CITY OF MIAMI BEACH; SAID AGREEMENT APPROVAL IS SUBJECT TO THE SUCCESSFUL EXECUTION OF THE GRANT AGREEMENT WITH PETSMART CHARITIES®**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

Funds in the amount of $80,000 are available from the PetSmart Charities® Grant.

BACKGROUND

The Mayor and City Commission at its September 14, 2011 meeting, passed and adopted Resolution No. 2011-27007, which retroactively approved and authorized the City Manager, or his designee, to submit an application to PetSmart Charities® in the approximate amount of $80,000 to assist in funding the City's feral cat spay/neuter program. The City submitted an application to PetSmart Charities®. for funding to continue and expand the current feral cat spay/neuter program that is being implemented with the Cat Network.

The free-roaming cat grant offered by PetSmart Charities® is intended to provide funding, strategic planning and mentoring for a comprehensive trap-neuter-return (TNR) program for free-roaming cats. The goal is to build a program that is community-wide in scope, effective in reducing the local feral and stray cat population, efficient in its use of resources, measurable in impact and sustainable over a period of years to come.

CAT NETWORK

The Cat Network, Inc. (CN) is a 501(c)3, incorporated in December 1995 and is dedicated to reducing the overpopulation of stray and feral cats in South Florida through the humane practice of sterilization, vaccination, and return. It also dedicated to providing low-cost spay/neuter services for stray, homeless and abandoned cats; helping members in their efforts to place adoptable cats in loving homes; and advocating non-lethal population control and humane public policy.

The Cat Network is the only local organization that does this service routinely and on the scale required by the City's program. As a non-profit volunteer organization, Cat Network is absorbing all the costs other than the surgery itself – the biggest cost being trapping, but also is includes expenses such as gas, insurance, medications and materials. The costs associated with the Cat Network's services for spay/neutering will be funded by PetSmart Charities®.

The City has been collaborating with the Cat Network for approximately two (2) years to address animal issues in the community, namely spay and neutering of feral cats. Over these years, the City and the Cat Network have held monthly spay and neutering events, yielding an average of 40 surgeries per event.

The Cat Network first brought its mobile surgical unit, the Miami Meow Mobile, to Miami Beach in March 2009 providing low cost spay and neuter services to Miami Beach for pets, strays and feral cats. For the past two years, the Cat Network has been receiving the City's annual allocation that has been identified to sterilize stray and feral cats ($5,000). Since September 26, 2010, the Cat Network has sterilized 715 stray and feral cats in Miami Beach using the fund allocated by the City, a grant from a charitable foundation and donations.

In addition to the City funding, the Cat Network secures other resources to fund the costs of the spay/neuter mobile unit used to provide this service (and the reduced fee charged by the Veterinarian). The City has worked closely with the Cat Network to identify dates, locations (for the placement of the mobile unit, as well as storage of trapped and treated cats) and additional funds to expand this effort. The goal of both the City and the Cat Network has been to secure funding to sterilize 1000 cats per year. The PetSmart Charities® Grant program was identified as an opportunity to continue the partnership between the City and Cat Network to this reach this goal. The City applied for this grant in partnership with the Cat Network.

On October 11, 2011 the City received notification that it has been selected to receive the requested grant amount ($40,000 per year for two years, or a total of $80,000). Staff has been working with the City Attorney's office on the particulars of the grant agreement. Once the grant agreement with PetSmart Charities® is executed, the City would be able to start expending funds. It is necessary to have an agreement in place with the Cat Network for such.

SCOPE OF SERVICES

Pursuant to the grant application, the Cat Network will perform the following activities:

- Identify and secure veterinarians to provide low cost (max of $45) spay/neuter services
- Schedule, in coordination with the City of Miami Beach, at least two (2) spay/neuter events each month
    - Work with City to identify location to park Spay/Neuter Mobile Unit
    - Work with City to identify storage needs
- Coordinate volunteer efforts for trapping
    - Develop training program for volunteers
    - Coordinate volunteer efforts for each spay/neuter event
- Provide, as available, traps to be used by volunteers
- Secure additional medications necessary for spay/neuter events, as well as to address common feral cat illnesses
- Promote, in coordination with the City of Miami Beach, the bi-monthly spay/neuter events, including placement of the spay/neuter events in the Cat Network Website.
- Provide monthly reports to the City on the number of spays/neuters performed the prior month, and since grant inception and all other documents and reports, as required by the grant.

CONCLUSION

The Administration recommends that the Mayor and City Commission authorize the Mayor and City Clerk to execute an Agreement between the City of Miami Beach, Florida, and Cat Network, Inc., to provide low-cost spay/neuter services for stray, homeless and abandoned cats; in the estimated amount of $80,000, funded by the PetSmart Charities®. The execution of the Agreement between the City and the Cat Network would be subject to the execution of the grant agreement between the City and PetSmart Charities®.

RESOLUTION NO. _____

A RESOLUTION WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENTS, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE CAT NETWORK, INC., TO PROVIDE LOW-COST SPAY/NEUTER SERVICES FOR STRAY, HOMELESS AND ABANDONED CATS; HELPING MEMBERS IN THEIR EFFORTS TO PLACE ADOPTABLE CATS IN LOVING HOMES; AND ADVOCATING NON-LETHAL POPULATION CONTROL AND HUMANE PUBLIC POLICY, IN THE ESTIMATED ANNUAL AMOUNT OF $80,000, TO BE FUNDED THROUGH A GRANT FROM THE PET SMART CHARITIES; PROVIDED, HOWEVER, THAT APPROVAL AND EXECUTION OF SAID AGREEMENT SHALL BE SUBJECT TO EXECUTION OF THE GRANT AGREEMENT WITH PET SMART CHARITIES.

WHEREAS, the Mayor and City Commission, at its September 14, 2011 meeting, adopted Resolution No. 2011-27007, which retroactively approved and authorized the City Manager, or his designee, to submit an application to PetSmart Charities, in the approximate amount of $80,000, to fund the City's cat spay/neuter program; and

WHEREAS, the free-roaming cat grant offered by PetSmart Charities is intended to provide funding, strategic planning and mentoring for a comprehensive trap-neuter-return program for free-roaming cats; and

WHEREAS, the goal is to build a program that is community-wide in scope, effective in reducing the local feral and stray cat population, efficient in its use of resources, measurable in impact and sustainable over a period of years to come; and

WHEREAS, the City has been collaborating with Cat Network, Inc. for approximately two (2) years to address animal issues in the community; namely spay and neutering of pets; and

WHEREAS, the Cat Network is dedicated to providing low-cost spay/neuter services for stray, homeless and abandoned cats; helping members in their efforts to place adoptable cats in loving homes; and advocating non-lethal population control and humane public policy; and

WHEREAS, the proposed agreement with the Cat Network, in the amount of $80, 000, will be subject to the execution of the grant agreement with Pet Smart Charities.

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 waive, by 5/7ths vote, the competitive bidding requirements, finding such waiver to be in the best interest of the City, and authorizing the Mayor and City Clerk to execute an Agreement with the Cat Network, Inc., to provide low-cost spay/neuter services for stray, homeless and abandoned cats; helping members in their efforts to place adoptable cats in loving homes; and advocating non-lethal population control and humane public policy, in the estimated annual amount of $80,000, to be funded through a grant from the PetSmart Charities; provided, however, that approval and execution of said agreement shall be subject to execution of the grant agreement with Pet Smart charities.

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

ATTEST:

_____ _____

ROBERT E. PARCHER, CITY CLERK MAYOR MATTI HERRERA BOWER

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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 12/16/11 Date

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Condensed Title:

A Resolution Approving An Agreement Between The City Of Miami Beach, Florida And Barry University To Be The Provider Of Home Visiting Services For The Parent-Child Home Program, In Accordance To The Children's Trust Contract # 1128-1090, In An Estimated Amount Of $73,326.00.

Key Intended Outcome Supported:

Enhance learning opportunities for youth.

Supporting Data (Surveys, Environmental Scan, etc.):

74% of residents rated the City as doing an excellent or good job meeting expectations with the services they provide.

Issue:

Shall the Commission adopt the resolution?

Item Summary/Recommendation:

The City, in partnership with Barry University, submitted a grant application to The Children's Trust on February 23, 2011 in response to its Request For Proposals for Early Childhood Development Programs. The Commission approved the grant submission (Resolution 2011-27589) at its February 9, 2011 meeting. The Children's Trust authorized the award effective August 1, 2011 (The Children's Trust Contract # 1128-1090).

The Parent Child Home Program is a home-based, early literacy and parenting program designed to increase language and literacy skills, enhance social and emotional development, and strengthen the parent-child relationship for children aged 16 to 71 months. Enrolled families are visited twice weekly for a minimum of 23 weeks by a trained Home Visitor. Each week, the Home Visitors will provide participants with a free book or toy for the family to keep. Barry University, the sub-contractor, will provide the Home Visits, with program administration by the City. The sub-contractor budget consists of $49,612.50 for tuition remission for nine (9) graduate students; $16,891.20 for mileage reimbursement; and $6,822 for administrative/in-direct costs. The total sub-contractor budget does not exceed $73,326.

It is recommended that the Mayor and City Commission approve an agreement between the City of Miami Beach, Florida and Barry University, for Barry University to be the provider of home visiting services for the Parent-Child Home Program, in accordance to The Children's Trust Contract # 1128-1090, in an estimated amount of $73,326.00.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
LAR	1	$ 73,326.00	143-5620-000349
	2		
	3		
OBPI	Total		

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Maria Ruiz, x7491

Sign-Offs:

Department Director	Assistant City Manager	City Manager
MLR ____	HMF ____	JMG ____

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MIAMIBEACH

AGENDA ITEM C7B
DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND BARRY UNIVERSITY TO BE THE PROVIDER OF HOME VISITING SERVICES FOR THE PARENT-CHILD HOME PROGRAM, IN ACCORDANCE TO THE CHILDREN'S TRUST CONTRACT# 1128-1090, IN AN ESTIMATED AMOUNT OF $73,326.00.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

$73,326.00 - Funding for the contract is budgeted via The Children's Trust Contract #1128-1090.

ANALYSIS

At its February 9, 2011 meeting, the Mayor and Commission approved Resolution 2011-27589 authorizing the submission of a joint application between the City and Barry University to The Children's Trust in response to its Request For Proposals for Early Childhood Development Programs.

On June 13, 2011, the Board of The Children's Trust awarded the City $150,000 for implementation of the Parent-Child Home Program (PCHP) commencing August 1, 2011.

The Parent-Child Home Program is a home-based early literacy and parenting program designed to increase language and literacy skills, enhance social and emotional development, and strengthen the parent-child relationship for children aged 16 to 71 months. PCHP has been awarded evidence-based best practice status by Child Trends, a nationally recognized researcher of childhood programs. For 23 weeks, participant families receive twice weekly visits by a trained Home Visitor who provides them a free toy or book each week. Families are visited for a minimum of 23 weeks within the program year.

City staff underwent three days of training by the Parent-Child Home Program in Garden City, New York in August 2011. The training ensures that staff is prepared to deliver this best

practice program while providing fidelity towards expected outcomes. In turn, City staff provided training to Barry University graduate students who will serve as Home Visitors.

The City recruits participating families and conducts an initial assessment of the child and family including the *Ages and Stages Questionnaire-III* and the *Ages and Stages Social-Emotional Questionnaire*.

After the initial assessment, City staff introduces families to their respective Home Visitor who then establishes a visiting schedule to ensure that families are seen twice per week. The Home Visitors model positive parent-child interaction during the first weekly visit. The second visit serves as a review and sets the stage for the parent to take the lead and model the behavior introduced at the prior visit. Home Visitors are required to complete a home visit record after each visit that documents the interaction between the child and parent as well as others in the household.

Barry University, the City's sub-contractor, will be paid $31.88 per home visit, or $1,466.52 per year, per family served. The total sub-contractor budget will not exceed $73,326. The contract ends July 31, 2012.

CONCLUSION

The Administration recommends that the Mayor and City Commission authorize the Mayor and City Clerk to execute an agreement between the City of Miami Beach, Florida and Barry University, for Barry University to be the provider of home visiting services for the Parent-Child Home Program, in accordance to The Children's Trust contract# 1128-1090, in an estimated amount of $73,326.00.

JMG/HMF/MLR/cd
T:\AGENDA\2012\Jan1112\Consent\PCHP Barry University Contract.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND BARRY UNIVERSITY TO BE THE PROVIDER OF HOME VISITING SERVICES FOR THE PARENT-CHILD HOME PROGRAM, IN ACCORDANCE TO THE CHILDREN'S TRUST CONTRACT# 1128-1090, IN AN ESTIMATED AMOUNT OF $73,326.00.

WHEREAS, The Children's Trust issued a Request For Proposals for Early Childhood Development Programs in January 2011;

WHEREAS, the City partnered with Barry University, a member of the Miami Beach Service Partnership, to develop a response to the Request For Proposals that would provide services to toddlers, an underserved population in our City;

WHEREAS, the City and Barry University evaluated various best practice programs before agreeing to the Parent-Child Home Program as the service delivery model to collaboratively pursue in response to the Request For Proposals;

WHEREAS, the City and Barry University submitted the response to The Children's Trust Request For Proposals establishing the City as the lead applicant providing program administration, and Barry University as a sub-contractor providing home visiting services;

WHEREAS, The Children's Trust approved the joint application and awarded the City a grant, in the amount of $150,000, via Contract # 1128-1090;

WHEREAS, The Children's Trust authorized services under Contract # 1128-1090 as of August 1, 2011; and

WHEREAS, the Administration now recommends the execution of an agreement between the City and Barry University to be the provider of home visiting services for the Parent-Child Home Program, in accordance to The Children's Trust Contract # 1128-1090, in an estimated amount of $73,326.00.

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 approve and authorize the Mayor and City Clerk to execute an agreement between the City and Barry University to be the provider of home visiting services for the Parent-Child Home Program, in accordance to The Children's Trust Contract # 1128-1090, in an estimated amount of $73,326.00.

PASSED and ADOPTED this ____ day of January, 2012.

ATTEST:

_____
MAYOR

_____
CITY CLERK

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 12-28-11 Date

Condensed Title:

A Resolution approving a second amendment to the purchase and sale agreement between the City and the Housing Authority of the City of Miami Beach for the purchase of a perpetual easement over the property located at 1231-1251 17th Street for the purpose of constructing the West Avenue Bridge, extending the Due Diligence period until May 1, 2012.

Key Intended Outcome Supported:

Maintain or Improve Traffic Flow

Supporting Data (Surveys, Environmental Scan, etc.): Residents in the 2007 Community Satisfaction Survey cited traffic congestion as the second most import factor affecting their quality of life in the City.

Issue:

Should the City Commission approve the resolution?

Item Summary/Recommendation:

On July 14, 2010, the Mayor and City Commission approved a Purchase and Sale Agreement between the City and HACMB, for the purchase of a perpetual easement through the HACMB Parcel for construction of the project. The purchase price of the easement is $1.635 million.

The Agreement provided the City with a one (1) year "Inspection Period" (commencing upon execution of the Purchase and Sale Agreement) to do its due diligence, including whatever inspections and investigations it needs to make to determine whether or not it wants to proceed with the purchase of the City Easement, and/or whether or not the Easement is suitable for the development and construction of the proposed West Avenue Bridge Project. Additionally, the City has the right to terminate the Purchase and Sale Agreement during the Inspection Period if it determines, in its sole opinion, that the property is not suitable or feasible for the Project.

On September 14, 2011, the Mayor and City Commission approved Amendment No. 1 to the Agreements, extending the Inspection Period and Due Diligence Period for a period not to exceed six (6) months, until March 15, 2012. On September 20, 2011, the HACMB board approved an extension of four (4) months, or January 15, 2012, and further requested that the City Administration provide the HACMB board with a status update at their December meeting. On December 13, 2011, following the status report by the Administration, the HACMB board approved an extension of the Inspection Period and Due Diligence Period until May 1, 2011, in order to allow the City to complete the PD&E study.

The City is in the process of performing the West Avenue Bridge Project Development and Environmental (PD&E) study. Public involvement is a significant portion of the PD&E study. A Public Involvement Program (PIP) has been created to generate public participation. The overall goal of the PIP is to ensure that the study reflects the values and needs of the community. As part of the due diligence for the purchase of the easement, the City and the PD&E consultant will collect and review the public input and commentary prior to the PD&E's Public Hearing which will take place in April 2012.

The Administration recommends that the Mayor and City Commission adopt the resolution and approve the Second Amendment to the Purchase and Sale Agreement.

Advisory Board Recommendation:

N/A

Financial Information:

		Amount	Account	Approved
Source of Funds: OBPI		n/a		
Total				

City Clerk's Office Legislative Tracking:

Kevin Crowder, Jorge Gomez

Sign-Offs:

Department Director	Assistant City Manager	City Manager
KC	JGG	JMG

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MIAMIBEACH

AGENDA ITEM C7C

DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE: 1) AMENDMENT NO. 2 TO THE PURCHASE AND SALE AGREEMENT, DATED JULY 14, 2010, BETWEEN THE CITY OF MIAMI BEACH AND THE HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH (HACMB), FOR THE PURCHASE OF A PERPETUAL EASEMENT OVER THE PROPERTY LOCATED AT 1231-1251 17TH STREET, MIAMI BEACH, FLORIDA, FOR THE PURPOSE OF CONSTRUCTING A BRIDGE CONNECTING WEST AVENUE AND DADE BOULEVARD; SAID AMENDMENT EXTENDING THE "INSPECTION PERIOD", AS DEFINED THEREIN, UNTIL MAY 1, 2012; AND 2) AMENDMENT NO 2. TO THE ACCOMPANYING DEVELOPMENT AGREEMENT BETWEEN THE CITY AND HACMB, HAVING A COMMENCEMENT DATE OF SEPTEMBER 15, 2010; SAID AMENDMENT EXTENDING THE "DUE DILIGENCE PERIOD", AS DEFINED THEREIN, UNTIL MAY 1, 2012.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

In 1999, the City Commission approved the Municipal Mobility Plan (MMP). The West Avenue Bridge Project (the Project) was developed from MMP Project #30, which envisioned corridor improvements to the intersection of Dade Boulevard at 17th Street/Bay Road, to be combined with a connection between Dade Boulevard and West Avenue through the construction of a new bridge. The MMP suggested that this crossing could serve to relieve congestion at nearby intersections.

The implementation of the Project requires that the City acquire a right-of-way through a parcel presently owned by the Housing Authority of the City of Miami Beach (HACMB), located at 1231-1251 17th Street. Current funding for the Project includes federal funds, the use of which requires an environmental impact study (EIS). The estimated cost of the Project, including land acquisition and the EIS, is approximately $6.5-7 million.

On July 14, 2010, the Mayor and City Commission approved a Purchase and Sale Agreement, for the City's purchase of the City Easement, in the amount of $1,635,000, over a portion of the HACMB property to develop the West Avenue Bridge Project, and a Development Agreement, setting forth the City and HACMB's respective rights and obligations pertaining to the City's development and construction of the West Avenue Bridge Project, and HACMB's development and construction of an affordable housing project (the HACMB Project).

On June 22, 2010, the HACMB's Board considered both agreements and passed a resolution approving the same, and on July 14, 2011, the Mayor and City Commission adopted Resolution No. 2010-27451, approving the Purchase and Sale Agreement in substantial form. The Purchase and Sale Agreement was finalized and subsequently executed by the parties with an effective date of September 15, 2010. On September 15, 2010, the Mayor and City Commission adopted Resolution No. 2010-27490, approving on second and final reading the Development Agreement which also has a Commencement Date of September 15, 2010.

The City also has the right during the Inspection Period/Due Diligence Period, to terminate the Purchase and Sale Agreement and the Development Agreement if, in the City's sole opinion, the City Easement property is not suitable or feasible for the City's intended purpose of developing the Project, or that such development and use may be unusually expensive. The Inspection Period and Due Diligence Period will both expire on September 15, 2011.

The City is still in the process of inspecting and investigating the City Easement property, including the performance of a Project Development & Environmental (PD&E) study on the West Avenue Bridge Project, which will consider the construction of the project with the following goals:

- Improve multimodal transportation connectivity across Collins Canal and offer an alternative to driving on Alton Road;
- Support economic development in the Sunset Harbor neighborhood and vicinity;
- Enhance transit, pedestrian and bicycle use and safety across the Collins Canal and Dade Boulevard.

On September 14, 2011, the Mayor and City Commission approved Amendment No. 1 to the Agreements, extending the Inspection Period and Due Diligence Period for a period not to exceed six (6) months, until March 15, 2012. On September 20, 2011, the HACMB board approved an extension of four (4) months, or until January 15, 2012, and further requested that the City Administration provide the HACMB board with a status report on the PD&E process at their December meeting. On December 13, 2011, following the status report by the Administration, the HACMB board approved an extension of the Inspection Period and Due Diligence Period until May 1, 2011, in order to allow the City to complete the PD&E study and public hearing in April 2012.

Public involvement is a significant portion of the PD&E study. A Public Involvement Program (PIP) has been created to generate public participation. The overall goal of the PIP is to ensure that the study reflects the values and needs of the community. As part of the due diligence for the purchase of the easement, the City and the PD&E consultant conducted the kick-off meeting on September 13, and the second public meeting, which was Alternatives Workshop, took place in December.

CONCLUSION

Currently, the Inspection Period and Due Diligence Period under the Purchase and Sale Agreement and Development Agreement between the City and HACMB expire on March 15, 2012. Since the HACMB board has approved an extension of the Inspection Period and Due Diligence Period until May 1, 2012, a second amendment to the Agreements is necessary to conform the dates to those approved by the HACMB board.

The Administration recommends that the City Commission approve the Second Amendment to the Purchase and Sale Agreement and Development Agreement between the City and HACMB, providing for an extension until May 1, 2012, of the Inspection Period and Due Diligence Periods under the Agreements and, if approved, that the City Commission further authorize the Mayor and City Clerk to execute the corresponding amendments to the Agreements.

JMG/JGG/kc

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING RESOLUTION NO. 2011-27713, WHICH APPROVED AND AUTHORIZED THE MAYOR AND CITY CLERK TO EXECUTE: 1) AMENDMENT NO. 1 TO THE PURCHASE AND SALE AGREEMENT, DATED JULY 14, 2010, BETWEEN THE CITY OF MIAMI BEACH AND THE HOUSING AUTHORITY OF THE CITY OF MIAMI BEACH (HACMB), FOR THE PURCHASE OF A PERPETUAL EASEMENT OVER THE PROPERTY LOCATED AT 1231-1251 17TH STREET, MIAMI BEACH, FLORIDA, FOR THE PURPOSE OF CONSTRUCTING A BRIDGE CONNECTING WEST AVENUE AND DADE BOULEVARD; SAID AMENDMENT TO EXTEND THE "INSPECTION PERIOD", AS DEFINED THEREIN; AND 2) AMENDMENT NO. 1 TO THE ACCOMPANYING DEVELOPMENT AGREEMENT BETWEEN THE CITY AND HACMB, HAVING A COMMENCEMENT DATE OF SEPTEMBER 15, 2010; SAID AMENDMENT TO EXTEND THE "DUE DILIGENCE PERIOD", AS DEFINED THEREIN; SAID AMENDMENT TO RESOLUTION NO. 2011-27713 TO REFERENCE THE ACTUAL DATES OF THE EXTENSIONS TO THE INSPECTION AND DUE DILIGENCE PERIODS, AS GRANTED BY THE HACMB, TO MAY 11, 2012.

WHEREAS, in 1999, the City Commission approved the West Avenue Bridge Project as Municipal Mobility Plan (MMP) Project #30, which envisioned corridor improvements to the intersection of Dade Boulevard at 17th Street/Bay Road, to be combined with a connection between Dade Boulevard and West Avenue through the construction of a new bridge (the West Avenue Bridge Project or the Project); and

WHEREAS, the implementation of the Project requires that the City acquire a right-of-way via the City's purchase of an easement (the City Easement) through property presently owned by the Housing Authority of the City of Miami Beach (HACMB); and

WHEREAS, current funding for the Project includes federal funds, and the estimated cost of the Project, including land acquisition and the planning and design, is approximately $6.5-7 million; and

WHEREAS, the Administration and City Attorney's Office worked with HACMB and its counsel to develop 1.) a Purchase and Sale Agreement, for the City's purchase of the City Easement, in the amount of $1,635,000, to develop the West Avenue Bridge Project; and 2.) a Development Agreement, setting forth the City and HACMB's respective rights and obligations pertaining to the City's development and construction of the West Avenue Bridge Project, and HACMB's development and construction of an affordable housing project (the HACMB Project); and

WHEREAS, on June 22, 2010, the HACMB's Board considered both agreements and passed a resolution approving same, and

WHEREAS, on July 14, 2011, the Mayor and City Commission adopted Resolution No. 2010-27451, approving the Purchase and Sale Agreement, in substantial form; the Purchase and Sale Agreement was finalized and subsequently executed by the parties with an effective date of September 15, 2010; and

WHEREAS, on September 15, 2010, the Mayor and City Commission adopted Resolution No. 2010-27490, approving, on second and final reading, and authorizing the Mayor and City Clerk to execute, the Development Agreement; the Development Agreement was executed with a Commencement Date of September 15, 2010; and

WHEREAS, in accordance with the terms of the Purchase and Sale Agreement and the Development Agreement, the City was permitted an Inspection Period (under the Purchase and Sale Agreement) and Due Diligence Period (under the Development Agreement), within which to inspect and investigate the physical and other conditions of the City Easement property, as well as the HACMB property, as it deemed appropriate, in order to determine whether or not to proceed with the purchase of the City Easement, and the development of the proposed West Avenue Bridge Project thereon; and

WHEREAS, the City has the right, during the Inspection Period/Due Diligence Period (as such terms are defined, respectively, in the Purchase and Sale Agreement and the Development Agreement), to terminate the Purchase and Sale Agreement and the Development Agreement if, in the City's sole opinion, the City Easement property is not suitable or feasible for the City's intended purpose of developing the Project, or that such development and use may be unusually expensive; and

WHEREAS, the Inspection Period and Due Diligence Period expired on September 15, 2011; and

WHEREAS, the City is still in the process of inspecting and investigating the City Easement property; as part of its ongoing due diligence, the City has also retained a consultant to perform a Project Development & Environmental (PD&E) study on the West Avenue Bridge Project; and

WHEREAS, the PD&E study will evaluate if the Project will improve transportation connectivity; support economic development; and enhance transit, pedestrian and bicycle usage; and

WHEREAS, public involvement is a significant component of the PD&E study; and

WHEREAS, a Public Involvement Program regarding the Project has been created and is still underway to ensure that the PD&E study reflects the values and needs of the community; and

WHEREAS, in order to ensure that the City obtains sufficient information, which includes collecting sufficient public comment as to its proposed purchase of the City Easement and development of the Project, an extension of the Inspection Period, under the Purchase and Sale Agreement, and of the Due Diligence Period, under the Development Agreement, was necessary; and

WHEREAS, the City requested that the HACMB grant an up to six (6) month extension of, respectively, the Inspection Period and Due Diligence Period, in order for the City to review and consider the recommendations identified in the PD&E study; and

WHEREAS, on September 14, 2011, pursuant to Resolution No. 2011-27713, the Mayor and City Commission approved Amendment No. 1 to the Purchase and Sale Agreement, and Amendment No. 1 to the Development Agreement, extending the

Inspection Period and Due Diligence Period therein for a period not to exceed six (6) months, until March 15, 2012; and

WHEREAS, on September 20, 2011, the HACMB board approved an initial extension of the Inspection Period and Due Diligence Period for four (4) months, or until January 15, 2012, and reserved its rights to grant the full (i.e. 6 month) extension requested by the City, pending the City Administration's providing the HACMB board with a status report on the PD&E process at its December HACMB board meeting; and

WHEREAS, on December 13, 2011, following the requested status report by the City, the HACMB board approved the extension of the Inspection Period and Due Diligence Period, until May 1, 2011, in order to allow the City to complete the PD&E study and conduct a public hearing on the West Avenue Bridge Project in April 2012; and

WHEREAS, accordingly the Administration recommends that the City Commission approve an amendment to Resolution No. 2011-27713, to reference the actual date that the City and HACMB have agreed upon with regard to extending the Inspection Period and Due Diligence Periods under, respectively, the Purchase and Sale Agreement and Development Agreement between the City and HACMB; said extension until May 1, 2012; and

WHEREAS, the Administration further requests that the City Manager and City Attorney's Office be authorized to take such action(s), as they deem necessary, to memorialize the extension date (of May 1, 2012), and authorize the Mayor and City Clerk to execute such corresponding amendments to, respectively, the Purchase and Sale Agreement and the Development Agreement.

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 amend Resolution No. 2011-27713, which approved and authorized the Mayor and City Clerk to execute : 1)Amendment No. 1 to the Purchase and Sale Agreement, dated July 14, 2010, between the City of Miami Beach and the Housing Authority of the City of Miami Beach (HACMB), for the purchase of a perpetual easement over the property located at 1231-1251 17th Street, Miami Beach, Florida, for the purpose of constructing a bridge connecting West Avenue and Dade Boulevard; said amendment to extend the "Inspection Period:, as defined therein; and 2) Amendment No. 1 to the accompanying Development Agreement between the City and HACMB, having a commencement date of September 15, 2010; said amendment to extend the "Due Diligence Period", as defined therein; with this amendment to Resolution No. 2011-27713 having the purpose of to referencing the actual dates of the extensions, to the Inspection and Due Diligence Periods, as granted by the HACMB, to May 11, 2012.

PASSED AND ADOPTED this 11th day of January 2012.

ATTEST:

CITY CLERK **MAYOR**

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

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City Attorney 1/3/12 Date

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Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, amending the City's investment policy and procedures, as adopted by Resolution No. 95-21726 and amended by Resolutions No. 97-22315 and No. 2007-26602 by adding Israeli bonds as authorized investments, adding maximum percentage per issuer and replacing the investment committee with the investment advisor.

Key Intended Outcome Supported:

Improve the City's overall financial health and maintain overall bond rating.

Supporting Data (Surveys, Environmental Scan, etc.): As required by the Florida Legislature, Florida Statutes 218.415.

Issue:

Should the Mayor and City Commission approve the Resolution?

Item Summary/Recommendation:

The Administration recommends that the Mayor and City Commission amend the City's Investment Policy and Procedures, as adopted by Resolution No. 95-21726 and amended by Resolutions No. 97-22315 and No. 2007-26602 by adding Israeli bonds as authorized investments, adding maximum percentage per issuer and replacing the investment committee with the investment advisor.

Advisory Board Recommendation:

Finance and Citywide Projects Committee September 1, 2011

Financial Information:

		Amount	Account	Approved
Source of Funds: OBPI		N/A		
Total				

City Clerk's Office Legislative Tracking:

Patricia Walker, Chief Financial Officer

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	PDW	JMG

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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 Bower and Members of the City Commission

FROM: Jorge M. Gonzalez, City Manager

DATE: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY'S INVESTMENT POLICY AND PROCEDURES, AS ADOPTED BY RESOLUTION NO. 95-21726 AND AMENDED BY RESOLUTIONS NO. 97-22315 AND NO. 2007-26602 BY ADDING ISRAELI BONDS AS AUTHORIZED INVESTMENTS, ADDING MAXIMUM PERCENTAGE PER ISSUER AND REPLACING THE INVESTMENT COMMITTEE WITH THE INVESTMENT ADVISOR.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME SUPPORTED

Improve the City's overall financial health and maintain overall bond rating.

BACKGROUND

On November 18, 1987, the City passed and adopted Ordinance No. 87-2588 which amended the Code of the City of Miami Beach by creating Chapter 18A entitled "Investment of Surplus Funds." This Chapter authorized the City to invest and reinvest any surplus public funds in such investments as US Government obligations, banker's acceptances, certificate of deposits, obligations issued by any state or territory of the United States, and other types of investment instruments.

On September 16, 1992, the City amended Ordinance No. 87-2588 by passing and adopting Ordinance No.92-2793 which added commercial paper rated A-1 and P-1 from Moody's and Standard & Poor's as another allowable investment.

The City again amended Chapter 18A on March 15, 1997 by passing and adopting Ordinance No. 97-3074 which added corporate notes and bonds, money markets and mutual funds, fixed income mutual funds, mortgage-backed securities, external managed investment funds, and interest rate swaps agreements to the list of allowable investments instruments.

The City's Investment Policy and Procedures were officially adopted in writing on September 27, 1995 with the passage and adoption of Resolution No. 95-21726. This was a result of the passing of Chapter 218.415 of the Florida Statutes that required the adoption of a formal written investment policy by local governments.

On March 5, 1997, the City passed and adopted Resolution No. 97-22315 which adopted the percentages of the City's funds which may be invested in each investment category.

The last amendment to the Investment Policy was done in 2007 by the request of then Mayor David Dermer who wanted to add certain investments that the City should not invest in. He wanted to incorporate the State's "Protecting Florida's Investment Act" to the City's policy. This Act prohibited the investment of public funds managed by the City in any "Scrutinized Companies" with active business operations in Sudan or Iran, as listed by the State Board of Administration (SBA) on a quarterly basis. Thus, this Act was incorporated into the City's Investment Policy by the adoption and passage of Resolution No. 2007-26602 on July 11, 2007.

ANALYSIS

The State of Florida, in the passing of Chapter 218.415, has allowed the investment in Israeli bonds. Chapter 218.415(16) specifically states that "(t)hose units of local government electing to adopt a written investment policy...may by resolution invest and reinvest any surplus public funds in their control or possession in: .... (f) rated or unrated bonds, notes, or instruments backed by the full faith and credit of the government of Israel."

Due to the State allowing investments in Israeli bonds, the City recommends the addition of Israeli bonds to the list of authorized investments in the City's Investment Policy and Procedure.

In addition, we recommend the removal of Section L-Investment Committee from the Investment Policy and replacing it with Investment Advisor. The City has for several years now had Cutwater Investor Services Corp. ("Cutwater") (formally known as MBIA Municipal Investors Services Corporation) as its Investment Advisor. They have provided the City with numerous investment opportunities especially in a market of declining interest rates. They also had the foresight of advising us not to investment in the Florida Local Government Investment Pool which froze all deposits/withdrawals in November 2007 that resulted in many governments from retrieving 100% of their investments.

Cutwater continuously works with the City Administration to refine our investment strategies and assist us in insuring the fiscally responsible and prudent investment of all City funds. They have recently made recommendations to modify the City's Policy that will assist us in maintaining a strong portfolio of investments as well as update the language and terminology to conform the policy to current government industry best practices. Cutwater has recommended the addition of a maximum percentage per issuer for each type of investment which will reduce the risk of over-investing in any one particular issuer.

The City's Investment Policy has been reviewed by our Investment Advisors and the City, and we have made other minor changes to bring it into a more current status. The revised Investment Policy and Procedures are included herein as Exhibit A.

At the December 6, 2011, meeting of the Finance and Citywide Projects Committee, the Committee voted to recommend approval of the proposed revisions to the City's Investment Policy and Procedures and that the Policy be updated, at a maximum, every five years to more accurately reflect conditions in the market.

CONCLUSION

The Administration recommends that the Mayor and City Commission amend the City's Investment Policy and Procedures, as adopted by Resolution No. 95-21726 and amended by Resolutions No. 97-22315 and No. 2007-26602 by adding Israeli bonds as authorized investments, adding maximum percentage per issuer and replacing the investment committee with the investment advisor.

JMG/PDW

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CITY'S INVESTMENT POLICY AND PROCEDURES, AS ADOPTED BY RESOLUTION NO. 95-21726 AND AMENDED BY RESOLUTIONS NO. 97-22315 AND NO. 2007-26602 BY ADDING ISRAELI BONDS AS AUTHORIZED INVESTMENTS, ADDING MAXIMUM PERCENTAGE PER ISSUER AND REPLACING THE INVESTMENT COMMITTEE WITH THE INVESTMENT ADVISOR.

WHEREAS, the City of Miami Beach has followed investment policies and procedures established by the Finance Department, as presented to the Mayor and Commission in 1985, as an informational item; and

WHEREAS, effective October 1, 1995, all local governmental entities in the State of Florida were required to adopt an investment policy as required by Chapter 218.415 of the Florida Statutes; and

WHEREAS, the Mayor and City Commission adopted Resolution No. 95-21726 on September 27, 1995, which adopted said policy for the City of Miami Beach; and

WHEREAS, the Mayor and City Commission adopted Resolution No. 97-22315 on March 5, 1997, which increased the number of authorized investments options and added the percentage of the City's funds which may be invested in said additional categories; and

WHEREAS, the Mayor and City Commission adopted Resolution No. 2007-26602 on July 11, 2007, which incorporated in the City's Investment Policy the State's "Protecting Florida's Investment Act", prohibiting the investment of public funds managed by the City in any "Scrutinized Companies" with active business operations in Sudan or Iran, as listed by the State Board of Administration (SBA) on a quarterly basis; and

WHEREAS, the Mayor and City Commission have determined that Israeli Bonds be added to the list of authorized investment options in addition to adding a maximum percentage by issuer and replacing the investment committee with the investment advisor.

NOW, THEREFORE, BE IT DULY RESOLVED THAT THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the amended City of Miami Beach Investment Policy and Procedure, attached hereto and incorporated herein as exhibit "A", be approved and adopted by the Mayor and City Commission.

PASSED and **ADOPTED** this _____ day of _____2012.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

1-3-12

City Attorney Date

EXHIBIT A

CITY OF MIAMI BEACH

INVESTMENT POLICY

AND PROCEDURE

CITY OF MIAMI BEACH
INVESTMENT POLICY AND PROCEDURE
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I. Background

The Florida Legislature passed CS/SB 2090 (CS/HB 1795) on May 4, 1995. Among other provisions of this legislation each local government entities required to create, adopt and maintain comprehensive investment policies, incorporating fourteen required elements.

The City has operated under investment guidelines adopted by Resolution 95-21726 on September 27 1995. Due to the amendment of City Code Section 18A-1, these policies have been amended accordingly.

II. General Overview

The City of Miami Beach has established policies relating to the investment of excess funds. Excess funds are defined as funds not required to meet short term expenditures of the City. Excess funds are placed in two general categories of investments. The first category is "cash management investments". Cash management investments are defined as investments whose terms are less than ~~five~~one years. Those funds placed in cash management investments include all daily operating funds~~capital projects funds~~, debt service funds and various deposits. The second category is "long term~~n~~ city investments". Long term city investments are investments whose terms are ~~five or~~ more than one years. The policy governing long term city investments is set forth below after the description of cash management investment policy.

III. Cash Management Investment Policy

Short term expenditures are defined as all daily operating expenditures excluding payroll and debt service which are invested based on their payment cycle. For short term expenditures, the City maintains ~~an overnight funds sweep~~ a continuous investment program, a Municipal NOW account, collateralized by ~~F~~full ~~F~~faith and credit instruments of the U.S. Government and its Agencies , held by the State of Florida, with the City designated as collateral beneficiary. The City complies with the State of Florida "Public Deposits Law" Chapter 280 Florida Statutes. Chapter 280 insures the City against investment principal loss on certificates of deposits and demand deposits in excess of $~~10~~250,000 per institution. FDIC insurance covers demand deposits up to $~~10~~250,000 per institution. The City will utilize only financial institutions qualified under Chapter 280, a listing of which is received by the City and reviewed on a quarterly basis. The City also complies with Chapter 280 by filing all required reports annually with the State.

This investment policy shall be reviewed no longer than five (5) years from the last review date or at the time of any significant accounting pronouncement or change in the City's market treasury services.

A. Investment Objectives

The City of Miami Beach's investment objectives are set forth below in order of importance:

1. Safety of capital
2. ~~Return on~~Liquidity of capital
3. ~~Liquidity of~~Return on capital

Investment returns are important and can make a significant contribution to the City's operations and capital projects. Therefore, every effort is made to select the most advantageous investment vehicle and term of investment to maximize earnings. However, safety and liquidity, in that order, take precedence over the return. In this regard, the City has delineated, through ordinance, certain permissible types of investments, with a view to meeting the criteria se~~-~~t out above.

B. Investment Ethics

The City of Miami Beach selects all investments by means of a bidding process. In no case does the City invest funds or place idle funds in financial institutions as compensating or courtesy balances. The standard of prudence to be applied by the investment officer shall be the "prudent person" rule, which states: "Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income derived." The "prudent person" rule shall be applied in the context of managing the overall portfolio.

The investment officer and staff, acting in accordance with the written procedures and exercising due diligence, shall not be held personally responsible for a specific security's credit risk or market price changes, provided that these deviations are reported immediately and that appropriate action is taken to control adverse developments.

C. Investment Process

The formal bidding process for investment instruments consists of the following procedures (Steps #1 through #4 are performed by Investment Advisor):

1. ~~M~~Maintain a bid list of approximately five major financial institutions qualified under Chapter 280 and two major brokerage firms. This bid list is adjusted periodically to

delete bidders who are non-responsive or non-competitive over a period of time, replacing such institution(s) with other qualified institutions which have expressed an interest to bid on City funds. Qualified institutions are defined as financial institutions governed by Chapter 280 of the Florida Statutes with a branch location in Miami-Dade County, Florida.

Brokerage houses must maintain an office in Miami-Dade County, Florida and are selected based on the amount of equity in the firm, number of years the firm has been in operation and reputation.

2. Place telephone calls requesting a bid from each institution on the bid list either on the day of the transaction or the afternoon immediately preceding the transaction date.

3. Receive and note all bids on a standard form designated for this purpose and retain on file for each transaction.

4. Select the highest winning bid

5. Transfer funds in exchange for evidentiary receipt from winning bidder.

The purpose of this process is to ~~should~~ prevent influence being experienced by either City personnel or the financial institution in the selection of the institution chosen for the purchase of City investments.

D. Authorized Investments

The City has established a list of authorized types of investments. The authorized cash management investments are descried in Chapter 18A of the City Code and are further limited as follows:

1. Time Deposits

Duration	N/A
Maximum % of Portfolio	100%
Maximum per Issuer	25%
~~Maximum % of Combined Asset Group~~	~~100%~~

2. Certificates of Deposit

Duration	1-3 yrs

Maximum % of Portfolio 100%

Maximum per Issuer 25%

~~Maximum % of combined Asset Group 100%~~

3. U. S. Treasury Bills

Duration N/A

Maximum % of Portfolio 100%

~~Maximum % of Combined Asset Group 100%~~

4. U. S. Treasury Notes

Duration 0-7 yrs

Maximum % of Portfolio 100%

~~Maximum % of Combined Asset Group 100%~~

5. U.S. Government Agency and Instrumentality Securities

Duration 0-7 yrs

Maximum % of Portfolio 50% ~~Maximum % of Combined Asset Group 50%~~

Maximum per Issuer 40%

6. Rated or unrated bonds, notes, or instruments backed by the full faith and credit of the government of Israel.

Duration 0-7 yrs

Maximum % of Portfolio 5%

Maximum per Issuer 5%

~~6~~7. Obligations issued by any state or territory of the United States, which are fully insured or rated in one of the two highest rating categories by both Moody's Investors Service, Inc. and Standard and Poor's Corporation or their successors.

Duration 7-10 yrs

Maximum % of Portfolio 50%

Maximum per Issuer 10%

~~Maximum % of Combined Asset Group 50%~~

~~7~~8. Fixed Term Repurchase Agreements

Duration 0-3 yrs

Maximum % of Portfolio 20%

Maximum per Issuer 25%

~~Maximum % of Combined Asset Group 100%~~

~~8~~9. Overnight Repurchase Agreements

Duration	N/A
Maximum % of Portfolio	100%
Maximum per Issuer	25%
~~Maximum % of Combined Asset Group~~	~~N/A~~

10~~9~~. Bankers Acceptances

Duration	N/A
Maximum % of Portfolio	20%
Maximum per Issuer	20%
~~Maximum % of Combined Asset Group~~	~~30%~~

11~~0~~. Commercial Paper with a rating of A-1 or P-1 only, rated by Moody's or Standard & Poor's

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Duration	N/A
Maximum % of Portfolio	20%
Maximum per Issuer	10%
~~Maximum % of Combined Asset Group~~	~~30%~~

12~~1~~. Corporate notes, corporate bonds, medium term notes, ~~Yankee notes, and Yankee bo~~with terms of one year or less rated by 2 of 3 designated rating agencies ~~in one of the two highest rating categories~~as follows:

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Maturity	0-~~2~~1% yrs
Maximum % of Portfolio~~1~~	20%
Maximum per Issuer	5%
~~Maximum % of Combined Asset Group~~	~~30%~~

a. Moody's - AA3 higher
b. Standard & Poor's - AA- or higher
c. Fitch - AA- or higher

12~~3~~. Corporate notes, corporate bonds, medium ~~team~~ term notes, ~~Yankee notes, and Yankee bonds~~ with terms ~~of~~ in excess of one year with a maximum of 5.0 years rated by 2 of 3 designated rating agencies as follows:~~in one of the two highest rating categories.~~

Duration	~~3 - 7~~ 1-5 yrs
Maximum % of Portfolio	20%
Maximum per Issuer	5%
~~Maximum % of combined Asset Group~~	~~30%~~

a. Moody's - AA3 higher
b. Standard & Poor's - AA- or higher
c. Fitch - AA- or higher

14~~3~~. Money market mutual/trust funds which substantially conform with this policy as follows:

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Duration	N/A
Maximum % of Portfolio	100%
Maximum per Issuer	50%
~~Maximum % of combined Asset Group~~	~~100%~~

a. State of Florida Local Government Surplus Funds Trust Fund

b. Mutual/trust funds sponsored by the Florida League of Cities

c. Private money market mutual funds backed entirely by "Full Faith and Credit" U.S. Government Securities not to exceed 25%

d. Intergovernmental investment pools rated "AAAm" authorized pursuant to Florida State Statute s. 163.01, F.S.

14~~5~~. Fixed income mutual funds sponsored by the Florida League of Cities which substantially conform with this policy as follows:

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Duration	N/A
Maximum % of Portfolio	25%
Maximum per Issuer	25%
~~Maximum % of combined Asset Group~~	~~25%~~

15~~6~~. Mortgage-backed securities collateralized by first mortgages (or deeds of trust) and asset-backed securities collateralized by consumer or business receivables with a maximum duration of 3.0 years at time of purchase and structured as either collateralized mortgage obligations or unstructured pass-through securities and rated by 2 of 3 designated rating agencies as follows:

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Maturity	3 – 5 yrs
Maximum % of Portfolio	15%
Maximum per Issuer	20%~~Maximum % of combined Asset Group 50%~~

a. Moody's - AA~~A~~3 higher

b. Standard & Poor's - AA- or higher

c. Fitch - AA- or higher

16~~7~~. Externally managed funds requiring specific approval by Commission with investments limited to City policy and rating criteria.

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Duration	1~~3~~-7 yrs
Maximum % of Portfolio	100~~20~~%
~~Maximum % of combined Asset Group~~	~~20%~~

1~~7~~8. Interest rate Swap agreements between the City and a counter party to pay/receive a fixed interest rate payment in exchange for a variable rate payment over a specified term with the requirement that all "Swap" agreements be approved by City Commission prior to execution.

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Duration	N/A
Maximum % of Portfolio	10%
~~Maximum % of combined Asset Group~~	~~20%~~

All repurchase agreements are fully collateralized and the collateral is held in the City's name by a third party custodian. Repurchase agreements must be collateralized at minimum mark-to-market value of 102% in U.S. Government securities.

Derivatives (defined as a financial instrument the value of which depends on, or is derived from the value of one or more underlying assets or index of asset values) shall be utilized only if specifically authorized as part of the investment plan and the ~~Finance Director~~Chief Financial Officer or his designee has sufficient understanding/expertise to invest in derivatives. All proposed derivative investments (including "SWAPS") will be analyzed by the City's Financial Advisor and will be presented to the Finance and Citywide Projects Committee and the City commission for approval. Repurchase Agreements (an agreement between an investor and a security dealer whereby dealer agrees to buy back the security at a specified price in the future) will be limited to transactions in which the proceeds will be used to provide liquidity. Any investment which is not issued in "Book Entry Only" form is physically held by the City in a secure vaulted area and surrendered only when invested funds and earnings are received by the City at maturity.

E. Prohibited Investments

Funds to be invested in cash management investments may not be invested in the following:

Common Stock	Private Placements
Preferred Stock	Unregistered or Restricted Stock
Convertible Bonds	Margin Trading
Venture Capital	Limited Partnerships
Options and Futures	Oil and Gas Wells
Warrants	IO or PO strips or inverse floater mortgage backed securities

Commodities	Foreign Exchange
Short Selling	Any Inverse Floating Rate Securities
Real Estate	

In addition to the above prohibited investments, funds should not be invested in any scrutinized companies with active business operations in Sudan or Iran as listed by the State Board of Administration (SBA) on a quarterly basis, which is outlined in the Protecting Florida's Investment Act (F.S. 215.442 and 215.473).

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F. Maturity and Liquidity Requirements

The City selects investments whose terms compliment the need to make the majority expenditures set forth below.

1. Biweekly Payrolls
2. Periodic Debt Service Payments
3. Capital Project Needs

For each expenditure event, investments are selected whose maturities occur at a date close to the date that funds will be needed. Investments also are selected based on the highest yield for the particular type of investment. In the case of capital projects, in which the exact date that expenditures will need to be made is unknown, the City selects several investments with varying maturities so that monies are available each month to cover all capital expenditures. Any unused capital investment funds are then placed in investments of one year or more to maximize return potential.

~~As mentioned earlier, the City maintains an overnight investment program of approximately $9,000,000, which provides funds needed to cover daily operating expenses, excluding items #'s 1-3 above. Interest yields on these investments are competitive though somewhat lower than longer term instruments.~~

G. Portfolio Composition

Diversity of investment types is highly desirable. To promote diversity, no security or individual cusip shall exceed 5% of the City funds. Such diversity is necessary in cases where securities are traded frequently and not held to maturity and where volatile securities are traded.

H. Custodial Account

All City investments, except for swap agreements, must be held in an independent custodial account within the trust department of a major financial institution with a branch located in Miami-Dade County, Florida. The custodian will not be utilized to buy or sell investments for the City. All City investments must be registered in the City's name in book entry form evidenced by transaction tickets maintained by the custodian with a copy provided to the City. Physical possession of securities by the City should be avoided. The investment held by the custodian must be reconciled monthly to the City's general ledger. The City will carry investments at cost but will maintain a record of portfolio market value each month. However, investments are recorded at fair value in the annual financial statements in accordance with GASB Statement #31.

I. Treasury Management Services Master ~~Repurchase~~ Agreement

A "Treasury Management Services Master ~~Repurchas~~Agreement" has been developed, reviewed and accepted by the City and is part of the contract established with the City's main depository bank. This agreement is a standard Public Securities Association ("PSA") form agreement offering all recommended protection to the City. This agreement is scheduled to be in effect for the duration of the contract with the City's main depository.

J. Investment Transaction Authority

The ~~Finance Director~~Chief Financial Officer has designated the Treasury Manager as the individual responsible for managing the City's investments. The Treasury Manager discusses investments with upcoming maturities with the Assistant Finance Director and the ~~Finance Director~~Chief Financial Officer if~~I~~ there is a question as to new maturity target dates or type of investment vehicle to be used. Based on these discussions, the Treasury Manager executes the transaction and completes an "Investment Transaction Report" for each investment transaction. Funds related to each investment are transferred according to authorized funds transfer procedures and limits established under the provisions of the City's contract with its main depository bank.

K. Internal Controls

The City has established a number of internal controls to prevent loss of funds by fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the City. The internal controls are as follows:

1. Investment transactions authority is limited to specific persons within the Finance Department.

2. Wire transfer of funds authority is restricted to specific individuals with specific dollar limits within the Finance Department. All non-repeat type wire transfers require confirmation authorization by a second individual specified in wire authority documents executed with the City's main depository.

3. All investment transactions require the approval of the Treasury Manager in consultation with the Assistant Finance Director or Chief Financial Officer.

4. A monthly report is prepared by the ~~Assistant Finance Director~~Investment Advisor and distributed to the ~~Finance Director~~Treasury Manager early in the subsequent month for review. In addition a Financial Analyst in the Finance Department receives a copy of this report and reconciles these investments with the City's general ledger on a monthly basis.

5. ~~An Account Clerk II~~A Financial Analyst III in the Finance Department reconciles the City's general depository account on a monthly basis by comparing the City's general ledger with the applicable bank account statements. The reconciliation of the general depository account would reveal any difference in investment transaction recording and the actual movement of funds.

6. Each month, the ~~Assistant Finance Director~~Financial Analyst III and the Treasury Manager reconciles investments reflected in the custodial statements with the City's records.

7. Each year both internal auditors and the City's external auditors review existing internal controls as well as investment transactions by examining data on a random basis.

L. Investment ~~Committee~~Advisor

The City engages the services of an investment advisor with regard to the management of its investment program. Investment Advisors shall be registered with the Securities Exchange Commission under the Investment Advisors Act of 1940. Advisors shall be selected using the City's authorized purchasing procedures for selection of professional services and shall be

subject to the provisions of this Investment Policy. Under no circumstances shall the advisor take custody of any City funds or securities.

~~An investment committee will be established to exercise oversight responsibility concerning types of investments and maturity of investments. The Committee will consist of the following individuals:~~

~~Finance Director or his/her designee~~
~~Chairman of the Capital Improvements/Finance Committee~~
~~City Manager of his/her Designee~~
~~City's Financial Advisor~~
~~Five members of the local banking/investment community~~

~~The committee will meet at least quarterly to discuss investment objectives, terms and choice of investment alternatives for the upcoming quarter. The Committee will assist in establishing timelines for expenditure of capital project funds and for investment of any extraordinary receipt of funds and will review portfolio performance for the previsions quarter and composition of the investment portfolio.~~

M. Investment Reporting

As discussed previously, the Finance Department maintains several types of information and reports on investments. The records relating to investments are as follows:

1. Investment Transaction Report – A recording/approval form for each investment transaction, regarding both active and matured investments. This form also indicates all bids obtained where applicable.
2. Investment bid sheet, where applicable, for each investment.
3. Investment ~~Log~~ Monthly Statement – a document listing, in chronological maturity order, pertinent information on each investment.
4. ~~Investments by Banks/Funds report generated monthly and reconciled with the City's general ledger~~Investment monthly statement is reconciled with the City's general ledger.
5. Annual summary of average investment returns (which are included in the monthly Investments Statements) which is subjected to external audit for reasonableness of average stated yield for the fiscal year.

N. Recordkeeping and Performance Measurement

Comprehensive records of each investment transaction are maintained in the Finance Department. These records include bid sheets where applicable, investment transaction reports, investment bank advices, the ~~annual~~ monthly investment ~~log~~statements, and a quarterly compilation of total returns for the preceding fiscal quarter by City fund type (e.g., General Fund, Capital Projects, Enterprise, Internal Service). Annually, the City's external auditors review the calculation of investment yields prepared by the Finance Department for comparison to indices and comparative data maintained by the external auditors. They then determine the reasonableness of the average yield calculated by the Finance Department. If no problem is indicated, the Finance Department then compares its average annual yield to yields of surrounding local governments when such information becomes available.

While yield is not the primary concern of the City's investment manager, it should be noted that the City has consistently enjoyed an average yield competitive with other major local governmental entities while assuming lower risk.

O. Pension Investments

The City does not manage the cash or investments of the City's ~~four~~ two pension systems. Each pension system has elected or appointed members to its pension Board of Trustees who exercise oversight over money managers engaged to manage pension fund investments in accordance with policies and guidelines established by each pension system. The Boards, therefore, have oversight authority over investments for pension systems and the City does not actively participate in this process.

P. Bond Funds

Notwithstanding anything to the contrary contained in City Code Chapter 18A or these investment guidelines the provisions pertaining to investment of monies under all ordinances, resolutions, trust indentures and agreements adopted or entered into by the City in connection with bonds issued by the City or other dept incurred by the City will control and supersede the provisions herein contained with respect to the investment of such monies.

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Condensed Title:

A Resolution retroactively approving a month to month extension to the Services Framework Agreement between Parkeon, Inc. and the City; said extension commencing on December 24, 2011 and expiring no later than June 30, 2013.

Key Intended Outcome Supported:

Improve process through information technology.

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

Issue:

Shall the City Commission Adopt the Resolution?

Item Summary/Recommendation:

On July 16, 2008, the Mayor and City Commission approved Parkeon Inc., as the sole source vendor for Parkeon parking equipment, which is the provider of the City's multi-space pay stations for on-street and off-street facilities. Subsequently, on December 24, 2008, the City entered into a Service Framework Agreement with Parkeon Inc for technical support services. These services included; Parkfolio (online pay station management system); online credit card processing; and extended hardware warranty, for a term of three (3) years, which expired on December 24, 2011.

On September 23, 2011, the Mayor and Commission approved the issuance of RFP No. 46-10/11 for the Purchase and Installation of Multi-Space Pay Stations for the City's on-street and off-street facilities. The purpose of this RFP is to purchase, install, and/or upgrade the City's existing multi-space pay station inventory and this new system will be under warranty. However, there will be a transition period while all new multi-space pay stations are ordered, set-up, and installed. During the transition period, the existing equipment will continue to need service from Parkeon, the manufacturer. This transition is estimated to take 18 months; therefore, a month to month extension of the Parkeon Services Framework Agreement for the Parkfolio Management System/online credit card processing and hardware extended warranty is necessary to maintain the system operational.

The month to month extension shall contain the same terms and conditions of the existing agreement during the 18 month extension. The monthly fee for Parkfolio Management Services/online credit card processing is $24,500 and the monthly fee for hardware extended warranty is $12,173. These expenses are already included in the Parking Department's operating budget.

The cost for the management system/online credit processing and extended hardware warranty will continue with the existing vendor/system until such time that a new vendor/system is selected, if applicable, as the current vendor/system has also submitted a proposal. This expense will gradually transition from the current vendor/system to the new vendor/system as the new pay stations are installed. The warranty expenditure will eventually cease when all pay stations are replaced and are under the initial warranty of the new vendor/system. **Adopt the Resolution.**

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Saul Frances, Parking Director Ext # 6483

Sign-Offs:

Department Director	Assistant City Manager	City Manager
SF	JGG	JMG

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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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING A MONTH TO MONTH EXTENSION TO THE SERVICES FRAMEWORK AGREEMENT BETWEEN THE CITY AND PARKEON INC. FOR TECHNICAL SUPPORT SERVICES, PARKFOLIO AND ONLINE CREDIT CARD PROCESSING, MAINTENANCE, AND EXTENDED HARDWARE WARRANTY; SAID EXTENSION COMMENCING ON DECEMBER 24, 2011, AND EXPIRING NO LATER THAN JUNE 30, 2013.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME

Improve process through information technology.

ANALYSIS

On July 16, 2008, the Mayor and City Commission approved Parkeon Inc., as the sole source vendor for Parkeon parking equipment, which is the provider of the City's multi-space pay stations for on-street and off-street facilities. Subsequently, on December 24, 2008, the City entered into a Service Framework Agreement with Parkeon Inc for technical support services. These services included; Parkfolio (online pay station management system); online credit card processing; and extended hardware warranty, for a term of three (3) years, which expired on December 24, 2011.

On September 23, 2011, the Mayor and Commission approved the issuance of RFP No. 46-10/11 for the Purchase and Installation of Multi-Space Pay Stations for the City's on-street and off-street facilities. The purpose of this RFP is to purchase, install, and/or upgrade the City's existing multi-space pay station inventory and this new system will be under warranty.

However, there will be a transition period while all new multi-space pay stations are ordered, set-up, and installed. During the transition period, the existing equipment will continue to need service from Parkeon, the manufacturer. This

transition is estimated to take 18 months; therefore, a month to month extension of the Parkeon Services Framework Agreement for the Parkfolio Management System/online credit card processing and hardware extended warranty is necessary to maintain the system operational.

The month to month extension shall contain the same terms and conditions of the existing agreement during the 18 month extension. The monthly fee for Parkfolio Management Services/online credit card processing is $24,500 and the monthly fee for hardware extended warranty is $12,173. These expenses are already included in the Parking Department's operating budget.

The cost for the management system/online credit processing and extended hardware warranty will continue with the existing vendor/system until such time that a new vendor/system is selected, if applicable, as the current vendor/system has also submitted a proposal. This expense will gradually transition from the current vendor/system to the new vendor/system as the new pay stations are installed. The warranty expenditure will eventually cease when all pay stations are replaced and are under the initial warranty of the new vendor/system.

CONCLUSION

The Administration recommends that the Mayor and City Commission retroactively approve a month to month extension of the services framework agreement with Parkeon Inc., said extension commencing on December 24, 2011 and expiring no later than June 30, 2013.

JMG/JGG/SF/RAR
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FEDERAL APD
Federal Signal Corporation

Tuesday, April 06, 2010

To: City of Miami Beach
Attention: Mr. Saul Francis

From: Scott Fox
Regional Manager

Re: Federal APD Distributor
Florida

To all doing business in South Florida, in regards to Federal APD products and services our authorized Federal APD Distributor has been and will continue to be only Consolidated Parking Equipment located Miami, Florida.

Federal APD Authorized Distributors are companies in a local area that market, sell, service, install and maintain Federal APD products and services. Distributors maintain adequate stock of equipment, parts, and supplies to effect service issues that relate to the system and equipment installed in the area they are assigned. In addition all Federal APD Authorized Distributors staff Federal APD Factory Trained Technicians and genuine parts. Consolidated Parking Equipment meets and exceeds these requirements. Only FAPD Distributors are authorized to purchase products, service support, replacement parts, software and firmware that may either be uploaded, downloaded or provided via CD and other related equipment and parts necessary for FAPD products and services to function properly.

If you require additional information regarding this matter or we may be of any further assistance please do not hesitate to contact us. (214) 205-3800.

Sincerely,

Scott Fox
Regional Manager
cc: Jack Provencher, FAPD District Manager

773 Kirkman Road, Suite 116
Orlando, FL 32811-2039 • (407) 299-0731 • (407) 578-1597

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING A MONTH TO MONTH EXTENSION TO THE SERVICES FRAMEWORK AGREEMENT BETWEEN THE CITY AND PARKEON INC. FOR TECHNICAL SUPPORT SERVICES, PARKFOLIO AND ONLINE CREDIT CARD PROCESSING, MAINTENANCE, AND EXTENDED HARDWARE WARRANTY; SAID EXTENSION COMMENCING ON DECEMBER 24, 2011, AND EXPIRING NO LATER THAN JUNE 30, 2013.

WHEREAS, on July 16, 2008, the Mayor and City Commission approved Parkeon Inc., as the sole source vendor for Parkeon parking equipment, which is the provider of the City's multi-space pay stations for on-street and off-street facilities; and

WHEREAS, on December 24, 2008, the City entered into a Service Framework Agreement with Parkeon Inc. for technical support services which included; Parkfolio (online pay station management system); online credit card processing; and extended hardware warranty, for a term of three (3) years, which term expired on December 24, 2011; and

WHEREAS, on September 23, 2011, the Mayor and Commission approved the issuance of RFP No. 46-10/11 for the Purchase and Installation of Multi-Space Pay Stations for the City's on-street and off-street facilities; and

WHEREAS, the purpose of this RFP is to purchase, install, and/or upgrade the City's existing multi-space pay station inventory and, upon award, a service framework agreement will not be necessary as the new equipment will be under warranty; and

WHEREAS, during the transition period (while all new multi-space pay stations are ordered, set-up, and installed), the existing Parkeon equipment will continue to need service from the manufacturer, Parkeon; and

WHEREAS, the transition period is estimated to be a period no longer than 18 months; therefore, a month to month extension of the Parkeon Services Framework Agreement is necessary until no later than June 30, 2013; and

WHEREAS, the month to month extension shall contain the same terms and conditions of the existing agreement during the 18 month extension and the monthly fee for Parkfolio Management Services/online credit card processing is $24,500; and the monthly fee for hardware extended warranty is $12,173; and

WHEREAS, these amounts are already included in the Parking Department's operating budget; and

WHEREAS, the cost for the management system/online credit processing and extended hardware warranty will continue with the existing vendor/system until such time that a new vendor/system is selected, if applicable, as the current vendor/system has also submitted a proposal; and

WHEREAS, this expense will gradually transition from the current vendor/system to the new vendor/system as the new pay stations are installed; therefore, the warranty expenditure will eventually cease when all pay stations are replaced and are under the initial warranty of the new vendor/system.

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 a month to month extension to the Services Framework Agreement between the City and Parkeon Inc. for technical support services, Parkfolio and online credit card processing, maintenance, and extended hardware warranty; said extension commencing on December 24, 2011, and expiring no later than June 30, 2013.

PASSED AND ADOPTED this _____ day of _____, 2012.

ATTEST:

_____ _____

CITY CLERK MAYOR

JMG/JGG/SF/RAR
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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

_____ 1/3/12

City Attorney Date

Condensed Title:

A Resolution authorizing the Administration to issue purchase orders in the amount of $225,000 for the maintenance and repair of the gated revenue control equipment for the City's Parking Garages from the sole source provider, Consolidated Parking Equipment.

Key Intended Outcome Supported:

Improve process through information technology.

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

Issue:

Shall the City Commission Adopt the Resolution?

Item Summary/Recommendation:

The gated parking revenue control system is an extremely important tool that the City's Parking Department utilizes to operate and manage all of its parking garages. The system is provided and maintained by Consolidated Parking Equipment (CPE) and it is comprised of software, hardware, and equipment which monitors, processes, and provides audit trails for all parking transactions, including transient and monthly parking uses.

We are now requesting the approval to open purchase orders for the maintenance and repair of the exiting garages in the annual amount not to exceed $225,400. Funds for these expenses are already appropriated and included in the Parking Department's Annual operating budget.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	$115,500.00	480-0463-000325 – Parking
	2	$11,500.00	142-6976-000325 – 7th Street
	3	$18,500.00	463-1990-000325 – Anchor
	4	$31,500.00	467-1996-000325 – Penn Avenue
	5	$29,500.00	480-0463-000342 – Parking
	6	$9,500.00	142-6976-000342 – 7th Street
	7	$4,500.00	463-1990-000342 – Anchor
	8	$4,500.00	467-1996-000342 – Penn Avenue
OBPI	Total	**$225,000.00**	**TOTAL**

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Saul Frances, Parking Director Ext # 6483

Sign-Offs:

Department Director	Assistant City Manager	City Manager
SF SR	JGG _____	JMG _____

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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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ADMINISTRATION TO ISSUE PURCHASE ORDERS IN THE AMOUNT OF $225,000 FOR THE MAINTENANCE AND REPAIR OF THE GATED REVENUE CONTROL EQUIPMENT FOR THE CITY'S PARKING GARAGES FROM THE SOLE SOURCE PROVIDER, CONSOLIDATED PARKING EQUIPMENT.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME

Improve process through information technology.

FUNDING

Funding is available in the FY 2011/12 Parking Department Budget as follows:

$115,500.00	480-0463-000325	12TH, 13TH, 17TH, 42ND & CHG
$11,500.00	142-6976-000325	7TH ST GARAGE
$18,500.00	463-1990-000325	ANCHOR GARAGE
$31,500.00	467-1996-000325	PENN GARAGE
$29,500.00	480-0463-000342	12TH, 13TH, 17TH, 42ND & CHG
$9,500.00	142-6976-000342	7TH STREET GARAGE
$4,500.00	463-1990-000342	ANCHOR GARAGE
$4,500.00	467-1996-000342	PENN GARAGE
$225,000.00	**TOTAL**	

ANALYSIS

The gated parking revenue control system is an extremely important tool that the City's Parking Department utilizes to operate and manage all of its parking garages. The system is provided and maintained by Consolidated Parking Equipment (CPE) and it is comprised of software, hardware, and equipment which monitors, processes, and provides audit trails for all parking transactions, including transient and monthly parking uses.

PURCHASING AUTHORITY

On July 27, 2005, the City Commission adopted Resolution No. 2005-25959 which approved Consolidated Parking Equipment (CPE) as the sole source provider of Federal

APD gated revenue control equipment, pursuant to Section 2-367 (d) of the Miami Beach City Code. This resolution also authorized the Administration to open purchase orders for maintenance and repair in the total amount of $110,000 annually. Since the approval of this memo in 2005, we have opened three (3) additional garages and added equipment to the existing garages resulting in an increase to the annual maintenance and repair expenses.

We are now requesting the approval to open purchase orders for the maintenance and repair of the existing garages in the annual amount not to exceed $225,000. Funds for these expenses are already appropriated and included in the Parking Department's Annual operating budget.

CONCLUSION

Based on the aforementioned the Administration recommends that the Mayor and City Commission authorizing the Administration to issue purchase orders in the amount of $225,000 for the maintenance and repair of the gated revenue control equipment for the City's parking garages from the sole source provider, Consolidated Parking Equipment.

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FEDERAL APD
Federal Signal Corporation

Tuesday, April 06, 2010

To: City of Miami Beach
Attention: Mr. Saul Francis

From: Scott Fox
Regional Manager

Re: Federal APD Distributor
Florida

To all doing business in South Florida, in regards to Federal APD products and services our authorized Federal APD Distributor has been and will continue to be only Consolidated Parking Equipment located Miami, Florida.

Federal APD Authorized Distributors are companies in a local area that market, sell, service, install and maintain Federal APD products and services. Distributors maintain adequate stock of equipment, parts, and supplies to effect service issues that relate to the system and equipment installed in the area they are assigned. In addition all Federal APD Authorized Distributors staff Federal APD Factory Trained Technicians and genuine parts. Consolidated Parking Equipment meets and exceeds these requirements. Only FAPD Distributors are authorized to purchase products, service support, replacement parts, software and firmware that may either be uploaded, downloaded or provided via CD and other related equipment and parts necessary for FAPD products and services to function properly.

If you require additional information regarding this matter or we may be of any further assistance please do not hesitate to contact us. (214) 205-3800.

Sincerely,

Scott Fox
Regional Manager
cc: Jack Provencher, FAPD District Manager

773 Kirkman Road, Suite 116
Orlando, FL 32811-2039 • (407) 299-0731 • (407) 578-1597

RESOLUTION TO BE SUBMITTED

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Condensed Title:

A Resolution approving and appropriating funding for the sole source purchase of software upgrades to the gated revenue control equipment from Consolidated Parking Equipment for the City's Parking garages, in an amount not to exceed $30,250.

Key Intended Outcome Supported:

Improve process through information technology.

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

Issue:

Shall the City Commission Adopt the Resolution?

Item Summary/Recommendation:

The gated parking revenue control system is an extremely important tool that the City's Parking Department utilizes to operate and manage all of its parking garages. The system is provided and maintained by Consolidated Parking Equipment (CPE) and it is comprised of software, hardware, and equipment which monitors, processes, and provides audit trails for all parking transactions, including transient and monthly parking uses.

On December 14, 2011, the City Commission awarded the Parking Mobile Application RFP to Parking in Motion (PIM). This mobile application will provide information on the availability of parking in the City's garages. In order to retrieve this information from the gated revenue control equipment, CPE will need to upgrade and install the space count application interface. The cost for the interface is $30,250 and includes all municipal garages.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	$18,150	480-0463-000312 – Parking Fund
	2	$3,025	142-6976-000312 – 7th Street Garage
	3	$3,025	463-1990-000312 – Anchor Garage
	4	$3,025	467-1996-000312 – Penn Avenue Garage
	5	$3,250	484-0470-000312 – 5th & Alton Garage
OBPI	Total	$30,250	TOTAL

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Saul Frances, Parking Director Ext # 6483

Sign-Offs:

Department Director	Assistant City Manager	City Manager
SF	JGG	JMG

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MIAMIBEACH

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

MEMO # COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND APPROPRIATING FUNDING FOR THE SOLE SOURCE PURCHASE OF SOFTWARE UPGRADES TO THE GATED REVENUE CONTROL EQUIPMENT FROM CONSOLIDATED PARKING EQUIPMENT FOR THE CITY'S PARKING GARAGES, IN AN AMOUNT NOT TO EXCEED $30,250.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME

Improve process through information technology.

FUNDING

Appropriate funding as follows for the equipment upgrade:

$18,150.00	Fund 480	12th, 13th, 17th, 42nd & CHG
$3,025.00	Fund 142	7th St Garage
$3,025.00	Fund 463	Anchor Garage
$3,025.00	Fund 467	Pennsylvania Ave Garage
$3,025.00	Fund 484	5th and Alton Garage
$30,250.00	**TOTAL**	

ANALYSIS

The gated parking revenue control system is an extremely important tool that the City's Parking Department utilizes to operate and manage all of its parking garages. The system is provided and maintained by Consolidated Parking Equipment (CPE) and it is comprised of software, hardware, and equipment which monitors, processes, and provides audit trails for all parking transactions, including transient and monthly parking uses.

On December 14, 2011, the City Commission awarded the Parking Mobile Application RFP to Parking in Motion (PIM). This mobile application will provide information on the availability of parking in the City's garages. In order to retrieve this information from the gated revenue control equipment, CPE will need to upgrade and install the space count application interface. The cost for the interface is $30,250 and includes all municipal garages.

PURCHASING AUTHORITY

On July 27, 2005, the City Commission adopted Resolution No. 2005-25959 which approved Consolidated Parking Equipment (CPE) as the sole source provider of Federal APD gated revenue control equipment, pursuant to Section 2-367 (d) of the Miami Beach City Code.

CONCLUSION

Based on the aforementioned the Administration recommends that the Mayor and City Commission approve and appropriate funds for the sole source purchase of software upgrades to the gated revenue control equipment from Consolidated Parking Equipment for the City's Parking garages, in an amount not to exceed $30,250.

JMG/JGG/SF/RAR
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FEDERAL APD
Federal Signal Corporation

January 14, 2008

To: Whom it may concern

From: Scott Fox
Regional Manager

Re: Federal APD Distributor
Florida

To all doing business in South Florida, in regards to Federal APD products and services our authorized Federal APD Distributor has been and will continue to be Consolidated Parking Equipment located Miami, Florida.

Royce Parking as of March 9, 2008 will not be a authorized Federal APD Dealer or Distributor.

Federal APD Authorized Distributors are companies in a local area that market, sell, service, install and maintain Federal APD products and services. Distributors or Dealers maintain adequate stock of equipment, parts and supplies to effect service issues that relate to the system and equipment installed in the area they are assigned. In addition all Federal APD Authorized Distributors or Dealers staff Federal APD Factory Trained Technicians. Consolidated Parking Equipment meets and exceeds these requirements. Only FAPD Distributors or Dealers are authorized to purchase products, service support, replacement parts, software and firmware that may either be uploaded, downloaded or provided via CD and other related equipment and parts necessary for FAPD products and services to function properly.

If you require additional information regarding this matter or we may be of any further assistance please do not hesitate to contact us. (972) 871-0214.

Sincerely,

Scott Fox

Scott Fox
Regional Manager
cc: Jack Provencher, FAPD District Manager

11126 SHADY TRAIL, SUITE 109, DALLAS, TX 75229 • (972) 243-5821 • (972) 243-5508

RESOLUTION TO BE SUBMITTED

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Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, Approving and Authorizing the Mayor and City Clerk to Execute Amendment No. 1 in a Negotiated Not-To-Exceed Amount of $164,102.94, to an Existing Agreement between the City of Miami Beach and ValleyCrest Landscape Development, Dated October 13, 2010, for Landscape Maintenance Services on the Boardwalk, Beachwalk, Street ends, and Spoil Areas Citywide, Said Amendment for the Inclusion of the Miami Beach Soundscape.

Key Intended Outcome Supported:

Ensure well-maintained infrastructure

Supporting Data (Surveys, Environmental Scan, etc.): The 2009 Customer Satisfaction Survey indicated that 79% of businesses rated recently completed capital improvement projects as "excellent" or "good."

Issue:

Shall the Mayor and City Commission approve the issuance of the RFQ?

Item Summary/Recommendation:

The construction of Miami Beach Soundscape was completed on January 23, 2011, with the Parks and Recreation Department's Greenspace Management Division providing site management since January 24, 2011. The landscape, porter, restroom services and pedestrian/seating surface pressure cleanings, are currently provided by ValleyCrest Landscape Development, the general contractor for the SoundScape project. Their continued maintenance services were secured after the initial 90-day maintenance period through the City's Development Manager for the project, Hines, as noted in the Request for Proposal summary letter addressed to Assistant City Manager Jorge Gomez dated January 21, 2011, and Memorandum No. 006-2011 dated June 12, 2011.

The work includes, but is not be limited to, litter retrieval and waste disposal, mowing, edging, landscape maintenance, herbicide/insecticide/fertilizer application, turf management, irrigation system operation maintenance, and repair and replacement of plants as required. The price for the services to be provided includes all labor, equipment and materials needed to perform those duties.

ValleyCrest was contacted by the Parks and Recreation Department Greenspace Management Division (P&RGMD) on December 5, 2011, to reaffirm its current price for on-going services at the Miami Beach Soundscape, with the intention to formally amend the City's existing agreement with Valleycrest (as selected through ITB 35-09/10 – "Landscape maintenance services on the Boardwalk, Beachwalk, Street ends, and Spoil Areas Citywide") for the remainder of their term, which expires on June 10, 2013, to include the continued servicing of the SoundScape at the current levels provided. On December 6, 2011, ValleyCrest confirmed its current pricing for SoundScape ($164,102.94). On December 12, 2011, two of the full-service landscape providers currently contracted to maintain public areas citywide (and currently in good standing), Superior Landscaping and Lawn Service Inc. and Everglades Environmental Care, Inc., were contacted by (P&RGMD and asked to submit price proposals in order to verify current market pricing for the services being provided. (P&RGMD received price proposals of $ 236,632 and $205.410, respectively. Following review of the pricing submitted, Parks staff recommended ValleyCrest be contracted to to continue with the current delivery of service provided at the annual price of $164,102.94, and amend Contract No. 35-09/10 to add the Miami Beach SoundScape location to the "Section 3.1 - Scope of Work" of VallyCrest's existing landscape agreement.

The quality of the landscape services currently provided by ValleyCrest is to the level specified in the scope of work for ITB 35-09/10 and the plant material is in vigorous healthy condition. The site was also recently assessed under the Cleanliness Index Program during the third and fourth quarters of FY 2010/11 and rated an average score of 1.42 which exceeded the City's cleanliness goal of 1.5.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	N/A	
OBPI	Total		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

John Oldenburg ext. 6820

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL ____ KS ____	HF ____	JMG ____

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MIAMIBEACH

AGENDA ITEM C7H

DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1, IN A NEGOTIATED NOT-TO-EXCEED AMOUNT OF $164,102.94, TO AN EXISTING AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND VALLEYCREST LANDSCAPE DEVELOPMENT, DATED OCTOBER 13, 2010, FOR LANDSCAPE MAINTENANCE SERVICES ON THE BOARDWALK, BEACHWALK, STREET ENDS, AND SPOIL AREAS CITYWIDE, SAID AMENDMENT FOR THE INCLUSION OF THE MIAMI BEACH SOUNDSCAPE.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOMES SUPPORTED

Ensure well-maintained facilities

FUNDING

City Center RDA 168-9966-000312

BACKGROUND

The construction of Miami Beach Soundscape was completed on January 23, 2011, with the Parks and Recreation Department's Greenspace Management Division providing site management since January 24, 2011. The landscape, porter, and restroom services, along with the pedestrian/seating surface pressure cleanings, are currently being provided by ValleyCrest Landscape Development, the general contractor for the project. At the conclusion of the maintenance period following installation of the landscaping (90 days), their continued maintenance services were secured through the City's Development Manager for the project, Hines, as noted in the Request for Proposal summary letter addressed to Assistant City Manager Jorge Gomez dated January 21, 2011, and Memorandum No. 006-2011 dated June 12, 2011 (Attachment A), and as further explained in the Memorandum to Commission issued on June 12, 2011 (Attachment B)

SCOPE OF SERVICES

The Miami Beach Soundscape boundaries extend from the front edge of the western curb of Washington Avenue to the east, west to the property line adjacent to the New World Symphony, north

to the edge of the roadway (including curbs) at the south side of 17th Street and south to the front edge of the curb on the of Lincoln Lane. The location is currently serviced daily from 9:00 a.m. to midnight on Fridays and Saturdays and 9:00 a.m. to 10:00 p.m. on Sundays through Thursdays. The work includes, but is not be limited to, litter retrieval and waste disposal, mowing, edging, landscape maintenance, herbicide/insecticide/fertilizer application, turf management, irrigation system operation maintenance, and repair and replacement of plants as required. The price for the services to be provided includes all labor, equipment and materials needed to perform those duties.

COST COMPARISON PROCESS

ValleyCrest was contacted by the Parks and Recreation Department Greenspace Management Division on December 5, 2011, to reaffirm its current price for on-going services at the Miami Beach Soundscape, with the intention to formally amend the City's existing agreement with Valleycrest (as selected through ITB 35-09/10 – "Landscape maintenance services on the Boardwalk, Beachwalk, Street ends, and Spoil Areas Citywide") for the remainder of their term, which expires on June 10, 2013, to include the continued servicing of the SoundScape at the current levels provided. On December 6, 2011, ValleyCrest confirmed its current pricing for SoundScape.

On December 12, 2011, two of the full-service landscape providers currently contracted to maintain public areas citywide (and currently in good standing), Superior Landscaping and Lawn Service Inc. and Everglades Environmental Care, Inc., were contacted by the Parks and Recreation Department Greenspace Management Division and asked to submit price proposals in order to verify current market pricing for the services being provided at the Miami Beach Soundscape. The Parks and Recreation Department received the following price proposals by December 19, 2011:

	Annual Price
ValleyCrest Landscape Development	$164,102.94
Everglades Environmental Care, Inc.	$205,410.00
Superior Landscaping and Lawn Service Inc.	$236,632.00

Based on the above analysis, it was concluded to be in the best interest of the City to continue with the current delivery of service provided by ValleyCrest Landscape Development at the current annual price of $164,102.94, and amend Contract No. 35-09/10 to add the Miami Beach SoundScape location to the "Section 3.1 - Scope of Work" of VallyCrest's existing landscape agreement.

it is important to note that the quality of the landscape services currently provided by ValleyCrest is to the level specified in the scope of work for ITB 35-09/10, and the plant material is in vigorous healthy condition. The site was also recently assessed under the Cleanliness Index Program during the third and fourth quarters of FY 2010/11 and rated an average score of 1.42, which exceeded the City's cleanliness goal of 1.5.

CONCLUSION

The Administration recommends that the Mayor and City Commission execute Amendment No.1 in a negotiated not-to-exceed amount of $164,102.94, to the existing Agreement between the City of Miami Beach and ValleyCrest Landscape Development, dated October 13, 2010, for "Landscape maintenance services on the boardwalk, beachwalk, streetends, and spoil areas citywide," to include landscape, porter, and restroom services, along with the pedestrian/seating surface pressure cleanings, at SoundScape.

JMG/HMF/KS/JO

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1, IN A NEGOTIATED NOT-TO-EXCEED AMOUNT OF $164,102.94, TO AN EXISTING AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND VALLEYCREST LANDSCAPE DEVELOPMENT, DATED OCTOBER 13, 2010, FOR LANDSCAPE MAINTENANCE SERVICES ON THE BOARDWALK, BEACHWALK, STREET ENDS, AND SPOIL AREAS CITYWIDE, SAID AMENDMENT FOR THE INCLUSION OF THE MIAMI BEACH SOUNDSCAPE.

WHEREAS, on September 15, 2010, the Mayor and City Commission accepted the recommendation of the City Manager pursuant to Invitation to Bid (ITB) No. 35-09/10 for landscape maintenance services on the boardwalk, beachwalk, street ends, and spoil areas Citywide (the ITB); and

WHEREAS, the Mayor and City Clerk executed agreements with Luke Sawgrass Landscape, Superior Landscaping and Lawn Service, Inc., and ValleyCrest Landscape Development, on October 13, 2010; and

WHEREAS, the Miami Beach Soundscape has been included as part of the list of facilities noted in the scope of work in the ITB; and

WHEREAS, ValleyCrest Landscape Development submitted the lowest bid to maintain the Miami Beach Soundscape.

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 approve and authorize the Mayor and City Clerk to execute Amendment No. 1, pursuant to Invitations to Bid (ITB) No. 35-09/10, in a negotiated not-to-exceed amount of $164,102.94, to an existing Agreement between the City and ValleyCrest Landscape Development; dated October 13, 2010, for landscape maintenance services on the boardwalk, beachwalk, street ends, and spoil areas Citywide; said Amendment for the inclusion of the Miami Beach Soundscape.

PASSED and **ADOPTED** this ____ day of _____, 2012.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

12-28-11

City Attorney **Date**

AMENDMENT NO. 1
TO
AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA (CITY)
AND
VALLEYCREST LANDSCAPE DEVELOPMENT (CONTRACTOR)
FOR LANDSCAPE MAINTENANCE SERVICES ON THE BOARDWALK, BEACHWALK, STREETENDS, AND SPOIL AREAS CITYWIDE,
DATED OCTOBER 13, 2010.

This Amendment No. 1 to the above subject Agreement is made and entered into this 11TH day of January, 2012, by and between the **CITY OF MIAMI BEACH, FLORIDA**, and **VALLEYCREST LANDSCAPE DEVELOPMENT**; and hereby amends the Agreement as follows:

1. In addition to the listed areas, the Contractor must maintain the Miami Beach Soundscape as defined in Invitation to Bid (ITB) No. 35-09/10. The Miami Beach Soundscape boundaries extend from the front edge of the western curb of Washington Avenue to the east, west to the property line adjacent to the New World Symphony, north to the edge of the roadway (including curbs) at the south side of 17th Street and south to the front edge of the curb on the of Lincoln Lane. The location is to be serviced daily from 9:00 a.m. to midnight on Fridays and Saturdays and 9:00 a.m. to 10:00 p.m. on Sundays through Thursdays. The Contractor shall include the Miami Beach Soundscape at the annual cost of $164,102.94.

2. The City and the Contractor agree that all other provisions of the Agreement shall remain unchanged and in full force and effect. This Amendment supersedes and governs any prior negotiations, correspondence, or conversations applicable to the matters contained herein, and there are no commitments, agreements, or understandings concerning the subject matter of this Amendment that are not contained in this document.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their appropriate officials, as of the date first entered above.

FOR CITY: **CITY OF MIAMI BEACH, FLORIDA**

ATTEST:

By: _____ By: _____
Robert Parcher — Matti Herrera Bower
City Clerk — Mayor

FOR CONTRACTOR: **VALLEYCREST LANDSCAPE DEVELOPMENT**

ATTEST:

By: _____ By: _____
Signature — Signature
_____ _____
Print Name/Title — Print Name/Title

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney — 1-3-12 Date

January 21, 2011

Jorge Gomez
Assistant City Manager - City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Miami Beach SoundScape Landscape and Porter Services

Hines

Mr. Gomez,

As Development Manager for the City of Miami Beach SoundScape project, Hines has provided bid services for the long term landscape maintenance and porter service for the restroom facility within the newly constructed park and adjacent Pennsylvania Garage facility. A comprehensive request for proposal was issued to four qualified landscape contractors on December 17, 2010. The scope of services included in the request for proposal include full service of landscape, cleaning and stocking of the park restroom (six daily), project wide debris pickup (six daily) and pressure cleaning of all hardscape with in the park and garage grounds weekly.

The request for proposal included two options. Option one includes pricing for single project areas within the New World Symphony Campus Expansion (Pennsylvania Garage, Alley, New World Symphony, and SoundScape). Option Two includes pricing which assumes all four areas are to be awarded to a single contractor. The areas would be separately contracted by New World Symphony Inc (Alley and New World Symphony building) and City of Miami Beach (Garage and Park). Option Two allows for reduce cost of maintenance (8-10% discount) and continuity in maintenance operations. It is our understanding that New World Symphony Inc supports the award of contract to ValleyCrest for the Alley and New World Symphony Building grounds as described in Option Two.

We have received bids from three of the four firms invited to submit a proposal. ValleyCrest Landscape Maintenance, Vila and Son Landscape and Superior Landscape submitted bids, Signature Palms and Landscape declined. We have reviewed the bids and recommend an awarded of maintenance and porter services contract to ValleyCrest Landscape Maintenance who is low bid following negotiation of final pricing.

ValleyCrest Option One bid for SoundScape is $164,102.94 and for the Pennsylvania Garage $14,204.35 or total of $178,307 annually. ValleyCrest Option Two bid for SoundScape is $151,071.42 and for the Pennsylvania Garage $13,031.52 or total of $164,102.94 annually. We recommend the City accept ValleyCrest Option Two combined bid price of $164,102.94 annually and enjoy a savings of $14,204.06 or 9% per contract year. Term of contract provided in the Request for Proposal is the city standard three years with two year optional extension.

407 Lincoln Road 306
Miami Beach, FL 33139
P 305 535 6284
F 305.535.7696

Hines

ValleyCrest has submitted the most reasonable and responsive bid. ValleyCrest is the General Contractor for the park project and as such has the best vantage point from which to quantify the requirements necessary to achieve the level of service required by the specifications. The attached bid tally provides additional detail.

In addition to the monetary consideration, award to ValleyCrest for long term maintenance also brings significant value in terms of continuity for the project. ValleyCrest is providing a 90 day extended maintenance period following completion of the construction phase and will therefore be responsible for the construction and maintenance period which would seamlessly transition into the contracted long term maintenance.

In closing while all three bidders are qualified to adequately provide services described in the request for proposal ValleyCrest provides a complete range of service for a fee that represents low bid for this project. ValleyCrest is adequately staffed in the Miami area and is eager to continue their partnership with City of Miami Beach's SoundScape project and the adjacent Pennsylvania Garage project.

We have provided John Oldenburg with of all proposals and a complete line item bid tally. Please let us know if we can be of further assistance.

Best Regards,

Kim Shine
Construction Manager
Hines

Cc Kevin Smith
John Oldenburg
Kent Bonde
Bruce Clinton
David Phillips
Matthew Barry

Attachments:

407 Lincoln Road 306
Miami Beach, FL 33139
P 305.535 6284
F 305 535 7696

UNIT PRICE BID FORM SOUND SCAPE

Bid Tally and Recommendation

DESCRIPTION OF SERVICE	Original Bid ValleyCrest	Vila n Son	Superior	Revised Recommended ValleyCrest
FULL SERVICE VISIT	$ 18,200.00	$ 17,316.00	$ 73,600.00	$ 15,600.00
ADDITIONALMOWING VISIT	$ 8,750.00	$ 10,989.00	N/A	$ 7,000.00
BOUGAINVILLEA TRIMMING / TIE	$ 7,045.12	$ 456.00	$ 6,000.00	$ 2,048.00
PALM TRIMMING	$ 19,608.00	$ 16,842.00	$ 2,400.00	$ 7,224.00
TREE TRIMMING	$ 2,250.00	$ 450.00	$ 900.00	$ 1,800.00
BOUGAINVILLEA FERTILIZATION	$ 420.00	$ 18.00	$ 1,080.00	$ 381.82
TURF FERTILIZATION W/PRE EMERG HERB	$ 1,324.08	$ 3,586.00	$ 5,940.00	$ 1,203.71
TURF FERTIZATION W/INSECTICIDE	$ 735.60	$ 3,816.00	$ 2,400.00	$ 668.73
TURF FERTILIZATION	$ 588.48	$ 1,638.00	$ 4,050.00	$ 534.98
PALM FERTILIZATION	$ 4,540.80	$ 5,376.00	$ 3,960.00	$ 2,752.00
TREE FERTILIZATION	$ 540.00	$ 108.00	$ 990.00	$ 490.91
WEED CONTROL	$ 4,550.00	$ 3,600.00	$ 5,096.00	$ 2,316.36
CHEMICAL CONTROL PLAN	$ 4,500.00	$ 3,600.00	$ 5,040.00	$ 3,150.00
MULCHING	$ 2,640.00	$ 7,535.50	$ 8,400.00	$ 2,000.00
IRRIGATION INSPECTIONS (include repair cost)	$ 5,280.00	$ 1,500.00	$ 16,640.00	$ 4,800.00
PRESSURE CLEANING	$ 33,800.00	$ 20,488.00	$ 33,280.00	$ 26,000.00
RESTROOM CLEANING/STOCKING	$ 62,415.00	$ 34,944.00	$ 68,640.00	$ 37,230.00
REMOVAL OF DEBRIS	$ 54,487.20	$ 27,300.00	$ 36,400.00	$ 26,280.00
AERIFICATION	$ 2,400.00	$ 480.00	$ 2,800.00	$ 2,181.82
TOPDRESSING	$ 5,000.00	$ 1,600.00	$ 6,800.00	$ 4,545.45
SPIKING	$ 3,150.00	$ 3,456.00	$ 5,400.00	$ 2,863.65
Total Bid Price Option 1	$ 242,224.28	$ 165,098.50	$ 290,716.00	$ 164,102.94
Total Bid Price Option 2	$ 229,978.00	$ 151,890.00	$ 290,716.00	$ 151,071.42

Notes:

1. Porter Service-Restroom cleaning/stocking includes 2190 visits or 6 daily. Includes cleaning and paper supplies.
2. Porter Service- Debris removal includes complete cleanup of park grounds including dumping of all trash barrels 2190 visits or 6 daily. Includes supplies and monthly pressure wash of trash containers.
3. Full service visit includes mowing, edging, weedeater work, blow down and wipe down of all signs, light poles etc once weekly. Includes grounds inspection
4. Additional mowing includes second weekly mowing --mow and blow down only.
5. Pressure washing includes weekly service cleaning all hard surfaces, restroom building, and benches. Includes graffiti removal on all surfaces.

Recommendation: Recommend CMB contract with ValleyCrest for maintenance contract. ValleyCrest has submitted the most complete and responsive bid.

Friday January 22, 2011

UNIT PRICE BID FORM PENNSYLVANIA GARAGE

Bid Tally and Recommendation

DESCRIPTION OF SERVICE	Original BidValleyCrest	Vila n Son	Superior	Revised Recommended ValleyCrest
FULL SERVICE VISIT	$ 1,950.00	$ 984.00	$ 5,200.00	$ 1,772.73
PALM TRIMMING	$ 340.00	$ 651.00	$ 3,200.00	$ 309.09
TREE TRIMMING	$ 935.00	$ 700.00	$ 450.00	$ 850.00
SHRUB FERTILIZATION	$ 360.00	$ 120.00	$ 270.00	$ 327.27
TURF FERTILIZATION W/PRE EMERG HERB	$ -	$ -	$ 240.00	$ -
TURF FERTIZATION W/INSECTICIDE	$ -	$ -	$ 288.00	$ -
TURF FERTILIZATION	$ -	$ -	$ 180.00	$ -
PALM FERTILIZATION	$ 204.00	$ 148.00	$ 720.00	$ 185.45
TREE FERTILIZATION	$ 99.00	$ 148.00	$ 135.00	$ 90.00
WEED CONTROL	$ 2,184.00	$ 480.00	$ 2,288.00	$ 655.20
CHEMICAL CONTROL PLAN	$ 1,080.00	$ 120.00	$ 2,160.00	$ 490.91
MULCHING	$ 380.00	$ 495.00	$ 6,720.00	$ 345.45
IRRIGATION INSPECTIONS (include repair cost)	$ 2,040.00	$ 840.00	$ 6,240.00	$ 1,854.55
PRESSURE CLEANING	$ 15,080.00	$ 600.00	$ 40,040.00	$ 4,160.00
REMOVAL OF DEBRIS	$ 4,555.20	$ 4,562.50	$ 13,832.00	$ 1,990.91
Total Option 1	$ 29,207.20	$ 14,411.00	$ 81,963.00	$ 14,204.35
Total Option 2	$ 27,600.00	$ 13,258.00	$ 81,963.00	$ 13,031.52

Notes:

1. Bid documents required weekly pressure washing and debris pickup 6 times daily.
2. Bid includes maintenance of all area exterior to building.

Recommendation: Recommend CMB contract with ValleyCrest for maintenance contract

VC
1/17/11

UNIT PRICE BID FORM MIAMI BEACH SOUND SCAPE PARK

SERVICES BID FORM TO BE COMPLETED BY BIDDER

DESCRIPTION OF SERVICE	QUANTITY	ANNUAL FREQUENCY	UNIT PRICE	TOTAL
FULL SERVICE VISIT	1 EA	52	300	15,600
ADDITIONAL MOWING VISIT	1 EA	35	200	7,000
BOUGINVILLEA TRIMMING/TIE	64	32	1	2,048
PALM TRIMMING	344	3	7	7,224
TREE PRUNING	9	1	200	1,800
BOUGINVILLEA FERTILIZATION	1400	6	.045	381.82
TURF FERTILIZATION W/PRE EMERG HERB	73,560	2	.008	1,203.71
TURF FERTILIZATION W/INSECTICIDE	73,560	2	.005	668.73
TURF FERITILZATION	73, 560	2	.004	534.98
PALM FERTILIZATION	344	4	.2	2,752
TREE FERTILIZATION	9	3	18.18	490.91
WEED CONTROL	3,500	52	.013	2,316.36
CHEMICAL CONTROL PLAN	75,000	12	.0035	3,150
MULCHING	1 EA	1	2,000	2,000
IRRIGATION INSPECTIONS (include repair cost)	1 EA	12	400	4,800
PRESSURE CLEANING	1 EA	52	500	26,000
RESTROOM CLEANING/STOCKING	1 EA	2190	17	37,230
REMOVAL OF DEBRIS	1 EA	2190	12	26,280
AERIFICATION	1 EA	2	1,090.91	2,181.82
TOPDRESSING	1 EA	2	2,272.73	4,545.45
SPIKING	1 EA	6	477.27	2,863.64

We are confident that you would benefit greatly from our efforts to create beauty in the appearance of your landscape. Through our vast experience of similar projects we would like the opportunity to discuss potential cost saving options.

OPTION 1 ANNUAL BID TOTAL $ 164,102.94

OPTION 2 ANNUAL BID TOTAL $ 151,071.42

VC
1/19/14

UNIT PRICE BID FORM PENNSYLVANIA GARAGE

SERVICES BID FORM TO BE COMPLETED BY BIDDER

DESCRIPTION OF SERVICE	QUANTITY	ANNUAL FREQUENCY	UNIT PRICE	TOTAL
FULL SERVICE VISIT	1 EA	52	34.09	1,772.73
PALM TRIMMING	17	1	18.18	309.09
TREE PRUNING	11	1	77.27	850
SHRUB FERTILIZATION	1,500	3	.07	327.27
TURF FERTILIZATION W/PRE EMERG HERB	0 SF	0	0	0
TURF FERTILIZATION W/INSECTICIDE	0 SF	0	0	0
TURF FERITILZATION	0 SF	0	0	0
PALM FERTILIZATION	17	4	2.73	185.45
TREE FERTILIZATION	11	3	2.73	90
WEED CONTROL	2100	52	.006	655.20
CHEMICAL CONTROL PLAN	1800	12	.023	490.91
MULCHING	1 EA	1	345.45	345.45
IRRIGATION INSPECTIONS (include repair cost)	1 EA	12	154.55	1,854.55
PRESSURE CLEANING	1 EA	52	80	4,160
REMOVAL OF DEBRIS	1 EA	2190	.91	1,990.91

We are confident that you would benefit greatly from our efforts to create beauty in the appearance of your landscape. Through our vast experience of similar projects we would like the opportunity to discuss potential cost saving options.

OPTION 1 ANNUAL BID TOTAL $ 14,204.35

OPTION 2 ANNUAL BID TOTAL $ 13,031.52

ATTACHMENT B

MIAMI BEACH

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

RECEIVED
2011 JUL 12 AM 2:35
CITY CLERK'S OFFICE

MEMO NO. 006-2011

MEMORANDUM

TO: Commissioner Jonah Wolfson

FROM: Jorge M. Gonzalez, City Manager

DATE: June 12, 2011

SUBJECT: **MIAMI BEACH SOUNDSCAPE LANDSCAPE AND OTHER RELATED OPERATIONS**

As per your request, attached please find the information you requested regarding the current landscape maintenance, porter and restroom facility services provided on behalf of the City by ValleyCrest Landscape Development.

As you may recall, a ninety (90) day maintenance period was incorporated as a component of the Miami Beach SoundScape construction Project. Upon final acceptance of the project by the City, Hines managed all facets of the operation and maintenance of this site in cooperation with the Parks and Recreation Department for this period. This maintenance phase began on January 24, 2011 and ended on April 24, 2011. The interim maintenance was intended to provide an opportunity for the city finalize pending operational issues associated with the long term management of this facility and ensure a smooth transition to long term operations.

At the request of the Administration, Hines coordinated a process to obtain request for proposals from four full service landscape maintenance companies. Three of the proposers provided service to the city at the time under existing maintenance agreements with the city, and the fourth participated in the construction of the site. Hines used the Parks and Recreation Department's landscape specifications in use citywide, and co-developed the porter, hardscape and restroom service as detailed in the RFP. The cost to provide landscape maintenance at the newly completed Pennsylvania Garage was also requested, to ensure continuity of maintenance and identify possible benefits from economy of scale opportunities.

The lowest overall price quote for the prescribed service was received from ValleyCrest Landscape Development and Hines recommended the acceptance of this quote as detailed in the letter which included the bid results sent to City on January 21, 2011 (see attached). As the lowest responsive bidder, the proposal from ValleyCrest was accepted and they began successful service delivery as detailed above. When the end of the maintenance period approached, the long-term operational issues for this location were still in development. In recognition of this situation, on April 25, 2011, Miami Beach SoundScape was included as an additional site to the existing agreement between the City and ValleyCrest Landscape Development as prescribed under terms of the Bid # 35-09/10 Landscape Maintenance Services for the Beachwalk, Boardwalk, Street-Ends & Spoil Areas Citywide, section 2.4.3.3 paragraph C, Price Adjustments for the Addition of Sites.

The prices, terms and conditions detailed within the provided proposal are in effect until the end of the contract period specified in bid # 35-09/10 which is June 10, 2013, unless this location is removed from the above referenced contract as also prescribed in the agreement.

Please advise if you have additional questions or concerns.

cc: Mayor Matti Herrera Bower and City Commissioners
Jose Smith, City Attorney
Kevin Smith, Parks and Recreation

Condensed Title:

A Resolution Approving A Federal Equitable Sharing Agreement With The United States Department Of Justice And The United States Department Of The Treasury, And Authorizing The Mayor And The City Clerk To Execute The Agreement.

Key Intended Outcome Supported:

Increase resident ratings of public safety services.

Supporting Data (Surveys, Environmental Scan, etc.): According to the Center for Research and Public Policy, and Business Residential Satisfaction Survey of the City of Miami Beach, residents in 2009, indicated that their three most important areas for the City of Miami Beach to address in an effort to improve public safety throughout the City are: Preventing Crime 44.9%, Enforcing Traffic Laws 36.1% and increasing Visibility of Police in the Neighborhoods 32.4%.

Issue:

Shall the City adopt the Resolution?

Item Summary/Recommendation:

The Miami Beach Police Department (MBPD) periodically conducts investigations with a variety of federal law enforcement agencies. During joint investigations where property (such as cash, vehicles, and other real property) is seized and forfeited, the assets are shared by the agencies which participated in the investigation.

As a prerequisite to receive MBPD's share of assets seized and forfeited, the United States Department of Treasury, requests that the participating agency sign the Federal Equitable Sharing Agreement in order to continue participation in the Asset Sharing Program.

The City will benefit financially through the MBPD's continued participation in the Asset Sharing Program. The current Agreement has expired and renewing this agreement will ensure participation in this program.

The Administration recommends approving the resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary:
N/A

City Clerk's Office Legislative Tracking:

Mauvett Rattigan, Police Financial Assistant

Sign-Offs:

Department Director	Assistant City Manager	City Manager
Raymond Martinez, Assistant Chief		

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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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING A FEDERAL EQUITABLE SHARING AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE AND THE UNITED STATES DEPARTMENT OF THE TREASURY, AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE AGREEMENT.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The Miami Beach Police Department (MBPD) periodically conducts investigations with a variety of federal law enforcement agencies. During joint investigations where property (such as cash, vehicles, and other real property) is seized and forfeited, the assets are shared by the agencies which participated in the investigation.

As a prerequisite to receive MBPD's share of assets seized and forfeited, the United States Department of Treasury, requests that the participating agency sign the Federal Equitable Sharing Agreement in order to continue participation in the Asset Sharing Program.

The City will benefit financially through the MBPD's continued participation in the Asset Sharing Program. The current Agreement has expired and renewing this agreement will ensure participation in this program.

JMG/RAM/MG

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING A FEDERAL EQUITABLE SHARING AGREEMENT WITH THE UNITED STATES DEPARTMENT OF JUSTICE AND THE UNITED STATES DEPARTMENT OF THE TREASURY, AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Miami Beach wishes to enter into a Federal Equitable Sharing Agreement with the United States Government Department of Justice and the United States Department of the Treasury to provide a protocol for the City to receive the monies from the Miami Beach Police Department's participation in joint criminal investigation where assets are seized and forfeited; and

WHEREAS, the attached Agreement outlines the terms and restrictions governing the use of federal forfeited property, or proceeds from such property to be shared with the Miami Beach Police Department.

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 herein authorize the Mayor and City Clerk to execute the attached Agreement with the United States Department of Justice and the United States Department of the Treasury.

PASSED and ADOPTED this _____ day of January, 2012.

ATTEST BY:

_____
MAYOR MATTI HERRERA BOWER

_____
ROBERT PARCHER, CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

CITY ATTORNEY AB 12/22/11
DATE

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Condensed Title:

A Resolution Authorizing The City Of Miami Beach, On Behalf Of The Miami Beach Police Department, To Accept A Donation Of A T3 Motion Series ESV Three Wheel Electric Vehicle, With An Approximate Value Of $9,000.00, From Mr. Adam Rose, Which Will Be Utilized For Specialized Patrol Along Walkways, Beachwalks And Mall Areas.

Key Intended Outcome Supported:

Maintain crime rates at or below national trends.

Supporting Data (Surveys, Environmental Scan, etc.): Pursuant to the 2009 Community Survey by The Center For Research and Public Policy residential respondents reported the following as their top three most important public safety areas for the City: Preventing Crime 44.9%, Enforcing Traffic Laws 36.1% and Increasing Visibility of Police in Neighborhoods 32.4%.

Issue:

Shall the Administration adopt the Resolution?

Item Summary/Recommendation:

Mr. Adam Rose, a City of Miami Beach resident wishes to donate a new T3 Motion Series ESV three wheel electric vehicle to the Miami Beach Police Department. This vehicle has an approximate value of $9,000, and will be used to patrol walkways, beachwalks and mall areas.

The Miami Beach Police Department is a strong proponent of community oriented policing which involves high visibility patrol and significant interaction with residents, business owners and tourists. In this community policing effort, the Miami Beach Police Officers utilize, bicycles, all terrain vehicles, and segways to more effectively patrol areas frequented by residents and tourists that are less accessible than standard patrol vehicles. The T3 Motion Series ESV vehicle will be housed and charged in the Miami Beach Police Department Headquarters Station and since it is a fully electrical vehicle maintenance costs will be minimal. The acquisition of this vehicle will further the effectiveness of police officers patrolling residential and commercial areas most suited for this type of patrol vehicle.

The Administration recommends approving the resolution.

Advisory Board Recommendation:

NA

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary:
NA

City Clerk's Office Legislative Tracking:

Michael Gruen, Miami Beach Police Department

Sign-Offs:

Department Director	Assistant City Manager	City Manager
Assistant Chief Ray Martinez		

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MIAMIBEACH

AGENDA ITEM C7J
DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION AUTHORIZING THE CITY OF MIAMI BEACH, ON BEHALF OF THE MIAMI BEACH POLICE DEPARTMENT, TO ACCEPT A DONATION OF A T3 MOTION SERIES ESV THREE WHEEL ELECTRIC VEHICLE, WITH AN APPROXIMATE VALUE OF $9,000.00, FROM MR. ADAM ROSE, WHICH WILL BE UTILIZED FOR SPECIALIZED PATROL ALONG WALKWAYS, BEACHWALKS AND MALL AREAS.**

ADMINISTRATION RECOMMENDATION

Approve the Resolution.

ANALYSIS

Mr. Adam Rose, a City of Miami Beach resident wishes to donate a new T3 Motion Series ESV three wheel electric vehicle to the Miami Beach Police Department. This vehicle has an approximate value of $9,000, and will be used to patrol walkways, beachwalks and mall areas. The Miami Beach Police Department is a strong proponent of community oriented policing which involves high visibility patrol and significant interaction with residents, business owners and tourists. In this community policing effort, Miami Beach Police officers utilize bicycles, all terrain vehicles, and segways to more effectively patrol areas frequented by residents and tourists that are less accessible than standard patrol vehicles. The T3 Motion Series ESV vehicle will be housed and charged in the Miami Beach Police Department Headquarters Station, and since it is a fully electrical vehicle, maintenance costs will be minimal. The acquisition of this vehicle will further the effectiveness of police officers patrolling residential and commercial areas most suited for this type of patrol vehicle.

JMG/RAM/MG

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY OF MIAMI BEACH, ON BEHALF OF THE MIAMI BEACH POLICE DEPARTMENT, TO ACCEPT A DONATION OF A T3 MOTION SERIES ESV THREE WHEEL ELECTRIC VEHICLE, WITH AN APPROXIMATE VALUE OF $9,000.00, FROM MR. ADAM ROSE, WHICH WILL BE UTILIZED FOR SPECIALIZED PATROL ALONG WALKWAYS, BEACHWALKS AND MALL AREAS.

WHEREAS, the Miami Beach Police Department is a strong proponent of community oriented policing, which involves the high visibility of Miami Beach Police Officers, who significantly interact with local residents, business owners and tourists; and

WHEREAS, the Miami Beach Police Department utilizes bicycles, all terrain vehicles, and segways to more effectively patrol those areas which are frequented by residents and tourists as part of this community policing effort; and

WHEREAS, Mr. Adam Rose, a resident of the City of Miami Beach, wishes to donate a new T3 Motion Series ESV three wheel electric vehicle (the "Vehicle") to the Miami Beach Police Department, which will allow Miami Beach Police Officers to patrol residential and commercial areas that are less accessible by a patrol vehicle; and

WHEREAS, the Vehicle is ideally suited to patrol walkways, beachwalks and mall areas, and will be housed at the Miami Beach Police Department with minimal expense to the City of Miami Beach for the maintenance of the Vehicle.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, authorizing the City of Miami Beach, on behalf of the Miami Beach Police Department, to accept a donation of a T3 Motion Series ESV Three Wheel Electric Vehicle, with an approximate value of $9,000.00 from Mr. Adam Rose, which will be utilized for specialized patrols along walkways, beachwalks and mall areas.

PASSED and ADOPTED this _____ day of January, 2012.

ATTEST BY:

_____
MAYOR MATTI HERRERA BOWER

_____
ROBERT PARCHER, CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

12/20/11
CITY ATTORNEY AB DATE

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Condensed Title:

A Resolution To Consider Setting A Public Hearing For The February 8, 2012 City Commission Meeting, To Consider Granting A Revocable Permit To 1790 Alton Holdings Llc, As Owner Of The Property Located At 1790 Alton Road, To Allow A Concrete "Eyebrow" To Extend Into The Public Right Of Way On 18th Street And The Service Road Adjacent To Alton Road, And A Minimum Of 14 Feet Above The Sidewalk

Key Intended Outcome Supported:

Maintain Miami Beach public areas and rights of way Citywide

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

Issue:

Shall the City Commission grant the revocable permit?

Item Summary/Recommendation:

The property is a small triangular parcel located west of Alton Road between Dade Boulevard and 18th Street. The owner is developing a new modern commercial building on this site.

The design of this building has incorporated concrete "eyebrow" as an architectural element. These "eyebrows" extend 12 inches outside of the property line and are at a minimum of 14 feet above the public sidewalk. Concrete "eyebrows" are signature architectural features commonly found on many buildings throughout Miami Beach.

The criteria for a revocable permit are satisfied per Miami Beach City Code Section 82-94, to allow an encroachment over the City's right-of-way. The request is in harmony with the intent and purpose of the City Code, and will not be injurious to the area involved or otherwise detrimental to the public welfare. The permit will provide the applicant with a reasonable use of the property.

THE ADMINISTRATION RECOMMENDS ADOPTING THE RESOLUTION.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
OBPI	Total	N/A	N/A

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Richard W. Saltrick, Acting City Engineer, ext.6565

Sign-Offs:

Department Director	Assistant City Manager	City Manager
FHB	DRB	JMG

T:\AGENDA\2012\1-11-12\Revocable Permit 1790 Alton Road Summary.doc

MIAMIBEACH

AGENDA ITEM C7K
DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, SETTING A PUBLIC HEARING FOR THE FEBRUARY 8, 2012 CITY COMMISSION MEETING, TO CONSIDER GRANTING A REVOCABLE PERMIT TO 1790 ALTON HOLDINGS LLC, AS OWNER OF THE PROPERTY LOCATED AT 1790 ALTON ROAD, TO ALLOW A CONCRETE "EYEBROW" TO EXTEND INTO THE PUBLIC RIGHT OF WAY ON 18TH STREET AND THE SERVICE ROAD ADJACENT TO ALTON ROAD, AND A MINIMUM OF 14 FEET ABOVE THE SIDEWALK.**

ADMINISTRATION RECOMMENDATION

The Administration recommends adopting the resolution.

BACKGROUND

The property is a small triangular parcel located west of Alton Road between Dade Boulevard and 18th Street. The owner is developing a new modern commercial building on this site.

The design of this building will incorporate a concrete "eyebrow" as an architectural element. These "eyebrows" will extend 12 inches outside of the property line and will be at a minimum of 14 feet above the public right-of-way (attachment). Concrete "eyebrows" are signature architectural features commonly found on many buildings throughout Miami Beach.

ANALYSIS

Pursuant to the criteria established under Section 82-94 of the City of Miami Beach Code of Ordinances for the granting/denying of revocable permits, the City has analyzed the criteria and issues the following conclusions:

1) That the applicant's need is substantial.

Satisfied. The proposed building has been designed to express an architectural style that is contextual with the existing architecture of Miami Beach. The use of "eyebrows" as an architectural element will be incorporated into the design to express horizontality. The design is in conformance with the Design Guidelines of the City of Miami Beach Planning & Zoning Department.

2) That the applicant holds the title to an abutting property.

   Satisfied. A copy of the title has been submitted as part of this application, which indicates the applicant holds title to this property.

3) That the proposed improvements comply with applicable codes, ordinances, regulations, and neighborhoods plans and laws.

   Satisfied. The applicant will obtain all necessary building permits for the encroachments.

4) That the grant for such application will have no adverse effect on government/utility easements and uses on the property.

   Satisfied. The "eyebrows" will be placed at the height that will not impact vehicular access to the property.

5) Alternatively:

   a. That an unnecessary hardship exits that deprives the applicant of a reasonable use of the land, structure or building for which the Revocable Permit is sought arising out of special circumstances and conditions that exist and were not self-created and are peculiar to the land, structures or buildings in the same zoning district and the grant of the application is the minimum that will allow reasonable use of the land, structures or building.

   b. That the grant of the revocable permit will enhance the neighborhood and/or community by such amenities as, for example, enhanced landscaping, improved drainage, improved lighting and improved security.

   Satisfied. b: This property is currently an empty lot on an important intersection that is the eastern entrance to a commercial district. This project is key to expressing an entrance by activating the eastern boundary of this neighborhood and enhancing the urban fabric. In addition, the proposed "eyebrow" encroachments will provide some protection to pedestrians from the sun and rain.

6) That the granting of the revocable permit requested will not confer on the applicant any special privilege that is denied to other owner of land, structures, or building subject to similar conditions.

   Satisfied. Throughout the City's commercial district there are many examples of similar conditions where concrete "eyebrows" on the front facades of the building extend over the property line/public sidewalk. The applicant is not requesting consideration for anything that has not been afforded to other commercial property owners on Miami Beach. Granting this revocable permit will in no way impact access to or past the property.

7) That granting the revocable permit will be in harmony with the general intent and purpose of Article III of the City Code, and that such revocable permit will not be injurious to surrounding properties, the neighborhood, or otherwise detrimental to the public welfare.

Satisfied. The overhead "eyebrow" will be located at a minimum of 14'-0" above the sidewalk. These "eyebrows" will enhance the sidewalk by providing pedestrians some protection against the sun and rain. The "eyebrows" will be high enough to avoid conflict with vehicular traffic, and provide no condition that could be considered hazardous or injurious.

The analysis above shows that the criteria for a revocable permit are satisfied per Miami Beach City Code Section 82-94, to allow existing encroachments into the City's right-of-way to remain. The request is in harmony with the intent and purpose of the City Code, and will not be injurious to the area involved or otherwise detrimental to the public welfare. The permit will provide the applicant with a reasonable use of the property.

CONCLUSION

The Administration recommends that the City Commission set a public hearing for the February 8, 2012 Commission Meeting, to consider granting a revocable permit to 1790 Alton Holdings LLC, as owner of the property located at 1790 Alton Road, to allow a concrete "eyebrow" to extend into the public right of way on 18th Street and the service road adjacent to Alton Road, and a minimum of 14 feet above the sidewalk.

Attachment:

A. Sketch of the proposed encroachments

DRB/FHB/RWS

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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 FEBRUARY 8, 2012 CITY COMMISSION MEETING, TO CONSIDER GRANTING A REVOCABLE PERMIT TO 1790 ALTON HOLDINGS LLC, AS OWNER OF THE PROPERTY LOCATED AT 1790 ALTON ROAD, TO ALLOW A CONCRETE "EYEBROW" TO EXTEND INTO THE PUBLIC RIGHT-OF-WAY ON 18TH STREET AND THE SERVICE ROAD ADJACENT TO ALTON ROAD (AND A MINIMUM OF 14 FEET ABOVE THE SIDEWALK).

WHEREAS, 1790 Alton Holdings LLC (Applicant) is the owner of property located at 1790 Alton Road; and

WHEREAS, the Applicant is developing a new commercial building on the property, which is a small triangular parcel located west of Alton Road, between Dade Boulevard and 18th Street; and

WHEREAS, the design of the building incorporates a concrete "eyebrow" as an architectural element, which is a signature architectural feature commonly found on many buildings throughout Miami Beach; and

WHEREAS, the aforestated "eyebrow" extends approximately twelve (12") inches into the public right-of-way, on 18th street and the service road adjacent to Alton Road; and

WHEREAS, Applicant is requesting a revocable permit from the City to maintain the encroachment on public property; and

WHEREAS, the Public Works Department is in receipt of Applicant's completed application for a revocable permit and, accordingly, a public hearing must be set for the City Commission to consider the request.

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 February 8, 2012 City Commission Meeting, to consider granting a revocable permit to 1790 Alton Holdings LLC, as owner of the property located at 1790 Alton Road, to allow a concrete "eyebrow" to extend into the public right-of-way on 18th Street and the service road adjacent to Alton Road (and a minimum of 14 feet above the sidewalk).

PASSED AND ADOPTED this 11th day of January, 2012.

ATTEST:

_____ _____

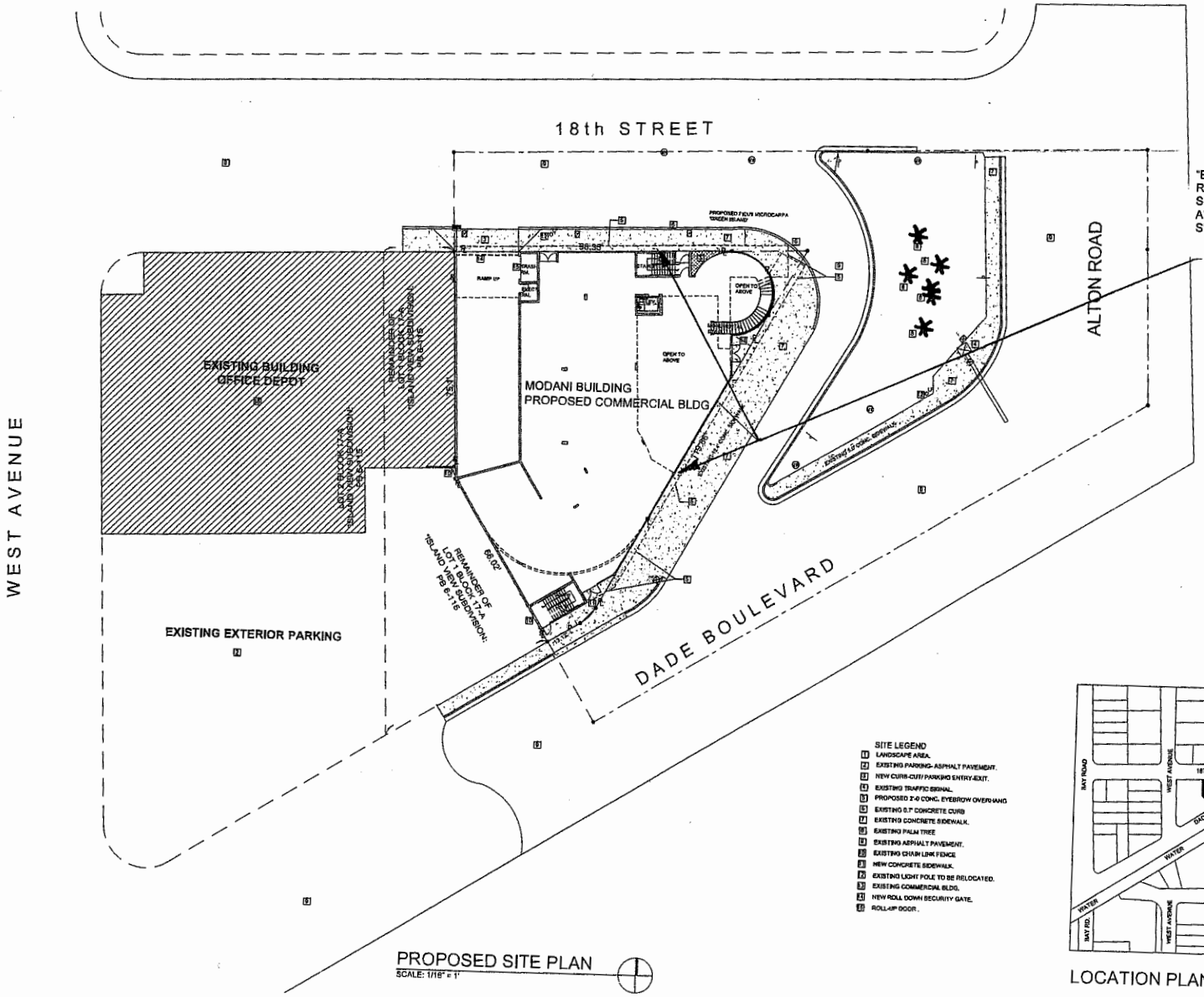
Robert H. Parcher, City Clerk Matti Herrera Bower, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

_____ 1-3-12

City Attorney Date

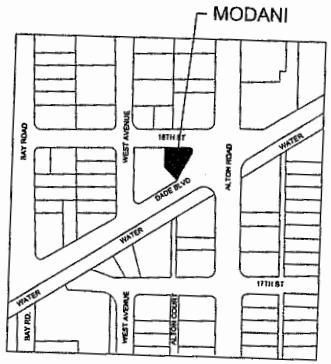
T:\AGENDA\2012\1-11-12\Revocable Permit 1790 Alton Road Reso.doc



PROPOSED SITE PLAN
SCALE: 1/16" = 1'

SITE LEGEND

1. LANDSCAPE AREA.
2. EXISTING PARKING- ASPHALT PAVEMENT.
3. NEW CURB-CUT/ PARKING ENTRY-EXIT.
4. EXISTING TRAFFIC SIGNAL.
5. PROPOSED 2'-0 CONC. EYEBROW OVERHANG
6. EXISTING 0.7' CONCRETE CURB
7. EXISTING CONCRETE SIDEWALK.
8. EXISTING PALM TREE
9. EXISTING ASPHALT PAVEMENT.
10. EXISTING CHAIN LINK FENCE
11. NEW CONCRETE SIDEWALK.
12. EXISTING LIGHT POLE TO BE RELOCATED.
13. EXISTING COMMERCIAL BLDG.
14. NEW ROLL DOWN SECURITY GATE.
15. ROLL-UP DOOR .



LOCATION PLAN

BELLINSON
ARCHITECTURE AA0003182
LEE BELLINSON AR0002775
8181 BISCAYNE BLVD.
SUITE 309
MIAMI FL 33138-4694
TEL (305) 555.1290
FAX (305) 551.1740
bellinsonarchitecture.com

MODANI
1790 ALTON ROAD
MIAMI BEACH, FL 33139

DATE	REVISION

DWG. TITLE: PROPOSED SITE PLAN
SCALE: 1/16" = 1'
PROJECT NO.: 2011-03
DATE: 07-08-11
SHEET NUMBER: SP-101

Condensed Title:

Resolution authorizing the City Manager and the City Attorney's Office to proceed with the process of condominiumizing the City-owned property located at 1661 Pennsylvania Avenue, Miami Beach, Florida.

Key Intended Outcome Supported:

Ensure well-maintained facilities.

Supporting Data (Surveys, Environmental Scan, etc.):
The 2007 Community Satisfaction Survey noted 82% of North Beach residents rated recent capital projects completed as "excellent" or "good" compared to 89% of residents citywide

Issue:

Should the City of Miami Beach proceed with the condominiumization of the Pennsylvania Avenue garage?

Item Summary/Recommendation:

On October 10, 2010, the City completed the construction of the Pennsylvania Avenue Garage, located at 1661 Pennsylvania Avenue. This project included 550 public parking spaces, as well as approximately 7,655 square feet of retail space available for lease. Through the City's broker, a potential private tenant for the retail space was identified, and on April 13, 2011, the Mayor and City Commission of the City of Miami Beach approved a retail lease agreement between the City and Penn 17, LLC, for use of the ground floor retail space. . So as not to jeopardize the tax exempt status of the parking garage, the Administration recommends separating the retail area of the building from the garage portion of the building via a condominiumization process, similar to what has been structured for other City-owned facilities containing retail and/or commercial tenants, including 1701 Meridian Avenue and 1130 Washington Avenue. The private tenant is responsible for paying any real estate taxes assessed for their space,

The City Attorney's office is in the process of finalizing the necessary forms to proceed with the condominiumization of the retail space, pursuant to which the City would retain full ownership of the condominium unit; the Mayor and Commissioners will serve as the condominium association board.

Advisory Board Recommendation:

n/a

Financial Information:

Source of Funds:

OBPI

	Amount	Account	Approved
1	n/a		
2			
3			
4			
Total			

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Kent Bonde, Asset Management Ext #6363

Sign-Offs:

Department Director	Assistant City Manager	City Manager
AP	HF	JMG

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MIAMIBEACH

AGENDA ITEM C7L
DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY'S OFFICE TO PROCEED WITH, AND TAKE ANY AND ALL REQUIRED ACTIONS RELATIVE TO THE CONDOMINIUMIZATION OF THE CITY-OWNED PROPERTY LOCATED AT 1661 PENNSYLVANIA AVENUE, MIAMI BEACH, FLORIDA.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND

On October 10, 2010, the City completed construction of the Pennsylvania Avenue Garage, located at 1661 Pennsylvania Avenue. This project included 550 public parking spaces, as well as approximately 7,655 square feet of retail space available for lease. Through the City's broker, a potential private tenant for the retail space was identified, On April 13, 2011, the Mayor and City Commission approved the execution of a retail lease agreement between the City and Penn 17, LLC, for use of the ground floor retail space.

ANALYSIS

As a municipal parking facility, the structure should remain exempt from having to pay property taxes, comparable to other municipally-owned parking facilities and buildings that serve a public purpose. However, because of the commercial retail space on the premises, the entire structure can be deemed to be subject to property taxes. So as to ensure the continued tax exempt status of the municipal parking garage, the retail portion of the building needs to be separated via a condominiumization process. This process has been implemented in the past for other City-owned facilities that also contain retail and/or commercial tenants, including 1701 Meridian Avenue and 1130 Washington Avenue. Under this process, property taxes are levied only for the retail/commercial portions, which in some cases have been subdivided to accommodate tenant needs; the retail tenants are responsible for the payment of property taxes. The retail tenant for 1661 Pennsylvania Avenue is, likewise, responsible for any property taxes levied for their retail space.

The City retains full ownership of the condominium unit(s), with the Mayor and Commissioners serving as the condominium association board.

It should also be noted that in the past, the City has used outside counsel to prepare and submit the necessary Declaration of Condominium applications to file with the State of Florida. This time, however, the City Attorney's office has been able to complete this work in-house at a significant cost savings for the City. It is anticipated that the only cost associated with filing this application will involve the filing and recording fees (estimated at $10,000).

CONCLUSION

The condominiumization of the 1661 Pennsylvania Avenue Garage will ensure that the public parking garage portion of the building remains tax exempt.

JMG/HF/AP/kob

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RESOLUTION NO: _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ADMINISTRATION AND CITY ATTORNEY'S OFFICE TO PROCEED WITH, AND TAKE ANY AND ALL REQUIRED ACTIONS RELATIVE TO THE CONDOMINIUMIZATION OF THE CITY-OWNED PROPERTY LOCATED AT 1661 PENNSYLVANIA AVENUE, MIAMI BEACH, FLORIDA.

WHEREAS, the City is the owner of the Pennsylvania Avenue municipal parking garage located at 1661 Pennsylvania Avenue; and

WHEREAS, in addition to containing 550 parking spaces that serve a public purpose, the garage building also includes approximately 7,655 square feet of ground floor retail space; and

WHEREAS, on April 13, 2011, the Mayor and City Commission of the City of Miami Beach approved a retail lease agreement between the City and Penn 17, LLC, involving said retail space, for a term of nine (9) years and 364 days, commencing on October 13, 2011 and terminating on October 12, 2021; and

WHEREAS, the conversion of said retail space to condominium status is recommended in order to maintain (and/or otherwise support) some or all of the tax exempt status of the facility.

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 authorize the Administration and City Attorney's Office to proceed with, and take any and all required actions relative to the condominiumization of the City-owned property located at 1661 Pennsylvania Avenue, Miami Beach, Florida.

PASSED and ADOPTED this 11th day of January, 2012

ATTEST:

CITY CLERK	**MAYOR**

JMG/HF/AP/kob

T:\AGENDA\2012\Jan 11\consent\Condominiumization 1661 Penn Ave Reso.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney — Date 1/3/12

Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, retroactively approving and authorizing the appropriation of a contribution of $60,000 from the Ocean Drive Association and Orange Bowl Committee in support of the 2011-2012 New Year's Eve celebration.

Key Intended Outcome Supported:

Increase community ratings of cultural activities.

Supporting Data (Surveys, Environmental Scan, etc.): The 2009 Community Satisfaction Survey reported more than one-fifth of all resident respondents feel there are "too few" family friendly activities (24.6%) and cultural activities (24.1%). Additionally, on average, residents attended 10.61 cultural activities per year and 7.19 family friendly activities per year.

Issue:

Shall the City Commission accept a contribution from the Ocean Drive Association and Orange Bowl Committee of $60,000 ($30,000 each) for the New Year's Eve celebration?

Item Summary/Recommendation:

Similar to the prior ten (10) years, the Ocean Drive Association (ODA) approached the City to request participation and sponsorship of a free fireworks show on the beach east of Lummus Park at midnight on New Year's Eve. Furthermore, ODA requested to close Ocean Drive to vehicular traffic beginning the morning of Friday, December 30, 2011, reopening on Monday, January 2, 2012 at 7:00 a.m. This year, the Orange Bowl Committee also created a New Year's Celebration entitled Orange Drive. As part of the celebration, the Orange Bowl Committee also agreed to contribute toward the Ocean Drive closure and fireworks.

Additionally, many Miami Beach nightclubs and hotels hosted special New Years events. The City worked with the area hotels and nightclubs to ensure that resources and security were appropriately allocated for this weekend.

In the past, the City has assisted in defraying costs associated with New Year's Eve on Ocean Drive, primarily associated with the fireworks show for the public and other ancillary City services. Because this provides an enhanced experience for both our residents and visitors, the City Commission authorized cost sharing for the road closure, fireworks and other related staffing costs for the past ten (10) years. This year, the Ocean Drive Association and the Orange Bowl Committee covered the costs of the fireworks display. Additionally, each organization also agreed to contribute $30,000 each toward the cost of the closure.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:

OBPI

	Amount	Account	Approved
1	$ 37,897.71		
2			
4			
Total			

Financial Impact Summary: The Ocean Drive Association and Orange Bowl Committee have each agreed to contribute $30,000 (for a total of $60,000) of the total cost of $97,897.71 for the street closure for New Year's Eve on Ocean Drive.

City Clerk's Office Legislative Tracking:

Max Sklar

Sign-Offs:

Department Director	Assistant City Manager	City Manager

AGENDA ITEM C7M
DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING AND AUTHORIZING THE APPROPRIATION OF A CONTRIBUTION FROM THE OCEAN DRIVE ASSOCIATION AND ORANGE BOWL COMMITTEE OF $60,000 IN SUPPORT OF THE 2011-2012 NEW YEAR'S CELEBRATION.**

RECOMMENDATION
Adopt the Resolution.

BACKGROUND
Similar to the prior ten (10) years, the Ocean Drive Association (ODA) approached the City to request participation and sponsorship of a free fireworks show on the beach east of Lummus Park at midnight on New Year's Eve. South Beach has become a popular destination for New Year's Eve, and the fireworks show enhances the experience for both our residents and visitors. In addition, Ocean Drive has previously been closed to vehicular traffic during the New Year's Eve period, allowing for an enhanced pedestrian experience, which includes expanded sidewalk cafes. As you are also aware, Miami-Dade County is home to the Orange Bowl college football classic, one of the Bowl Championship Series (BCS) events. Over the years, events have been held in the City associated with the Orange Bowl game and various ancillary events associated with the Orange Bowl.

ANALYSIS
This year's New Year's Eve events included the customary fireworks show and street closure. This year was also the second year of the Orange Bowl Committee's New Year's Celebration entitled Orange Drive. The Orange Drive event consisted of the following performances:

FRIDAY, December 30th Show Time 7-11pm
5:45-6:00pm Ribbon Cutting Ceremony
6:00pm Pete Wentz and Black Cards, Boyz II Men, Gym Class Heroes

SATURDAY, December 31st NEW YEAR'S EVE
8:00pm DJ Irie, Jason Derulo, Ne-Yo, NYE Countdown and Fireworks, Jermaine Dupri (DJ Set)

SUNDAY, January 1st
5:00pm Samantha Ronson (DJ Set), Cobra Starship, Cee Lo Green

TUESDAY, January 3rd
6:00pm School Bands, Cheerleaders and more! Travis Tritt

Additionally, many Miami Beach nightclubs and hotels hosted special New Year's Eve events. The City worked with the area hotels and nightclubs to ensure that resources and security were appropriately allocated for the weekend. City resources were allocated to support the events, as follows:

Police/Fire/Parking/Sanitation/Code Staffing
The City implemented enhanced staffing levels for Police, Fire, Parking, Sanitation and Code Compliance during the New Year's Eve weekend in the entertainment district. This is in addition to the off-duty staffing secured (and paid) by the Orange Drive program to support the activities and impacts associated with their event.
The Police Department had significant enhanced staffing throughout the weekend. In addition to the Orange Drive Concert series and the Ocean Drive street closure, the department had officers on foot patrols, bicycle patrols and ATV patrols throughout the Entertainment District, as well as undercover Crime Suppression Team officers. The Police Department also conducted DUI Saturation Patrols throughout the weekend.

The City also enhanced their enforcement of our current laws and regulations with respect to open containers and public consumption of alcoholic beverages, in order to ensure that residents and visitors had a safe and enjoyable experience in the City. In anticipation of the weekend, businesses ere hand-delivered letters reminding them of the City's laws, and asking for their assistance in curbing public consumption of alcohol. The City's goal was to work in partnership with our businesses to curtail the public consumption of alcoholic beverages throughout our city, which sometimes results in negative and unwanted behavior. Signage was developed by the City and offered to businesses (free of charge) to help in educating their patrons about our laws.

Traffic & Parking Restrictions
Ocean Drive (5 to 14 streets) was open to pedestrians only (no vehicles) from Friday, December 30 at 7:00 a.m. through Monday, January 2, 2012 at 7:00 a.m. in anticipation of large crowds during the holiday weekend.

Parking
All municipally operated parking facilities were open. The following lots had extended hours until 4:00 a.m. on December 31/January 1: 46 Street, South Pointe Park, Convention Center & Fillmore. Special event flat rates ($15 - $20) applied at most garages. Residential parking zones citywide were enforced, and valet operations normally on Ocean Drive were relocated to Collins Avenue.

Extended Hours
Pursuant to current City Code, requests for extended hours were received and reviewed; if all criteria was met, they were approved for extended hours until 7:00 a.m. on Sunday, January 1, 2012 and Monday, January 2, 2012.

Expenses
The following were the expenses associated with this year's New Year's Eve events. As part of the celebration, the Orange Drive event agreed to contribute toward the Ocean Drive closure and fireworks. As a result, the City's actual costs were less than $38,000.

Ocean Drive Closure: Fri, Dec 30 (7am) - Mon, Jan 2 (7am)

EXPENSES		
Police	$	53,928.00
Fire	$	35,969.71
Sanitation	$	8,000.00
TOTAL	$	97,897.71
REVENUES		
ODA Contribution	$	30,000.00
City's Contribution	$	37,897.71
Orange Bowl Contribution	$	30,000.00
TOTAL	$	97,897.71

CONCLUSION

The Administration recommends adopting the attached resolution, accepting contributions from the Ocean Drive Association and Orange Bowl Committee of $30,000 each toward the costs of closure of Ocean Drive for New Year's Eve events, as these events benefited the community and our visitors.

JMG\HMF\MAS

T:\AGENDA\2012\1-11-12\New Year's Eve 2011-2012.MEM.doc

RESOLUTION NO._____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, RETROACTIVELY APPROVING AND AUTHORIZING THE APPROPRIATION OF A CONTRIBUTION FROM THE OCEAN DRIVE ASSOCIATION AND ORANGE BOWL COMMITTEE OF $60,000 IN SUPPORT OF THE 2011-2012 NEW YEAR'S CELEBRATION.

WHEREAS, similar to the prior ten (10) years, the Ocean Drive Association approached the City requesting participation and sponsorship of a free fireworks show on the beach, east of Lummus Park, at midnight on New Year's Eve; and the closure of Ocean Drive to vehicular traffic beginning on the morning of Friday, December 30, 2011 reopening on Monday, January 2, 2012 at 7:00 a.m.; and

WHEREAS, the Orange Bowl Committee created a New Year Celebration entitled Orange Drive and has also agreed to contribute toward the Ocean Drive closure and fireworks; and

WHEREAS, the City worked diligently with the area hotels and nightclubs to ensure that resources and security were appropriately allocated for the weekend; and

WHEREAS, due to the popularity of New Year's Eve and its occurrence this year on Friday evening, occupancy levels in Miami Beach were strong, and as result, many visitors enjoyed the closure of Ocean Drive; and

WHEREAS, in the past, the City has assisted in defraying costs, primarily associated with the fireworks show for the public and other ancillary City services.

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 of the City of Miami Beach, Florida, hereby retroactively approve and authorize the appropriation of $60,000 from the Ocean Drive Association and Orange Bowl Committee toward support of the City's costs for 2011-2012 New Year's celebration.

PASSED and ADOPTED this 11th day of January, 2012.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

JMG\HMF\MAS
T:\AGENDA\2011\1-19-11\New Year's Eve 2010-2011.RES.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

12-29-11

City Attorney **Date**

R2

COMPETITIVE BID REPORTS

Condensed Title:

Request For Approval To Issue A Request For Qualifications (RFQ) For The Development Of The Miami Beach Convention Center District.

Key Intended Outcome Supported:

Improve the Convention Center Facility

Supporting Data (Surveys, Environmental Scan, etc.): The 2009 Community Satisfaction Survey indicated that residents attended events at the convention center 2.7 times per year.

Issue:

Shall the Mayor and City Commission approve to issue the RFQ?

Item Summary/Recommendation:

At its October 19, 2011 meeting, (pursuant to resolution No. 2011-27778) the City Commission authorized the Mayor and the City Clerk to execute an agreement between the City and Strategic Advisory Group (SAG) to assist the City with the expansion and enhancement of the Miami Beach Convention Center campus district.

During the May 20-21, 2011 City Commission Retreat, the Commission discussed and agreed to look at broader development opportunities in the area beyond the Convention Center concept plan, and expressed a desire to find ways to address the impact on traffic, mobility and to the surrounding neighborhoods, as well as maximizing green space. Based on the potential development opportunities of the area immediately surrounding the Convention Center (eg. approximately 6.2 million sq.ft. of FAR), and the potential expansion project cost, it was again determined that it would be beneficial to develop the most effective strategy to solicit the right mixed-use development team for the project, with a goal of ensuring the highest level of private-sector participation, and the best proposed design for the expansion project to address our Convention Center needs.

As part of SAG's scope of services, SAG is to prepare a Request for Qualifications (RFQ) to select the development team for the project. The RFQ is the first step in an effort to create funding options for convention center improvements through a mixed-use master development of City-owned properties surrounding the convention center that would create new revenues to the City. These incremental revenues could be used to fund potential convention center improvements and/or provide operating funds.

Advisory Board Recommendation:

Financial Information:

Source of Funds:

OBPI

	Amount	Account	Approved
1			
Total			

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Sign-Offs:

Department Director	Assistant City Manager	City Manager
MP	HF	JMG

T:\AGENDA\2012\1-11-12\MBCC-RFQ Summary.doc

MIAMIBEACH

AGENDA ITEM R2A

DATE 1-11-12

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: January 11, 2012

SUBJECT: **REQUEST FOR APPROVAL TO ISSUE A REQUEST FOR QUALIFICATIONS (RFQ) FROM QUALIFIED DEVELOPERS FOR A PUBLIC-PRIVATE MIXED-USE DEVELOPMENT IN MIAMI BEACH FOR THE ENHANCEMENT OF THE MIAMI BEACH CONVENTION CENTER CAMPUS/DISTRICT, INCLUDING THE EXPANSION OF THE MIAMI BEACH CONVENTION CENTER AND DEVELOPMENT OF A CONVENTION CENTER HOTEL.**

ADMINISTRATION RECOMMENDATION

Approve the issuance of the Request for Qualifications (RFQ).

BACKGROUND

In October 2001, Convention Sports & Leisure (CSL) was commissioned by the Greater Miami Convention and Visitors Bureau (GMCVB), in partnership with the City, to prepare a report that concluded that the Miami Beach Convention Center (MBCC) was best positioned to serve the greater Miami region given its geographic draw. However, the report also recommended that improvements, including a multi-purpose general assembly/banquet hall, should be made to increase the marketability of the Convention Center. In 2004, the Building Better Communities General Obligation Bonds Program was approved Countywide, and included a total of $55 million for Convention Center enhancement and expansion.

At the April 11, 2007 City Commission Meeting, the City Commission passed a motion supporting a proposed MBCC expansion (to include a ballroom, retrofit of space to accommodate new meeting rooms, and renovations to the northwest ballroom to create a "junior ballroom"), subject to the County funding all costs associated with the project, and the County managing the renovations/ construction process.

In April 2008, the City and County, in conjunction with interested Stakeholders, developed a long-term vision and Master Plan for the MBCC. As part of this new Master Plan, CSL prepared a new study that identified the following needs for the MBCC to be competitive: *Multi-Purpose/Ballroom Space*; *additional Meeting Space*; *Unique Features (e.g. outdoor terrace); the Development of a Convention Center District*; *and the inclusion of an adjacent/nearby Convention Center Headquarters Hotel.* A competitive process was issued for the selection of the Master Plan architect to create a vision for the implementation of those needs, and others that might be identified. Arquitectonica was competitively selected as the Master Plan architect.

Arquitectonica developed a preliminary Master Plan which included key features, including a reorientation of the Convention Center entrance, additional exhibit space, ballrooms, meeting rooms, and a 1,500 space parking garage. The master plan also identified potential locations for an adjacent convention center hotel. Arquitectonica's Master Plan was designed within the existing zoning restrictions for the expansion area (as they had been directed to proceed). The result was a design that addressed the issues and needs identified by CSL and the Stakeholders, but that involved a substantial level of massing on the available space.

On February 24, 2011, the Finance and Citywide Projects (FCWP) Committee met to consider the Master Plan Report, including the option of a Convention Center hotel. The FCWP Committee recommended to conceptually endorse the renovation and expansion of the MBCC to address the needs identified in CSL's report, including the development of an adjacent Convention Center Hotel. In addition, the FCWP Committee supported the engagement of an outside expert/firm to assist the City with conceiving a broader development concept that would maximize the City's resources and assets, and attract private sector investment.

On March 9, 2011, consistent with the FCWP Committee's recommendations, the Mayor and City Commission passed and adopted Resolution No. 2011-27620, which endorsed and supported, in concept, the project to renovate and expand the Miami Beach Convention Center, including an adjacent Convention Center hotel, but did not approve the proposed master plan concept design. The Commission also ratified the FCWP Committee's recommendation to secure any necessary expertise required to assist with the project, and authorized the City Manager to issue a Request for Proposals (RFP) to secure those services.

During the May 20-21, 2011 City Commission Retreat, the Commission further discussed and agreed to look at broader development opportunities in the area beyond the Convention Center concept plan, and expressed a desire to find ways to address the impact on traffic, mobility and to the surrounding neighborhoods. There was also a desire to maintain sensitivity for the historic district, while maximizing green space. Based on the potential development opportunities (eg. approximately 6.2 million sq.ft. of FAR), and the potential expansion project cost, it was again determined that assistance from a firm with experience and expertise in the development and implementation of similar projects (including similar Private/Public Partnerships, PPPs) would be beneficial in developing the most effective strategy to solicit the right mixed-use development team for the project, with a goal of ensuring the highest level of private-sector participation, and the best proposed design for the expansion project to address our Convention Center needs. On May 24, 2011, RFP No. 33-10/11 was issued. After an evaluation process, Strategic Advisory Group (SAG) was deemed the most qualified firm to assist the City with this process, based on their experience with similar projects in Florida and throughout the Country in Convention Center and Convention Center Hotel Development, public private partnerships, capital structuring, tax-exempt asset financing, tax revenue projection and bond offering due diligence. SAG has a broad range of experience in overall transaction management with private sector investment, identifying potential private partners, negotiating partnerships, executing transactions, monitoring private partner progress, and communicating the project's costs and benefits (economic impact, jobs, taxes, etc.). SAG is to serve as an extension of staff in the project development process.

On September 14, 2011, via Resolution No. 2011-27738, the City Commission authorized the City Manager to negotiate with Strategic Advisory Group and, subsequently,on October 19, 2011, via Resolution No. 2011-27778, the City Commission authorized the Mayor and City Clerk to enter into an agreement between the City and SAG for services relative to the expansion and enhancement of the MBCC District, pursuant to Request for Proposals (RFP) No 33-10/11 in an amount not to exceed $175,000, including all reimbursable expenses.

REQUEST FOR QUALIFICATIONS (RFQ)

As previously reported, SAG's scope of services includes drafting a Request for Qualifications (RFQ) from developers for the master development of the MBCC District. The RFQ is the first step in an effort to create funding options for convention center improvements through a mixed-use master development of City-owned properties surrounding the convention center that would create new revenues to the City. These incremental revenues could be used to fund potential convention center improvements and/or provide operating funds.

As part of SAG's effort to have a better understanding of the scope of the project, SAG met with City staff, toured the convention center and surrounding area, and reviewed the "Master Plan" and other related information. Also, SAG, as the City's primary advisor, has met with members of the hotel industry and convention bureau, as well as other stakeholders, to further understand their concerns and other related project issues. Through these recent industry discussions, it was determined that the Center needs, at a minimum, a "Class A" renovation, a new ballroom and a new Convention Center hotel to make the Center competitive and attract the high-end conventions to the region.

Referendum Requirement

The expanded development site, referred to as the MBCC District, is approximately 52 acres that encompasses the convention center facility, adjacent surface parking lots, City Hall, a parking garage (17th Street), and other related city offices (555 17 Street/1701 Meridian Building). The combined area allows for up to approximately 6.2 million square feet of FAR. All developers and other interested parties will be informed that any sale, exchange, conveyance or lease of ten(10) years or longer of any or all the City-owned properties in the MBCC District requires approval by a majority vote of residents in a City-wide referendum, pursuant to Section 1.03(b)(2) of the Miami Beach City Charter.

City Priorities

In addition to the improvement and expansion of the MBCC, the RFQ also will highlight additional City priorities for the master development, including increased outdoor public space, a walkable district providing connectivity between the Convention Center and Lincoln Road and the City's historical and cultural district, iconic architecture in keeping with the City's history of significant design, sensitivity of massing adjacent to existing residential neighborhoods, and optimal economic and community benefits to the City.

RFQ Submittal Requirements

RFQ Proposers can be master developers or development teams. The Proposers will be required to submit a package of material, including information about their teams, key personnel, company history, financial capabilities, relevant development experience and references. The complete response requirements will be detailed in the RFQ document.

RFQ Evaluation Process

In preparation for the RFQ process, SAG met with approximately 30 interested local, national and international development, hotel, and construction companies. The RFQ will focus on Proposers that will act as the master developer, and less so on construction or design companies, unless these companies are acting as financial partners.

Key to the evaluation of the RFQ responses will be the firm's relevant experience in undertaking similar master development projects, and its financial strength to carry out a development of the magnitude contemplated. The Proposers' relevant experience should include large mixed-use developments with a combination of retail, hotel, convention center, entertainment, residential and other commercial uses. Proposers will be requested to summarize at least five development projects of comparable size and scope as the MBCC District proposed development, the role it played in each

of the representative developments, and the professional experience of each key personnel that will be involved with the proposed MBCC project. Firms can work together to submit joint qualifications to satisfy the requirements for relevant experience.

Each Proposer also must provide information that demonstrates financial capability to take on the proposed MBCC development. Proposers will be required to summarize its broad approach to financing the various components of the proposed development. The RFQ response should include a summary of the Proposer's role in the capitalization of the project, relationships with capital sources, and the Proposer's commitment to provide all or a portion of the financing. In addition, the Proposers must describe any requested public financing participation.

An Evaluation Committee appointed by the City Manager will evaluate Proposers based on relevant experience and financial strength, and recommend to the City Manager a group of shortlisted Proposers that will proceed to the next phase of evaluation.

Criteria for Relevant Experience will include experience with the following types of developments:

- Convention Center
- Hotel
- Retail/Restaurant
- Entertainment
- Other Commercial or Residential
- Public Spaces / LEED Sustainable Development

Criteria for financial strength will include the following:

- Approach to Project Financing
- Relationships with Capital Sources
- Demonstrated ability to finance similar projects
- Years in business

The City Manager will request the Commission's approval of the recommended shortlisted Proposers, and request authorization to negotiate Letters of Intent (LOIs) with some or all of the shortlisted Proposers. Once given Commission authorization, the Administration, with SAG's assistance, will negotiate Letters of Intent (LOIs) with each of the accepted shortlisted Proposers. These terms will later be presented to the City Commission for its consideration and direction.

The shortlisted Proposers, as part of the next stage of the evaluation process, will be required to prepare a detailed proposal for the MBCC District. The detailed proposal will include a master plan for the site, project renderings, a breakdown of proposed uses and square footages of each use including public open spaces, renovation and expansion plan for the convention center facility, proposal for the convention center hotel, a phasing and absorption plan, the financing plan, any request for public assistance, a summary of projected new City revenues to be generated by the proposed development, and additional information outlined in the RFQ document. These also will be some of the terms that will be negotiated in the LOIs.

This phase, as part of the preparation of the detailed proposal, will include community involvement to gain input on local needs and concerns. To initiate the public outreach, the City will arrange a community workshop which will be professionally facilitated by a third party. Proposers will be encouraged to hold additional, subsequent community meetings if they deem it helpful in the preparation of their proposal.

The Administration will provide the City Commission additional details regarding the next phase of evaluation, such as the selection schedule and evaluation criteria, when the Commission considers approval of the recommended shortlisted Proposers.

CONCLUSION

The Administration recommends that the Mayor and City Commission authorize the Administration to issue a Request for Qualifications (RFQ) from qualified developers for a public-private mixed-use development in Miami Beach for the enhancement of the Miami Beach Convention Center Campus/District, including the expansion of the Miami Beach Convention Center and development of a Convention Center hotel.

T:\AGENDA\2012\1-11-12\MBCC RFQ Memo.doc

R5

ORDINANCES

Condensed Title:

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 0.833% Per Month Of The Late Outstanding Balance...

Key Intended Outcome Supported:

Increase community satisfaction with City Government.

Supporting Data (Surveys, Environmental Scan, etc.): 87% of residents rated Miami Beach as an excellent or good place to live.

Issue:

Shall the Mayor and City Commission approve the Ordinance?

Item Summary/Recommendation:

The Administration recommends that the City Commission adopt the alternative method proposed or refer it to the Finance and Citywide Projects Committee for clarification.

At the July 13, 2011, City of Miami Beach Commission meeting, a discussion item regarding the reduction of a utility bill's penalty percentage was referred by Commissioner Jonah Wolfson to the F&CWPC. Presently, a one-time ten percent penalty is added to the current portion of all past due water, sewer and stormwater utility bills (utility bills). No additional interest or penalties are charged.

On October 19, 2011, at a meeting of the F&CWPC, the Committee unanimously recommended removing the one-time 10% 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.

This recommendation came after penalties and interest from other utility companies were presented. The Committee recommended charging 1.5% per month to be consistent with other utility companies, such as Florida Power and Light and TECO – Peoples Gas.

At the December 14, 2011 City of Miami Beach Commission meeting, upon first reading, the Commission unanimously voted to remove the one-time 10% penalty on the current portion and instead adopt a recurring monthly charge of 1.5% on any invoice that is past due, up to a cap of 10% per invoice.

We have consulted with our EDEN Utility Billing System software provider, Tyler Technologies who advised that most utilities add a flat fee or a percentage to the past due bill. As a result, their software is able to add a percentage fee to past due bills or charge a flat past due fee but can not accomplish the proposed percentage cap by invoice.

An alternative method that could be used to achieve a similar result would be to charge .083% per month on any past due balances. Using this method the annual interest rate would be 10%.

Advisory Board Recommendation:

The Finance and Citywide Projects Committee, at their October 19, 2011 meeting,

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Patricia D. Walker T:\AGENDA\2012\01-14-12\UTB CH 110 Ordinance Penalty – Summ 2nd Reading

Sign-Offs:

Department Director	Assistant City Manager	City Manager
PDW	PDW	JMG

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: January 11, 2012

SECOND READING PUBLIC HEARING

SUBJECT: **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 0.833% PER MONTH OF THE LATE OUTSTANDING BALANCE; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the alternative method proposed or refer it to the Finance and Citywide Projects Committee for clarification.

BACKGROUND

At the July 13, 2011, City of Miami Beach Commission meeting, a discussion item regarding the reduction of a utility bill's penalty percentage was referred by Commissioner Jonah Wolfson to the Finance and Citywide Projects Committee (F&CWPC).

Presently, a one-time ten percent penalty is added to the current portion of all past due water, sewer and stormwater utility bills (utility bills). No additional interest or penalties are charged.

ANALYSIS

On October 19, 2011, at a meeting of the F&CWPC, the Committee unanimously recommended removing the one-time 10% 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.

This recommendation came after penalties and interest from other utility companies were presented. The Committee recommended charging 1.5% per month to be consistent with other utility companies, such as Florida Power and Light and TECO – Peoples Gas.

Previously, the Committee increased the days allowed for payment from 15 to 21 to be consistent with other utility companies.

At the December 14, 2011 City of Miami Beach Commission meeting, upon first reading, the Commission unanimously voted to remove the one-time 10% penalty on the current portion and instead adopt a recurring monthly charge of 1.5% on any invoice that is past due, up to a cap of 10% per invoice.

Patricia Walker, Chief Financial Officer was not certain that the Eden software system used for utility billing could place a percentage cap by invoice and it was agreed that that the software company would be contacted between first and second reading to determine if the proposed method was feasible.

We have consulted with our EDEN Utility Billing System software provider, Tyler Technologies ,who advised that most utilities add a flat fee or a percentage to the past due bill. As a result, their software is able to add a percentage fee to past due bills or charge a flat past due fee but can not accomplish the proposed percentage cap by invoice.

An alternative method that could be used to achieve a similar result would be to charge .0833% per month on any past due balances. Using this method the annual interest rate for past due bills would be 10%.

If this method does not achieve the Commission's goal, then it is recommended that the item be referred back to the Finance and Citywide Projects Committee for clarification.

CONCLUSION AND RECOMMENDATION

The Administration recommends that the City Commission adopt the alternative method proposed or refer it to the Finance and Citywide Projects Committee for clarification.

JMG/PDW/mm

T:\AGENDA\2012\01-11-12\UTB CH 110 Ordinance 1.5% Penalty - Memo 2nd Reading

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 0.833% 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; and

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

WHEREAS, on December 14, 2011, the City of Miami Beach Commission, upon first reading, unanimously voted to remove the one-time 10% penalty on the current portion and instead adopt a recurring monthly charge of 1.5% on any invoice that is past due, up to a cap of 10% per invoice; and

WHEREAS, our Chief Financial Officer was not certain that the Eden software used for utility billing could place a percentage cap by invoice and it was agreed that the software company would be contacted between first and second reading to determine if the proposed method was feasible; and

WHEREAS, after consultation with the City's Eden Utility Billing System provider, Tyler Technologies, who advised that most utilities add a flat fee or a percentage to the past due bill, and as a result their software is able to add a percentage fee to past due bills or charge a flat past due fee, but cannot accomplish the proposed percentage cap by invoice; and

WHEREAS, an alternative method that could be used to achieve a similar result would be to charge .0833% per month on any past due balances; and

WHEREAS, using this method, the annual interest rate for past due bills would be 10%; and

WHEREAS, if this method does not achieve the Commission's goal, it is recommended that the item be referred back to the Finance and Citywide Projects Committee for clarification.

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~~ 0.833 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~~ 0.833 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

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

1-5-12

City Attorney **Date**

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

MIAMIBEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **WEDNESDAY, January 11, 2012** to consider the following:

10:15 a.m.
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.

Inquiries may be directed to the Finance Department at (305) 673-7466.

10:20 a.m.
Ordinance Amending Chapter 26 Of The Miami Beach City Code Entitled "Civil Emergencies," By Amending Article II, Entitled "State Of Emergency," By Repealing Section 26-32, Entitled "Automatic Emergency Measures" Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 70, Entitled "Miscellaneous Offenses," By Amending Article I, Entitled "In General," By Repealing Section 70-2, Entitled "Weapons; Discharging," Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 106 Of The Miami Beach City Code, Entitled "Traffic And Vehicles," By Amending Article III, Entitled "Parades," By Amending Division 2, Entitled "Permit," By Amending Section 106-375(A)(1) To Repeal Language Regarding The Regulation Of Firearms That Is Preempted By The State Of Florida, And To Provide That Weapons Shall Not Include Any Destructive Device Or Firearm As Defined Under Florida Law.

Inquiries may be directed to the Legal Department at (305) 673-7470.

10:25 a.m.
Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" To Cross-Reference Language In Section 10-11 Regarding Off-Leash Areas For Dogs; By Amending Section 10-11, Entitled "Running At Large Prohibited," By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until July 15, 2012, By Providing Off-Leash Hours In The Designated Area In The Morning From Sunrise To 10:00 A.M. Daily And Between 4:00 P.M. And 7:00 P.M. Monday Through Friday, And Relocating The Off-Leash Area To The South And East Of The Washington Avenue Entry Plaza.

Inquiries may be directed to the Parks and Recreation Department at (305) 673-7730.

5:00 p.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District", Section 142-696 "Residential Performance Standard Area Requirements" To Modify The Maximum Height Requirements For Residential Apartment Structures; By Amending Section 142-697 "Setback Requirements In The R-PS 1, 2, 3, 4 District," To Modify The Setback Requirements For Oceanfront Buildings.
Inquiries may be directed to the Planning Department at (305) 673-7550.

5:05 p.m.
Ordinance Granting To Florida Power And Light Company, Its Successors And Assigns, An Electric Franchise Imposing Provisions And Conditions Relating Thereto, Providing For Monthly Payments To The City Of Miami Beach:

Inquiries may be directed to the Public Works Department at (305) 673-7080.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #686

MIAMIBEACH

OFFICE OF THE CITY ATTORNEY

JOSE SMITH, CITY ATTORNEY

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower
Members of the City Commission
City Manager Jorge M. Gonzalez

SECOND READING PUBLIC HEARING

FROM: City Attorney Jose Smith

DATE: January 11, 2012

SUBJECT: Ordinance Repealing Various Provisions in the Miami Beach City Code Regarding the Regulation of Firearms due to Preemption by the State of Florida.

The attached Ordinance amends the City Code to comply with the new state law preempting the regulation of firearms to the State of Florida. Based upon prior City Attorney opinions that the City Code provisions regarding firearms were preempted by state law, the Administration was proactive in changing the City's beach "no firearms" signs prior to the enactment of the new state law. Due to amendments to Section 790.33, Fla. Stat., the Florida legislature has now made clear that local governments are preempted form regulating firearms. The new State law further provides penalties for officials and local governments that enforce any such preempted local ordinances, administrative rules, or regulations.

The Ordinance was referred to the Neighborhoods and Community Affairs Committee at the November 2, 2011 Commission meeting by Commissioner Jerry Libbin. At the Neighborhoods and Community Affairs Committee meeting, the proposed Ordinance was discussed and the Committee moved this item to the full Commission for consideration. The City Commission approved the Ordinance on First Reading on December 14, 2011.

DT/sc

Agenda Item R5B
Date 1-11-12

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 26 OF THE MIAMI BEACH CITY CODE ENTITLED "CIVIL EMERGENCIES," BY AMENDING ARTICLE II, ENTITLED "STATE OF EMERGENCY," BY REPEALING SECTION 26-32, ENTITLED "AUTOMATIC EMERGENCY MEASURES" DUE TO THE PREEMPTION OF THE ENTIRE FIELD OF REGULATION OF FIREARMS TO THE STATE OF FLORIDA; BY AMENDING CHAPTER 70, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE I, ENTITLED "IN GENERAL," BY REPEALING SECTION 70-2, ENTITLED "WEAPONS; DISCHARGING," DUE TO THE PREEMPTION OF THE ENTIRE FIELD OF REGULATION OF FIREARMS TO THE STATE OF FLORIDA; BY AMENDING CHAPTER 106 OF THE MIAMI BEACH CITY CODE, ENTITLED "TRAFFIC AND VEHICLES," BY AMENDING ARTICLE III, ENTITLED "PARADES," BY AMENDING DIVISION 2, ENTITLED "PERMIT," BY AMENDING SECTION 106-375(A)(1) TO REPEAL LANGUAGE REGARDING THE REGULATION OF FIREARMS THAT IS PREEMPTED BY THE STATE OF FLORIDA, AND TO PROVIDE THAT WEAPONS SHALL NOT INCLUDE ANY DESTRUCTIVE DEVICE OR FIREARM AS DEFINED UNDER FLORIDA LAW; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, during the 2011 session of the Florida Legislature, HB 45 was adopted, effective October 1, 2011, which preempted the entire field of regulation regarding firearms to the State of Florida; and

WHEREAS, HB 45 also provides for civil fines up to $5,000.00, as well as other penalties, for the enactment or enforcement of local laws or regulations in conflict with the new State law and which makes local governments, and their elected and appointed government officials, liable therefor; and

WHEREAS, there are various provisions in the Miami Beach City Code which must be repealed or amended in order to comply with HB 45.

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

SECTION 1.

That Section 26-32 entitled "Automatic Emergency Measures" of Article II of Chapter 26 of the Miami Beach City Code is hereby repealed as follows:

Chapter 26

CIVIL EMERGENCIES

* * *

Article II. State of Emergency

* * *

~~**Sec. 26-32. Automatic emergency measures.**~~

~~Whenever the city manager declares that a state of emergency exists, pursuant to section 26-31, the following acts shall be prohibited during the period of emergency throughout the city:~~

~~(1) The sale of or offer to sell with or without consideration, any ammunition or gun or other firearm of any size or description.~~
~~(2) The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description.~~
~~(3) The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of his duty.~~

SECTION 2.

That Section 70-2 entitled "Weapons, discharging," of Article I of Chapter 70 entitled "Miscellaneous Offenses" of the Miami Beach City Code is hereby repealed as follows:

Chapter 70

MISCELLANEOUS OFFENSES

* * *

Article I. In General

* * *

~~**Sec. 70-2. Weapons; discharging.**~~

~~It shall be unlawful for any unauthorized person to discharge, fire or shoot within the city any firearm or other weapons, including air rifles, air pistols, slingshots or weapons of the kind usually called "BB gun," from which weapon any bullet, shot or pellet of lead or other material is discharged or expelled, or for any person to discharge, fire or shoot in the waters within the city.~~

SECTION 3.

That Section 106-375 entitled "Prohibited activities," in Article VIII under Chapter 106 of the Miami Beach City Code is hereby amended as follows:

Chapter 106

TRAFFIC AND VEHICLES

* * *

Article VIII. Parades

* * *

Division 2. Permit

* * *

Sec. 106-375. Prohibited activities.

(a) Any participant in a demonstration, rally, picket line or parade within the city who is observed carrying or possessing any of the objects specified in subsections (1) through (10) shall immediately dispose of or discard the object(s) upon the request of a law enforcement officer. The willful refusal to dispose of or discard of the object(s) shall constitute a violation, punishable in accordance with section 1-14 of this Code.

It shall be unlawful for any person participating in a demonstration, rally, picket line or parade, to exhibit, display, possess, carry or wear any of the following:

(1) Any weapon. For purposes of this section, "weapon" shall mean ~~any pistol, rifle, shotgun or other firearm, whether loaded or unloaded, air rifle~~, air pistol, paintball gun, paintball rifle, ~~explosive, blasting cap~~, knife, hatchet, ax, slingshot, blackjack, metal knuckles, ~~mace~~, iron buckle, ax handle, crowbar, or any other instrument customarily use or intended for use as a dangerous weapon~~.~~ but, shall not include any destructive device or firearm as defined under Florida law.

SECTION 4. REPEALER.

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

SECTION 5. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 6. 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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2011.

PASSED and **ADOPTED** this _____ day of _____, 2011.

ATTEST:

_____
MATTI HERRERA BOWER
MAYOR

_____
ROBERT PARCHER, CITY CLERK

Underline denotes additions and ~~strike through~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

CITY ATTORNEY DT 12/2/11
DATE

F:\ATTO\TURN\ORDINANC\Firearms Ordinance.docx

MIAMIBEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **WEDNESDAY, January 11, 2012** to consider the following:

10:15 a.m.
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.

Inquiries may be directed to the Finance Department at (305) 673-7466.

10:20 a.m.
Ordinance Amending Chapter 26 Of The Miami Beach City Code Entitled "Civil Emergencies," By Amending Article II, Entitled "State Of Emergency," By Repealing Section 26-32, Entitled "Automatic Emergency Measures" Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 70, Entitled "Miscellaneous Offenses," By Amending Article I, Entitled "In General," By Repealing Section 70-2, Entitled "Weapons; Discharging," Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 106 Of The Miami Beach City Code, Entitled "Traffic And Vehicles," By Amending Article III, Entitled "Parades," By Amending Division 2, Entitled "Permit," By Amending Section 106-375(A)(1) To Repeal Language Regarding The Regulation Of Firearms That Is Preempted By The State Of Florida, And To Provide That Weapons Shall Not Include Any Destructive Device Or Firearm As Defined Under Florida Law.

Inquiries may be directed to the Legal Department at (305) 673-7470.

10:25 a.m.
Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" To Cross-Reference Language In Section 10-11 Regarding Off-Leash Areas For Dogs; By Amending Section 10-11, Entitled "Running At Large Prohibited," By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until July 15, 2012, By Providing Off-Leash Hours In The Designated Area In The Morning From Sunrise To 10:00 A.M. Daily And Between 4:00 P.M. And 7:00 P.M. Monday Through Friday, And Relocating The Off-Leash Area To The South And East Of The Washington Avenue Entry Plaza.

Inquiries may be directed to the Parks and Recreation Department at (305) 673-7730.

5:00 p.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District", Section 142-696 "Residential Performance Standard Area Requirements" To Modify The Maximum Height Requirements For Residential Apartment Structures; By Amending Section 142-697 "Setback Requirements In The R-PS 1, 2, 3, 4 District," To Modify The Setback Requirements For Oceanfront Buildings.
Inquiries may be directed to the Planning Department at (305) 673-7550.

5:05 p.m.
Ordinance Granting To Florida Power And Light Company, Its Successors And Assigns, An Electric Franchise Imposing Provisions And Conditions Relating Thereto, Providing For Monthly Payments To The City Of Miami Beach.

Inquiries may be directed to the Public Works Department at (305) 673-7080.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #686

Condensed Title:

An Ordinance amending Chapter 10 of the Miami Beach City Code entitled "Animals" to cross-reference language in Section 10-11, entitled "Running At Large Prohibited" by extending the pilot off leash program for dogs in South Pointe Park until July 15, 2012 and by providing off leash hours in the designated area in the morning from sunrise to 10:00 A.M. daily and between 4:00 P.M. and 7:00 P.M. Monday through Friday and relocating the off-leash area to the west lawn, south and east of the Washington Avenue entry plaza; providing for repealer, severability, codification and an effective date.

Key Intended Outcome Supported:

Increase satisfaction with family recreational activities

Supporting Data (Surveys, Environmental Scan, etc.): Miami Beach Customer Survey indicates 84.9% of residents rated the City's Recreation programs as either excellent or good.

Issue:

Should the City Commission amend the City Code to extend the dog off leash pilot program in its present location and expand its current hours in South Pointe Park?

Item Summary/Recommendation:

SECOND READING – PUBLIC HEARING

There have been several Commission/Commission Committee discussions concerning dogs off leash in South Pointe Park. On September 9, 2009, the Mayor and City Commission adopted Ordinance No. 2009-3646, authorizing a designated off-leash area in South Pointe Park for a six-month pilot program from sunrise to 9:00 a.m.(Mon– Fri). On February 3, 2011, the Neighborhoods/Community Affairs Committee (NCAC) recommended extending the trial period to include two (2) additional hours in the evening (Mon-Fri). This action was approved and accepted by the City Commission at the March 9, 2011, Commission meeting. On October 19, 2011, The Mayor and City Commission approved an ordinance on second/final reading that extended the pilot off-leash program until January 1, 2012, and added two (2) hours in the evening from 5:00 P.M. To 7:00 P.M., Monday through Friday. In light of the pending expiration of the in South Pointe Park Dogs Off-Leash Pilot Program, at the December 8, 2011, NCAC, a discussion was held on: 1) whether the program should be extended/made permanent; and, if so, 2) what the location of the site should be. There was general agreement to extend the program; however, Commissioner Libbin expressed concern with extending the program if it did not include a hedge of some sort. There was also general agreement, including from community members present, to keep the current location (portion of west lawn). Following discussion and community input, the Committee members recommended to: 1) extend the South Pointe Dog Off-leash Pilot Program for six (6) months in its current location, and add one hour in both the morning and the afternoon; and, 2) prepare a site plan of the South Pointe Off-leash area in its present location, and a cost estimate for the installation of a hedge (appropriate species and height), to enclose the area, including obtaining any required approvals. On December 14, 2011 this ordinance amendment was approved on first reading and the City Commission scheduled the public hearing and final reading for January 11, 2012.

Advisory Board Recommendation:

NCAC meeting on 12/8/11; recommendation to proceed with ordinance amendment to extend off leash area, and to look at hedge for the recommended location on west lawn.

Financial Information:

Source of Funds:		Amount	Account
	1		
OBPI	Total		

Financial Impact Summary: Enforcement will continue to be handled by on-duty Code Compliance staff. Should the Commission eventually approve the installation of a hedge, and the hedge receive DRB approval, funding will need to be identified to cover the costs of the hedge.

City Clerk's Office Legislative Tracking:

Kevin Smith, Director of Parks and Recreation

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	Hilda M. Fernandez	

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MIAMIBEACH

AGENDA ITEM R5C

DATE 1-11-12

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: January 11, 2012 **SECOND READING PUBLIC HEARING**

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 10 OF THE MIAMI BEACH CITY CODE ENTITLED "ANIMALS," BY AMENDING SECTION 10-10, ENTITLED "ANIMALS PROHIBITED IN PUBLIC PARKS AND ON BEACHES" TO CROSS-REFERENCE LANGUAGE IN SECTION 10-11 REGARDING OFF-LEASH AREAS FOR DOGS; BY AMENDING SECTION 10-11, ENTITLED "RUNNING AT LARGE PROHIBITED," BY EXTENDING THE PILOT PROGRAM OFF-LEASH AREA FOR DOGS IN SOUTH POINTE PARK UNTIL JULY 15, 2012, BY PROVIDING OFF-LEASH HOURS IN THE DESIGNATED AREA IN THE MORNING FROM SUNRISE TO 10:00 A.M. DAILY AND BETWEEN 4:00 P.M. AND 7:00 P.M. MONDAY THROUGH FRIDAY, AND RELOCATING THE OFF-LEASH AREA TO THE SOUTH AND EAST OF THE WASHINGTON AVENUE ENTRY PLAZA; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommended the City Commission adopt the proposed Ordinance.

KEY INTENDED OUTCOME SUPPORTED

Increase satisfaction with recreational programs.

BACKGROUND

For the past several years there have been ongoing discussions as to how the City can find the proper levels of services that address the needs of our residents and guests who own dogs with those who do not. These discussions have focused on the development of "bark parks" (fenced in areas in parks specifically designed and designated for dogs to run off leash): access for the dogs to water from a beach or park edge; the provision of dog bag/ waste stations that are located throughout the city's parks, rights of way, Lincoln Road, the Beach walk and other public areas; and the establishment of off-leash access in the parks to areas which are unfenced/ unsecured where dogs would run off leash and beyond their owner's control.

To date there are a total of five (5) fenced dog parks within the City's parks. These include Belle Isle, Flamingo, North Shore Open Space Park (under construction), Pinetree, and Washington Avenue (two sites). Additionally, at the September 14, 2011, Commission meeting the Administration was directed to install a temporary fenced dog park on the Par 3 Golf Course; this has been put on hold at the request of the residents. These dog parks are heavily utilized and our residents tell us that this is a welcomed amenity. The increased number of City dog parks is a direct result of a number of discussions that were held in the community and, more specifically, at past Neighborhoods/Community Affairs Committee (NCAC) meetings.

At the January 28, 2009, City Commission meeting, the Administration requested that the matter of dogs off leash in City parks and other public properties in general, be referred to the NCAC for discussion. This request was made for the purpose of seeking direction as to the future management, control and levels of enforcement of dogs (both on and off-leash) in our parks and other public properties; to discuss what, if any, additional resources should be dedicated to the service levels provided for owners and their dogs; and for guidance on whether modifications were needed, if any, to our existing City Code related to dogs in public areas.

Subsequently, there were on-going discussions concerning various dog-related issues. One of these discussions focused on the development of a dog park within South Pointe Park, an enclosed area similar to the dog parks in Flamingo, Pinetree, or Belle Isle, or one without a fence. The conclusion of the discussion was to build out a larger dog park on Washington Avenue, diagonal from the then-existing dog park on Collins Avenue and 2nd street. It was also recommended that the City look at whatever amendments would be needed to permit a pilot, off-leash area in a designated section of South Pointe Park, with limited hours of use. The designation of an off-leash area was not only prohibited by City Code, but it was also prohibited by County Code.

On September 9, 2009, the City Commission approved on second reading, an Ordinance amending Chapter 10 of the Miami Beach Code entitled "Animals" to allow the City Commission to designate specific off-leash areas for dogs in public parks, specifically for South Pointe Park. The September 9th action established morning off-leash hours (park opening (sunrise) to 9:00 A.M.) only in a specific, unenclosed area of South Pointe Park located in the triangular area where the public art would be sited (south and west of the Washington Avenue entry plaza). The item was amended to clarify that an off-leash program at South Pointe Park would be for a trial period of six months, commencing only if/when Miami-Dade County amended Section 5-20 of their Code pertaining to animals. At the time of the City Ordinance approval, County Code prohibited dogs off leash except in authorized park areas.

City staff worked with the City Attorney's office, and the County's Animal Services Division and County Attorney's office, to draft amendment language to County Code that would allow municipalities to designate off leash areas, if they wished. With the help and sponsorship of County Commissioner Bruno Barreiro, the legislation was vetted through the appropriate County Commission Committee and heard at two readings. The County Commission adopted the ordinance amendment at their May 4, 2010 Miami-Dade Board of County Commissioners meeting. Consequently, on June 1, 2010, the Administration began the program as planned. The City (Code Compliance and Security Alliance LLC) monitored the pilot program for violations for the six months as directed and developed a summary for the period of June – November 2010. The results found a total of 290 incidents ranging from dogs observed off-leash outside of the permitted area, to dogs observed within the approved area outside of approved hours. The greatest observed non-compliance occurred within the approved location in the afternoon hours, outside of the approved times (Sunrise-9:00 A.M. daily).

A follow-up discussion was held at the February 3, 2011, NCAC meeting regarding the Off-Leash Trial Program. Following the discussion, the Committee moved to recommend extending the trial period, to include the addition of two (2) hours in the evening (hours to be determined) on Monday through Friday only. The Committee also discussed the temporary location of the off-leash area once construction of the public art began. A location on the western edge of the west lawn was approved, with the understanding that discussion of a permanent location would occur when the extended trial period expired and a determination was made to continue the program. This action was approved 2-0. This action was subsequently reported and accepted by the City Commission at the March 9, 2011, Commission meeting. Following the public discussion held at the February 3, 2011 NCAC meeting, and acceptance of the report by the City Commission at the March 9, 2011

meeting, the Administration determined the Monday – Friday evening hours to be 5 P.M. – 7 P.M., and modified the signs in the off-leash area to reflect the same.

In reviewing the Off-Leash Ordinance during a discussion regarding a potential off-leash area at the Par 3 golf course during the July 20, 2011, Land Use Committee meeting, it was determined that approval of the extension of the pilot program, and the additional hours, was required through an ordinance amendment.

The Mayor and Commission approved the following ordinance amendment at the October 19, 2011 City Commission meeting, following a public hearing:

> *"An Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-11, Entitled "Running At Large Prohibited" By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until January 1, 2012 And By Adding Two (2) Hours In The Evening From 5:00 P.M. To 7:00 P.M. On Monday Through Friday; And Providing For Repealer, Severability, Codification, And An Effective Date.*

Language regarding an off-leash area at the Par 3 was removed by the Commission at the first reading.

ANALYSIS

In light of the pending expiration of the in South Pointe Park Dogs Off-Leash Pilot Program, a discussion item on the program was placed on the December 8, 2011, NCAC Meeting for purposes of obtaining direction on:

1) whether the program should be extended/made permanent; and, if so,
2) what the location of the site should be

On the latter, the Administration explained that It was concluded at the time of the Committee discussion earlier this year that we would return to Committee after the installation of the public art, and if the off-leash program was approved to continue, to discuss whether the off-leash area should move back to the original site, or remain at the current location (portion of west lawn). See **Attachment A** for a map detailing the current location.

The Committee was also provided documentation relating to levels of off-leash-related code violations documented by the City's Code Compliance Division and the contracted private security company, Security Alliance, for the periods of June – November 2010 (first trial period) and January – October 2011 (**See Attachment B**). There were a total of 305 violations noted by the City's Code Compliance Division and Security Alliance, LLC, the city's security team in the park, during the most recent trial period (January to October, 2011).

The Committee discussed both issues. In terms of the continuation of the program, there was general agreement to extend the program. However, Commissioner Libbin expressed concern with extending the program if it did not include a hedge of some sort surrounding the "off-leash" area. In terms of location, there was general agreement, including from community members present, to keep the current location (portion of west lawn), rather than move the off-leash area back to where the public art piece has now been installed.

Following a discussion and community input, the NCAC members recommendedto:

- Extend the South Pointe Dog Off-leash Pilot Program for a six (6) month in its current location (approximately 18,000sf in the west lawn, south and east of the Washington Avenue entry plaza, bordered to the south by the cutwalk, and a pathway on the east and north sides), with an additional one (1) hour of off-leash time in both the morning and the afternoon. This extension requires an amendment to the current city code (via amendment to

the ordinance). At present, the pilot program was scheduled to expire on January 1, 2012; and

- Prepare a site plan of the South Pointe Off-leash area in its present location and secure a cost estimate for the installation of a hedge, of the appropriate species and height, to enclose the "off-leash" area. The installation of a hedge will require:
    - Presentation of the proposed site plan with the hedge to the Design Review Board.
    - Identification of funding to implement this hedge, should it be approved by the Design Review Board.

The recommendations were approved by all Committee members present at the meeting.

This Ordinance Amendment was presented, discussed and adopted by the Mayor and Members of the City Commission on first reading at the December 14, 2011 meeting. It was further requested that the Administration prepare a cost estimate for the installation of the hedge and provide it to Commissioner Libbin prior to proceeding with any actions necessary to install it.

CONCLUSION

The proposed ordinance amendment to extend the off-leash area in South Pointe Park is presented for second reading and public hearing following the approval of the proposed amendment at the Neighborhoods/Community Affairs Committee (NCAC) at the December 8, 2011 meeting and the full City Commission at first reading on December 14, 2011. Included in the first reading approval was the NCAC's recommendation that the off-leash area continue in its current location (approximately 18,000sf in the west lawn, south and east of the Washington Avenue entry plaza, bordered to the south by the cutwalk, and a pathway on the east and north sides), and that an additional hour be added to both the morning and afternoon designated hours.

This amendment is necessary to continue the off-leash program in South Pointe Park, as the current program was scheduled to expire on January 1, 2012.

The determination of the placement of a hedge remains pending the obtaining of cost estimates, identification of funding, and proceeding with obtaining the necessary regulatory board approvals.

JMG/HMF/KS
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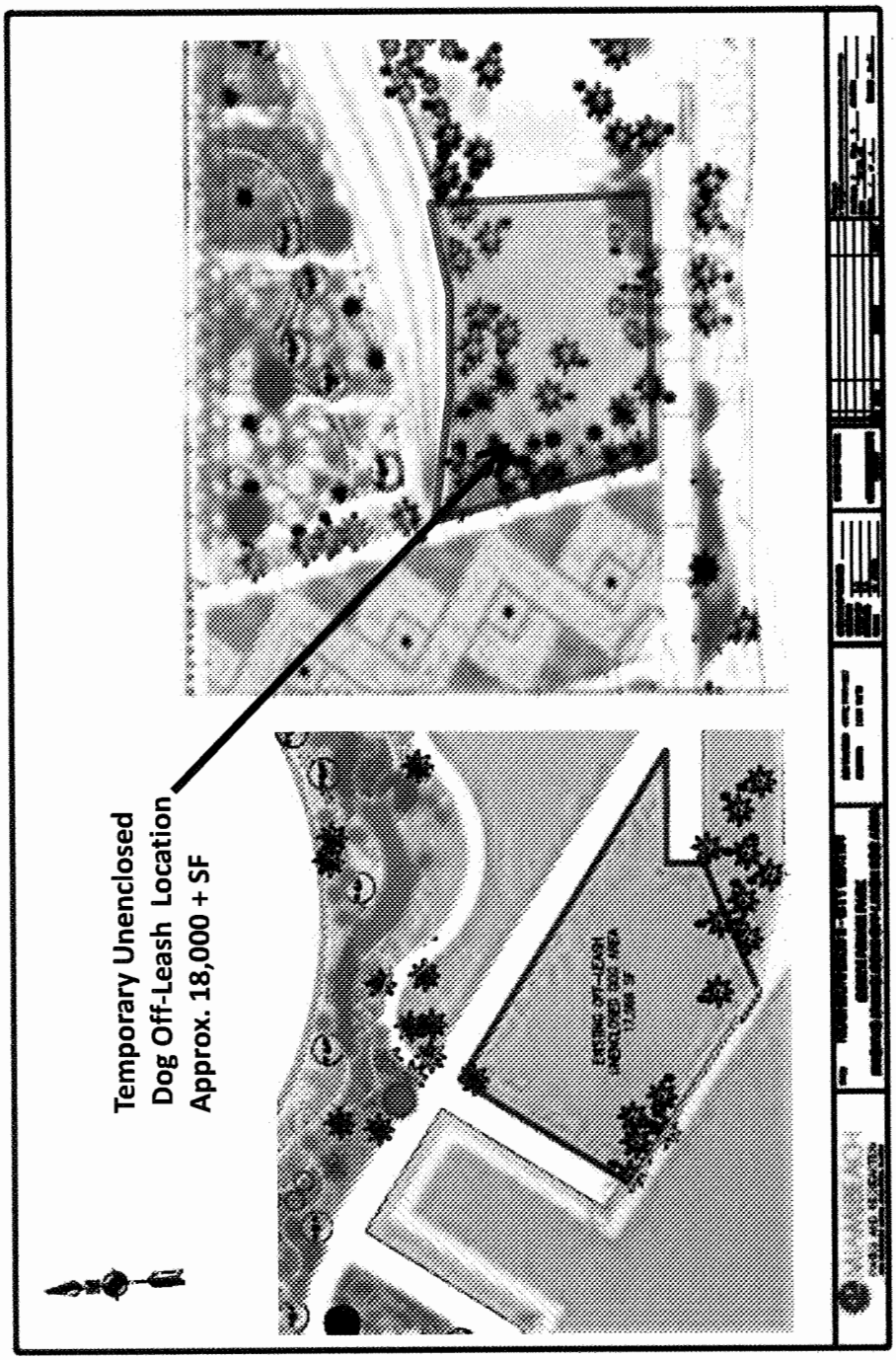
ATTACHMENT A



ATTACHMENT B

SOUTH POINTE PARK
DOGS OFF LEASH PILOT PROJECT VIOLATIONS SUMMARY
June – November 2010

	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	TOTALS
# in the morning (during permitted hours) outside the specified area	6	3	5	2	9	17	42
# in the morning after 9 AM in the specified area	4	2	1	1	7	0	15
# in the morning after 9 AM in the unspecified area	1	2	1	1	6	1	12
# in the afternoon in the specified area	2	10	42	20	20	17	111
# in the afternoon in the unspecified area	10	3	11	4	5	18	51
# of Violations noted but not issued - no identification - leave site	0	9	2	5	5	6	27
# of Total Violations tickets issued by Month	14	5	2	1	9	1	32
# of Total Violations by Month	37	34	64	34	61	60	290

EXHIBIT II

SOUTH POINTE PARK
DOGS OFF LEASH PILOT PROJECT VIOLATIONS SUMMARY January-November 2011

Monitoring Agency
City of Miami Beach - Code Compliance/Security Alliance LLC

	January	February	March	April	May	June	July	August	September	October	Totals by category
# In the morning (during permitted hours) outside the specified area	11	2	3	9	5	13	6	5	1	8	63
# In the morning after 9 AM in the specified area	3	1	1	1	1	2	0	3	0	0	12
# In the morning after 9 AM in the unspecified area	3	0	0	3	2	3	3	2	0	1	17
# In the afternoon in the specified area	14	18	6	11	5	3	3	1	2	3	66
# In the afternoon in the unspecified area	26	29	24	17	8	4	2	4	1	8	123
# of Violations noted but not issued - no identification - leave site	3	1	2	3	2	3	5	3	2	0	24
Total violations	60	51	36	44	23	28	19	18	6	20	305

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 10 OF THE MIAMI BEACH CITY CODE ENTITLED "ANIMALS," BY AMENDING SECTION 10-10, ENTITLED "ANIMALS PROHIBITED IN PUBLIC PARKS AND ON BEACHES" TO CROSS-REFERENCE LANGUAGE IN SECTION 10-11 REGARDING OFF-LEASH AREAS FOR DOGS; BY AMENDING SECTION 10-11, ENTITLED "RUNNING AT LARGE PROHIBITED," BY EXTENDING THE PILOT PROGRAM OFF-LEASH AREA FOR DOGS IN SOUTH POINTE PARK UNTIL JULY 15, 2012, BY PROVIDING OFF-LEASH HOURS IN THE DESIGNATED AREA IN THE MORNING FROM SUNRISE TO 10:00 A.M. DAILY AND BETWEEN 4:00 P.M. AND 7:00 P.M. MONDAY THROUGH FRIDAY, AND RELOCATING THE OFF-LEASH AREA TO THE SOUTH AND EAST OF THE WASHINGTON AVENUE ENTRY PLAZA; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 5-20 of the Miami-Dade County Code, "a dog may be unrestrained and shall not be deemed at large if it is supervised by a competent person and is (i) in a park area in which dogs are specifically authorized by a municipality or by the County to be unrestrained...."; and

WHEREAS, on September 9, 2009, the Mayor and City Commission adopted Ordinance No. 2009-3646 which specifically authorized dogs to be unrestrained and off-leash in South Pointe Park for a six month pilot program in the triangular area south and west of the Washington Avenue entry plaza from sunrise to 9:00 A.M. daily, or during such hours as may be specifically designated by a resolution of the City Commission after a public hearing; and

WHEREAS, on October 19, 2011, the Mayor and City Commission adopted Ordinance No. 2011-3743 which extended the pilot program in South Pointe Park until January 1, 2012, and extended the off-leash hours in South Park by adding two (2) hours in the evening from 5:00 P.M. to 7:00 P.M. on Monday through Friday; and

WHEREAS, on December 8, 2011, the Neighborhoods and Community Affairs Committee discussed the off-leash pilot program in South Pointe Park and recommended a) that the off-leash hours be extended by one (1) hour daily in the morning from 9:00 A.M. to 10:00 A.M. and one (1) hour in the evening from 4:00 P.M. to 5:00 P.M. on Monday through Friday, b) that a hedge be installed around the perimeter of the off-leash area, c) that the matter of the hedge be referred to the City's Design Review Board for its consideration; and d) that the off-leash pilot program be extended for an additional six months; and

WHEREAS, due to the installation of the Tobias Rehberger Art in Public Places lighthouse project in the area south and west of the Washington Avenue entry plaza, the off-leash dog area should be relocated to the south and east of the Washington Avenue entry plaza; and

WHEREAS, the Mayor and City Commission wish to amend the off-leash pilot program set forth in Section 10-11 of the City Code as provided in this Ordinance; and

WHEREAS, Section 10-10 of the City Code should also be amended to cross-reference language in Section 10-11 that provides for off-leash areas for dogs.

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

SECTION 1.

That Chapter 10, Section 10-10 of the Miami Beach City Code is hereby amended as follows:

Sec. 10-10. Animals prohibited in public parks and on beaches.

It shall be prohibited for any person to take any animal into, or to keep any animal in or upon, any public park or public beach in the city, except for enclosed public park areas specifically designated for dogs by the city manager or in off-leash park areas specifically designated for dogs as provided in section 10-11. Animals under the custody and control of a law enforcement officer and service dogs accompanying a disabled person are excluded from this section.

SECTION 2.

That Chapter 10, Section 10-11 of the Miami Beach City Code is hereby amended as follows:

Sec. 10-11. Running at large prohibited.

It shall be prohibited for the owner or person in control of any animal to permit the animal to run at large. All animals, when not on the premises of their owner or of the person in control, must be on a leash or contained in a carrier device and under the control of a competent person, except that in South Pointe Park, in the ~~triangular~~ designated area south and ~~west~~ east of the Washington Avenue entry plaza, dogs may be off-leash from sunrise to ~~9:00~~ 10:00 A.M. daily and from ~~5:00~~ 4:00 P.M. to 7:00 P.M. on Monday through Friday, or during such other hours as may be specifically designated by a resolution of the city commission after a public hearing, until ~~January 1,~~ July 15, 2012.

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, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. 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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2012.

PASSED and **ADOPTED** this _____ day of _____, 2012.

ATTEST:

_____
MATTI HERRERA BOWER
MAYOR

_____
ROBERT PARCHER, CITY CLERK

Underline denotes additions and ~~strike through~~ denotes deletions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

12/12/11
CITY ATTORNEY DATE

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MIAMIBEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **WEDNESDAY, January 11, 2012** to consider the following:

10:15 a.m.
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.

Inquiries may be directed to the Finance Department at (305) 673-7466.

10:20 a.m.
Ordinance Amending Chapter 26 Of The Miami Beach City Code Entitled "Civil Emergencies," By Amending Article II, Entitled "State Of Emergency," By Repealing Section 26-32, Entitled "Automatic Emergency Measures" Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 70, Entitled "Miscellaneous Offenses," By Amending Article I, Entitled "In General," By Repealing Section 70-2, Entitled "Weapons; Discharging," Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 106 Of The Miami Beach City Code, Entitled "Traffic And Vehicles," By Amending Article III, Entitled "Parades," By Amending Division 2, Entitled "Permit," By Amending Section 106-375(A)(1) To Repeal Language Regarding The Regulation Of Firearms That Is Preempted By The State Of Florida, And To Provide That Weapons Shall Not Include Any Destructive Device Or Firearm As Defined Under Florida Law.

Inquiries may be directed to the Legal Department at (305) 673-7470.

10:25 a.m.
Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" To Cross-Reference Language In Section 10-11 Regarding Off-Leash Areas For Dogs; By Amending Section 10-11, Entitled "Running At Large Prohibited," By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until July 15, 2012, By Providing Off-Leash Hours In The Designated Area In The Morning From Sunrise To 10:00 A.M. Daily And Between 4:00 P.M. And 7:00 P.M. Monday Through Friday, And Relocating The Off-Leash Area To The South And East Of The Washington Avenue Entry Plaza.

Inquiries may be directed to the Parks and Recreation Department at (305) 673-7730.

5:00 p.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District", Section 142-696 "Residential Performance Standard Area Requirements" To Modify The Maximum Height Requirements For Residential Apartment Structures; By Amending Section 142-697 "Setback Requirements In The R-PS 1, 2, 3, 4 District," To Modify The Setback Requirements For Oceanfront Buildings.
Inquiries may be directed to the Planning Department at (305) 673-7550.

5:05 p.m.
Ordinance Granting To Florida Power And Light Company, Its Successors And Assigns, An Electric Franchise Imposing Provisions And Conditions Relating Thereto, Providing For Monthly Payments To The City Of Miami Beach.

Inquiries may be directed to the Public Works Department at (305) 673-7080.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #686

Condensed Title:

An Ordinance Of The Mayor And City Commission Of The City Of Miami Beach, Florida, Amending Chapter 90 Of The Miami Beach City Code, Entitled "Solid Waste," By Amending The Definitions In Article I, Entitled "In General," By Amending Section 90-2, Entitled "Definitions"; By Amending Article Ii, Entitled "Administration" By Amending The Penalties For Solid Waste Violations And To Provide Provisions And Penalties Relative To Recycling For Multifamily Residences And Commercial Establishments; By Creating Article V, To Be Entitled "Citywide Recycling Program For Multifamily Residences And Commercial Establishments," To Provide Provisions For Recycling Requirements And Enforcement, A Public Education Program, A Warning Period, An Enforcement Date, Collector Liability, A "Red Tag" Noticing System, Penalties, And Special Master Appeal Procedures; Providing For Repealer, Severability, Codification, And An Effective Date.

Key Intended Outcome Supported:

Enhance the Environmental Sustainability of the Community.

Supporting Data (Surveys, Environmental Scan, etc.): The waste haulers operating in the City have reported that approximately 1,558 multifamily and commercial establishments within the City of Miami Beach are currently not participating in the County-required Recycling Program.

Issue:

Shall the Mayor and City Commission defer the Ordinance?

Item Summary/Recommendation:

At the July 13, 2011, Commission Meeting the item was referred to the Sept. 26, 2011 Finance and Citywide Projects Committee (FCWPC) meeting. The FCWPC directed the administration to conduct a Recycling Workshop, held on October 24, 2011.At the Workshop, Commissioner Góngora indicated that the item would be further discussed at the Sustainability Committee prior to referral to the FCWPC to discuss funding. At the November 15, 2011, meeting of the Sustainability Committee, a vote to revise the ordinance to more closely reflect the Miami-Dade County ordinance passed with the following recommendations:

- Include a robust educational program
- Reduce the fine amounts
- Introduce an enforcement component; although the County ordinance provides for enforcement, no enforcement is provided by the County.

Based on the above, recommendations, the proposed revised ordinance will undergo significant modifications and the Administration therefore recommends that: this item be opened and continued; the City Commission direct the Administration to rewrite the ordinance; and that the revised ordinance be presented to the FCWPC before First Reading.

Advisory Board Recommendation:

Land Use and Development Committee at its December 13, 2010 meeting recommended approval of this Ordinance. Finance and Citywide Projects Committee at its June 23, 2011 meeting recommended approval of this Ordinance with the above mentioned recommendations.

Financial Information:

Source of Funds: OBPI		Amount	Account
	1		
	Total		

City Clerk's Office Legislative Tracking:

Richard Saltrick ext. 6565

Sign-Offs: Department Director	Assistant City Manager	City Manager
FHB	DRB	JMG

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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 **FIRST READING**

DATE: January 11, 2012

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 90 OF THE MIAMI BEACH CITY CODE, ENTITLED "SOLID WASTE," BY AMENDING THE DEFINITIONS IN ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 90-2, ENTITLED "DEFINITIONS"; BY AMENDING ARTICLE II, ENTITLED "ADMINISTRATION" BY AMENDING THE PENALTIES FOR SOLID WASTE VIOLATIONS AND TO PROVIDE PROVISIONS AND PENALTIES RELATIVE TO RECYCLING FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS; BY CREATING ARTICLE V, TO BE ENTITLED "CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS," TO PROVIDE PROVISIONS FOR RECYCLING REQUIREMENTS AND ENFORCEMENT, A PUBLIC EDUCATION PROGRAM, A WARNING PERIOD, AN ENFORCEMENT DATE, COLLECTOR LIABILITY, A "RED TAG" NOTICING SYSTEM, PENALTIES, AND SPECIAL MASTER APPEAL PROCEDURES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

At the July 13, 2011, Commission Meeting the item was referred to the Sept. 26, 2011 Finance and Citywide Projects Committee (FCWPC) meeting. The FCWPC directed the administration to conduct a Recycling Workshop, held on October 24, 2011.At the Workshop, Commissioner Góngora indicated that the item would be further discussed at the Sustainability Committee prior to referral to the FCWPC to discuss funding. At the November 15, 2011, meeting of the Sustainability Committee, a vote to revise the ordinance to more closely reflect the Miami-Dade County ordinance passed with the following recommendations:

- Include a robust educational program
- Reduce the fine amounts
- Introduce an enforcement component; although the County ordinance provides for enforcement, no enforcement is provided by the County.

Based on the above, recommendations, the proposed revised ordinance will undergo significant modifications and the Administration therefore recommends that: this item be opened and continued; the City Commission direct the Administration to rewrite the ordinance; and that the revised ordinance be presented to the FCWPC before First Reading.

BACKGROUND

Commissioner Jonah Wolfson worked with the City Attorney's Office and City Administration, as well as members of the City's Sustainability Committee, on a proposed ordinance that would require mandatory recycling for multifamily residences and commercial establishments in the City, via the establishment of a City of Miami Beach Mandatory Recycling Enforcement Program.

Currently, Miami-Dade County Code (Sections 15-2.2 to 15-2.4) requires multifamily and commercial establishments to have a recycling program. However, as a result of multiple issues, including fiscal constraints at the County level, the County Code requirement to demonstrate a recycling program is not adequately or comprehensively enforced. It is believed that approximately 1,558 multifamily residential buildings and commercial establishments within the City of Miami Beach are currently not participating in the County-required recycling program. This is approximately 30% of all known commercial and multfamily accounts.

The proposed ordinance (Attachment A), which is an amendment to Chapter 90 of the City Code, would establish more stringent requirements than the County and require multifamily residences and commercial establishments in the City to recycle pursuant to the requirements of a City of Miami Beach Recycling Program. This proposed program would require that multifamily and commercial establishments not only have a recyling program in place, but it would also mandate that recyclables be recycled. Multifamily and commercial establishments would receive fines if recyclables were found comingled with their solid waste or vice versa. The County Code (Section 15-2.5) gives the City the authority to establish and enforce its own Ordinance, provided such Ordinance is equivalent to or more stringent that the County's provisions.

Single-family homes and multifamily buildings with eight (8) units or less are already provided weekly recycling services via Miami-Dade County's Curbside Recycling Program, which was done through an Inter-Local Agreement (Agreement) entered into on June 14, 1990. The Agreement authorizes the County to act on the City's behalf in the administration of the contract for this recycling service in the areas of municipal jurisdiction. The current number of households served by Miami-Dade County within the City of Miami Beach is 6,498 units. The contractor that currently provides the service to Miami Beach through the Agreement is World Waste Services.

Commercial facilities and multifamily residences with nine (9) or more units are required by Miami-Dade County to hire, by means of a contract, a private hauler for their regular trash pick-up, recycling and bulk pick-up. Miami-Dade County Code Chapter 15 entitled "Solid Waste Management", Sections 15-2.2 through Sections 15-2.5 requires the following:

- Owners/Property owners of commercial establishments in Miami-Dade County must provide a recycling program for their employees and tenants, using the services of an authorized waste hauler or private recycling hauler.
- The program must recycle three (3) items from the following list of ten (10): high-grade office paper, mixed paper, corrugated cardboard, glass, aluminum, steel, other scrap production metals, plastics, textiles, and wood.
- Modified Recycling Programs - those that incorporate modifications, substitutions or reductions to the requirements stated above - may be submitted to the Department of Solid Waste Management for review and approval.

DEMOGRAPHICS

The City has approximately 85,536 residents, and 66,327 total households; of which approximately 6,498 households are on City solid waste and recycling service, which would be excluded from the requirements of this Ordinance. The remaining 60,000 units are contained in approximately 1,500 multifamily residential buildings with eight (8) units or more, which would be subject to the parameters of the multifamily residential component of the ordinance. The City has approximately

3,624 commercial units.

CURRENT ENFORCEMENT

On September 1, 2009, the Miami-Dade County Multifamily and Commercial Recycling Memorandum of Understanding (MOU) between the City of Miami Beach and Miami-Dade County - Department of Solid Waste Management (SWM) was approved. Under the MOU, the County agrees to enforce recycling under County Code Chapter 15, Sections 15-2.2 through 15-2.5 within the City of Miami Beach. When facilities are found to not have a recycling program, the County issues the offending party a warning notice followed by a notice of violation that may include fines as delineated in Miami-Dade Code Chapter 8CC - entitled "Code Enforcement". In 2007-08, the County collected a total of $11,550 in fines Countywide for non-compliance with their recycling ordinance.

On March 29, 2010, the City provided Miami-Dade County Solid Waste Management (SWM) with a list of 434 addresses from the waste haulers' multifamily and commercial accounts that were not recycling. In August 2010, the County initiated a proactive inspection approach to enforcement. Since August 2010, the County has inspected a total of 203 multi-family residences and 27 commercial establishments. If facilities were found to not have a recycling program, the facilities were issued a warning notice followed by a notice of violation that may include fines delineated in Miami-Dade Code Chapter 8CC entitled "Code Enforcement". However, in October 2010 the County returned to a compliant-driven approach with an emphasis on education. In January 2011, the City franchise waste haulers provided the Public Works, Sanitation Division, with an updated list of Miami Beach commercial facilities and multifamily residences that do not have a recycling program in place. The list included the 1,558 establishments previously noted, which represents 30% of known commercial and multifamily accounts that are estimated not to have a recycling program. The percentage of non-compliant facilities that have received fines since January 2011 is unknown. Based on SWM complaint-driven approach that focuses more on education than issuance of fines, this number is anticipated to be low.

PROGRAM ANALYSIS

The proposed Ordinance seeks to establish a comprehensive and aggressive Citywide Recyling Program for multifamily residences and commercial establishments. The proposed Ordinance, is more stringent than the County's requirements because it expands the scope of required recylables. The City would develop a process by which all multifamily residences with nine (9) units or more would be required to use a single-stream recycling process that includes all five (5) of the following recyclable materials: newspaper, glass, metal food and beverage containers, other metal containers, and plastics. In addition, at least three (3) of the following recyclable materials must also be recycled: corrugated cardboard, magazines and catalogs, telephone books, office paper or organic material. Commercial establishments would be required to recycle at least three (3) materials from the following: mixed paper, glass, metal food and beverage containers, other metal containers, plastics, textiles, wood or organic materials.

The proposed Ordinance stipulates that it is a violation for multifamily residences or commercial establishments to have recyclable materials in any place other than in a recycling container. In addition, the existence of recyclable materials inside a recycling container for seven (7) consecutive days constitutes evidence that a multifamily residence or commercial establishment is not providing regular recycling service that would be required by the provisions of this ordinance. In addition, the absence of recyclable materials in a recycling container for seven (7) consecutive days constitutes evidence that a multifamily residence or commercial establishment is not separating recyclables from their solid waste stream and is thus in violation of the provisions of theOrdinance.

Enforcement of the proposed Ordinance would require recycling inspectors to inspect the contents of both the solid waste and recycling containers in order to ascertain compliance. These enforcement efforts can be driven on a complaint basis, through a proactive inspection schedule, or

through a combination approach. The Sustainability Committee recommended that a hybrid approach be utilized to achieve the greatest level of compliance.

The proposed Ordinance also includes a "red tag" noticing system. Waste contractors and recycling contractors are required to notify their customers with a "red tag" identifying incorrect materials found in the either the solid waste or recycling container. After issuing two (2) tags, the contractor may refuse collection service and include on the subsequent tag a description of the action that must be taken for the materials to be collected. If the recycling contractor continues to find incorrect materials in a collection container, it is required to report the customer that has violated the separation requirements to the City. The proposed Ordinance provides that the contractor would be subject to fines and penalities if it collects such commingled materials and waste.

According to the parameters of the proposed recycling Ordinance, if commercial establishments, multifamily residences, or waste haulers are found to be in non-compliance with the proposed amendments, the following penalties would be prescibed:

a) For the first violation, a warning or a fine up to $350.00.
b) For the second violation, a fine of up to $500.00.
c) For the third violation, a fine of up to $1,000.00.
d) For the fourth and subsequent violations, a fine of up to $5,000.00.

The proposed Ordinance does not include a fine accrual provision, which is found in many of the City's similar fine structures. The Administration recommends that the Committee explore the possibility of adding an accrual provision to encourage compliance.

The proposed Ordinance calls for one (1) year of Public Education Program followed by a six (6) month warning period before penalties would be issued. During the education and outreach period, the City would implement an aggressive public education campaign to inform the public of the new requirements. This would entail comprehensive community outreach through the Chamber of Commerce, local schools, business associations, and homeowner and condominium associations. In addition, the City would disseminate information about the new program through TV, website, social media, and printed media. After the year of extensive education and outreach, the six (6) month warning period (or pre-full implementation period) would take place, where only warning notices without monetary fines would be issued.

In addition to the outreach and educational efforts associated with a program of this magnitude, the proposed Ordinance also includes an educational "tag program." The City would require recycling contractors to place informational tags and/or stickers on the recycling dumpster to further educate the public regarding allowable recyclable materials and proper recycling procedures. Only after the education and warning period are complete (18 months from commencement of the program) would the City issue Notices of Violation with accompanying monetary fines to companies and/or individuals that fail to adhere to the provisions of this Ordinance.

The proposed Ordinance has been reviewed, analyzed, and commented upon by the Sustainability Committee (at its October 2010 and November 2010 meetings). Two (2) versions of the Ordinance were presented for review and consideration by the Land Use and Development Commmittee (LUDC): Option "A" is the version developed by Administration and Option "B" is the version developed by the Sustainability Committee.

The only significant differences that emerged between the Administration's version (Option "A") and the Sustainability Committee's version (Option "B") were:

1. The dollar amount of the fines. The Sustainability Committee's recommendation for first and second offenses did not include a warning and the dollar amounts were higher; and

2. The duration of the overall warning period. The Sustainability Committee recommended a three (3) month warning period instead of a six (6) month warrning period during which only warning citations and not actual monetary or other penalties would be issued.

On December 12, 2010, the LUDC passed a motion recommending Option "A", the Administration's version of the Ordinance, and moved it to the Finance and Citywide Projects Committee (FCWPC) for discussion.

On June 23, 2011, the FCWPC passed a motion recommending that the City Commission pass Option "A" with the stipulation that the program is revenue neutral, and is funded through the commercial waste hauler contributions and/or Sanitation Reserves. The FCWPC also required that no funding from the General Fund be used to support the Recycling Program. To be revenue–neutral, the enforcement needs to be more complaint driven than pro-active inspection. Therefore, the Ordinance as written must be modified.

PROGRAM COMPARISONS

Staff conducted research to identify and compare similar programs established in other municipalities across the US. Some of the cities contacted included the localities of Austin, Texas; Gainsville, Florida; Miami-Dade County; Montgomery County, Maryland; San Diego, California; San Fransisco, California; and Seattle, Washington.

Levels of community compliance and enforcement vary between municipalities. For example, when Seattle began its mandatory recycling program, there was a high level of compliance from the beginning; more than 90% of Seattle's 150,000 apartments and businesses complied with the requirements of the new ordinance within weeks of implementation without the issuance of fines. Similarly, San Francisco has seen an approximate 55% rate of compliance with its mandatory composting and recycling ordinance. San Francisco publicized that it would be strictly enforcing multifamily composting and recycling in order to increase the public dialogue; however, their focus is still mainly on compliance through outreach rather than issuance of fines.

Jurisdictions such as Gainesville, Austin, San Diego and Montgomery County have focused efforts on providing education and extensive technical assistance rather than issuing fines to achieve compliance. Gainesville has concentrated its efforts on a comprehensive educational campaign that includes onsite assessment and recycling guidance to its residents and businesses. However, Gainesville is planning to begin attaching fines to facilities' electric bills in order to increase recycling compliance.

Similarly, Austin's current ordinance includes a fine of $500 per day. To date, Austin has elected to focus on education rather than to issue fines for non-compliance. However, Austin is in the process of developing a more stringent ordinance with stricter enforcement and fines, which is scheduled to come into effect in October 2012.

Montgomery County has been focusing their efforts on providing education and technical assistance to multifamily residences and commercial facilities. These facilities are required to complete an Annual Waste Reduction Report that estimates the amount of recyclable material generated annually. This allows Montgomery County to conduct audit inspections to verify the Waste Reduction Report and determine if the facility requires further technicalassistance. If outreach is found to be unsuccessful, Recycling Investigators respond with verbal warnings followed by citations; however, further fines and enforcement is uncommon.

The research also showed that the program staffing levels at a number of the locations varied in terms of the scope of work and goals. Programs varied from a staff of four (4) Waste Diversion Planners in Austin, Texas to more complex programs such as Montgomery County, which has a total of 18 employees (1 Section Chief, 2 Program Coordinators, 2 Compliance Managers, 1 Community Outreach Coordinator, 8 Educational Specialists, and 4 Recycling Investigators). San

Fransisco's recycling and composting program relies heavily on community volunteers to conduct door-to-door neighborhood outreach. In addition, San Fransisco received funds from the Federal Stimulus Package Jobs Now program that allowed it to employ 50 Environmental Outreach Assistants, whose duties included various environmental initiatives including recycling outreach. From the Jobs Now program, 18 Outreach Assistants have remained as full-time employees and now supplement the Zero Waste Division's 11 employees (3 Residential Recycling Coordinators, 3 City Government Recycling Coordinators, 3 Commercial Recycling Coordinators, 1 Construction & Demolition Recycling Coordinator, and 1 Division Program Manager).

STAFFING REQUIREMENTS – CITY ORDINANCE (OPTION A)

Based on the requirements and parameters set forth in the proposed Ordinance, Code Compliance Officers (CCO) would need to inspect and assess 3,624 commercial units and approximately 1,500 multifamily residential buildings with more than eight units in order to determine compliance.

Staff has had several discussions regarding the level of enforcement that would be required for this proposed Ordinance and how to effectuate inspections to encourage compliance. In order to achieve the level of compliance expected to be achieved with this Ordinance, the Administration would recommend quarterly pro-active inspections for the commercial establishments, and is assuming a 50% compliance rate, which would require additional inspections for non-compliance. For the multifamily residential buildings, the Administration would recommend two (2) proactive inspections per year, again with a 50% compliance rate assumption, and additional inspections for non-compliance. These assumptions do not include any inspections required as a result of complaints or as notices provided by the haulers based on their observations and issuance of "red tag" warnings. Variation from this implementation plan would impact the estimated staffing requirements, operational costs and potential revenue from fines presented herein.

It should be noted that recycling Ordinance enforcement staffing would be done with additional positions, not within the current staffing plan of the Code Compliance Divison of the Building Department, as current staff does not have the capacity to implement this program with current Code Compliance demands. An additional administrative support position would also be required in order to implement this program.

Using the assumptions outlined above, a total of eleven (11) additional full-time staff would be required in the Code Compliance Division to effectively address the parameters of the proposed recycling Ordinance. This includes nine (9) CCOs, one (1) Recycling Manager, and one (1) Administrative Aide I. The CCOs would be deployed by zones (South, Middle, and North), reporting to a Recycling Administrator, who in turn would report to a Recycling Manager. Assignments would be adjusted based on workloads. The Recycling Manager would be responsible for supervising the program and coordinating continued community outreach and education efforts.

The ongoing annual operating costs are projected to be approximately $630,611. This includes salaries and fringe benefits associated with full-time employment in the amount of approximately $592,993 as well as minimal operating costs in the amount of $37,618. This estimate does not include one-time costs such as the purchase of computers, vehicles, and office furniture, which are estimated to be in the range of $123,600, for a total implementation cost of approximately $754,235.

It should be noted that the staffing and operating costs associated with this program can be phased in, as the educational program and initial warning period would be for a combined period of 18 months. Thus, the entirety of the costs would not need to be funded at the inception of the program.

POTENTIAL RECOVERY OF EXPENDITURES / ISSUANCE OF FINES

It is difficult to estimate the revenues generated from fines collected by implementing such a program, as there is no experience with a strictly enforced recycling program. The Administration

projects a 50% compliance rate, based on data obtained from the County; the County reports a 47% compliance rate on their ordinance. Assuming a 33% collection rate on the fines issued to the 50% of the non-compliant commerical and multifamily units, the City would collect approximately $550,000 with this program. The 33% is the average/typical collection rate for code compliance violations.

If fine collection turns out to be higher than anticipated, the revenue stream would increase. Of course, the reciprical is also true. Additionally, if compliance is greater than anticipated, which would be the ultimate goal of the program, the revenues would be less than anticipated.

PUBLIC EDUCATION PROGRAM

The proposed Ordinance specifies that the City would establish a Public Education Program that informs the public of the new requirements and provides guidance on proper recycling procedures. An exensive twelve (12) month education and outreach period will then be followed by a six (6) month warning period before penalties would be issued. In order to maximize the success and exposure of the Public Education Program during this period, prior to commencing enforcement, it is recommended that a consultant be retained to communicate the new Recycling Program to the community. The consultant can assist the City with developing a marketing plan, designing effective educational materials, and administering workshops and creating information packages for commercial and multifamily facilities.

FUNDING

Recommend funding for FY2012 Public Education Program to be provided from the waste haulers contributions or through Sanitation Reserves. A source of funding for the enforcement component of the Recycling Program has yet to be identified, other than the revenues discussed herein associated with the fines.

CONCLUSION

At the July 13, 2011, Commission Meeting the item was referred to the Sept. 26, 2011 Finance and Citywide Projects Committee (FCWPC) meeting. The FCWPC directed the administration to conduct a Recycling Workshop, held on October 24, 2011.At the Workshop, Commissioner Gongorra indicated that the item would be further discussed at the Sustainability Committee prior to referral to the FCWPC to discuss funding. At the November 15, 2011, meeting of the Sustainability Committee, a vote to revise the ordinance to more closely reflect the Miami-Dade County ordinance passed with the following recommendations:

- Include a robust educational program
- Reduce the fine amounts
- Introduce an enforcement component; although the County ordinance provides for enforcement, no enforcement is provided by the County.

Based on the above, recommendations, the proposed revised ordinance will undergo significant modifications and the Administration therefore recommends that: this item be opened and continued; the City Commission direct the Administration to rewrite the ordinance; and that the revised ordinance be presented to the FCWPC before First Reading.

Attachments:
A. Proposed Recycling Ordinance

DRB/FHB/RWS

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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 90 OF THE MIAMI BEACH CITY CODE, ENTITLED "SOLID WASTE," BY AMENDING THE DEFINITIONS IN ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 90-2, ENTITLED "DEFINITIONS"; BY AMENDING ARTICLE II, ENTITLED "ADMINISTRATION" BY AMENDING THE PENALTIES FOR SOLID WASTE VIOLATIONS AND TO PROVIDE PROVISIONS AND PENALTIES RELATIVE TO RECYCLING FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS; BY CREATING ARTICLE V, TO BE ENTITLED "CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS," TO PROVIDE PROVISIONS FOR RECYCLING REQUIREMENTS AND ENFORCEMENT, A PUBLIC EDUCATION PROGRAM, A WARNING PERIOD, AN ENFORCEMENT DATE, COLLECTOR LIABILITY, A "RED TAG" NOTICING SYSTEM, PENALTIES, AND SPECIAL MASTER APPEAL PROCEDURES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, nearly everything we produce, use or consume leaves behind some kind of waste and the treatment and disposal of waste can be a source of water, land, and air pollution; and

WHEREAS, by managing solid waste and conserving material resources through reduction, reuse, and recycling, the City will help minimize impacts to the quality and safety of the local environment, reduce costs of waste disposal and decrease the carbon foot print associated with the production and the use and disposal of materials; and

WHEREAS, the recycling of recyclable materials is in the best interest of the environment, the residents, and the environmental footprint of the City of Miami Beach; and

WHEREAS, the City seeks to establish a Citywide Recycling Program for multifamily residences and commercial establishments that provides standards that are equivalent to or exceed the minimum recycling requirements of Miami-Dade County; and

WHEREAS, pursuant to Sections 15-2.5 and 15-2.7 of the Miami-Dade County Code, the City and Miami-Dade County have agreed that the following Citywide Recycling Program meets the minimum standards set forth in section 15-2.6 of the Miami-Dade County Code and have accordingly entered into a Memorandum of Understanding so that the City may implement said Program.

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

SECTION 1. That Article I, entitled "In General," of Chapter 90 of the Miami Beach City Code, entitled "Solid Waste," is hereby amended as follows:

CHAPTER 90

SOLID WASTE

* * *

ARTICLE I. IN GENERAL

Sec. 90-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

Commercial establishment means an establishment dealing in an exchange of goods or services for money or barter. For purposes of this chapter, the term shall include churches, synagogues and schools.

* * *

Multifamily residence means a building occupied or intended to be occupied by two (2) or more families living separately, with separate kitchens in each unit.

* * *

Offense means a notice of violation that has not been appealed timely or a finding of a violation by a special master following the appeal of a violation.

* * *

Premises means real property and includes any buildings or structures thereon.

* * *

Recyclable materials means those materials capable of being recycled and which would otherwise be processed or disposed of as solid waste. Any recyclable material mixed with solid waste shall be considered to be solid waste.

Recycling means any process by which recyclable materials are collected, separated, or processed to be reused or returned to use in the form of raw materials or products.

Recycling container means a container approved by the city manager for collection of recyclable material by a recycling contractor.

Recycling contractor means a private contractor licensed by the city who collects recyclable materials and transports same to a state or county-licensed recycling facility for processing. Recycling contractors must provide their customers with a separate recycling container for recyclable materials.

Single-stream recycling means a process by which certain recyclable materials are mixed together instead of being sorted into separate recycling containers in the collection process.

SECTION 2. That Article II, entitled "Administration," of Chapter 90 of the Miami Beach City Code entitled "Solid Waste," is hereby amended as follows:

CHAPTER 90

SOLID WASTE

* * *

ARTICLE II. ADMINISTRATION

Sec. 90-36. Enforcement of chapter; notice of violation.

(a) The city manager is hereby authorized and directed to enforce all the provisions of this chapter regulating and governing the accumulation, collection, and disposal of solid waste. The city manager shall have the power to delegate duties to employees working under his authority (including, without limitation, the city's public works director) in the enforcement of the provisions of this chapter.

(b) Upon presentation of proper credentials, an inspector designated by the city manager may enter any building, structure, lot or other premises for the purpose of inspection, or to prevent violations of this chapter.

(c) The existence of solid waste shall be prima facie evidence that the same was created or placed there by the occupant of the dwelling or commercial establishment; or the owner; or the operator or manager. The existence of the same garbage inside the same garbage containers for four (4) consecutive days upon premises serviced by a private waste contractor shall be prima facie evidence of a violation of this chapter by the contractor. For purposes of this section premises serviced by a private waste contractor shall not include accounts that have been discontinued by the contractor when notice of discontinued service has been mailed to the owner, occupant; or operator or manager, as well as to the city, prior to the accumulation of the garbage.

(d) Whenever a designated city inspector observes a violation (or violations) of this chapter regarding solid waste or an accumulation of solid waste that creates a health hazard, environmental hazard, or nuisance, the inspector shall order the violation(s) to be corrected within a specified period of time by serving a written notice of violation(s) upon the person causing, or responsible for, such violation and/or health hazard, environmental hazard, or nuisance. Such person shall immediately cease or abate the violation(s).

(e) A ~~The~~ notice of violation shall be served personally or by certified mail upon the property owner or upon the person(s) in lawful possession of the premises, and/or upon the ~~private~~ waste contractor servicing the premises. If the person addressed with such notice cannot be found by the city after making reasonable good faith effort, such notice shall be sent by certified mail to the last known address of such person, and a copy of the notice shall be posted in a conspicuous place on the premises. Such notice shall be deemed the equivalent of personal service.

(f) The notice shall specify any fine(s) that may be due in connection with the violation(s), the time specified by the inspector to correct the violations, and the procedure for timely payment or appeal of the fine(s).

(g) If the inspector determines that the conditions constitute an immediate threat to the health, safety or welfare of the public, he/she may order the immediate correction of the violation(s) at the expense of the occupant; owner; or operator or manager and the city shall have the right to recover such expenses as provided in section 90- ~~136~~ 37.

(h) The enforcement of the recycling requirements for the citywide recycling program for multifamily residences and commercial establishments provided for in Article V of this chapter, and the penalties for violations of Article V, are provided in sections 90-345 and 90-347 through 90-348 of this chapter.

Sec. 90-37. Removal of waste by city; penalties for violations.

If the person served with a notice of violation pursuant to section 90-36 does not correct the violation within the specified time, the city manager may do the following:

(1) For violations involving failure to remove solid waste, the city manager may cause the waste to be removed from the premises and charge the actual costs to the owner; occupant; or operator or manager, on a force account basis. Any fine due pursuant to section 90-39 or 90-40 shall also be charged to the owner; occupant; or operator or manager. Failure to pay such costs and fines or to appeal pursuant to section 90-38 within fifteen (15) days of receipt of the notice shall result in the imposition of a lien upon the property, in the amount of such costs and fines. Such liens shall be treated as special assessment liens against the subject real property and, until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such liens shall be enforced by any of the methods provided in Ch. 86, Florida Statutes; or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Ch. 173; Florida Statutes; or the collection and enforcement or payment thereof may be accomplished by any other method authorized by law. The owner; occupant; or operator or manager shall pay all costs of collection, including reasonable attorneys fees incurred in the collection of fines, and other charges, penalties, and liens imposed by virtue of this chapter.

(2) For violations of this chapter for which no fine is specified in sections 90-39 and 90-40, the city attorney may prosecute the violators pursuant to section 1-14. Fines for such offenses shall be as follows:

a. First offense, $350.00.

b. Second offense, $500.00.

c. Third offense, $1,000.00.

d. Fourth or subsequent offense, $5,000.00.

(3) For violations which present a serious threat to the health, safety or welfare of the public and/or violations that ~~are continually repeated~~ constitute a fourth or subsequent offense by the same violator, the city ~~attorney~~ may seek injunctive relief and/or, in the case of commercial establishments, revoke the business tax receipt and/or certificate of use of the establishment and/or premises.

Sec. 90-38. Appeal to special master.

(a) Any person receiving a notice of violation pursuant to section 90-36 and/or a notice of fine pursuant to sections 90-39 and/or 90-40 may request, within fifteen (15) days of receipt of the notice, an administrative hearing before a special master, appointed as provided in article II of chapter 30, to appeal the decision of the city inspector resulting in the issuance of the notice. Procedures and application fee for the scheduling and conduct of the hearing shall be as provided in sections 102-384 and 102-385. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, as noticed, and fines and penalties may be assessed accordingly.

(b) Timely filing of a notice of appeal pursuant to this section shall toll the imposition of a lien pursuant to section 90-37 or 90-136, or enforcement procedures pursuant to section 90-36, until thirty (30) days after the issuance of a written determination by the special master. Any amounts of money due the city pursuant to such determination must be received by the city within thirty (30) days after the issuance of the determination, or a lien shall be imposed upon the property in question, and any other enforcement or collection procedures commenced, as provided by this chapter or under state law.

SECTION 3. That Article V, to be entitled "Citywide Recycling Program for Multifamily Residences and Commercial Establishments," of Chapter 90 of the Miami Beach City Code, entitled "Solid Waste," is hereby created as follows:

CHAPTER 90

SOLID WASTE

* * *

ARTICLE V. CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS

Sec. 90-340. Recycling required for multifamily residences.

As of (**DATE**) **[NOTE: DATE SHOULD BE ONE YEAR FROM EFFECTIVE DATE OF ORDINANCE]**, every multifamily residence shall be required to use a single-stream recycling process to recycle recyclable materials and every multifamily residence shall be serviced by a city and state licensed recycling contractor.

(a) At a minimum, multifamily residences must recycle at least five (5) of the recyclable materials listed below:

1) *Newspaper-* used or discarded newsprint, including any glossy inserts;

2) *Glass-* glass jars, bottles, and containers of clear, green or amber (brown) color of any size or shape used to store and/or package food and beverage products for human or animal consumption, and/or used to package other products, which must be empty and rinsed clean of residue. This term excludes ceramics, window or automobile glass, mirrors, and light bulbs;

3) *Metal food and beverage containers-* all ferrous and nonferrous (i.e. including, but not limited to, steel, tin-plated steel, aluminum and bimetal) food and beverage containers (i.e. including, but not limited to, cans, plates, and trays) of any size or shape used to store and/or package food and beverage products suitable for human or animal consumption, which must be empty and rinsed clean of residue;

4) *Other metal containers-* all other ferrous and non ferrous containers used to package household products including, but not limited to, paint cans and aerosol cans, which must be empty and rinsed clean of residue;

5) *Plastics-* all high density polyethylene (HDPE) and/or polyethylene terephthalate (PET) bottles, jugs, jars, cartons, tubs, and/or other containers, and lids, of any size or shape used to package food, beverages, and/or other household products, or crankcase oil, which must be empty and rinsed clean of residue. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (i.e. toys), and plastic foam materials; and

(b) At least three (3) of the following recyclable materials:

1) *Cardboard* - clean, unwaxed corrugated cardboard boxboard and/or similar corrugated and kraft paper materials; food, beverage, and/or other household cardboard boxes, cartons and/or other containers (i.e. cereal boxes, paper egg cartons, rolls, and bags, milk, juice and other beverage cartons and/or boxes, spiral-wound containers such as orange juice, dough and potato chip containers, tissue boxes, and toilet tissue and paper towel rolls); and any other corrugated and/or non-corrugated materials made from cardboard, all of which must be empty and cleaned of excessive amounts of contaminant such as adhesives, metals and plastics;

2) *Magazines and catalogues;*

3) *Telephone books and/or directories;*

4) *Office paper* - used or discarded high-grade white paper and Manila paper including, but not limited to, paper used for file folders, tab cards, writing, typing, printing, computer printing, and photocopying (i.e. writing paper, stationary, letterhead, notebook paper, copier paper, typing paper, tablet sheets, computer print- out paper, and all paper of similar quality); regular mail and junk mail; envelopes without wax liners or adhesive labels; and paper gift wrap and cards. This term shall not include carbon paper, self carbonizing paper, coated or glossy paper, and envelopes with windows or adhesive labels.

Organic Materials - A multifamily residence that recycles organic materials in a separate bin that is serviced by a city licensed recycling contractor shall be deemed to satisfy one of the three(3) recyclable materials options in this subsection (b). The following items shall be deemed to be organic materials for purposes of this section: All food materials, including but not limited to fresh, frozen, dried, cooked and prepared foods and leftovers; fruit and vegetable

scraps; pasta, bread, and cereal; meat and fish products; egg shells; coffee grinds and filters; and tea bags.

Sec. 90-341. Recycling required for commercial establishments.

As of (DATE) **[NOTE: DATE SHOULD BE ONE YEAR FROM EFFECTIVE DATE OF ORDINANCE]**, every commercial establishment shall be required to recycle recyclable materials and shall be serviced by a city and state licensed recycling contractor, or the city. At a minimum, commercial establishments must recycle at least three (3) recyclable materials from the list below:

1) *Newspaper; Cardboard; Magazines and catalogues; Telephone books and/or directories; and Office paper* - (with said terms having the same definitions, and including the same type(s) of recyclable materials as provided in Sections 90-340(a) and (b) hereof);
2) *Glass* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in Section 90-340(a) hereof);
3) *Metal food and beverage containers* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in Section 90-340(a) hereof);
4) *Other metal containers* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in Section 90-340(a) hereof, but also, for purposes of this subsection(4), including scrap metal, which shall mean used or discarded items suitable for recycling, consisting predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel or alloys thereof including, but not limited to, bulk metals such as large metal fixtures and appliances (including white goods such as washing machines, refrigerators, etc.), but excluding metal containers utilized to store flammable or volatile chemicals, such as fuel tanks.;
5) *Plastics* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in section 90-340(a) hereof);
6) *Textiles*;
7) *Wood* – clean wood waste and/or pieces generated as byproducts from manufacturing of wood products and wood demolition waste (i.e. lumber, plywood, etc.) thrown away in the course of remodeling or construction. It excludes clean yard waste and clean waste (i.e. natural vegetation and minerals such as stumps, brush, blackberry vines, tree branches, and associated dirt, sand, tree bark, sand and rocks), treated lumber, wood pieces, or particles containing chemical preservatives, composition roofing, roofing paper, insulation, sheetrock, and glass.

Organic Materials - A commercial establishment that recycles organic materials (as defined in Section 90-340 hereof) in a separate bin that is serviced by a city licensed recycling contractor shall be deemed to satisfy one of the three(3) recyclable materials options in this subsection.

Sec. 90-342. Unauthorized collection of designated recyclable materials.

Only those recycling contractors that have been authorized by the city and the state to collect designated recyclables in the city shall be authorized to collect recyclable materials under this article.

Sec. 90-343. Public education program; warning period and enforcement date.

a) Beginning (**DATE**) **[NOTE: DATE SHOULD BE 10 DAYS AFTER ADOPTION OF ORDINANCE]**, the city shall engage in public education efforts and the city shall not prosecute individuals who unknowingly fail to separate recyclable materials from all other solid waste materials required to be separated by this article until as provided in subsections (d) and (e) of this section.

b) All recycling contractors must appropriately designate the recycling collection containers they provide to customers. The containers must contain the appropriate signage and information, as shall be established and approved by the city pursuant to subsection (c) below, that allows users to clearly and easily identify the container for recycling.

~~b)~~c) The city shall establish an educational tag program whereby appropriate information, in the form of tags, stickers, or other signage approved by the city manager, shall be required to be placed on all recycling containers, informing the public of proper recyclable materials and procedures. The city shall also provide information on its website regarding what materials are acceptable as recyclables under this article.

d) Beginning (**DATE**) **[NOTE: DATE SHOULD BE ONE YEAR FROM EFFECTIVE DATE OF ORDINANCE]** the city shall provide for a six (6) month warning period, through and including (**DATE**) **[NOTE: DATE SHOULD BE 18 MONTHS AFTER EFFECTIVE DATE OF ORDINANCE]**, in which warning tickets shall be issued to persons who fail to separate recyclable materials from solid waste, regardless of knowledge or intent.

~~d)~~e) Beginning (**DATE**) **[NOTE: DATE SHOULD BE 18 MONTHS AND 1 DAY AFTER EFFECTIVE DATE OF ORDINANCE]**, this article shall be enforced and penalties shall be applied and imposed for violations of this article.

Sec. 90-344. Liability of contractors.

(a) All recycling contractors shall comply with all applicable state and city laws and regulations. Any recycling contractor who reasonably believes that a person from whom he/she/it collects has violated the separation requirements of article V of this chapter, shall not collect the same, and shall notify the director of public works to report the violation. If the contractor collects such waste, the fines and penalties set forth in sec. 90-347 shall be issued and imposed against him/her/it. Additionally, contractors shall assist and notify the director of public works in identifying persons that unlawfully mixed solid waste with recyclable materials, which were later delivered to a resources recovery facility, transfer station, landfill, or other solid waste facility.

(b) "Red Tag" Noticing System.

1) If a recycling contractor finds materials that are not the correct type as designated for that container (such as recyclables in a sold waste container, or solid waste in a recycling container), the contractor shall then leave a tag on the container identifying the incorrect materials.

2) If the contractor continues to find incorrect materials in a collection container after the contractor has left a previous tag for that customer and that type of container, the contractor must leave another tag on the container identifying the incorrect materials and send a written notice to (i) the person and/or entity who subscribes for that collection service, and (ii) the director of public works.

3) If the contractor continues to find incorrect materials in a collection container after the contractor has already left two (2) or more tags for that customer and that type of container, the contractor may refuse to empty the container. If the container is not emptied, the contractor must leave a tag and send a written notice to (i) the person and/or entity who subscribes for the collection service, identifying the incorrect materials and describing what action must be taken for the materials to be collected, and (ii) to the director of public works; provided, however, that a contractor may not refuse on this basis to empty containers from multifamily or commercial establishment properties with multiple tenants and joint account collection services.

4) The contractor shall, provide to the director of public works a list of the names and addresses of those persons and/or entities who have received tags or notices, or whose containers have not been emptied due to non-compliance with this article, or copies of the tags or notices issued by the contractor. The contractor shall also provide to the director, upon request, a list of the names, addresses, and service levels of the contractor's customers and any additional information required by the director.

Sec. 90-345. Enforcement.

(a) The city manager is hereby authorized and directed to enforce all the provisions of this article regulating and governing the accumulation, collection, recycling, and disposal of recyclable materials. The city manager shall have the power to delegate duties to employees working under his authority in the enforcement of the provisions of this article.

(b) Upon presentation of proper credentials, an inspector designated by the city manager may enter any building, structure, lot, or other premises for the purpose of inspection, or to prevent violations of this article.

(c) The existence of recyclable materials in any place other than in a recycling container, shall be prima facie evidence that the same was created or placed there by the occupant of the multifamily residence or commercial establishment, or the owner, operator, or manager of the premises. The existence of recyclable materials inside a recycling container for seven (7) consecutive days or more shall be prima facie evidence of a violation of this article by the recycling contractor. The absence of recyclable materials in a recycling container for seven (7) consecutive days or more upon the premises shall be prima facie evidence of a violation of this article by the multifamily residence or commercial establishment. For purposes of this section, premises serviced by a recycling contractor shall not include accounts that have been discontinued by the recycling contractor when notice of discontinued service has been mailed to the owner, occupant, operator, or manager of the premises, as well as to the city, prior to the accumulation of the recyclable materials.

(d) The director of the department of public works shall develop warning notices and notices of violation forms with which to impose penalties on violators that are in violation of this

article. The city shall issue warning notices and notices of violations notices to property owners, to person(s) in lawful possession of the premises, or to the recycling contractor servicing the premises. In addition, contractors may issue warnings at the request of the director of the department of public works.

(e) Whenever a designated city inspector observes a violation (or violations) of this article, or an accumulation of recyclable materials that creates a health hazard, environmental hazard, or nuisance, the inspector shall order the violation(s) to be corrected within a specified period of time by serving a written notice of violation(s) upon the person causing, or responsible for, such violation and/or health hazard, environmental hazard, or nuisance. Such person shall immediately cease or abate the violation(s).

(f) A notice of violation shall be served personally or by certified mail upon the property owner or the person(s) in lawful possession of the premises, or upon the recycling contractor servicing the premises. If the person addressed with such notice cannot be found by the city after making a reasonable good faith effort, such notice shall be sent by certified mail to the last known address of such person, and a copy of the notice shall be posted in a conspicuous place on the premises. Such notice shall be deemed the equivalent of personal service.

(g) The notice shall specify any fine or penalty that may be due in connection with the violation(s), the time specified by the inspector to correct the violation(s), and the procedure for timely payment or appeal of the fine or penalty.

(h) If the inspector determines that the conditions constitute an immediate threat to the health, safety or welfare of the public, the inspector may order the immediate correction of the violation(s) at the expense of the property owner, occupant, operator, manager, or other person(s) in lawful possession of the premises, and the city shall have the right to recover such expenses as provided in section 90-37.

Sec. 90-346. Exception.

A property owner may seek a waiver from the director of public works of all or portions of this article, if the applicant submits documentation, using a form specified by the city that includes a signed affidavit under penalty of perjury, that shows that the property does not have adequate storage space for containers for recyclables or solid waste or other hardship. In cases where, after on-site verification, space or other limitations are determined to exist, the director shall evaluate the feasibility of sharing containers for recyclables or solid waste with contiguous properties, and, where feasible, may require container sharing in lieu of providing a waiver, or such other suitable solutions as deemed appropriate by the director.

Sec. 90-347. Removal of Recyclable Materials by City/Penalties.

(1) For violations involving failure to remove recyclable materials from a recycling container by a recycling contractor, the city manager may cause the recyclable materials to be removed from the premises and charge the actual costs of removal to the owner, occupant, operator, manager, or other person(s) in lawful possession of the premises.

(2) Penalties for violations of this article shall be as follows:

a. For the first violation, a warning or a fine up to $350.00.

b. For the second violation, a fine of up to $500.00.

c. For the third violation, a fine of up to $1,000.00.

d. For the fourth and subsequent violations, a fine of up to $5,000.00.

(3) Any penalty due pursuant to this article shall also be charged to the owner, occupant, operator, manager, or other person(s) in lawful possession of the premises. Failure to pay such costs and penalties, or to appeal pursuant to section 90-348 within fifteen (15) days of receipt of the notice of violation shall result in the imposition of a lien upon the premises, in the amount of such costs and penalties. Such liens shall be treated as special assessment liens against the subject real property and, until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such liens shall be enforced by any of the methods provided in Ch. 86, Florida Statutes; or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Ch. 173; Florida Statutes; or the collection and enforcement or payment thereof may be accomplished by any other method authorized by law. The owner, occupant, operator, or manager of the premises shall pay all costs of collection, including reasonable attorneys fees incurred in the collection of fines, and other charges, penalties, and liens imposed by virtue of this chapter.

(4) For violations which present a serious threat to the health, safety or welfare of the public, and/or violations that constitute a fourth or subsequent offense by the same violator, the city may seek injunctive relief and/or, in the case of commercial establishments, revoke the business tax receipt and/or certificate of use of the establishment and/or premises.

Sec. 90-348. Appeal to Special Master.

(a) Any person receiving a notice of violation pursuant to this chapter may request, within fifteen (15) days of receipt of the notice, an administrative hearing before a special master, appointed as provided in article II of chapter 30, to appeal the decision of the city inspector resulting in the issuance of the notice. The procedures and application fee for the scheduling and conduct of the hearing shall be as provided in sections 102-384 and 102-385. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, as noticed, and fines and penalties may be assessed accordingly.

(b) Timely filing of a notice of appeal pursuant to this section shall toll the imposition of a lien or enforcement procedures pursuant to section 90-347, until thirty (30) days after the issuance of a written determination by the special master. Any costs or penalty amounts due the city pursuant to such determination must be received by the city within thirty (30) days after the issuance of the determination, or a lien shall be imposed upon the premises, and any other enforcement or collection procedures may be commenced, as provided by this chapter or under state law.

SECTION 4. REPEALER.

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

SECTION 5. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 6. 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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2011.

PASSED and **ADOPTED** this _____ day of _____, 2011.

ATTEST:

_____
MAYOR MATTI HERRERA BOWER

_____
ROBERT PARCHER, CITY CLERK

Underline denotes additions and ~~Strike through~~ denotes deletions.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney DT 7/1/11 Date

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MIAMIBEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **WEDNESDAY, OCTOBER 19th TH, 2011,** to consider the following:

10:15 a.m.
Amendments To The Roofing Material Ordinance
Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations", Article IV, "Supplementary District Regulations", Section 142-875 "Roof Replacements" To Modify And Expand The Requirements For Roofing Materials In All Districts.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:20 a.m.
Stay Of Work And Proceedings On Appeal:
Ordinance Amending The Land Development Regulations Of The City Code By Amending Chapter 118, "Administrative And Review Procedures," Article II, "Boards," Division 5, "Board Of Adjustment," Section 118-137, "Stay Of Work And Proceedings On Appeal," Clarifying And Amending The Stay Provisions Applicable To Matters On Appeal To The Board Of Adjustment.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:25 a.m.
Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-11, Entitled "Running At Large Prohibited" By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until January 1, 2012 And By Adding Two (2) Hours In The Evening From 5:00 p.m. To 7:00 p.m. On Monday Through Friday; Providing For An Off-Leash Area On The Par 3 Golf Course From Sunrise To 9:00 A.M. Daily And From 5:00 p.m. To 7:00 p.m. On Monday Through Friday Until Construction Commences On The Par 3 Golf Course.

Inquiries may be directed to the Parks and Recreation Department at (305) 673-7730.

10:30 a.m.
Minimum Unit Size And Parking Requirements For Affordable Housing Projects
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 130 "Off-Street Parking," Section 130-32 "Off-Street Parking Requirements For Parking District No. 1," And Section 130-33 "Off-Street Parking Requirements For Parking Districts Nos. 2, 3, And 4," By Adding Parking Requirements For Housing For Low And/Or Moderate Income Non-Elderly Persons; Chapter 142 "Zoning Districts And Regulations," By Amending Article IV. "Supplementary District Regulations," By Amending Division 6. "Housing For Low And/Or Moderate Income Elderly Persons," By Including Non-Elderly Persons In The Regulations; Amending Section 142-1181, "Purpose," Section 142-1182 "Definitions," Section 142-1183, "Unit Size," And Section 142-1184 "Mandatory Criteria;" Amending Division 3. "Residential Multifamily Districts," Subdivision II. "RM-1 Residential Multifamily Low Intensity," Subdivision IV. "RM-2 Residential Multifamily, Medium Intensity," Subdivision V. "RM-3 Residential Multifamily, High Intensity," Division 4. "CD-1 Commercial, Low Intensity District," Division 5. "CD-2 Commercial, Medium Intensity District," Division 6. "CD-3 Commercial, High Intensity District," And Division 18. "PS Performance Standard District," By Including References To Division 6. "Housing For Low And/Or Moderate Income Non-Elderly And Elderly Persons."

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:35 a.m.
Recycling Ordinance:
An Ordinance Amending Chapter 90 Of The Miami Beach City Code, Entitled "Solid Waste," By Amending The Definitions In Article I, Entitled "In General," By Amending Section 90-2, Entitled "Definitions"; By Amending Article II, Entitled "Administration" By Amending The Penalties For Solid Waste Violations And To Provide Provisions And Penalties Relative To Recycling For Multifamily Residences And Commercial Establishments; By Creating Article V, To Be Entitled "Citywide Recycling Program For Multifamily Residences And Commercial Establishments," To Provide Provisions For Recycling Requirements And Enforcement, A Public Education Program, A Warning Period, An Enforcement Date, Collector Liability, A "Red Tag" Noticing System, Penalties, And Special Master Appeal Procedures.

Inquiries may be directed to the Public Works Department at (305) 673-7616.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).
Ad #670

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Condensed Title:

Amendment to the Height Limits in the RPS-4 Zoning District

Key Intended Outcome Supported:

Maintain strong growth management policies; Protect historic building stock

Supporting Data (Surveys, Environmental Scan, etc.):
While nearly half, 47.6%, suggested the effort put forth by the City to regulate development is "about the right amount," nearly one-third, 29.6%, indicated "too little" effort is being put forth by the City in this area.

Issue:

Should the City Commission adopt an Ordinance Amendment that modifies the maximum allowable height requirements for residential structures located in the RPS-4 zoning district, subject to Historic Preservation Board review and approval?

Item Summary/Recommendation:

SECOND READING PUBLIC HEARING: The Administration recommends that the City Commission adopt the Ordinance upon second reading public hearing.

Advisory Board Recommendation:

On July 20, 2011, the Land Use and Development Committee referred the Ordinance to the Planning Board, with a favorable recommendation.
On October 25, 2011, the Planning Board transmitted the subject Ordinance to the City Commission, with a favorable recommendation.
On November 8, 2011, the Historic Preservation Board reviewed the proposed ordinance and recommended approval.
On December 14, 2011, the City Commission approved the proposed ordinance on first reading.

Financial Information:

Source of Funds:

	Amount	Account	Approved
1			
2			
3			
4			
Total			

OBPI

Financial Impact Summary:
The subject ordinance is not expected to have any fiscal impact.

City Clerk's Office Legislative Tracking:

Richard Lorber or Thomas Mooney

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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: January 11, 2012 **SECOND READING PUBLIC HEARING**

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, "DISTRICT REGULATIONS", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT", SECTION 142-696 "RESIDENTIAL PERFORMANCE STANDARD AREA REQUIREMENTS" TO MODIFY THE MAXIMUM HEIGHT REQUIREMENTS FOR RESIDENTIAL APARTMENT STRUCTURES; BY AMENDING SECTION 142-697 "SETBACK REQUIREMENTS IN THE R-PS1, 2, 3, 4 DISTRICTS", TO MODIFY THE SETBACK REQUIREMENTS FOR OCEANFRONT BUILDINGS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission adopt the proposed Ordinance upon second reading public hearing.

BACKGROUND

A discussion of a proposed amendment to the RPS-4 district regulations, in order to increase the maximum allowable height for residential apartment structures on oceanfront lots from 75' to 100', was commenced by the Land Use and Development Committee on May 18, 2011. The RPS-4 district is located south of Fifth Street, along the Atlantic Ocean and Government Cut; that portion of the RPS-4 district between First and Fifth Streets is also within the boundaries of the Ocean Beach Local Historic District. This district contains both residential apartment structures and hotel structures; all of the hotel structures have accessory uses.

In 2002, pursuant to Ordinance 2002-3386, the City Commission established a maximum height limit of 75' for all structures in the RPS-4 district that are within the confines of the Ocean Beach Local Historic District. At the time, the purpose of these height limits was to control the aggregation of lots and to limit the impact of new construction on the low scale character of the west side of Ocean Drive.

Recently, the property at 321 Ocean Drive was purchased by a developer who is seeking to build a residential-apartment project. Unlike the previous project proposed for this site (Bijou Hotel), the new owner is not seeking to build a hotel structure with

controversial accessory uses. The developers concept proposal, which has yet to be brought forward formally for development approval and permitting, has been met with support and enthusiasm from neighboring residents. The main reason for this initial support is that the development proposal is for a purely residential, as opposed to hotel structure. Given the number of existing transient uses (hotels) and associated accessory uses in the area, the residents of South Pointe have become increasingly concerned with a lack of balance between permanent residential uses, and transient type uses with accessory restaurants and destination type uses. Permanent residential structures are seen by residents of the South Pointe area as providing a better balance to existing commercial uses in the area.

In order to encourage and foster residential apartment type uses along the oceanfront lots in the RPS-4 district, a proposal has been put forth to increase the maximum allowable height for residential apartment buildings.

ANALYSIS

The RPS-4 residential-performance standards district is designed to accommodate high density residential development, including hotel development and multi-family residential development. Section 142-691 of the Code specifies, in part, that 'performance standards development will allow for modification of requirements affecting certain individual lots, greater flexibility, particularly for large-scale development, and incentives for provision of certain amenities and for conformance with specified objectives, thereby encouraging more flexible and innovative design and development, in accordance with the goals and objectives of the comprehensive plan and the redevelopment plan'.

The proposal put forth to increase the allowable height for new residential apartment structures in the RPS-4 district is consistent with the district purpose defined above and does have tangible benefits from a planning and urban design standpoint. In this regard, the proposed ordinance would provide more latitude for the distribution of the allowable volume for the site within a taller, slimmer structure, as well as require a separation of the tower volume, which is a better design alternative than a horizontal 'bar' building. This would lessen the impact on existing, adjacent structures, allow for better view corridors, and provide the potential for more dynamic architecture. The proposal for the increased height would also be consistent with the majority of the built context along the east side of Ocean Drive from First to Fifth Street, as more particularly illustrated in the massing studies provided.

Notwithstanding these compatible attributes, after careful study and evaluation of the entire RPS-4 area as a whole, staff identified some concerns with the initial proposal. Specifically, while the proposal to increase the maximum building heights of residential apartment structures in the RPS-4 district is consistent with the established heights of the majority of the residential structures along the east side of Ocean Drive between First and Fifth Streets, it could present potential conflicts with the lower scale structures along the west side of Ocean Drive. Additionally, there are some concerns that the proposal could be limited in application.

In order to address these concerns, and for the proposed increase in height to be consistent with and sensitive to the built context of the immediate area, staff has recommended that the proposed allowable increase in height be at the discretion of the

Historic Preservation Board. Additionally, the allowable heights should not exceed 6 stories / 60 feet for the first 60 feet of lot depth and 11 stories / 100 feet thereafter, and only under the following conditions, as proposed in the Ordinance recommended by the Planning Board and as suggested to be modified by staff:

1. The property shall be an oceanfront lot with a minimum lot width of 100 feet.
2. The property shall not contain a contributing building.
3. The sixth level of the front portion of the new construction shall meet a line-of-sight, which for the purpose of this section, is defined as not being visible when viewed at eye-level (5'6" from grade) from the opposite side of the Ocean Drive right-of-way.
4. The proposed building shall be sited and massed in a manner that promotes and protects view corridors. At a minimum, a substantial separation of the tower portion of any structure shall be required.
5. For lots greater than 50' in width, the front portion of the structure shall incorporate a separation in the center of the structure, which is open to sky, and is at least 10 feet in width and 25 feet in depth; the exact location of such separation shall be subject to the historic preservation board, in accordance with certificate of appropriateness criteria. Alternatively, the massing and architectural design of the front portion of the structure shall acknowledge the historic pattern of residential structures along Ocean Drive.
6. The proposed building shall not contain accessory uses permitted under section 142-902(2)e.
7. The proposed building shall only permit rentals that are no less than 3 months, not to exceed 3 times per calendar year.
8. The maximum residential density is 60 units per acre.
9. All required off-street parking for the building shall be provided on site; required parking may not be satisfied through parking impact fees.
10. A restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, shall be executed and recorded prior to the issuance of a building permit, to ensure that the building remains as a residential apartment building for a minimum of 30 years.

The oceanfront properties on Ocean Drive, south of Fifth Street, consist of a mix of residential condominiums and hotels with accessory uses. While hotels, some with accessory uses, have been a part of the Ocean Drive corridor over the last century, areas such as this evolve over time, as do the uses and the intensity of the uses. In this particular instance, the intensity of accessory uses within hotels has begun to impact the quality of life of the residents of the area. While the proposed Ordinance does have an intended goal of fostering more residential-apartment type uses, as opposed to hotel with accessory uses, there are also other tangible benefits from an urban design and planning standpoint.

First, it is important to note that under the current code (75' height limit) the actual density for the properties on Ocean Drive in the RPS-4 district is very high, given the FAR of 2.0. Under the proposed ordinance, the density would be reduced to a maximum of 60 units per acre. As an example, for the property at 321 Ocean Drive, under the existing code, over 90 units could be permitted under the existing code; under the

provisions of the proposed ordinance, the total number of units for the site would be limited to 55. This is a very tangible benefit as it will result in a reduced impact on the City's infrastructure and require substantially less required parking. Additionally, the development projects proposed under the new ordinance would not be able to incorporate accessory uses, which further increase the intensity of a development site. This will also have a positive impact on the City's infrastructure.

Although the height of a proposed structure could increase under the proposed code, the total square footage would not. Additionally, with the density and accessory use limitations, the amount of non-FAR space required for parking would be substantially reduced. Staff believes that the additional height allowed will be mitigated by the re-distribution of the allowable volume of the proposed structure and that the actual massing scheme will be much better than a standard 75' rectangular box running the depth of a substantial portion of the site. Additionally, the scale, massing and additional height would be at the discretion of the Historic Preservation Board and subject to the appropriateness criteria in the City Code.

On July 20, 2011, the Land Use and Development Committee referred the proposed amendment pertaining to RPS-4 height limitations to the Planning Board with a favorable recommendation. As part of the discussion and recommendation, the Land Use Committee recommended the following, which have been included in the Ordinance:

- The issue of 'Short Term Rentals'; rentals would be no less than 3 months, and not exceed 3 times per calendar year.
- The maximum residential density would be limited to 60 units per acre.
- The proper accommodation of all required parking spaces on site (no fees in lieu of providing the parking).
- Changes to the Ordinance to address any issues with 'Spot Zoning'.

LAND USE BOARD ACTION

On October 25, 2011, the Planning Board transmitted the subject Ordinance to the City Commission, with a favorable recommendation, by a 5-0 vote. The Planning Board recommended a minor change to the Ordinance requiring that the expanded heights be applicable to lots 100 feet in width or greater, while allowing for a slight increase in overall height for properties 50 feet in width or less. These changes have been incorporated into the Ordinance.

On November 8, 2011, the proposed ordinance was reviewed and recommended for approval by the Historic Preservation Board. Some members of the Historic Preservation Board did have a concern with the revised height limits, but concluded that the comprehensive safeguards within the text of the Code change would ameliorate any negative impacts. The Historic Preservation Board also recommended that the City Commission consider removing the 'No Contributing Building' requirement and that the minimum rental period be 6 months plus 1 day, and include a comprehensive enforcement mechanism.

On December 14, 2011, the City Commission approved the proposed ordinance on first reading.

reading.

SUMMARY

The Administration is confident that the proposed ordinance addresses the issues and concerns identified by the Planning Board, the Land Use Committee and the Historic Preservation Board. After reviewing the changes recommended by the Historic Preservation Board, the Administration has concluded that the Ordinance recommended by the Planning Board would be the best fit (including the exclusion on properties containing contributing buildings, as properties with 'Contributing Buildings' should not be eligible for an increase in height).

Regarding the issue of including in the ordinance a subsection requiring a minimum rental period, the City Attorney's office is concerned that a mandated limitation on short term rental time periods in the proposed ordinance would violate HB 883, adopted by the State Legislature in 2011. Minor modifications to this part of the ordinance have been proposed by the City Attorney's office to address this concern, and to be consistent with Section 142-1111 of the City Code, pertaining to the short term rental of apartments and townhomes. In conjunction with the requirement that a restrictive covenant be submitted ensuring that the building remains solely as a residential apartment building for a minimum of 30 years, the Administration believes that there is ample protection against the any structure availing itself of the proposed ordinance from becoming a hotel or other type of transient use.

Finally, the Administration has added language to the proposed Ordinance regarding the voluntary proffer of an easement for a future beach walk.

FISCAL IMPACT

The proposed ordinance is not expected to have a fiscal impact upon the City.

CONCLUSION

The Administration recommends that the City Commission adopt the Ordinance upon second reading public hearing.

RGL
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RPS-4 Heights 2011

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS", ARTICLE II, "DISTRICT REGULATIONS", DIVISION 18, "PS PERFORMANCE STANDARD DISTRICT", SECTION 142-696 "RESIDENTIAL PERFORMANCE STANDARD AREA REQUIREMENTS" TO MODIFY THE MAXIMUM HEIGHT REQUIREMENTS FOR RESIDENTIAL APARTMENT STRUCTURES; BY AMENDING SECTION 142-697 "SETBACK REQUIREMENTS IN THE R-PS1, 2, 3, 4 DISTRICTS", TO MODIFY THE SETBACK REQUIREMENTS FOR OCEANFRONT BUILDINGS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach continually seeks to update and clearly define the requirements of the Land Development Regulations of the Code of the City of Miami Beach as they pertain to zoning districts and regulations; and

WHEREAS, the City of Miami Beach recognizes the benefits of encouraging and incentivizing residential apartment development in the South Pointe area; and,

WHEREAS, the City of Miami Beach has adopted regulations pertaining to the height and setbacks of structures in the RPS-4 district; and,

WHEREAS, the City of Miami Beach desires to modify the maximum building height and setback requirements for new residential apartment structures in the RPS-4 district; and,

WHEREAS, these amendments will allow increased height in the district, creating an incremental traffic burden, an increased cost in services, and affect the aesthetics of the district; and

WHEREAS, the restrictions and conditions imposed as part of this ordinance are intended to mitigate these effects, and in addition to the design restrictions imposed, require the owners whose properties are enhanced by the increased height to provide an easement to extend the Beachwalk to the east of their structures, which will mitigate the incremental traffic burden and improve the district's aesthetics; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. That Chapter 142, Entitled "Zoning Districts and Regulations", Article II, Entitled "District Regulations ", Division 18, Entitled "PS Performance Standards District" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 142-696. - Residential performance standard area requirements.

The residential performance standard area requirements are as follows:

	Residential Subdistricts			
Performance Standard	*R-PS1*	*R-PS2*	*R-PS3*	*R-PS4*
Minimum lot area	5,750 square feet	5,750 square feet	5,750 square feet	5,750 square feet
Minimum lot width	50 feet	50 feet	50 feet	50 feet
Required open space ratio	0.60, See section 142-704	0.65, See section 142-704	0.70, See section 142-704	0.70, See section 142-704
Maximum building height*	45 feet Lots 50 feet wide or less—35 feet	45 feet Lots 50 feet wide or less—35 feet	50 feet Lots 50 feet wide or less—35 feet	Non-oceanfront - 80 feet; Oceanfront—100 feet; ~~except that in the Ocean Beach Historic District - 35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d)~~ Lots 50 feet wide or less - 35 feet
Maximum number of stories	5 Lots 50 feet wide or less—4	5 Lots 50 feet wide or less—4	5 Lots 50 feet wide or less—4	Non-oceanfront - 8 Oceanfront - 11 Lots 50 feet wide or less - 4 In the Ocean Beach Historic District - 7
Maximum floor area ratio	1.25	1.50	1.75	2.0
Minimum floor area per apartment unit (square feet); except as provided in section 142-1183 for elderly housing	New construction—700 Rehabilitated buildings—400	New construction—650 Rehabilitated buildings—400	New construction—600 Rehabilitated buildings—400	New construction - 550 Rehabilitated buildings - 400
Minimum floor area per hotel unit (square feet)	N/A	N/A	15% = 300—335 square feet 85% = 335+ square feet	15% = 300 - 335 square feet 85% = 335+ square feet
Minimum parking	Pursuant to chapter 130 and section 142-705 requirement.			
Minimum off-street loading	Pursuant to chapter 130, article III.			

Signs	Pursuant to chapter 138.
Suites hotel	Pursuant to article IV, division 3 of this chapter.

* Notwithstanding the foregoing provisions regarding maximum building height, in the Ocean Beach historic district, as defined in subsection 118-593(e)(11), the maximum building height for a lot located in the R-PS1, R-PS2, or R-PS3 zoning districts
(i) With a lot exceeding 50 feet, and
(ii) Upon which there exists a contributing structure which has not received a certificate of appropriateness for demolition (or any such approval has expired), shall be 35 feet.

1. Notwithstanding the above height restrictions, existing structures within a local historic district are subject to section 142-1161.

2. In the R-PS4 zoning district, within the Ocean Beach Historic District, when an existing contributing structure is nonconforming with respect to the height regulations in section 142-696, such structure may be repaired, renovated or rehabilitated regardless of the cost of such repair, renovation or rehabilitation, notwithstanding the provisions of chapter 118, article IX, "Nonconformances."

3. Lots at a width of 50 feet or less aggregated with adjacent parcels after November 3, 2002, shall have a maximum height of 35 feet and shall not be allowed the increased height for parcels wider than 50 feet.

4. Notwithstanding the above height restrictions, in the R-PS4 zoning district, within the Ocean Beach Historic District, for lots 100 feet or more in width, the maximum height shall be 35 feet for the first 60 feet of lot depth, 75 feet thereafter, subject to the line-of-sight analysis of section 142-697(d). However, for residential apartment buildings, on lots 100 feet or more in width, the historic preservation board, in accordance with certificate of appropriateness criteria, may allow an increase in the overall height, not to exceed 6 stories, 60 feet for the first 60 feet of lot depth and 11 stories, 100 feet thereafter, and on lots 50 feet wide or less may allow an increase in overall height not to exceed 35 feet for the first 60 feet of lot depth and six stories 60 feet thereafter, provided all of the following conditions are satisfied:
a. The property shall be an oceanfront lot.
b. The property shall not contain a contributing building;
c. The sixth level of the front portion of the new construction on lots 100 feet or more in width shall meet a line-of-sight, which for the purpose of this section, is defined as not being visible when viewed at eye-level (5'6" from grade) from the opposite side of the Ocean Drive right-of-way, and on lots 50 feet or less wide shall be subject to the line-of-sight analysis of section 142-697(d);
d. The proposed building shall be sited and massed in a manner that promotes and protects view corridors. At a minimum, a substantial separation of the tower portion of any structure shall be required;
e. For lots greater than 50 feet in width, the front portion of the structure shall incorporate a separation in the center of the structure, which is open to sky, and is at least 10 feet in width and 25 feet in depth; the exact location of such separation shall be subject to the historic preservation board, in accordance with certificate of appropriateness criteria. Alternatively, the massing and architectural design of the front portion of the structure shall acknowledge the historic pattern of residential structures along Ocean Drive;
f. The proposed building shall not contain accessory uses permitted under section 142-902(2)e.
~~g. The proposed building shall only permit rentals that are no less than 3 months, not to exceed 3 times per calendar year.~~
h. The maximum residential density is 60 units per acre.
i. All required off-street parking for the building shall be provided on site; required parking may not be satisfied through parking impact fees.

j. **The owner restricts the property to permit only rentals that are no less than 6 months and one day per calendar year, through language in its condominium or cooperative documents, and by proffering** a restrictive covenant, running with the land, or other similar instrument enforceable against the owner(s), acceptable to and approved as to form by the city attorney, **which** shall be executed and recorded prior to the issuance of a building permit, to ensure that the building remains **solely** as a residential apartment building for a minimum of 30 years, ~~**that the minimum rental period shall not be less than 3 months, no more than 3 times per calendar year**~~, and that no uses under section 142-902(2)e are permitted on the premises during that time period.

k. Accepting that the value in the increased height, and the incremental traffic burden and effect on aesthetics in the district are offset by the conveyance of an easement for an extension of the Beachwalk east of their structures, the owner provides an easement, acceptable to and approved as to form by the City Attorney, for a public beachwalk on the easterly portion of its property, as more specifically provided in the plans on file with the City's Public Works Department.

Sec. 142-697. - Setback requirements in the R-PS1, 2, 3, 4 districts.

(a) The setback requirements in the R-PS1, 2, 3, 4 districts are as follows:

	Front	Side, Interior	Side, Facing a Street	Rear
At-grade parking lot (below building)	5 feet	5 feet	5 feet	Non-oceanfront lots - 5 feet Oceanfront lots - 50 feet from bulkhead line
Subterranean	5 feet	5 feet	5 feet	Non-oceanfront lots - 0 feet Oceanfront lots - 50 feet from bulkhead line
Pedestal	5 feet.	7.5 feet, except when section (e) below applies. Lots 50 feet wide or less - 5 feet. however, for residential apartment structures seeking approval under section 142-696.4 above, on lots	5 feet	Non-oceanfront lots - 10% of lot depth Oceanfront lots - 20% of lot depth, 50 feet minimum from bulkhead line.

		greater than 50 feet in width, 15 feet for any portion of the pedestal above 35 feet in height.		
Tower	50 feet, except that in the R-PS4 within the Ocean Beach Historic District, the minimum shall be 60 feet; however, for residential apartment structures seeking approval under section 142-696.4 above, the tower setback shall be determined by the Historic Preservation Board.	The required pedestal setback plus 0.10 the height of the building; however, for residential apartment structures seeking approval under section 142-696.4 above, 15 feet.	The required pedestal setback plus 0.10 the height of the building	Non-oceanfront lots - 15% of lot depth Oceanfront lots - 25% of lot depth, 75 feet minimum from bulkhead line; however, for residential apartment structures seeking approval under section 142-696.4 above, the tower setback shall be the same as the pedestal setback.

(b) All required setbacks shall be considered as minimum requirements except for the pedestal front yard setback and pedestal side yard facing a street setback which shall be considered as both a minimum and maximum requirements.

(c) For lots greater than 100 feet in width the front setback shall be extended to include at least one open court with a minimum area of three square feet for every linear foot of lot frontage.

(d) In the R-PS4 zoning district, within the Ocean Beach Historic District, the tower portion of ground-floor additions to contributing buildings~~, or new construction~~ shall meet a line-of-sight, which

for the purpose of this section is defined as not visible when viewed at eye-level (5'6" from grade) from the opposite side of the adjacent right-of-way.

(e) In the R-PS4 zoning district within the Ocean Beach Historic District, when an existing contributing structure has a minimum 5-foot sideyard setback, the setback of new construction in connection with the existing building may be allowed to follow the existing building line. The maintenance of the existing setback shall apply to the linear extension of the existing building.

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. NONSEVERABILITY.

It is the intention of the City Commission that all provisions of this Ordinance are integral to and dependent upon all other provisions thereof, and thus if any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be severable from the portion declared invalid. Therefore, in the event any portion of this Ordinance is declared invalid, the entirety shall be declared invalid, and this Ordinance shall be returned to the City Commission for reconsideration. During this interim period following such declaration of invalidity, the land development regulations this Ordinance amended shall be reinstated as they existed prior to the adoption hereof.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2012.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

12/5/11
Date

First Reading: December 14, 2011
Second Reading: January 13, 2012

Verified by: _____
Richard G. Lorber, AICP, LEED AP
Acting Planning Director

Underscore denotes new language
~~Strike-Thru~~ denotes deleted language
BOLD denotes changes to Planning Board Version
12/05/2011
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Condensed Title:

An Ordinance Granting To Florida Power And Light Company, Its Successors And Assigns, An Electric Franchise Imposing Provisions And Conditions Relating Thereto, Providing For Monthly Payments To The City Of Miami Beach, And Providing For An Effective Date.

Key Intended Outcome Supported:

Supporting Data (Surveys, Environmental Scan, etc.):

Issue:

Shall the City Commission approve the ordinance granting FPL a franchise agreement?

Item Summary/Recommendation:

At the December 14, 2011, Commission Meeting the Ordinance was approved on first reading and referred to the Neighborhood/Community Affairs Committee between first and second readings. Since the Committee doesn't meet until January 30, 2012, the Administration recommends that the item be opened and continued. Additionally, this will also allow the City Manager to meet with representatives from the Sunset Islands Nos. 3 & 4 Homeowners Association regarding their proposal that certain costs associated with this undergrounding project be either waived or absorbed by the City. In order to accommodate the City's process, FPL has agreed to a one-month extension on the existing franchise agreement, so that the current franchise will expire February 21, 2012 if it is not renewed and accepted prior to that time. Since January, 2011, representatives of the City Manager and City Attorney's Office (with the assistance of specialized outside counsel) have been negotiating the terms and conditions of a new franchise agreement with FPL. An attached table provides a comparison between the terms and conditions of the current with those initially proposed by FPL, and the final negotiated terms and conditions. It should be highlighted that there are some significant gains that the City has made compared to the terms and conditions of the current agreement. The most significant are as follows:

- Most Favored Nation (MFN) Clause – If FPL enters into a franchise with any other city or county in either Miami-Dade, Broward, or Palm Beach County offering a franchise rate greater than 6.0%, then, at City's request, FPL will match such rate for City. Additionally, since the Miami-Dade County franchise is coming up for renewal in 2019, if the County negotiates a new franchise with more favorable terms and conditions (beyond just the rate) than the City's franchise agreement, then the City can also avail itself of those.
- Franchise Fee - At the September 14, 2011, City Commission meeting, the Commission directed the Administration to negotiate a franchise fee that would not result in an increase to residential customers (i.e. the direction was to essentially keep the fee "flat"). Following this direction, the formula for this scenario was adjusted so that total FPL payments to the City for the franchise fee, permits and fees maintain the net effective franchise rate charged to customers and remitted to the City at 5.29% of the revenue that FPL collects from the sale of electricity.
- Right-of-Way (ROW) Relocation – Requires FPL to remove or relocate its facilities within 30 days if they unreasonably interfere with the safe, continuous use, maintenance, improvements, extension or expansion of a public road, or if FPL facilities interfere with reasonable egress/ingress to abutting property.
- Indemnity – For the first time, FPL has agreed to include the City's indemnity language (rather than FPL's standard provision), which affords the City broader protection and survives termination or expiration of the Franchise Agreement.
- Right to Purchase Power from Others –For the first time, however, the non-compete clause will contain certain exceptions, to the extent that the City will have the right to purchase power from others for its own facilities, provided FPL has the right to match the third party offer.
- Renewable Energy Purchases – For the first time, the City will have the right to purchase any technology recognized as "renewable electrical energy" under Florida State Statutes that is developed within City limits; or to have FPL distribute, to City facilities, renewable electrical energy that is developed within City limits.

The Administration recommends the item be opened and continued.

Advisory Board Recommendation:

None

Financial Information:

Source of Funds:		Amount	Account	Approved
	1			

Financial Impact Summary:

City Clerk's Office Legislative Tracking:

Fred H. Beckmann, P.E., Ext 6012

Sign-Offs:

Department Director	Assistant City Manager	City Manager
FHB	DRB	JMG

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MIAMIBEACH

AGENDA ITEM R5F

DATE 1-11-12

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

SECOND READING PUBLIC HEARING

DATE: January 11, 2012

SUBJECT: **AN ORDINANCE GRANTING TO FLORIDA POWER AND LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE CITY OF MIAMI BEACH, AND PROVIDING FOR AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

At the December 14, 2011, Commission Meeting the Ordinance was approved on First Reading and referred to the Neighborhood/Community Affairs Committee between First and Second Readings. Since the Committee doesn't meet until January 30, 2012, the Administration recommends that the item be opened and continued and the Ordinance approved on a Second Reading Public Hearing at the February 8, 2012, Commission Meeting. Additionally, this will also allow the City Manager to meet with representatives from the Sunset Islands Nos. 3 & 4 Homeowners Association regarding their proposal that certain costs associated with this undergrounding project be either waived or absorbed by the City. In order to accommodate the City's process, FPL has agreed to a one-month extension on the existing franchise agreement, so that the current franchise will expire February 21, 2012 if it is not renewed and accepted prior to that time.

ANALYSIS

The City's current thirty (30) year non-exclusive franchise agreement with FPL expires on January 22, 2012. Since January, 2011, representatives of the City Manager and City Attorney's Office (with the assistance of specialized outside counsel) have been negotiating the terms and conditions of a new franchise agreement with FPL.

At the September 14, 2011, meeting of the City Commission, the vote on the first reading of the proposed new franchise agreement was deferred, and a recommendation made to schedule a public workshop, as initially recommended by Commissioner Weithorn, to further discuss the terms of the proposed new agreement.

The subject public workshop, moderated by Commissioner Weithorn, was held on November 28, 2011, at the Miami Beach Golf Course Clubhouse, and attended by Miami Beach residents, non-residents (including the Mayors of the Village of Pinecrest and the City of South Miami, respectively), FPL representatives, and City staff.

The workshop commenced with presentations by FPL and the City, respectively, regarding the terms of the proposed new agreement, including identifying those issues where the City was able to negotiate better or new terms in the new agreement than those contained in the current agreement. Following the presentations, Commissioner Weithorn entertained questions and comments from the public. At the workshop, residents (including the aforementioned officials from Pinecrest and South Miami), expressed their opinions on the franchise agreement. A major

concern was the 30-year term, which, notwithstanding the City's continuous efforts to reduce, FPL indicated could not be modified.

Residents from the Sunset Islands 3 & 4 neighborhood addressed concerns regarding the difficulties surrounding the process of undergrounding, and recommended that the City Commission consider enacting some type of legislation which would dedicate a percentage of

the funds collected from the franchise fee to be set aside for use toward the underground placement of overhead utilities.

At the end of the workshop, Commissioner Weithorn recommended that an item regarding the calculation of current and proposed franchise payments be scheduled for discussion at the next Finance and Citywide Projects Committee meeting.

The City has made significant gains in the proposed new franchise agreement (when compared both to the terms of the existing franchise, and what was initially proposed by FPL). The most significant are as follows:

- Most Favored Nation (MFN) Clause – If FPL enters into a franchise with any other city or county in either Miami-Dade, Broward, or Palm Beach County offering a franchise rate greater than 6.0%, then, at City's request, FPL will match such rate for City. Additionally, since the Miami-Dade County franchise is coming up for renewal in 2019, if the County negotiates a new franchise with more favorable terms and conditions (beyond just the rate) than the City's franchise agreement, then the City can also avail itself of those. Per FPL, this is the first time it has agreed to such an expanded MFN claim (among its 177 franchises).

- Franchise Fee - At the September 14, 2011, City Commission meeting, the Commission directed the Administration to negotiate a franchise fee that would not result in an increase to residential customers (i.e. the direction was to essentially keep the fee "flat"). Following this direction, the formula for this scenario was adjusted so that total FPL payments to the City for the franchise fee, permits and fees maintain the net effective franchise rate charged to customers and remitted to the City at 5.29% of the revenue that FPL collects from the sale of electricity. In this case, the total revenue figure upon which the franchise fee payment is based was adjusted to deduct un-collectables. As a result of the proposed new agreement, there would be no change in the average residential electric bill as a result of the franchise fee. A comparison of franchise fee calculation follows:

Revenue Type	Current Agreement	New Agreement
Residential:	$59,989,154	$59,989,154
Commercial:	84,245,585	84,245,585
Industrial:	112,193	112,193
Total Revenue: (1)	$144,346,932	$144,346,932
Less Un-collectables: (1)	-	245,255
Net Revenue:	$144,346,932	$144,101,677
% of Revenue Applicable to FPL Payments to City:	6.00%	5.29%
6% of Revenue:	$8,660,816	$7,622,979
Other payments by FPL:		
Permits/Fees:	($ 4,175)	($4,175)
Property Taxes:	(1,041,983)	-
Franchise Fees Payment to CMB:	$7,614,658	$7,618,804

	$7,614,658
Difference:	$4,146

(1) Franchise revenues and uncollectible amounts are actual 12 months ending June 2011.

- Right-of-Way (ROW) Restoration – The new franchise agreement requires FPL to remove or relocate its facilities if they unreasonably interfere with the safe, continuous use, maintenance, improvements, extension or expansion of a public road, or if FPL facilities interfere with reasonable egress/ingress to abutting property. If FPL fails to perform the removal or relocation within thirty (30) days, then the City may proceed with removal or relocation and charge back to FPL.
- If a City ROW is excavated, damaged, or impaired by FPL (or its contractors), the franchise agreement requires FPL to restore within a reasonable time. However, pursuant to subsequent discussions between the City's Public Works Department and FPL, the City has determined, and FPL has agreed, that it can require FPL (or its contractors) to post a bond or cash security as a condition of obtaining a use permit for doing work on the City's ROW.
- Indemnity – For the first time, FPL has agreed to include the City's indemnity language (rather than FPL's standard provision), which affords the City broader protection and survives termination or expiration of the Franchise Agreement.
- Right to Purchase Power from Others – Typically, all of FPL's franchises contain a "non-compete" clause, whereby the county or municipal government granting the franchise agrees not to sell or distribute electric capacity and/or electric energy to "retail customers" (i.e. in competition with what FPL does). For the first time, however, the non-compete clause will contain certain exceptions, to the extent that the City will have the right to purchase power from others for its facilities, provided FPL has the right to match the third party offer. Additionally, the City will also have the right to purchase and/or distribute power to serve its own facilities; to engage in wholesale transactions; and, of course, to utilize generators and/or other electricity or energy-generating equipment during emergencies.
- Renewable Energy Purchases – One of the policy concerns going into negotiation of the new franchise was that the City wanted the opportunity, and certain flexibility, with regard to its ability to be able to avail itself of new technologies that may become available during the term of the new franchise agreement. Accordingly, for the first time, the City will have the right to purchase any technology recognized as "renewable electrical energy" under Florida State Statutes that is developed within City limits; or to have FPL distribute, to City facilities, renewable electrical energy that is developed within City limits.

Conclusion

The Administration recommends that the item be opened and continued and the Ordinance approved on a Second Reading Public Hearing at the February 8, 2012, Commission Meeting. Additionally, this will also allow the City Manager to meet with representatives from the Sunset Islands Nos. 3 & 4 Homeowners Association regarding their proposal that certain costs associated with this undergrounding project be either waived or absorbed by the City.

Attachments:

Attachment 1: Table – FPL Franchise Agreement Overview

JMG/DRB/FHB

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FPL FRANCHISE AGREEMENT OVERVIEW

ITEM	CURRENT FRANCHISE	FINAL NEGOTIATED TERMS OF NEW FRANCHISE
Term (Years)	30	30
Installation Standards	None	FPL's facilities on City Right-of-Ways (ROW's) must be consistent with the FDOT Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways.
ROW Restoration Following FPL Work	Within a reasonable time	1) If City requires removal or relocation of FPL facilities because they interfere with the use of a road or egress/ingress to an abutting property, and FPL fails to complete within 30 days, then the City may handle and charge back to FPL. 2)FPL must restore damage to the ROW within a reasonable time. While not in Franchise Agreement, City may require FPL, or its contractors to post cash security or bond in order to assure timely restoration of the ROW.
Indemnity	FPL's standard indemnity language	City successfully negotiated inclusion of its own indemnity language, which affords City broader protection, and survives termination or expiration of Franchise Agreement.
Franchise Payment	Franchise fee+Property Tax+ Permits/fees= 6% of collected revenue	While FPL's actual property tax is still being paid to the City, it has been dropped from the formula and uncollectible amounts have been added. Thus, in order for the City to receive the same franchise fee payment and for the FPL customer to pay the same rate for a franchise payment, the amount of collected revenue has been dropped from 6% to 5.29%. The Agreement also contains language that allows the City to increase the Franchise fee rate up to 6%, and to lower the rate down to 1% of collected revenues.

ITEM	CURRENT FRANCHISE	FINAL NEGOTIATED TERMS OF NEW FRANCHISE
Non-Compete Clause and Exceptions	City will not engage in the business of distributing and selling electricity during the life of this franchise.	PROHIBITIONS: 1)City cannot engage in distribution or sale of electricity in competition with FPL to any ultimate consumer of electrical utility service (i.e. a "retail customer"), or to any electrical distribution system established solely to serve retail customers that were formerly served by FPL. 2) City can't participate in proceedings or contractual arrangements that would have the purpose of obligating FPL to transmit or distribute electricity from any third parties to retail customers. EXCEPTIONS: 1) City can engage in "wholesale" transitions. 2) City can utilize generators or other generating equipment during emergencies. 3)City can (if permitted by law) purchase electricity from third parties to power City facilities, or have FPL transmit or distribute electricity purchased by City from third parties to power City facilities, provided that before it proceeds to do so, City notifies FPL and gives FPL right to match the third party's offer. If FPL matches the offer (or makes a better one), City obligated to use FPL. 4) Renewable Energy: City can purchase "renewable electric energy" (as defined by Florida Statues), produced within City limits from third parties (including other utility companies) to power City facilities, or require FPL to transmit or distribute renewable energy to power City facilities; provided, however, that if City issues a competitive solicitation for a renewable energy purchase, FPL has right to bid on it as well. 5) Customer-owned Renewable Generation: Nothing in the Franchise Agreement prevents individual FPL customers in the City from offsetting part or all or their electricity requirements by installing and utilizing "customer owned renewable generation" technologies (such as solar and wind energy systems) on their premises, and then interconnecting with the FPL system. FPL customers are also permitted to utilize customer owned renewable generation to offset their on-site electricity consumption through the process of "net metering".
Most Favored Nation Clause	No	Yes. If FPL enters into a franchise with any other city or county in Miami-Dade, Broward, or Palm Beach Counties offering a rate base greater that 6.0%, then, if City requests, FPL will match such rate for City. Additionally, since the Miami-Dade County franchise is coming up for renewal in the next decade, if the County negotiates a new County franchise with more favorable terms and conditions, then the City can avail itself of those as well.

ITEM	CURRENT FRANCHISE	FINAL NEGOTIATED TERMS OF NEW FRANCHISE
FPL's Right to terminate if FPL is placed at competitive disadvantage through deregulation or the granting of additional franchises by the City	N.A.	1)If the City grants a right, privilege or franchise to construct, operate or maintain electric power facilities within areas in which FPL may serve, and if FPL determines that those terms are **materially more favorable** than the Franchise Agreement, FPL shall give the City at least 180 days advance written notice of its intent to terminate. If, following negotiations, those terms and conditions are not remedied within 120 days by the City, FPL may terminate the Franchise Agreement by delivering written notice to the City Clerk. 2)If as a result of a change in laws, any person or utility is permitted to provide electric service within City to customers then being served by FPL, and FPL determines that it's placed at a **material competitive disadvantage** as a result or same, it can be provide the City with 120 days notice of intent to terminate. City and FPL have 120 days to remedy the material competitive disadvantage or else FPL can terminate. 3)In either situation, City has legal right to contest termination. (Note: "termination" of Franchise Agreement does not mean that FPL will cease to continue to provide power to CMB customers. It means that it's not obligated to pay City the franchise fee). 4)"Other" breaches to terms or Franchise Agreement by City, while not resulting in termination, may give FPL right to go to court and, as a remedy, request that the court withhold franchise fee payments to City until breach is cured. (It means that it's not obligated to collect from residents or pay the City the franchise fee)
FPL's right to terminate for City's breach	N.A.	None. However, FPL has the right to go to court to ask the court to determine whether and to what extent franchise fees may be withheld until the City cures.
City's right to terminate for FPL's breach	City has right to terminate.	IF FPL violates the terms of the franchise agreements, City has rights to terminate but , if FPL contests termination, then City can't terminate until a final court determination (including appeals) holds that FPL did, in fact breach the franchise.
Additional (New) Sections included as a result of City's negotiations		1) Section affirming City's position in favor of undergrounding utilities; 2) Section affirming/promoting meters using "smart grid technology", and providing that if FPL implements this technology, it will use best efforts to provide it to its retail customers in the City; 3) FPL received Florida Public Service Commission (PSC) approval for, and will proceed to implement, a plan which includes strengthening feeders delivering power to critical infrastructure facilities, including those located within City limit.

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO, PROVIDING FOR MONTHLY PAYMENTS TO THE CITY OF MIAMI BEACH, AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there is currently in effect a franchise agreement between the City of Miami Beach ("City") and Florida Power & Light Company ("FPL"), the terms of which are set forth in City of Miami Beach Ordinance No. 82-2294, passed and adopted January 20, 1982, and FPL's written acceptance thereof dated January 22, 1982, granting to FPL, its successors and assigns, a thirty (30) year electric franchise ("Current Franchise Agreement"); and

WHEREAS, FPL and the City desire to enter into a new agreement ("New Franchise Agreement") providing for the payment of fees to the City in exchange for the non-exclusive right and privilege of supplying electricity and other electricity-related services within the City of Miami Beach free of competition from the City of Miami Beach, pursuant to certain terms and conditions; and

WHEREAS, the City Commission deems it to be in the best interest of the City of Miami Beach and its citizens to enter into the New Franchise Agreement prior to expiration of the Current Franchise Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

Section 1. There is hereby granted to Florida Power & Light Company, its successors and assigns (hereinafter called the "Grantee"), for the period of thirty (30) years from the effective date hereof, the non-exclusive right, privilege, and franchise (hereinafter called "Franchise") to construct, operate, and maintain in, under, upon, along, over, and across the present and future roads, streets, alleys, bridges, easements, and rights-of-way (hereinafter called "Public Rights-of-Way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the City of Miami Beach, Florida, and its successors (hereinafter called the "Grantor"), in accordance with the Grantee's customary practice with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations (hereinafter called "facilities"), for the purpose of supplying retail electricity service and other electricity-related services incidental thereto (which other electricity-related services are defined as FPL's facility-to-facility data capabilities over the lines to identify faults, load information, and other data necessary or helpful to the provision of electric service, and which do not include any services that are sold to others) to the Grantor and its successors, the inhabitants thereof, and persons beyond the limits thereof.

Section 2(a). The facilities of the Grantee shall be so located, re-located, installed, constructed, and erected as to not unreasonably interfere with the convenient, safe, continuous use, or with the maintenance, improvement, extension or expansion of any

public "road," as defined under the Florida Transportation Code, nor unreasonably interfere with reasonable egress from and ingress to abutting property.

(b) To minimize such conflicts with the standards set forth in subsection (a) above, the location, relocation, installation, construction, or erection of all facilities shall be made as representatives of the Grantor may prescribe in accordance with all applicable federal, state, and local statutes, laws, ordinances, rules, and regulations, and pursuant to Grantor's valid rules and regulations with respect to utilities' use of Public Rights-of-Way relative to the placing and maintaining in, under, upon, along, over, and across said Public Rights-of-Way, provided that such rules and regulations shall be

(i) for a valid municipal purpose;

(ii) shall not prohibit the exercise of Grantee's rights to use said Public Rights-of-Way for reasons other than conflict with the standards set forth above;

(iii) shall not unreasonably interfere with Grantee's ability to furnish reasonably sufficient, adequate, and efficient electric service to all its customers while not conflicting with the standards set forth above; or

(iv) shall not require relocation of any of the Grantee's facilities installed before or after the effective date hereof in any Public Rights-of-Way unless or until the facilities unreasonably interfere with the convenient, safe, or continuous use, or the maintenance, improvement, extension, or expansion, of such Public Rights-of-Way.

(c) Such rules and regulations shall recognize that above-grade facilities of the Grantee installed after the effective date hereof should, unless otherwise permitted, be installed near the outer boundaries of the Public Rights-of-Way to the extent possible, and such installation shall be consistent with the Florida Department of Transportation's Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways, as same may be amended from time to time.

(d) When any portion of a Public Right-of-Way is excavated, damaged, or impaired by Grantee, or any of its agents, contractors or subcontractors, because of the installation, inspection, or repair of any of its facilities, the portion of the Public Right-of-Way so excavated, damaged, or impaired shall, within a reasonable time and as early as practicable after such excavation, damage, or impairment, be restored to its original condition before such excavation, damage, or impairment by the Grantee at its expense.

(e) The Grantor shall not be liable to the Grantee for any cost or expense in connection with any relocation of the Grantee's facilities required under this Section, except, however, the Grantee may be entitled to reimbursement of its costs from others and as may be provided by law.

(f) In the event the Grantor requires removal or relocation of Grantee's facilities because the facilities unreasonably interfere with the standards set forth in subsection (a) hereof, and Grantee fails to remove or relocate such facilities at Grantee's expense within thirty (30) days after written notice from Grantor, then Grantor may proceed to cause the facilities to be removed or relocated and the expense therefore shall be charged against the Grantee.

Section 3. The Grantor shall in no way be liable or responsible for any accident, injury, or damage, whether to persons or property, that may occur in the construction, installation, location, relocation, reconstruction, maintenance, repair, or operation by Grantee of its facilities hereunder. Accordingly, acceptance of this New Franchise Agreement by Grantee shall be deemed an agreement on the part of the Grantee to indemnify and hold harmless Grantor, and its officers, employees, agents, servants, contractors, or subcontractors, from and against any and all liability, loss, costs, damages, attorneys' fees, or expenses (including, without limitation, those for or related to any accident, injury, personal injury, wrongful death, or other damage to persons or property), including Grantor's reasonable attorneys' fees and costs incurred in defending itself against any claims for such liabilities, losses, costs, damages, or expenses asserted against Grantor by others which may accrue to or be incurred by or charged or sought against Grantor, or any of its officers, employees, agents, servants, contractors, or subcontractors, by reason of construction, installation, location, relocation, reconstruction, maintenance, repair, or operation of Grantee's facilities, or by any acts or omissions of negligence, gross negligence, strict liability, products liability, or intentional torts, default, or misconduct of the Grantee, or any of its officers, directors, agents, servants, employees, contractors, or subcontractors. The indemnity hereunder shall include not only the reasonable costs, expenses, and attorneys' fees incurred by the Grantor in defense of any third party's claim (prior to and during all phases of litigation, including trial and post-trial and appellate proceedings), but shall also include the reasonable costs, expenses, and attorneys' fees incurred by the Grantor in the event it must enforce the terms of this indemnity prior to and during all litigation, including trial, post-trial, and appellate

proceedings. This indemnity shall survive expiration or other termination of this New Franchise Agreement.

Section 4. All rates and rules and regulations established by the Grantee from time to time shall be subject to such regulation as may be provided by law.

Section 5. As a consideration for this Franchise, the Grantee shall pay to the Grantor, commencing ninety (90) days after the effective date hereof, and each month thereafter for the remainder of the term of this Franchise, an amount which when added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property) levied or imposed by the Grantor against the Grantee's property, business or operations, and against the property, business, or operations of the Grantee's subsidiaries that are directly involved in supplying electricity and other electricity-related services as defined in Section 1 of this New Franchise Agreement, during the Grantee's monthly billing period ending sixty (60) days prior to each such payment, will equal 5.29 percent (five and two ninths percent) of the Grantee's billed revenues, less actual write-offs, from the sale of electrical energy to residential, commercial, and industrial customers (as such customers are defined by Grantee's tariff) within the incorporated areas of the Grantor for the monthly billing period ending sixty (60) days prior to each such payment, and in no event shall payment for the rights and privileges granted herein exceed 5.29 percent of such revenues for any monthly billing period of the Grantee.

The Grantor understands and agrees that such revenues as described in the preceding paragraph are limited, as in the Current Franchise Agreement, to the precise revenues described therein, and that such revenues do not include, by way of example

and not limitation: (a) revenues from the sale of electrical energy for Public Street and Highway Lighting (service for lighting public ways and areas); (b) revenues from Other Sales to Public Authorities (service with eligibility restricted to governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied for propulsion of electric transit vehicles); (d) revenues from Sales for Resale (service to other utilities for resale purposes); (e) franchise fees; (f) Late Payment Charges as described in Grantee's tariff; (g) Field Collection Charges as described in Grantee's tariff; (h) other service charges permissible under Grantee's tariff.

Section 6. Grantee recognizes and agrees that the City Commission may, once each calendar year, upon one hundred twenty (120) days advance written notice to Grantee, prospectively reduce the percentage rate of the franchise fee which is identified in Section 5 above, to a rate which is not less than one (1.0%) percent, and that the City Commission may also, upon providing the same period of notice to Grantee, once each calendar year prospectively increase the percentage rate of the franchise fee up to, but not in excess of, a rate of six (6.0%) percent. In the event this adjustment option is exercised by the City, the formula to be used in calculating the franchise fee to be remitted shall be and remain the formula specified in detail in Section 5 of this franchise agreement, with the exception of the adjusted franchise fee percentage. Further, in the event the City elects to exercise this adjustment option, such option shall be exercised by the adoption of an ordinance, a certified copy of which must be delivered to the Grantee no later than ninety (90) days before any such increase or reduction is to become effective, which ordinance identifies the adjusted franchise fee rate. Such ordinance shall provide that the Grantee shall pay to the Grantor, no later than ninety (90) days after the end of the Grantee's first

billing period and no later than ninety (90) days after the end of each succeeding monthly billing of the Grantee during the term of the franchise, franchise fees at the adjusted franchise fee percentage rate, using the same formula (with the exception of the adjusted franchise fee percentage) delineated in Section 5 above. In no event may the Grantor increase the amount by more than two (2.0%) percent from the percentage then being collected in any given year. The Grantor shall also have the option to reduce the amount to be paid by the Grantee to any percentage between six (6.0%) percent and one (1.0%) percent without any restriction or limitation on the size of that reduction, but in no event shall the Grantor have the option to increase the percentage used to calculate the amount to be paid by the Grantee as consideration for this franchise to any percentage which is greater than six (6.0%) percent, or to reduce the percentage used to calculate the amount to be paid by the Grantee as consideration for this franchise to any percentage which is less than one (1.0%) percent. The Grantor's option hereunder shall be limited solely to the percentage to be used in the calculation of the amount to be paid by the Grantee as consideration for this franchise and as specifically set forth in this subsection, and no other section or provision of this franchise ordinance, aside from the percentage identified in Section 5 above, may be altered, amended or affected by the Grantor without the concurrence of the Grantee. Nothing herein shall require the Grantor to exercise its option hereunder

.Section 7. As a further consideration, during the term of this Franchise, the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system

established solely to serve any retail customer formerly served by the Grantee; and (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility(ies); provided, however, that the Grantor shall not be considered a "third party" or an "other retail customer" for purposes of this provision. Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions which are subject to the provisions of the Federal Power Act, or from utilizing generators and/or other electricity or energy-generating equipment during emergency situations. Nothing specified herein is intended to restrict the Grantor from providing services other than retail electricity service, which is the subject of the Grantor's agreement not to compete set forth in this paragraph.

Nothing specified herein shall prohibit the Grantor, if permitted by law: (i) from purchasing electric capacity and/or electric energy from any other person or utility; or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or electric energy purchased by the Grantor from any other person or utility in compliance with applicable laws and regulations; provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person or utility, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions that have been offered by the other person or utility and identify the Grantor's facility(ies) to be served under the offer. The Grantee shall thereafter have ninety (90) days to evaluate the offer and, if the Grantee offers rates, terms and conditions which are equal to or better than those offered by the

other person or utility, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facility(ies) of the Grantor for a term no shorter than that offered by the other person or utility. If, within such ninety (90) day period, the Grantee does not offer rates, terms and conditions that are equal to or better than those offered by the other person or utility, then the Grantor shall be free to consummate such purchase transaction with such other person or utility, and all of the terms and conditions of this Franchise shall remain in effect.

Nothing herein shall prohibit the Grantor: (i) from purchasing renewable electric energy, which may include either or both of electric capacity or electric energy that is produced within Grantor's corporate limits using any technology recognized as renewable under Section 377.803 or Section 366.91, Florida Statutes (as same may be amended from time to time), or any applicable successor statute(s) that defines renewable energy, from any other person or utility in compliance with applicable laws and regulations; or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor renewable electric energy produced within the corporate limits of the Grantor and purchased by the Grantor from any other person or utility in compliance with applicable laws and regulations; provided, however, that if Grantor seeks to purchase such renewable energy from any other person or utility by conducting a competitive solicitation process for the provision of such renewable energy, then the Grantee shall have the right, but not the obligation, to participate in such competitive solicitation process on the same basis, under the same terms and conditions, and with the same opportunity to be awarded the contract to provide the renewable energy sought by the City, as any and all other

proposers or bidders participating in the process. All of the terms and conditions of this Franchise shall remain in effect without regard to whether the Grantee, or any other vendor, is awarded the contract to provide renewable energy to the Grantor, provided the Grantor awards the contract pursuant to its competitive solicitation process, or alternatively awards the contract in accordance with Section 2-367 of the Code of the City of Miami Beach (as same may be amended from time to time) or any successor ordinance(s) without going through the competitive solicitation process. Grantee agrees that it will not initiate any territorial complaint or territorial dispute litigation against any supplier of renewable energy with which the Grantor contracts following such competitive procurement process or following the award of the contract without going through the competitive solicitation process in accordance with Section 2-367 of the Code of the City of Miami Beach or any successor ordinance(s).

Section 8. If during the term of this New Franchise Agreement the Grantee enters into a franchise agreement with any other municipality or county government located in Miami-Dade County, Broward County, or Palm Beach County, Florida, the terms of which provide for the payment of franchise fees by the Grantee at a rate greater than 6.0 percent of the Grantee's residential, commercial and industrial revenues (as such customers are defined by Grantee's tariff), under the same terms and conditions as specified in Section 5 hereof, then the Grantee, upon written request of the Grantor, shall negotiate and enter into a new franchise agreement with the Grantor in which the percentage to be used in calculating monthly payments under Section 5, using the same terms and conditions as specified in Section 5 hereof, shall be the greater rate provided to the other Miami-Dade County, Broward County, or Palm Beach County, Florida

municipality or county; provided, however, that if the franchise with such other Miami-Dade County, Broward County, or Palm Beach County, Florida municipality or county contains additional benefits given to Grantee in exchange for the increased franchise rate, and such additional benefits are not contained within this New Franchise Agreement, then Grantee shall have the sole discretion to include within such new franchise agreement with Grantor the additional benefits found within the triggering franchise (i.e., the franchise that triggers the operation of this Most Favored Nations provision) which Grantee may choose to include in the new franchise agreement with Grantor.

In addition to the foregoing, if during the term of this New Franchise Agreement the Grantee enters into a franchise agreement with Miami-Dade County on terms and conditions that the Grantor reasonably determines are materially more favorable to Miami-Dade County than the terms and conditions contained herein, then the Grantee, upon written request of the Grantor, shall negotiate and enter into a new franchise agreement with the Grantor that contains the terms and conditions that the Grantor has identified in the Miami-Dade County franchise as being materially more favorable to Miami-Dade County; provided, however, that if the franchise with Miami-Dade County contains additional benefits given to Grantee in exchange for the materially more favorable terms and conditions, and such additional benefits are not contained within this New Franchise Agreement, then Grantee shall have the sole discretion to include within such new franchise agreement with Grantor the additional benefits found within the triggering franchise (i.e., the Miami-Dade County franchise that triggers the operation of this Most Favored Nations provision) which Grantee may choose to include in the new franchise agreement with Grantor.

Section 9. If the Grantor grants a right, privilege or franchise to any other person or utility or otherwise enables any other such person or utility to construct, operate, or maintain electric light and power facilities within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve or compete on terms and conditions which the Grantee reasonably determines are materially more favorable than the terms and conditions contained herein, the Grantee may at any time thereafter terminate this Franchise Agreement if such terms and conditions are not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 180 days advance written notice of its intent to terminate, and the Grantor and Grantee agree to negotiate in good faith toward a mutually acceptable resolution of Grantee's claimed disadvantage during this 180 day period. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of such terms and conditions that it considers materially more favorable. The Grantor shall then have 120 days in which to correct or otherwise remedy the terms and conditions complained of by the Grantee. If the Grantee reasonably determines that such terms and conditions are not remedied by the Grantor within said time period, the Grantee may terminate this Franchise Agreement by delivering written notice to the Grantor's Clerk and termination shall be effective on the date of delivery of such notice. Nothing contained herein shall be construed as constraining Grantor's rights to legally challenge at any time Grantee's determination of "materially more favorable terms or conditions" leading to termination under this Section.

Section 10. If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them), any person or

utility is permitted to provide electric service within the incorporated areas of the Grantor to a customer then being served by the Grantee, or to any new applicant for electric service within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee reasonably determines that its obligations hereunder, or otherwise resulting from this Franchise in respect to rates and service, place it at a material competitive disadvantage with respect to such other or utility person, the Grantee may, at any time after the taking of such action, terminate this Franchise Agreement if such material competitive disadvantage is not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 120 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the consequences of such action which resulted in the material competitive disadvantage. The Grantor shall then have 120 days in which to correct or otherwise remedy the material competitive disadvantage, and the Grantor and Grantee agree to negotiate in good faith toward a mutually acceptable resolution of Grantee's claimed disadvantage during this 120 day period. If such material competitive disadvantage is, in the reasonable determination of Grantee, not remedied by the Grantor within said time period, and if no mutually acceptable resolution of the matter is reached through negotiation, the Grantee may terminate this Franchise Agreement by delivering written notice to the Grantor's Clerk and termination shall take effect on the date of delivery of such notice. Nothing contained herein shall be construed as constraining Grantor's rights to legally challenge at any time Grantee's determination of "material competitive disadvantage" leading to termination under this Section.

Section 11. Failure on the part of the Grantee to comply in any material respect with any of the provisions of this Franchise shall be grounds for forfeiture. In the event Grantor reasonably determines that it will invoke this forfeiture provision, Grantor shall give the Grantee at least 180 days advance written notice of its intent to invoke the forfeiture provision, and the Grantor and Grantee agree to negotiate in good faith toward a mutually acceptable resolution of the claimed basis for the forfeiture during this 180 day period. Such notice shall, without prejudice to any of the rights reserved for the Grantor herein, advise the Grantee of the substance of the alleged failure of Grantee to comply in a material respect with the provisions of this Franchise that Grantor considers to be the basis for the forfeiture. The Grantee shall then have 120 days in which to correct or otherwise remedy the claimed basis for the forfeiture. If the Grantor reasonably determines that such claimed basis for the forfeiture is not remedied by the Grantee within said time period, the Grantor may invoke this forfeiture provision by delivering written notice to Grantee's Corporate Secretary and forfeiture shall be effective on the date of delivery of such notice. Nothing contained herein shall be construed as constraining Grantee's rights to legally challenge at any time Grantor's determination of the claimed basis for the forfeiture leading to termination under this Section. The Grantor maintains the right, at its discretion, to grant such additional time to the Grantee for compliance as necessities in the case require.

Section 12. Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this Franchise, including but not limited to: (a) denying the Grantee use of Public Rights-of-Way for reasons other than as set forth in Section 2 hereof; (b) imposing conditions for use of Public Rights-of-Way contrary to Florida law or

the terms and conditions of this Franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in Public Rights-of-Way, shall constitute breach of this Franchise and entitle the Grantee to withhold such portion of the payments provided for in Section 5 hereof as a court of competent jurisdiction has, upon action instituted by Grantee, determined to be equitable, just, and reasonable, considering the totality of the circumstances, until such time as a use permit is issued, or a court of competent jurisdiction has reached a final determination (after the expiration or exhaustion of all rights of appeal) in the matter. The Grantor recognizes and agrees that nothing in this New Franchise Agreement constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right as provided by law. The Grantee recognizes and agrees that nothing in this New Franchise Agreement constitutes or shall be deemed to constitute a waiver of the Grantor's delegated sovereign right of condemnation and that the Grantor, in its sole discretion, may exercise such right as provided by law, provided that the Grantor shall not exercise such right so as to violate the Grantor's covenant, set forth in Section 7 hereof, not to compete against the Grantee in the distribution and/or sale of electricity to retail customers.

Section 13. The Grantor may, at its option, upon reasonable notice to Grantee, within 180 days after each anniversary date of this Franchise, at the sole expense of Grantor, examine the books and records of Grantee as such books and records relate to the calculation of the franchise fee payment to the Grantor for the calendar year preceding such anniversary date. Grantee shall use a system of accounts and form of materials as prescribed by applicable law or regulation. Grantee shall attach to each payment to

Grantor a statement of its gross revenues against which the franchise fee is to be calculated as to all residential, commercial, and industrial accounts. Acceptance of payment by Grantor shall not stop Grantor from asserting that the amount paid is not the amount due. Grantee shall make available for review all accounts and records of Grantee that Grantor may reasonably request or require relative to calculating the franchise fee. Such examination of books and records of Grantee by Grantor shall be made during the regular business hours of the Grantee at the general office of the Grantee. Records not prepared by the Grantee in the ordinary course of its business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing. Additionally, where copies of Grantee's records may be properly obtained by Grantor for purposes of this Section, said copies will be made at the Grantor's expense. Information identifying the Grantee's customers by name or their electric consumption shall not be taken from the Grantee's premises. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit. Records shall be retained by Grantee for a period of five (5) years. The provisions of this Section shall survive termination of this New Franchise Agreement.

Notwithstanding the preceding paragraph, Grantor shall have one (1) year following the expiration of the Current Franchise Agreement within which to conduct the examination and audit contemplated by this Section, as to such Agreement; such

examination and audit to cover the last three (3) years of the Current Franchise Agreement.

Section 14. Notwithstanding any provision of this New Franchise Agreement, nothing herein shall prevent, prohibit, or in any way restrict the Grantor's ability to take advantage of all applicable services set forth in Grantee's tariffs as those tariffs are approved from time-to-time by Grantee's regulators, and nothing herein shall prevent, prohibit, or in any way restrict the Grantor's ability to avail itself of all rights accruing to Grantor as a retail customer of Grantee under Florida law and the rules and regulations of the Florida Public Service Commission.

Section 15. Should any section or provision of this New Franchise Agreement or any portion hereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or any part hereof, other than the part declared to be invalid.

Section 16. Grantee understands and acknowledges that Grantor's policies strongly favor undergrounding of utilities and improvement of safety and aesthetics. Grantee has filed a tariff and has adopted a Mechanism for Governmental Recovery of Undergrounding Fees (MGRUF), along with other undergrounding tariffs. Requests made by Grantor for undergrounding shall by implemented by Grantee in accordance with the applicable tariffs in effect on the date of Grantor's request.

Section 17. Grantee acknowledges that Grantor's policies strongly favor the widespread dissemination of meters featuring "smart grid technology" which utilize an interactive monitoring network capable of providing real time electrical energy usage information to both Grantee and Grantee's retail customers via an advanced, two-way

communication device. If this technology is implemented by Grantee, Grantee shall utilize its best practicable efforts to provide such technology to retail customers located in the incorporated area of Grantor consistent with good and prudent utility practice.

Section 18. Grantee understands and acknowledges that Grantor's policies strongly favor strengthening electric utility infrastructure. Grantee has filed and received Florida Public Service Commission (FPSC) approval for a plan which includes strengthening feeders delivering power to critical infrastructure facilities, including feeders located within the Grantor's boundaries. Subject to continued FPSC or regulatory approval, Grantee will implement its infrastructure hardening plan within the Grantor's boundaries.

Section 19. Grantor acknowledges it is fully informed concerning the existing franchise granted by Miami-Dade County, Florida, to the Grantee herein, and accepted by the Grantee as set out in Ordinance No. 60-16, adopted on May 3, 1960, and subsequently renewed and accepted by the Grantee as set out in Ordinance No. 89-81, adopted on September 5, 1989 by the Board of County Commissioners of Miami-Dade County, Florida. Grantor agrees to indemnify and hold Grantee harmless against any and all liability, loss, cost, damage and expense incurred by Grantee in respect to any claim asserted by Miami-Dade County against Grantee arising out of the franchise set out in the above referenced ordinances for the recovery of any sums of money paid by Grantee to Grantor under the terms of this New Franchise Agreement. Grantee acknowledges and Grantor hereby relies on the Dade County Resolution No. R-709-78, adopted on June 20, 1978, in the granting of this Franchise.

Section 20. As used herein, "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other legal entity of any nature whatsoever.

Section 21. Ordinance No. 82-2294, passed and adopted January 20, 1982 and all other ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.

Section 22. As a condition precedent to the taking effect of this Ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk. Grantor and Grantee agree and acknowledge that Grantee shall deliver its Acceptance to Grantor on or before January 20, 2012, provided that this Ordinance has passed on first and second reading on or before January 20, 2012, and in that event the effective date of the New Franchise Agreement shall be the date on which said Acceptance is delivered to the Grantor's Clerk by Grantee.

PASSED on first reading this _____ day of _____, 2011.

PASSED AND ADOPTED on second reading this _____ day of _____, 2012.

CITY OF MIAMI BEACH, FLORIDA

By: _____

ATTEST:

By: _____ (SEAL)
City Clerk of the City of Miami Beach, Florida

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

12-15-11
City Attorney Date

MIAMIBEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY given that second readings and public hearings will be held by the Mayor and City Commission of the City of Miami Beach, Florida, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **WEDNESDAY, January 11, 2012** to consider the following:

10:15 a.m.
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.

Inquiries may be directed to the Finance Department at (305) 673-7466.

10:20 a.m.
Ordinance Amending Chapter 26 Of The Miami Beach City Code Entitled "Civil Emergencies," By Amending Article II, Entitled "State Of Emergency," By Repealing Section 26-32, Entitled "Automatic Emergency Measures" Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 70, Entitled "Miscellaneous Offenses," By Amending Article I, Entitled "In General," By Repealing Section 70-2, Entitled "Weapons; Discharging," Due To The Preemption Of The Entire Field Of Regulation Of Firearms To The State Of Florida; By Amending Chapter 106 Of The Miami Beach City Code, Entitled "Traffic And Vehicles," By Amending Article III, Entitled "Parades," By Amending Division 2, Entitled "Permit," By Amending Section 106-375(A)(1) To Repeal Language Regarding The Regulation Of Firearms That Is Preempted By The State Of Florida, And To Provide That Weapons Shall Not Include Any Destructive Device Or Firearm As Defined Under Florida Law.

Inquiries may be directed to the Legal Department at (305) 673-7470.

10:25 a.m.
Ordinance Amending Chapter 10 Of The Miami Beach City Code Entitled "Animals," By Amending Section 10-10, Entitled "Animals Prohibited In Public Parks And On Beaches" To Cross-Reference Language In Section 10-11 Regarding Off-Leash Areas For Dogs; By Amending Section 10-11, Entitled "Running At Large Prohibited," By Extending The Pilot Program Off-Leash Area For Dogs In South Pointe Park Until July 15, 2012, By Providing Off-Leash Hours In The Designated Area In The Morning From Sunrise To 10:00 A.M. Daily And Between 4:00 P.M. And 7:00 P.M. Monday Through Friday, And Relocating The Off-Leash Area To The South And East Of The Washington Avenue Entry Plaza.

Inquiries may be directed to the Parks and Recreation Department at (305) 673-7730.

5:00 p.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article II, "District Regulations," Division 18, "PS Performance Standard District", Section 142-696 "Residential Performance Standard Area Requirements" To Modify The Maximum Height Requirements For Residential Apartment Structures; By Amending Section 142-697 "Setback Requirements In The R-PS 1, 2, 3, 4 District," To Modify The Setback Requirements For Oceanfront Buildings.
Inquiries may be directed to the Planning Department at (305) 673-7550.

5:05 p.m.
Ordinance Granting To Florida Power And Light Company, Its Successors And Assigns, An Electric Franchise Imposing Provisions And Conditions Relating Thereto, Providing For Monthly Payments To The City Of Miami Beach:

Inquiries may be directed to the Public Works Department at (305) 673-7080.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

Ad #686

MIAMIBEACH

OFFICE OF THE CITY ATTORNEY

JOSE SMITH, CITY ATTORNEY

COMMISSION MEMORANDUM

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

FROM: Jose Smith, City Attorney

CC: Jorge M. Gonzalez, City Manager

DATE: January 11, 2012

SUBJECT: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 66, "MARINE STRUCTURES, FACILITIES AND VEHICLES," ARTICLE IV, "VESSELS," SECTION 66-151, "LAUNCHING AND HAULING," TO PROHIBIT DOCKING, SECURING, EMBARKING OR DISEMBARKING VESSELS AT MUNICIPAL OR PUBLIC SEAWALLS, WHARFS, DOCKS OR BULKHEADS IN SINGLE FAMILY NEIGHBORHOODS, CREATING EXCEPTIONS, PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

The attached ordinance was prepared at the request of Commissioner Weithorn, and was referred to the Neighborhoods and Community Affairs Committee by the City Commission on October 19, 2011. On December 8, 2011, the Committee recommended its adoption to the City Commission.

The ordinance prohibits persons from docking or securing vessels, and embarking or disembarking, at any public seawall in a single family neighborhood, except in case of emergency involving safety to life or property.

The ordinance is within the authority of the City to enact under its police power, in order to protect the public health, safety and welfare. It would reduce crime and trespass to abutting private property. Enforcement of the ordinance would be in response to citizen complaints. The ordinance is not affected by recent State legislation limiting the city's authority to regulate anchoring in navigable waters.

FISCAL IMPACT

In accordance with Charter Section 5.02, which requires that the "City of Miami Beach shall consider the long term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long term economic impact (at least 5 years) of this proposed legislative action. The proposed ordinance, if enacted, would not have any economic impact.

JS/GMH/DT/mem

T:\AGENDA\2012\1-11-12\Docking memo First Reading 1-11-2012.doc

Agenda Item R5G

Date 1-11-12

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 66, "MARINE STRUCTURES, FACILITIES AND VEHICLES," ARTICLE IV, "VESSELS," SECTION 66-151, "LAUNCHING AND HAULING," TO PROHIBIT DOCKING, SECURING, EMBARKING OR DISEMBARKING VESSELS AT MUNICIPAL OR PUBLIC SEAWALLS, WHARFS, DOCKS OR BULKHEADS IN SINGLE FAMILY NEIGHBORHOODS, CREATING EXCEPTIONS, PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Code, Chapter 66, provides for the regulation of vessels and docking, including limitations on docking at public and private land within the City, as permitted by State law; and

WHEREAS, the City Commission has received complaints about persons docking at public seawalls in single family neighborhoods causing problems and concerns in such neighborhoods; and

WHEREAS, the City Attorney drafted an ordinance at the request of Commissioner Weithorn that addresses the problem by prohibiting such dockage, with certain exceptions; and

WHEREAS, the ordinance was presented to the Neighborhoods and Community Affairs Committee on December 8, 2011, which recommended its adoption; and

WHEREAS, the amendments set forth below are necessary to accomplish the above objectives.

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

Section 1. Chapter 66, "Marine Structures, Facilities and Vehicles," Article IV, "Vessels," Section 66-151, "Launching and hauling," is hereby amended as follows:

Sec. 66-151. – Launching, ~~and~~ hauling, and docking at public seawall, etc., prohibited.

No person shall launch or remove any vessel from the waters of the city over any public seawall, sidewalk, street end, or public property except at locations where a regular business of launching and hauling vessels is conducted, which has the necessary equipment to do such work, or in areas designated and posted for such purpose by the city. No person shall dock or otherwise secure any vessel, or embark or disembark any passengers or charter parties, at any municipal or public seawall, wharf, dock, or bulkhead, in a single family neighborhood, except in case of emergency involving safety to life or property.

SECTION 3. Repealer.
All ordinances or parts of ordinances and all sections and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 4. Codification.
It is the intention of the City Commission, 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 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. Severability.
If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. Effective Date.
This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____day of _____, 2012.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

_____ _____
City Attorney Date

First Reading:
Second Reading:

Underscore denotes new language.
~~Strikethrough denotes deleted language~~.

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Condensed Title:

Amendment to the noticing requirements for public hearings conducted by the City's four Land Use Boards (Planning Board, Board of Adjustment, Design Review Board, and Historic Preservation Board.

Key Intended Outcome Supported:

Maintain strong growth management policies; Protect historic building stock

Supporting Data (Surveys, Environmental Scan, etc.):
While nearly half, 47.6%, suggested the effort put forth by the City to regulate development is "about the right amount," nearly one-third, 29.6%, indicated "too little" effort is being put forth by the City in this area.

Issue:

Should the City Commission adopt an Ordinance Amendment that would require re-noticing of Land Use Board public hearings that were continued, after the first continuance?

Item Summary/Recommendation:

FIRST READING: The Administration recommends that the City Commission approve the proposed Ordinance on first reading and set a second reading public hearing for February 8, 2012.

Advisory Board Recommendation:

On April 21, 2011, the Land Use and Development Committee referred the Ordinance to the Planning Board, with a favorable recommendation.

At the Planning Board meeting of September 20, 2011 the ordinance was reviewed and by a vote of 4-3, the Board recommended that the City Commission not adopt the ordinance. The reasons cited were that the Board believed the ordinance was burdensome and costly and it would add unnecessary expense to an applicant.

Financial Information:

Source of Funds:

OBPI

	Amount	Account	Approved
1			
2			
3			
4			
Total			

Financial Impact Summary:
The subject ordinance is not expected to have any fiscal impact.

City Clerk's Office Legislative Tracking:

Richard Lorber

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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: January 11, 2012 **FIRST READING**

SUBJECT: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE II, "BOARDS," DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-134, "NOTIFICATION OF HEARINGS;" ARTICLE IV, "CONDITIONAL USE PROCEDURE," SECTION 118-193 "APPLICATIONS FOR CONDITIONAL USES"; ARTICLE VI, "DESIGN REVIEW PROCEDURES;" ARTICLE X, "HISTORIC PRESERVATION;" AND ARTICLE XI "NEIGHBORHOOD CONSERVATION DISTRICTS (NCD) ;" TO CLARIFY THAT CONTINUANCES SHALL BE NOTICED BY MAIL AFTER THE FIRST CONTINUANCE GRANTED BY A LAND USE BOARD; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission approve the proposed Ordinance on first reading and set a second reading public hearing for February 8, 2012.

BACKGROUND

A discussion of the notice requirements for all Land Use Boards, (specifically, the requirement to send follow-up notices to residents after an initial meeting), was referred to the Land Use and Development Committee by the City Commission on January 19, 2011, at the request of Commissioner Wolfson.

This referral was made due to concerns that when land use board hearings are repeatedly deferred or continued, and when they finally occur, the public is unaware of the hearing and final outcome. Land use boards will often direct additional noticing by mail to be undertaken when an item is continued repeatedly. However, typically, when an item is opened and continued to a date certain, it is not re-noticed.

The Committee discussed an amendment allowing one continuance without re-noticing, and then after that requiring full notice for any additional continuances. Staff also discussed the costs associated with additional newspaper advertising, citing an extra ad every month may be required.

On April 21, 2011, the LUDC requested through a motion made by Commissioner Góngora and seconded by Commissioner Expósito (approved by a 3-0 vote), that an

ordinance be prepared and forwarded to the Planning Board for review and comment wherein one continuance may be permitted without mail notice, but further requests for continuance shall be fully noticed by mail.

The Committee also requested that any alternatives recommended by the Board should be presented to the Land Use Committee prior to Commission.

ANALYSIS

The City Code requires notice to be given of public hearings for the City's four Land Use Boards. These notice requirements were recently amended to extend them from 15 days to 30 days (see attached ordinance). Public hearings are noticed by newspaper and mailed notice to surrounding property owners within 375 feet of the subject property. However, as many things may come up at the public hearing, sometimes a Board will continue a matter for one or more months. Generally, these subsequent hearings are not the subject of Code required legal notice, as they were notified of the initial hearing and could presumably follow the progress of subsequent continuances or deferrals.

Planning Department staff has in the past generally advertised the continued items along with new public hearings in the monthly newspaper notice. Mailed notices have also been sent out in some cases as a courtesy notice, but not to fulfill legal requirements. However, now that the required legal notice has been extended to 30 days, staff is required to advertise the following month's hearing prior to the current month's hearing taking place, precluding the ability to include in the notice any items that were continued. This is a result of the new 30 day notice.

The 30-day notice requirement for all land use board applications has broadened the timeframe for noticing upcoming public hearings, thereby increasing community awareness and the ability to respond to potential concerns. However, this longer timeframe for board applications has the potential to become burdensome to applicants with special hardships. For instance, if a building permit plan review finds that a minor variance is necessary for approval, the ability to obtain such a variance quickly has been reduced.

One approach, which was referred by Commissioner Tobin and will be the subject of a future discussion, might be to reduce the notice requirement for a selected list of variances, perhaps limited to single family homeowners, which might include minor variances for things such as swimming pools and decks, air conditioning units and generators, or small additions, while still requiring the full thirty (30) day notice for major projects. The goal would be to find the proper balance between enhancing adjacent property owner and/or neighborhood notification on the one hand, and improving efficiency and streamlining governmental procedures on the other. Staff is working on a list of minor variances for which the required notice could potentially be reduced, as per a previous committee referral.

Another alternative put forward by staff to the LUDC was that if re-noticing was desired in all cases, the minimum notice period that would permit enough time for continued cases to be advertised in the newspaper for the following month's hearing was

determined to be twenty-one days. However, the LUDC discussed and rejected this concept in favor of the subject ordinance.

PLANNING BOARD ACTION

A proposed ordinance had been presented to the Planning Board at its July 2011 meeting where several issues were raised, i.e.

- Board requests supplemental information or more research;
- Less than a quorum or less than a supermajority number of board members are present, or the exact minimum number of members required for approval are present (typically called a short board);
- Request precedes the opening of the item;
- Affected party requests continuance; or
- Applicant requests a continuance.

The ordinance was revised, but only with language clarifying that the agenda items that the board cannot consider due to the absence of a quorum should be automatically continued to the board's next regular meeting without further required notice.

At the Planning Board meeting of September 20, 2011 the ordinance was reviewed again and by a vote of 4-3, the Board recommended that the City Commission not adopt the ordinance. Several reasons were cited, among them stating that the ordinance was burdensome and costly and it would add unnecessary expense to an applicant.

FISCAL IMPACT

The proposed ordinance is not expected to have a fiscal impact upon the City.

CONCLUSION

The Administration recommends that the City Commission approve the proposed Ordinance on first reading and set a second reading public hearing for February 8, 2012.

JMG/JGG/RGL/TRM
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"CONTINUANCES BY LAND USE BOARDS"

ORDINANCE NO._____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 118, "ADMINISTRATIVE AND REVIEW PROCEDURES," ARTICLE II, "BOARDS," DIVISION 5, "BOARD OF ADJUSTMENT," SECTION 118-134, "NOTIFICATION OF HEARINGS;" ARTICLE IV, "CONDITIONAL USE PROCEDURE," SECTION 118-193 "APPLICATIONS FOR CONDITIONAL USES"; ARTICLE VI, "DESIGN REVIEW PROCEDURES;" ARTICLE X, "HISTORIC PRESERVATION;" AND ARTICLE XI "NEIGHBORHOOD CONSERVATION DISTRICTS (NCD) ;" TO CLARIFY THAT CONTINUANCES SHALL BE NOTICED BY MAIL AFTER THE FIRST CONTINUANCE GRANTED BY A LAND USE BOARD; PROVIDING FOR REPEALER; CODIFICATION; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the TRAC Committee recommendations make the Land Development Application and Review Process more transparent and accessible to the public; and

WHEREAS, an important recommendation of the Committee was to extend the required mailed and newspaper notice for all four land use boards from 15 days to 30 days minimum; and

WHEREAS, the City Commission adopted an ordinance requiring 30 days mailed notice on December 8, 2010, Ordinance No. 2010-3711; and

WHEREAS, the Land Use and Development Committee believes that any continued item before any of the land use boards, either at a board or an applicant request should also be noticed by mail; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

Section 1. That Chapter 118, "Administration and Review Procedures," Article II, Boards, Division 5,"Board of Adjustment," Section 118-134, "Notification of hearings" is hereby amended as follows:

Sec. 118-134. Notification of hearings.
The board of adjustment shall not vary or modify any regulation or provision of these land development regulations or hear an appeal of an administrative decision until a public hearing has been held. At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be

(i) posted on the property,

(ii) advertised in a paper of general paid circulation in the community, and
(iii) given by mail to the owners of record of land lying within 375 feet of the property. This mailed notification requirement shall be the responsibility of the applicant. Where the application is for an appeal of an administrative decision the preceding information shall be supplemented by an explanation of what is being appealed.

The board may continue an application to a date certain at either the request of the applicant or at its own discretion, with notice through a verbal announcement at the public meeting at the time of the board vote approving the continuance only one time. All further continuances of the same application shall be noticed at least 30 days prior to the public hearing date, in accordance with the provisions of (i) through (iii) above. The mail notification requirement shall be the responsibility of the applicant. . **Agenda items that the board cannot consider due to the absence of a quorum shall be automatically continued to the board's next regular meeting without further required notice.**

Section 2. That Chapter 118, "Administration and Review Procedures," Article IV, "Conditional Use Procedure," Sec. 118-193. "Applications for conditional uses" is hereby amended as follows:

Sec. 118-193. Applications for conditional uses.

* * *

Applications for approval of a conditional use shall be submitted to the planning department, which shall prepare a report and recommendation for consideration by the planning board, and when required, by the city commission. Within a reasonable time, but in no instance less than 30 days after receipt of a completed application, the board shall hold a public hearing, at which parties in interest and citizens shall have an opportunity to be heard. At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be:

(i) posted on the property,
(ii) advertised in a paper of general paid circulation in the community, and
(iii) given by mail to the owners of record of land lying within 375 feet of the property. This mailed notification requirement shall be the responsibility of the applicant.

The board may continue an application to a date certain at either the request of the applicant or at its own discretion, with notice through a verbal announcement at the public meeting at the time of the board vote approving the continuance only one time. All further continuances of the same application shall be noticed at least 30 days prior to the public hearing date, in accordance with the provisions of (i) through (iii) above. The mail notification requirement shall be the responsibility of the applicant. **Agenda items that the board cannot consider due to the absence of a quorum shall be automatically continued to the board's next regular meeting without further required notice**

Section 3. That Chapter 118, "Administration and Review Procedures," Article VI, "Design Review Procedures," is hereby amended as follows:

Sec. 118-254. "Decision of design review board"

* * *

(b) At least 30 days prior to the public hearing date, a description of the request, and the date, time and place of such hearing shall be:

(i) posted on the property,
(ii) advertised in a paper of general paid circulation in the community; and
(iii) given by mail to the owners of record of land lying within 375 feet of property. The mail notification requirement shall be the responsibility of the applicant.

Additionally, courtesy notice shall also be given to any state nonprofit community organization which has requested of the director in writing to be notified of board hearings.

* * *

Sec. 118-257. Deferrals, continuances, and withdrawals.

(a) An applicant may defer an application before the public hearing only one time. The request to defer shall be in writing. When an application is deferred, it shall be re-noticed at the applicant's expense as provided in section 118-254. The applicant shall also pay a deferral fee as set forth in this article. In the event that the application is not presented to the design review board for approval at the meeting date for which the application was deferred, the application shall be deemed null and void. If the application is deferred by the board, the notice requirements shall be the same as for a new application as provided in section 118-254, and shall be at the city's expense.

(b) The board may continue an application to a date certain at either the request of the applicant or at its own discretion, with notice through a verbal announcement at the public meeting at the time of the board vote approving the continuance only one time. All further continuances of the same application shall be noticed at least 30 days prior to the public hearing date, in accordance with the provisions of (i) through (iii) above. The mail notification requirement shall be the responsibility of the applicant. **Agenda items that the board cannot consider due to the absence of a quorum shall be automatically continued to the board's next regular meeting without further required notice.**

Section 4. That Chapter 118, "Administration and Review Procedures," Article X, "Historic Preservation," is hereby amended as follows:

Division 3. Issuance of Certificate of Appropriateness/Certificate to Dig/Certificate of Appropriateness for Demolition"

* * *

Section 118-563, "Review procedure"

* * *

(c) All applications for a certificate of appropriateness for the demolition or partial demolition of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district and all applications for a certificate of appropriateness for new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, significant landscape feature, public interior or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district shall only be considered by the board following a public hearing. At least 30 days prior to the public hearing date, a description of the request with the date, time and place of such hearing shall be:

(i) posted on the property,
(ii) advertised in a paper of general paid circulation in the community, and
(iii) given by mail to the owners of record of land lying within 375 feet of the property. The mail notification requirement shall be the responsibility of the applicant.

The board may continue an application to a date certain at either the request of the applicant or at its own discretion, with notice through a verbal announcement at the public meeting at the time of the board vote approving the continuance only one time. All further continuances of the same application shall be noticed at least 30 days prior to the public hearing date, in accordance with the provisions of (i) through (iii) above. The mail notification requirement shall be the responsibility of the applicant. **Agenda items that the board cannot consider due to the absence of a quorum shall be automatically continued to the board's next regular meeting without further required notice**

* * *

Division 4. Designation

Sec. 118-591. Historic designation procedure.

* * *

(f) Public hearing; notification. A public hearing on a proposed historic preservation designation shall be conducted by the historic preservation board after the date a designation report has been filed. The property owners of record within 375 feet of the property proposed for designation shall be notified by mail of the public hearing at least ~~15~~ 30 days in advance of the hearing. This notification requirement shall be the responsibility of the applicant.

(g) Designation procedures initiated by owners of single-family homes in single-family districts. Notwithstanding the above, the following shall apply to any request by property owners for the individual designation of their single-family homes as historic structures:

* * *

(2) Public notice requirements. At least 30 days prior to the public hearing date for the subject designation, a description of the request with the time and place of the public hearing, shall be advertised in a paper of general paid circulation in the community.

The board may continue an application to a date certain at either the request of the applicant or at its own discretion, with notice through a verbal announcement at the public meeting at the time of the board vote approving the continuance only one time. All further continuances of the same application shall be noticed at least 30 days prior to the public hearing date, in accordance with the provisions of (i) through (iii) above. The mail notification requirement shall be the responsibility of the applicant. **Agenda items that the board cannot consider due to the absence of a quorum shall be automatically continued to the board's next regular meeting without further required notice.**

Section 5. That Chapter 118, "Administration and Review Procedures," Article XI. "Neighborhood Conservation Districts (NCD)" is hereby amended as follows:

Sec. 118-705. Procedures for adoption of specific NCD overlay districts.

* * *

(b) Preliminary review.

* * *

(2) Notification of the preliminary public hearing shall be advertised in accordance with section 118-164(2)(b) regardless of acreage and, in addition, all property owners within the proposed district as well as within a 375-foot radius of the proposed district shall be notified by individual mail notice with a description prepared in plain English, and postmarked 30 days in advance of the hearing.

* * *

(d) Discussion and recommendations by the design review board.

* * *

(2) Notification of this public meeting shall be advertised in a newspaper of general circulation 30 days prior to the meeting.

The board may continue an application to a date certain at either the request of the applicant or at its own discretion, with notice through a verbal announcement at the public meeting at the time of the board vote approving the continuance only one time. All further continuances of the same application shall be noticed at least 30 days prior to the public hearing date, in accordance with the provisions of (i) through (iii) above. The mail notification requirement shall be the responsibility of the applicant. **Agenda items that the board cannot consider due to the absence of a quorum shall be automatically continued to the board's next regular meeting without further required notice**

Section 6. Repealer.

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

Section 7. Codification.

It is the intention of the City Commission, 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 as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section" or other appropriate word.

Section 8. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

Section 9. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this ____day of _____, 2011.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

_____ _____
City Attorney Date

First Reading:
Second Reading:

Verified by: _____
Richard G. Lorber, AICP
Acting Planning Director

Underscore denotes new language.
~~Strikethrough~~ denotes deleted language.
Bold indicates new language since PB July 2011 meeting.

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Condensed Title:

Amending Section 82-384, "Permitted Sidewalk Café Frontage; Requests For Expansion," To Permit Sidewalk Cafes To Extend Into A Loading Zone Fronting A Restaurant.

Key Intended Outcome Supported:

Maintain strong growth management policies.

Supporting Data (Surveys, Environmental Scan, etc.): While nearly half, 47.6%, suggested the effort put forth by the City to regulate development is "about the right amount," nearly one-third, 29.6%, indicated "too little" effort is being put forth by the City in this area.

Issue:

Should the City Commission amend the City Code to allow temporary removal of parking spaces to permit the expansion of sidewalk cafes into a loading zone fronting a restaurant?

Item Summary/Recommendation:

FIRST READING

In order to consider the use of the parking spaces for additional sidewalk café for businesses along Espanola Way between Drexel Avenue and Washington Avenue, the following should be considered: emergency access, traffic circulation, adjacent land uses and special events.

There are several restaurants that provide sidewalk café along Espanola Way between Drexel Avenue and Washington Avenue that would benefit should the proposed amendment is approved. The amendment would allow an extension of the sidewalk cafes into a loading zone subject to certain restrictions such as when the street is closed to traffic during certain days or hours; all equipment placed in the loading zone is removed at the close of business each night; a permit is required and a fee is paid. Notwithstanding, the Administration has concerns relative to emergency access, traffic circulation, and the ability of adjacent land uses to utilize the street for accessibility and connectivity to other streets.

The Administration does not recommend adoption of the proposed amendment based on the concerns expressed in the Analysis portion of this memorandum.

Advisory Board Recommendation:

At its May 18, 2011 meeting, the LUDC recommended to refer this item to the full Commission; the recommendation was submitted with the Committee afteraction at the June 1, 2011 City Commission meeting.

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
	3		
OBPI	Total		

Financial Impact Summary:

In accordance with Charter section 5.02, which requires that the "City of Miami Beach shall consider the long-term economic impact (at least 5 years) of proposed legislative actions," this shall confirm that the City Administration evaluated the long-term economic impact (at least 5 years) of this proposed legislative action, and determined that there may not be a measurable impact on the City's budget by not enacting the proposed ordinance.

City Clerk's Office Legislative Tracking:

Richard Lorber / Mercy Lamazares

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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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: January 11, 2012 **FIRST READING**

SUBJECT: **Temporary Removal of Parking Spaces**

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH BY AMENDING CHAPTER 82, "PUBLIC PROPERTY," AMENDING SECTION 82-384, "PERMITTED SIDEWALK CAFÉ FRONTAGE; REQUESTS FOR EXPANSION," TO PERMIT SIDEWALK CAFES TO EXTEND INTO A LOADING ZONE FRONTING A RESTAURANT; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission fully discuss the merits of this proposal as recommended by the Land Use and Development Committee and if so desired, approve the proposed ordinance on first reading and set a public hearing for the February 8, 2012 City Commission meeting; however, it should be noted that the Administration does not recommend adoption of the proposed amendments based on the concerns expressed in the Analysis portion of this memorandum.

BACKGROUND

September 27, 2010: The Land Use and Development Committee (LUDC) discussed strengthening the process by which permanent parking spaces may be removed from City inventory, by limiting the purpose and/or requiring Commission approval. At the meeting the Committee voted to direct City staff to prepare the ordinance and send to the full Commission and to come back to the Committee with a discussion on the temporary removal of parking spaces by adjacent commercial uses (e.g. sidewalk café uses).

April 13, 2011: An ordinance prohibiting private requests for the permanent removal of parking spaces or loading zones except for the purpose of creating access to an off-street parking facility or other vehicular access to the property was adopted by the City Commission.

May 18, 2011: The LUDC discussed the street section being reviewed at that time - the portion of Espanola Way between Drexel Avenue and Washington Avenue. According to information provided by the City's Public Works Department, Espanola Way is

approximately 14 feet from curb to curb, with 5-foot sidewalks between the cafes and the buildings. The street also offers commercial loading zones (parking bays) at two specific locations on the north side and one on the south side. All the parking loading zones are restricted between the hours of 6:00 AM to 6:00 PM (30 minutes maximum) from Monday through Friday with no parking any other time. The street remains closed to thru traffic between 6:00 PM and 6:00 AM. Espanola Way is also closed to traffic from Friday at 6:00 PM thru Sunday at 9:00 AM.

Espanola Way between Drexel Avenue and Washington Avenue is classified as a local street and serves to direct one way traffic on the westbound direction only. The intersection of Espanola Way and Washington Avenue is controlled by a traffic signal and offers opportunities for pedestrians to cross on all four legs of the intersection. Espanola Way at Drexel Avenue is also a four legged intersection but controlled by a stop sign.

As per Attachment 1, the following restaurants provide sidewalk café along Espanola Way between Drexel Avenue and Washington Avenue:

Restaurant	**Address**		**# of Seats**	**Area (Square Feet)**
Oh Mexico	410 Espanola Way		94	1,064
A La Folie	516 Espanola Way		25	159
Hosteria Romana	429 Espanola Way		74	557
Tapas & Tintos	448 Espanola Way		37	310
Boteco Copacabana	437 Espanola Way		20	120
Pizzeria D'Angelo	1446 Washington Ave		50	436
Kone Express	455 Espanola Way		8	37
Segafredo Zanetti	1436 Drexel Ave		64	628
		Total	372	3,311

An inventory of the number of seats and area covered by sidewalk café that each of these businesses offer is included in the attached spreadsheet (Attachment 2) provided by the Public Works Department.

The LUDC recommended to refer this item to the full Commission; the recommendation was submitted with the Committee afteraction at the June 1, 2011 City Commission meeting.

ANALYSIS

The Administration has concerns relative to the proposed amendments because of the following issues:

- Emergency Access
  Having the street closed to allow sidewalk café usage would impede the ability for fire trucks and other emergency services to provide an effective response.

- Traffic Circulation
  The street is currently used to allow circulation to adjacent uses including other commercial and residential in addition to serving as a route to provide access for

pick up and drop off for students attending the Fisher Feinberg Elementary School.

Deliveries to businesses located on Espanola Way would also have to be considered as part of the overall plan. Currently deliveries utilize the commercial loading parking spaces and in some cases for larger trucks, they have been observed parking on the street often blocking through traffic since other convenient and accessible parking spaces are not available in the vicinity.

A permanent closure of Espanola Way would require County approval and has to follow the requirements dictated as part of the Miami-Dade County Traffic Flow Modification Procedures which include a traffic study, public hearing and a vote from the residents affected by the modification.

- Adjacent Land Uses
  In addition to the sidewalk café usage at the ground level along Espanola Way, there are other uses including residential and commercial that need to be considered. Those additional uses rely heavily on the ability to utilize Espanola Way for accessibility and connectivity to other streets.

- Special Events
  In case the restaurant owners on Espanola Way would still like to follow up on the idea of using available parking spaces when not being used as part of the sidewalk café, an option would be to make that happen as part of a special event, in which case they would have to follow the City's special event permit procedure.

The proposed amendments would be to Chapter 82, "Public Property," Section 82-384, "Permitted Sidewalk Café Frontage; Requests for Expansions," as follows:

(a) Sidewalk cafes are restricted to the sidewalk frontage of the restaurant to which the permit is issued or, if the restaurant is an ancillary and/or secondary use to another type of business establishment, the sidewalk cafe shall be restricted to the sidewalk frontage of the building (or portion thereof) of the "primary" business establishment (within which the restaurant is located). Only a restaurant whose premises are on a ground floor adjacent to and fronting the sidewalk may be issued a sidewalk cafe permit. <u>Sidewalk cafes may be extended into a loading zone fronting a restaurant as provided in subsection (d) below.</u>

<u>(d)</u> <u>Loading zones in front of a ground floor restaurant use with sidewalk frontage and a sidewalk café permit may be used as part of an expanded sidewalk café permit area when the street on which the loading zone is located is closed to traffic, provided that the loading zone is within a street area that is regularly closed to traffic during certain days or hours, a minimum of five days each week. All platforms, tables and chairs in the loading zone shall be removed at the close of business each night. A permit modification will be required before use of a loading zone may commence, subject to suspension or revocation at the discretion</u>

of the Public Works Director. The fee for the temporary expanded sidewalk café permit area shall be as provided in Section 82-383, City Code.

CONCLUSION

In view of the above analysis and the concerns expressed, the Administration does not recommend adoption of the proposed amendments; however, should the City Commission desire, it should fully discuss the merits of this proposal as recommended by the Land Use and Development Committee, approve the proposed ordinance on first reading, and set a public hearing for the February 8, 2012 City Commission meeting.

Pursuant to Section 2.05, "Procedures for Passing Ordinances Generally," a proposed ordinance may be read by title, or in full, on at least two (2) separate dates and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the municipality. After the public hearing, the City Commission may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment.

JMG/JGG/RGL/ML

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Attachment 1

LUOC#83

BUSINESS	TAPAS & TINTOS
ADDRESS	448
STREET	ESPANOLA WAY
TABLES	17
SEATS	34
SQFT	310

BUSINESS	HOSTERIA ROMANO INC.
ADDRESS	429
STREET	ESPANOLA WAY
TABLES	24
SEATS	74
SQFT	557

BUSINESS	OH MEXICO AT AKAIRO CAFÉ NUVO
ADDRESS	410
STREET	ESPANOLA WAY
TABLES	31
SEATS	94
SQFT	1064

BUSINESS	A LA FOLIE
ADDRESS	516
STREET	ESPANOLA WAY
TABLES	11
SEATS	25
SQFT	159

Attachment 2

BUSINESS	PIZZERIZ D'ANGOLO	**BUSINESS**	BOTECO COPACABANA
ADDRESS	1446	**ADDRESS**	437
STREET	WASHINGTON AVE	**STREET**	Espanola Way
TABLES	20	**TABLES**	8
SEATS	50	**SEATS**	20
SQFT	436	**SQFT**	120

BUSINESS	SEGAFREDO ZANETTI	**BUSINESS**	KONE EXPRESS
ADDRESS	1436	**ADDRESS**	445
STREET	DREXEL AVE	**STREET**	Espanola Way
TABLES	20	**TABLES**	4
SEATS	64	**SEATS**	8
SQFT	628	**SQFT**	37

ORDINANCE No. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE CODE OF THE CITY OF MIAMI BEACH BY AMENDING CHAPTER 82, "PUBLIC PROPERTY," AMENDING SECTION 82-384, "PERMITTED SIDEWALK CAFÉ FRONTAGE; REQUESTS FOR EXPANSION," TO PERMIT SIDEWALK CAFES TO EXTEND INTO A LOADING ZONE FRONTING A RESTAURANT; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

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

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

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

SECTION 1. That Chapter 82, "Public Property," Section 82-384, "Permitted Sidewalk Café Frontage; Requests for Expansions," as follows:

(a) Sidewalk cafes are restricted to the sidewalk frontage of the restaurant to which the permit is issued or, if the restaurant is an ancillary and/or secondary use to another type of business establishment, the sidewalk cafe shall be restricted to the sidewalk frontage of the building (or portion thereof) of the "primary" business establishment (within which the restaurant is located). Only a restaurant whose premises are on a ground floor adjacent to and fronting the sidewalk may be issued a sidewalk cafe permit. <u>Sidewalk cafes may be extended into a loading zone fronting a restaurant as provided in subsection (d) below.</u>

<u>(d)</u> <u>Loading zones in front of a ground floor restaurant use with sidewalk frontage and a sidewalk café permit may be used as part of an expanded sidewalk café permit area when the street on which the loading zone is located is closed to traffic, provided that the loading zone is within a street area that is regularly closed to traffic during certain days or hours, a minimum of five days each week.</u>

All platforms, tables and chairs in the loading zone shall be removed at the close of business each night. A permit modification will be required before use of a loading zone may commence, subject to suspension or revocation at the discretion of the Public Works Director. The fee for the temporary expanded sidewalk café permit area shall be as provided in Section 82-383, City Code.

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, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of_____, 2012.

ATTEST:

_____
MAYOR

_____
CITY CLERK

APPROVED AS
TO FORM & LANGUAGE
& FOR EXECUTION

_____
City Attorney Date

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R7

RESOLUTIONS

Condensed Title:

A Resolution Granting and Authorizing the Mayor and City Clerk To Execute 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, A Utility Room, And A Trash Enclosure, Currently Placed Within The Public City Right-Of-Way On West 47th Court.

Key Intended Outcome Supported:

Maintain Miami Beach public areas and Rights-of-Way Citywide

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

Issue:

Shall the City Commission grant the revocable permit?

Item Summary/Recommendation:

The Berwick Building, which is located at 335 W. 47th Street, abuts W. 47th Court on the north and west sides of the property. This two-story commercial building was constructed in 1930 with zero lot lines on the north, west, and south sides.

On the north side of the property, there are currently ten (10) air conditioning units mounted on concrete pads that approximately five (5) feet into the right-of-way. Further, there is a one-story utility room and wooden trash enclosure that extend nine (9) feet into the right-of-way. The area of all the encroachments totals 878 square feet.

The criteria for a revocable permit are satisfied, per Miami Beach City Code Section 82-94, to allow an encroachment over the City's right-of-way. The request is in harmony with the intent and purpose of the City Code, and will not be injurious to the area involved or otherwise detrimental to the public welfare. The permit will provide the applicant with a reasonable use of the property.

THE ADMINISTRATION RECOMMENDS ADOPTING THE RESOLUTION.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
OBPI	Total	N/A	N/A

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Richard W. Saltrick, Acting City Engineer, ext.6565

Sign-Offs:

Department Director	Assistant City Manager	City Manager
FHB	DRB	JMG

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MIAMIBEACH

AGENDA ITEM R7A

DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, GRANTING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE 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, A UTILITY ROOM, AND A TRASH ENCLOSURE, CURRENTLY PLACED WITHIN THE PUBLIC CITY RIGHT-OF-WAY ON WEST 47th COURT.**

ADMINISTRATION RECOMMENDATION

The Administration recommends adopting the resolution.

BACKGROUND

The Berwick Building, which is located at 335 W. 47th Street, abuts W. 47th Court on the north and west sides of the property. This two-story commercial building was constructed in 1930 with zero lot lines on the north, west, and south sides.

On the north side of the property, there are approximately ten air conditioning units mounted on concrete pads that extend not more than five feet into the right-of-way. Further, there is a one-story utility room and wooden trash enclosure that extend several feet into the right of way. The area of all the encroachments totals 878 square feet (Attachment A).

ANALYSIS

Pursuant to the criteria established under Section 82-94 of the City of Miami Beach Code of Ordinances for the granting/denying of revocable permits, the City has analyzed the criteria and issues the following conclusions:

1) That the applicant's need is substantial.

Satisfied. The applicant's need for the permit is substantial. The existing building was constructed at the property line over 80 years ago. Accordingly, minimal encroachment onto the abutting right of way is necessary to locate the required utilities. The applicant has also provided an opinion from a registered architect stating that the existing roof is not capable of sustaining the loading from this equipment (Attachment B).

2) That the applicant holds the title to an abutting property.

   Satisfied. The applicant is the fee simple owner of the property located at 335 W. 47th Street.

3) That the proposed improvements comply with applicable codes, ordinances, regulations, and neighborhoods plans and laws.

   Satisfied. The applicant will obtain any required building permits for these encroachments.

4) That the grant for such application will have no adverse effect on government/utility easements and uses on the property.

   Satisfied. The encroachments have been in place for a number of years without impact on government use of W. 47th Court. Further, the area is built out. Therefore, there is no need at this time for additional utilities.

5) Alternatively:
   a. That an unnecessary hardship exists that deprives the applicant of a reasonable use of the land, structure or building for which the Revocable Permit is sought arising out of special circumstances and conditions that exist and were not self-created and are peculiar to the land, structures or buildings in the same zoning district and the grant of the application is the minimum that will allow reasonable use of the land, structures or building.

   b. That the grant of the revocable permit will enhance the neighborhood and/or community by such amenities as, for example, enhanced landscaping, improved drainage, improved lighting and improved security.

      Subsection a. Satisfied. The construction of the building in 1930 with zero lot lines on three sides creates a special hardship requiring the mechanical equipment and portions of the utility room and dumpster enclosure to encroach into the right of way.

6) That the granting the revocable permit requested will not confer on the applicant any special privilege that is denied to other owner of land, structures, or building subject to similar conditions.

   Satisfied. Any property owner, especially those with a small lot, with an existing or proposed building placed at or near streets may request a revocable permit. Therefore, granting the permit will not confer any special privilege on the applicant that would otherwise be denied to others similarly situated.

7) That granting the revocable permit will be in harmony with the general intent and purpose of Article III of the City Code, and that such revocable permit will not be injurious to surrounding properties, the neighborhood, or otherwise detrimental to the public welfare.

   Satisfied. The applicant is seeking to preserve the existing encroachments that do not impede use of W. 47th Court, have not been injurious to surrounding properties, and have not been detrimental to the public welfare.

The analysis above shows that the criteria for a revocable permit are satisfied, per Miami Beach

City Code Section 82-94, to allow existing encroachments into the City's right-of-way to remain. The request is in harmony with the intent and purpose of the City Code, and will not be injurious to the area involved or otherwise detrimental to the public welfare. The permit will provide the applicant with a reasonable use of the property.

CONCLUSION

The Administration recommends that the City Commission grant and authorize the Mayor and City Clerk to execute 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, a utility room, and trash enclosure, currently placed within the public right-of-way on west 47th Court.

Attachments:

A - Sketch and Legal description of the encroachments
B – Architect's professional opinion on roof capacity

DRB/FHB/RWS

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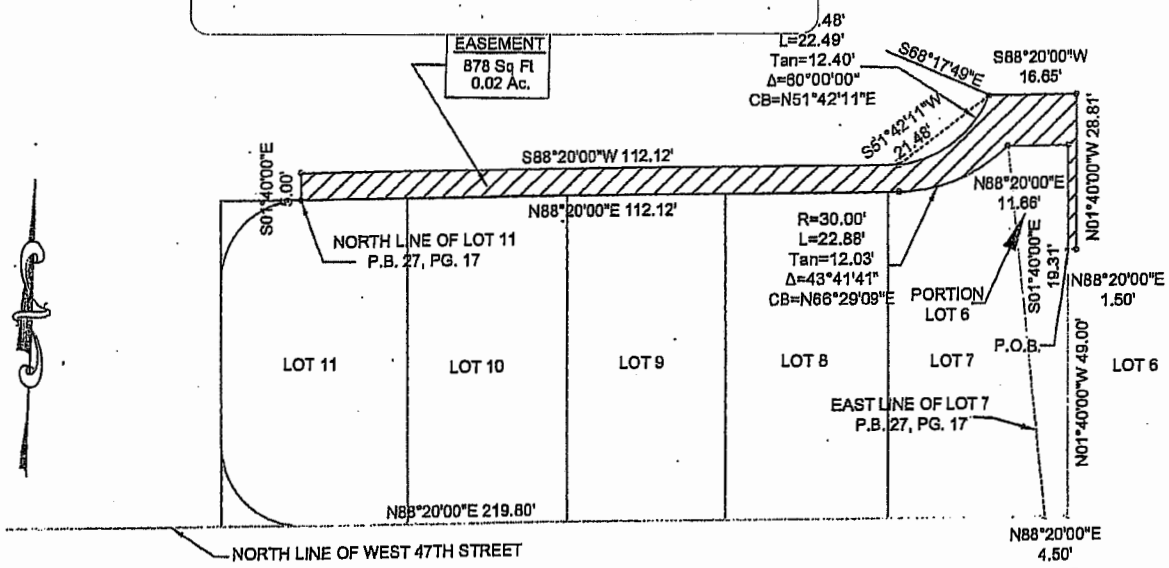
Attachment A



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P.O.C.
NE CORNER OF THE S½ OF THE SE¼ OF THE NE¼ OF FRACTIONAL SEC. 22-53-42

LEGAL DESCRIPTION FOR EASEMENT

A PORTION OF W 47th COURT AND TRACT B, OF "AMENDED PLAT OF LOT 13, BLOCK 32, LAKEVIEW SUBDIVISION", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 47 AT PAGE 105 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, ALL LYING AND BEING IN THE CITY OF MIAMI BEACH, MIAMI-DADE COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NE CORNER OF THE S ½ OF THE SE ¼ OF THE NE ¼ OF FRACTIONAL SECTION 22, TOWNSHIP 53 SOUTH, RANGE 42 EAST, AS SHOWN ON "PLAT OF LOT 13, BLOCK 32, LAKEVIEW SUBDIVISION", RECORDED IN PLAT BOOK 27 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE RUN NORTH 1°38'00" WEST FOR 70.00 FEET TO THE NORTH LINE OF WEST 47th STREET; THENCE CONTINUE NORTH 88°20'00" EAST, ALONG THE NORTH LINE OF WEST 47th STREET A DISTANCE OF 219.80 TO A POINT, SAID POINT BEING THE INTERSECTION OF THE LAST MENTIONED COURSE WITH THE EAST LINE OF LOT 7 AS SHOWN ON "PLAT OF LOT 13, BLOCK 32, LAKEVIEW SUBDIVISION", RECORDED IN PLAT BOOK 27 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE NORTH 88°20'00" EAST FOR A DISTANCE OF 4.50 FEET; THENCE NORTH 01°40'00" WEST FOR A DISTANCE OF 49.00 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE CONTINUE SOUTH 88°20'00" EAST FOR A DISTANCE OF 1.50 FEET; THENCE NORTH 01°40'00" WEST FOR A DISTANCE OF 28.81 FEET; THENCE NORTH 88°20'00" WEST FOR A DISTANCE OF 16.65 FEET TO A NON-TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 21.48 FEET, TO WHICH BEGINNING OF CURVE A RADIAL BEARS SOUTH 68°17'49" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 60°00'00", AN ARC DISTANCE OF 22.49 FEET; THENCE CONTINUE SOUTH 88°20'00" WEST FOR A DISTANCE OF 112.12 FEET; THENCE SOUTH 01°40'00 EAST FOR A DISTANCE OF 5.00 FEET TO A POINT ON THE NORTH LINE OF LOT 11 AS SHOWN ON "PLAT OF LOT 13, BLOCK 32, LAKEVIEW SUBDIVISION", RECORDED IN PLAT BOOK 27 AT PAGE 17 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; THENCE CONTINUE NORTH 88°20'00" EAST FOR A DISTANCE OF 112.12 FEET TO A TANGENT CURVE CONCAVE NORTHERLY AND HAVING A RADIUS OF 30.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 43°41'41", AN ARC DISTANCE OF 22.88 FEET; THENCE CONTINUE NORTH 88°20'00" EAST FOR A DISTANCE OF 11.66 FEET; THENCE SOUTH 01°40'00" EAST FOR A DISTANCE OF 19.31 FEET TO THE POINT OF BEGINNING, OF THE EASEMENT HEREIN DESCRIBED CONTAINING 878 SQ. FT. OR 0.02 ACRES MORE OR LESS.

SURVEYOR'S NOTES:

- Bearings hereon are referred to an assumed value of N88°20'00" East for the North Right-of-Way line of West 47th Street.
- This is not a "Boundary Survey" but only a graphic depiction of the easement shown hereon.

EXHIBIT
B

I HEREBY CERTIFY That the survey represented thereon meets the minimum technical requirements adopted by the STATE OF FLORIDA Board of Land Surveyors pursuant to Section 472.027 Florida Statutes.
There are no encroachments, overlaps, easements appearing on the plat or visible easements other than as shown hereon.

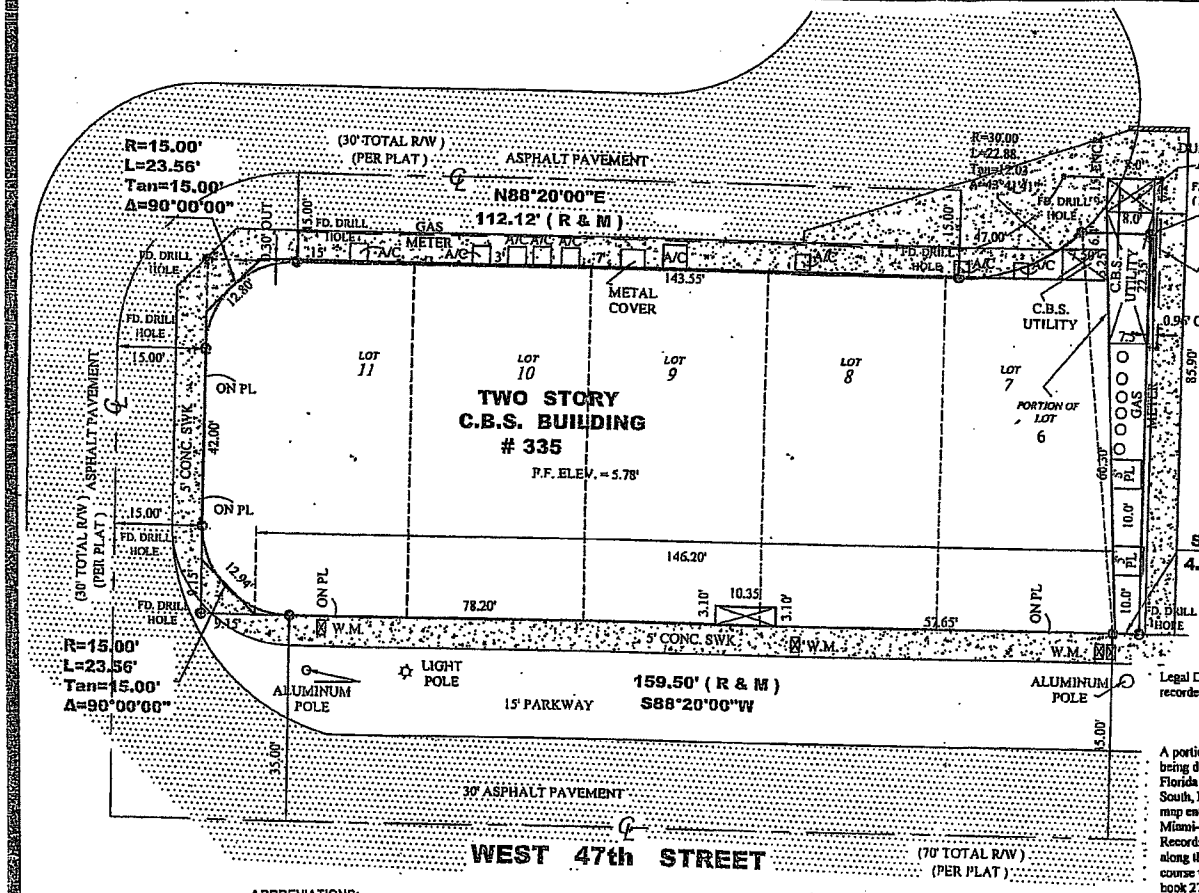
ADIS N. NUNEZ
REGISTERED LAND SURVEYOR
STATE OF FLORIDA #5924

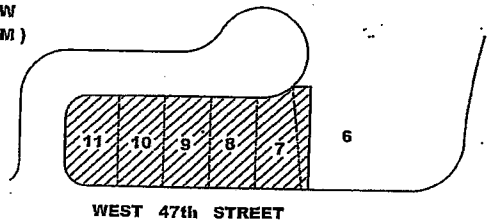
SINCE 1987
BLANCO SURVEYORS INC.
Engineers • Land Surveyors • Planners • LB # 0007059
555 NORTH SHORE DRIVE
MIAMI BEACH, FL 33141
(305) 865-1200 Email: blancosurveyorsinc@yahoo.com Fax: (305) 865-7810

FLOOD ZONE: AE		SUFFIX: L	DATE: 9/11/09 BASE: 7'
PANEL: 0309		COMMUNITY # 120651	
DATE: 11/21/11	SCALE: 1" =	DWN. BY: F. Blanco	JOB No 11-773

LOCATION SKETCH
SCALE: NTS

EXHIBIT A





Property Address: 335 W. 47th St. Miami Beach, FL. 33140.

Legal Description: Lots 7, 8, 9, 10, and 11, as shown on a Plat entitled "Plat of Lot 13 in Block 32 of Lake View Subdivision" as recorded in Plat Book 27 at 17, of the Public Records of Miami-Dade County, Florida.

Also

A portion of Lot 6, as said Lot 6 is shown recorded in Plat Book 27 at Page 17 of the Public Records of Miami-Dade County, Florida; being described in Deed Book 1706, at Page 342, and Deed Book 1367, at Page 18, of the Public Records of Miami-Dade County, Florida as follows: From an iron pipe at the N.E. corner of the S 1/2 of the SE ¼ of the NE ¼ of Fractional Section 22, Township 53 South, Range 42 East, run North along the East line of Section 22, bearing of said section line being North 1°38' West, as shown on map entitled "Map of that portion of Township 53 South, Range 42 East, lying between Biscayne Bay and the Atlantic ocean in Miami-Dade County, Florida, Bliss and Watson, Engineers', dated February 1918, recorded in Plat Book 5, at Page 40, Public Records of Miami-Dade County, Florida, a distance of 70 feet to the North line of West 47th Street; thence run North 88°20' East, along the North line of West 47th Street a distance of 219.8 feet to a point, said point being the intersection of the last mentioned course with the East line of Lot 7 as shown on plat entitled "Plat of Lot 13, Block 32, LAKEVIEW SUBDIVISION, recorded in Plat book 27 at Page 17 of the Public Records of Miami-Dade County, Florida, said point being the point of beginning of the tract of land herein described; thence continue North 88°20' East, a distance of 4.5 feet to a point; thence run North 1°40' West a distance of 68.31 feet to a point; thence run South 88°20' West a distance of 11.65 feet to a point; thence run South 7°38'38" East a distance of 68.68 feet to the point of beginning.

ABBREVIATIONS:
SWK=SIDEWALK, CBS=CONCRETE BLOCK STRUCTURE, CLF=CHAIN LINK FENCE, PL=PROPERTY LINE, DUE=DRAINAGE UTILITY EASEMENT, IP=IRON PIPE, F=FOUND, A/C=AIR CONDITIONER PAD, P/C=PROPERTY CORNER, D/H=DRILLED HOLE, W/F=WOODEN FENCE, RES=RESIDENCE, CL=CLEAR, RB=REBAR, UE=UTILITY EASEMENT, CONC=CONCRETE SLAB, R/W=RIGHT OF WAY, DE=DRAINAGE EASEMENT, C/L=CENTER LINE, Ø=DIAMTER, TYP=TYPICAL, M=MEASURED, R=RECORDED, ENCR=ENCROACHMENT, COMP=COMPUTER, ASH=ASPHALT, H/D=NAIL & DISC, S=SET, FEE=FINISH FLOOR ELEVATION, O/S=OFFSET, P/P=POWER POLE, O/HP=OVERHEAD POWERLINE, W/M=WATER METER
WOOD FENCE=
MASONRY WALL=
CONCRETE=
MAINTENANCE & DRAINAGE EASEMENT=M & D.E.

ELEVATION BASED ON LOC. # 3223 E
CBM# A-34 ELV. 14.29' TYPE OF SURVEY: BOUNDARY SURVEY

SURVEYOR'S NOTES: 1) OWNERSHIP SUBJECT TO OPINION OF TITLE. 2) NOT VALID WITHOUT THE SIGNATURE AND RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. 3) THE SURVEY DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE. 4) LEGAL DESCRIPTION PROVIDED BY CLIENT. 5) UNDERGROUND ENCROACHMENTS NOT LOCATED. 6) ELEVATIONS ARE BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1929. 7) OWNERSHIP OF FENCES ARE UNKNOWN. 8) THERE MAY BE ADDITIONAL RESTRICTIONS NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. 9) CONTACT THE APPROPRIATE AUTHORITY PRIOR TO ANY DESIGN WORK FOR BUILDING AND ZONING INFORMATION. 10) EXAMINATION OF THE ABSTRACT OF TITLE WILL HAVE TO BE MADE TO DETERMINE RECORDED INSTRUMENTS, IF ANY, AFFECTING THIS PROPERTY.

BEARINGS WHEN SHOWN ARE REFERRED TO AN ASSUMED VALUE OF SAID PB 27 PAGE 17

NOT VALID UNLESS EMBOSSED WITH SURVEYOR'S SEAL

REVISED:

I HEREBY CERTIFY That the survey represented thereon meets the minimum technical requirements adopted by the STATE OF FLORIDA Board of Land Surveyors pursuant to Section 472.027 Florida Statutes.
There are no encroachments, overlaps, easements appearing on the plat or visible easements other than as shown hereon.

ADIS N. NUNEZ
REGISTERED LAND SURVEYOR
STATE OF FLORIDA #5924

SINCE 1987
BLANCO SURVEYORS INC.
Engineers • Land Surveyors • Planners • LB # 0007059
555 NORTH SHORE DRIVE
MIAMI BEACH, FL 33141
(305) 865-1200 Email: blancosurveyorsinc@yahoo.com Fax: (305) 865-7810

FLOOD ZONE: AE		SUFFIX: L	DATE: 9/11/09 BASE: 7'
PANEL: 0309		COMMUNITY # 120651	
DATE: 11/2/11	SCALE: 1" = 20'	DWN. BY: F. Blanco	JOB No 11-773

ATTACHMENT B

JSK ARCHITECTURAL GROUP
architects - construction managers - interior designers
AA003187 AR 016353 CGC027671

November 25, 2011

Mr. Fred Beckmann
Public Works Director
City of Miami Beach -Public Works Department
1700 Convention center Drive
Miami Beach, FL 33139

Re.: Berwick Building-335 West 47 Street
ASR Berwick Family Limited Partnership

Dear Mr. Beckmann

We have been retained to perform an inspection of the property located at the above referenced address to make an initial assessment of opportunities to relocate all of the mechanical equipment currently located on the first floor, along the north end of the property.

On November 23, 2011 we conducted such visual inspection and came up with the following initial conclusions:

The building was built in 1930, and it consist of a first floor with commercial occupancies and apartment units on the second floor, the whole building is about 35'-0" high to the roof parapet, the roof structure consist of wood joists and Florida pine sheeting and it stands at about 32' above street level.

The total number of mechanical units, as referenced above and currently located on the first floor is nine, (9) with the following break down: five, (5) large condensing units part of air conditioning split systems feeding the commercial units on the first floor, three, (3) large compressor units feeding refrigeration equipment for the conservation of food, also for the commercial units on the first floor and one, (1) fan coil terminal unit that appears to be part of a separate split air conditioning system in the building.

To the best of our knowledge and professional abilities: an initial conclusion is that, as per current Florida Building Code requirements for wind solicitations, the present age,

137 Giralda Avenue, Coral Gables, FL. 33134 Ph.: 305-448-1986 Fax: 775-206-2139
information@jskarchitectural.com - www.jskarchitecturalgroup.com

condition and structural systems of the building; it would not be capable of absorbing the reactions of uplift forces introduced as a result of relocation all of the described equipment to the roof deck.

Should you have any question please do not hesitate to contact us.

Respectfully,

Jorge S. Kuperman, AIA

137 Giralda Avenue, Coral Gables, FL. 33134 Ph.: 305-448-1986 Fax: 775-206-2139
information@jskarchitectural.com - www.jskarchitecturalgroup.com

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, GRANTING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AFTER-THE-FACT REVOCABLE PERMIT TO ASR BERWICK FAMILY LTD. PARTNERS, AS OWNER OF THE COMMERCIAL PROPERTY LOCATED AT 335 WEST 47TH STREET, TO RETAIN A/C UNITS, A UTILITY ROOM, AND A TRASH ENCLOSURE, CURRENTLY PLACED WITHIN THE PUBLIC RIGHT-OF-WAYS ON WEST 47th COURT.

WHEREAS, ASR Berwick Family Ltd. Partners (Applicant) is the owner of a commercial property located at 335 West 47th Street (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 the 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 aforestated encroachments upon the right-of-ways; and

WHEREAS, the Public Works Department is in receipt of Applicant's completed application; and

WHEREAS, at its December 14, 2011 meeting, the City Commission set a public hearing for its January 11, 2012 meeting to consider Applicant's request; and

WHEREAS, following such duly notified public hearing, the City Commission hereby finds that Applicant has satisfied the City's criteria for granting revocable permits, as set forth in Section 82-94 of the City Code.

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 grant and authorize the Mayor and City Clerk to execute an after-the-fact revocable permit to ASR Berwick Family Ltd. Partners, as owner of the commercial property located at 335 West 47th Street, to retain A/C units, a utility room, and a trash enclosure, currently placed within the public right-of-ways on West 47th Court.

PASSED AND ADOPTED this 11th day of January, 2012.

ATTEST:

_____ _____

Robert H. Parcher, City Clerk Matti Herrera Bower, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

_____ 1-3-12

City Attorney Date

T:\AGENDA\2012\1-11-12\Revocable Permit 335 47th St Reso.doc

MIAMIBEACH

CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that a public hearing will be held by the City Commission of the City of Miami Beach, in the Commission Chambers, 3rd floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida, on **Wednesday, January 11, 2012 at 10:30 A.M.**, To Consider An After-The-Fact Revocable Permit To ASR Berwick Family LTD. Partners, 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.

Inquiries may be directed to the Public Works Department at (305) 673-7080.

INTERESTED PARTIES are invited to appear at this meeting, or be represented by an agent, or to express their views in writing addressed to the City Commission, c/o the City Clerk, 1700 Convention Center Drive, 1st Floor, City Hall, Miami Beach, Florida 33139. Copies of these ordinances are available for public inspection during normal business hours in the City Clerk's Office, 1700 Convention Center Drive, 1st Floor, City Hall, and Miami Beach, Florida 33139. This meeting may be continued and under such circumstances additional legal notice would not be provided.

Robert E. Parcher, City Clerk
City of Miami Beach

Pursuant to Section 286.0105, Fla. Stat., the City hereby advises the public that: if a person decides to appeal any decision made by the City Commission with respect to any matter considered at its meeting or its hearing, such person must ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for the introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

To request this material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any city-sponsored proceeding, please contact (305) 604-2489 (voice), (305)673-7218(TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service).

R7 - Resolutions

R7B Amendments To FY 2010/11 And 2011/12 Budgets

1. A Resolution Adopting The Second Amendment To The FY 2010/11 General Fund Budget And The First Amendment To The Enterprise, Internal Service And Resort Tax Funds Budgets For Fiscal Year (FY) 2010/11.

2. A Resolution Adopting The First Amendment To The General Fund, Enterprise, Internal Service And Special Revenue Funds Budgets For Fiscal Year (FY) 2011/12 To Appropriate Encumbrances And Prior Appropriations Carried Forward From FY 2010/11 And To Appropriate Funds Carried Forward For Special Revenue Budgets
(Budget & Performance Improvement)

(Memorandum & Resolutions to be Submitted in Supplemental)

Agenda Item R7B
Date 1-11-12

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Condensed Title:

A Resolution accepting the recommendation of the Finance and Citywide Projects Committee at their October 27, 2011 meeting to extend the current management agreement with Greensquare on a month-to-month basis until the new Flamingo Tennis Center is nearing completion and issue a new Tennis Centers Operations and Management Request For Proposals (RFP) in time to have the selected operator in place to coincide with the grand opening of the new Flamingo Park Tennis Center Facility and authorizing the issuance of the above referenced request for proposals as described.

Key Intended Outcome Supported:

Increase satisfaction with family recreational activities

Supporting Data (Surveys, Environmental Scan, etc.): Miami Beach Customer Survey indicates 84.9% of residents rated the City's Recreation programs as either excellent or good.

Issue:

Should the City Commission accept the recommendation of the Finance and Citywide Projects Committee to extend the current management agreement with Greensquare until the new Flamingo Tennis Center is nearing completion and issue a new Request For Proposals (RFP) to have the selected operator in place for the grand opening of the new Flamingo Park Tennis Center Facility?

Item Summary/Recommendation:

This matter was referred by the City Commission to the F&CWPC on July 13, 2011. The current agreement with Greensquare Inc., expires in April, 2012. It has been the Administration's intention to issue an (RFP) in a manner to avoid any break in quality management operations or services at the tennis centers.

On October 27, 2011, the Committee discussed the matter. The discussion focused on the timing of the issuance of this RFP, and the anticipated tennis center reconstruction in the near future. The Committee was advised that the construction plan anticipates phasing the work to ensure there are banks of courts available for play to the patrons. However, this goal presents some potentially challenging issues that may benefit from having a management team familiar with the tennis center's patrons and the conditions of the current tennis center and programs. Additionally, because of fewer available tennis courts there is an expected reduction of tennis revenue during the construction period that will impact the tennis centers' management. It is unclear how this may impact the responses to the RFP, including the subsequent negotiations with the selected operator. Following a discussion that included the Committee members, resident tennis players and the Administration, the Committee members recommended that the RFP for the selection of the operator of the City's tennis facilities not be issued at this time, but that the RFP be issued with sufficient time for the selected operator to be able to assume operations of the tennis facilities concurrent with the opening of the renovated Flamingo Park Tennis Center. As such, they recommended the extension of the current Agreement with Greensquare, Inc. on a month-to-month basis until such time as that competitive process is complete.

Advisory Board Recommendation:

Finance and Citywide Projects Committee on October 27, 2011

Financial Information:

Source of Funds:		Amount	Account
OBPI	1		
	Total		

Financial Impact Summary: N/A

City Clerk's Office Legislative Tracking:

Kevin Smith, Director of Parks and Recreation

Sign-Offs:

Department Director	Assistant City Manager	City Manager
KS	HME	JMG

F:\RCPA\$ALL\Previous\KEVIN\Commission 2012\Tennis Centers Managment Agreement Extension - Comm. Summary 1-11-12.doc

MIAMIBEACH

AGENDA ITEM R7C

DATE 1-11-12

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: January 11, 2012

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE AT THEIR OCTOBER 27, 2011 MEETING TO EXTEND THE CURRENT MANAGEMENT AGREEMENT WITH GREENSQUARE ON A MONTH-TO-MONTH BASIS UNTIL SUCH TIME AS THE NEW FLAMINGO TENNIS CENTER IS NEARING COMPLETION AND COORDINATE THE ISSUANCE OF A NEW TENNIS CENTERS OPERATIONS AND MANAGEMENT REQUEST FOR PROPOSALS (RFP) IN A MANNER TO HAVE THE SELECTED OPERATOR IN PLACE TO COINCIDE WITH THE GRAND OPENING OF THE NEW FLAMINGO PARK TENNIS CENTER FACILITY AND AUTHORIZING THE ISSUANCE OF THE ABOVE REFERENCED REQUEST FOR PROPOSALS AS DESCRIBED.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

KEY INTENDED OUTCOME SUPPORTED

Increase satisfaction with recreational programs

BACKGROUND

This matter was referred by the Mayor and Members of the City Commission to the Finance and Citywide Projects Committee at the July 13, 2011 Commission meeting.

The current agreement with Greensquare Inc., for the management and operations of the City's tennis centers is due to expire in April, 2012. It has been the Administration's intention to issue a Request For Proposals (RFP) in a timely manner to avoid any break in quality operations or services to the City's tennis-playing residents and guests.

The RFP is intended to secure a qualified professional management company for the operation of the City's two public tennis facilities, to include the operation at each facility of the tennis courts; pro shop; a food and beverage concession; and other tennis-related operations as approved by the City. Services also include those customarily associated with the operation of a public tennis center, including permitted special events related to the tennis center activities.

The final price and terms for the contracts would be negotiated after the City Commission approves authorization to negotiate with the selected entity. The new management agreement is expected to be for a three (3) year term, with two (2) one-year renewal options at the City's option. Attached, please find a draft of the proposed Scope of Services and Evaluation Criteria for the RFP.

ANALYSIS

On October 27, 2011, the Finance and Citywide Projects Committee held a discussion pertaining to the "Issuance of the Request For Proposals (RFP) for the Comprehensive Professional Tennis Management and Operations Services at the City's Flamingo Park and North Shore Park Tennis Centers".

The discussion focused on the issues related to the timing of the issuance of this RFP, taking into consideration that the Flamingo Park Tennis Center was anticipated to be under complete reconstruction in the near future. At the time, the Commission had taken the actions necessary to secure the construction company to provide the GMP pre-construction and construction services for the Flamingo Park Tennis Center project. It was also reported at that time it was anticipated that the demolition and construction of the Flamingo Park Tennis Center would begin in January, 2012. It was further reported that the construction would take approximately one year, with an expected completion date of January, 2013. Since that meeting, this schedule has now been modified with the commission action to award the GMP (Guaranteed Maximum Price) anticipated to be no later than March, 2012 and construction beginning in April, 2012.

The Finance and Citywide Projects Committee was also informed that the Flamingo Park Tennis Center construction plan anticipates phasing the work to ensure there are always banks of courts available for play to the patrons. However, the goal of keeping the tennis center open while under construction and continuing to provide quality customer service for our residents and guests presents some potentially challenging issues that may benefit from having a management team familiar with the tennis patrons and the conditions of the current tennis center and programs. Some of these challenges include, but are not limited to:

- Anticipated complaints from current tennis center members and guests trying to obtain a court reservation with approximately 50% fewer courts available for play
- Assuring a delicate balance of member play, non-member play, private lesson and clinics, given the reduction of available courts between the Flamingo and North Shore Tennis Centers.
- Continue the existing and expand the successful youth programs currently underway.

Additionally, as a result of fewer available tennis courts there is an expected negative financial impact to the tennis center and a reduction of tennis revenue during the construction period that will impact the tennis centers' management. It is unclear how this may impact the responses to the RFP, including the subsequent negotiations with the firm awarded the agreement.

Following a discussion that included the Committee members, resident tennis players and the Administration, the Committee members recommended extending the current agreement with Greensquare on a month-to-month basis until such time as the new Flamingo Park Tennis Center is nearing completion and at such time coordinate the issuance of the RFP in a manner to have the selected operator in place to coincide with the grand opening of the new facility. The Committee also recommended that an item regarding the creation of a Tennis Advisory Committee be added to a Commission agenda.

The October 27, 2011, Finance and Citywide Projects Committee recommendations were included in the December 14, 2011, City Commission agenda, item C6C – Report of The Finance And Citywide Projects Committee On October 27, 2011, and approved by the full Commission.

CONCLUSION

Following discussion of the issue at their October 27, 2011 meeting, the Finance and Citywide Projects Committee recommended that the RFP for the selection of the operator of the City's tennis facilities not be issued at this time but, rather, that the RFP be issued with sufficient time for the selected operator to be able to assume operations of the tennis facilities concurrent with the opening of the renovated Flamingo Park Tennis Center. As such, they recommended the extension of the current Agreement with Greensquare, Inc. on a month-to-month basis until such time as that competitive process is complete.

JMG/ HMF/KS

DRAFT

CITY OF MIAMI BEACH COMPREHENSIVE PROFESSIONAL TENNIS MANAGEMENT AND OPERATIONS SERVICES AT THE CITY'S FLAMINGO AND NORTH SHORE PARK TENNIS CENTERS.

SCOPE OF SERVICES

A. **Premises to be managed:** The City-owned Flamingo Tennis Center located at 11th Street and Jefferson Avenue, and the North Shore Tennis Center located at 501 72nd Street, together with all buildings, improvements and fixtures located thereon.

B. **Services to be provided:** Services shall include those customarily associated with the operation of a public tennis center, and permitted special events related to the tennis center activities. Services shall include but not be limited to:

- Provide, promote and instruct lessons in the game of tennis by certified and licensed tennis professionals to individuals, groups and clinics. Said services shall offer the tennis patron a choice of instructor levels and hourly fee commensurate with the instructor's level.
- Provide the City of Miami Beach Parks and Recreation Programs: two (2) courts at each center twice per week for two (2) hours on a schedule to be determined by the City, to provide free instructional lessons to after school participants, at no cost to the City.
- Coach tennis teams sanctioned and approved by the City's Parks and Recreation Department, such services to be provided for a coaching fee or free, depending on mutual advance agreement of the City.
- Offer demonstrations and instruction on all aspects of the game of tennis in promotion of the Center. Such demonstrations may be either for a fee or free of charge, depending on mutual advance agreement of the City.
- Operate a "pro shop" at each facility, to include providing adequate and appropriate inventory, and commensurate with pro shops at other publicly-owned tennis facilities.
- Operate a food and beverage concession at each facility, commensurate with food and beverage concessions at other publicly-owned tennis facilities.
- Pursue, Establish and/or manage tournaments, as requested by the City or facility tennis patrons, including participation in establishing specific needs for individual tournaments.
- Promote junior tennis by establishing a junior tennis team or league (s).
- Provide advice to the City of changes regarding the tennis industry in general, tennis rules and regulations, equipment and promotional methods associated with the operation of public tennis facilities.
- Provide Seasonal group clinics to the community.
- Provide overall Tennis Center Management in accordance with City directives and policies, including but not limited to:
  a. Manage and maintain a computerized Tennis Court reservation system to include proper monitoring of court use and court time.
  b. Daily and routine maintenance of the buildings, facilities/courts/ grounds as determined by the City, and at a level commensurate with other publicly managed tennis facilities. To include, but not limited to: complying with the City's facility and courts' maintenance standards as established by the City and the tennis courts manufacturer's standards and guidelines for hydro-courts or other tennis court systems to be installed; quarterly maintenance inspection by City approved outside independent certified tennis court builder/manufacturer to ensure courts are up to industry standards, such inspections to be paid by the Management Company, for as long as it is required by the City or as necessary to assure consistency by the Management Company; implement any corrective actions when identified.
  c. Develop and implement ongoing Marketing, promotion and advertising of the City's Tennis Centers to residents, day guests and Miami Beach hotels.
  d. Develop and Provide summer and specialty camps based on the established Recreation Division format.

f. Adhere to all City of Miami Beach established tennis center fees, regulations and rules.

g. Hire, train and supervise appropriate staff to support the Tennis Center operations, including, but not limited to: 1) hiring Tennis instruction professionals that possess appropriate licensing and credentials commensurate with tennis instruction professionals employed at other public tennis facilities. ; 2) using certified background investigations, in a format acceptable to the City), for all employee hires; 3) developing a drug screening process and protocol; 4) developing specific job descriptions for the hiring of personnel; 5) ensuring appropriate levels of staffing at all times at the facility; 6) Designated staff will be required to attend industry standard training on court maintenance as mandated by the City and as required; and 7) ensuring all staff is properly identified (uniforms, etc).

h. Develop, implement and maintain a revenue collection system and revenue and expense reporting process, to include the provision of monthly and annual financial reporting.

C. **Fee Structure**: The Proposer shall submit their proposed fee structure, including the proposed minimum guarantee and percentage of gross revenues. This fee proposal shall include, as may be applicable, the corresponding fees for the services to be provided (e.g. pro shop revenues, food and beverage revenues, lesson/program revenues, court usage revenue, etc). Proposers are advised that an escalator on the minimum guarantee (greater of CPI or 3%) will be required.

D. **Term:** Three (3) years, with two (2) one-year extensions on a year to year basis at the City manager's option. Additionally, the City shall have the option to terminate this Agreement at its convenience and without cause and/ ***or any time at the City's convenience and without cause*** with sixty (60) days written notice to the Management Company. It shall also be the City's option to suspend the terms and conditions of this Agreement during the period the Flamingo Tennis Center is under construction and resume it when the Center reopens, with no impact to the City or the Management Company.

E. **Customer Service Standards:** City employees have been trained and are expected to perform to the City of Miami Beach's customer service standards. All vendors and contractors that are partnered with the City are also expected to perform and comply with these customer service standards. The customer service standards are provided below and are segmented based on different forms of customer interactions. Information is also provided on how these customer standards are monitored.

MINIMUM REQUIREMENTS

In order to be deemed qualified for consideration, the proposing Management Company must:

1) Have a minimum of five (5) years of verifiable experience within the last ten (10) years in the following tennis related fields:
   a. Management and/or operation of a tennis center of similar quality, facilities and amenities of the Flamingo or North Shore Tennis Centers.
   b. A minimum of five (5) years of experience within the last ten (10) years in the provision of professional tennis lessons (private, group, and clinic) for youth and adults. The City will require the Head Teaching Professional to be certified Tennis Professional by USPTA and/or USPTR. All assistants must demonstrate a knowledge and experience in tennis instruction and related activities. The Head Tennis Professional and/or Center Manager(s) must demonstrate knowledge and experience in tennis instruction and related activities, facility management, tennis court maintenance and related activities, as well as, knowledge of the legal requirements that are involved in this type of operation. All personnel must be hired according to specific qualification as stated in the Job Descriptions. The Management Company shall provide full resumes of the key personnel assigned to this project and must meet the qualifications stated in said job descriptions.
   c. Pro shop operations, including scheduling or management of tennis lessons, equipment repairs, food and beverage and merchandise sales.
   d. Documented evidence of tennis (hard surface and clay) courts maintenance experience and operations.
2) Possess and demonstrate a record of financial responsibility commensurate with the obligations contemplated under this RFP.
3) Possess a competent record of employment or history of contract service in the operation of a similar tennis facility business as verified and supported by references, letters, and other necessary evidence from all employers and/or public agencies, including but not limited to disclosure of all non contract renewal for

management and/or operation of tennis facilities.

4) **A Performance Bond or irrevocable Letter of Credit in the amount of $50,000** shall be required prior to the final execution of the Agreement. The Performance Bond may be reduced later at City choice.
5) **Operating Plan:** The Management Company shall describe the operating policies and procedures to be employed by the Management Company. Describe any proposed initiatives which would improve the revenue to the City. The Operating Plan shall at a minimum include the staffing levels, maintenance procedures, operating procedures, maintenance plan, and food and beverage operations.

EVALUATION PROCESS

The procedure for Proposal evaluation and selection is as follows:

1) Request for Proposals issued.
2) Receipt of proposals.
3) Opening of responses and determination if they meet the minimum standards of responsiveness.
4) An Evaluation Committee, appointed by the City Manager, shall meet to evaluate each proposal in accordance with the requirements of this RFP. The Management Company may be requested to make additional written submissions or oral presentations to the Evaluation Committee.
5) The Evaluation Committee shall recommend to the City Manager the proposal or proposals acceptance of which the Evaluation Committee deems to be in the best interest of the City.

The Evaluation Committee shall base its recommendations on the following factors, for a total of 100 possible points:

1) Fee proposal **(35 points)**
2) Qualifications of the Management Company and key personnel proposed as part of the Team (**25 points**).
3) Corporate Responsibility (Community Involvement/Clinics/Tournaments) **(10 points)**
4) Strengh and Sustainability of the Operating Plan **(15 points).**
5) Interview of management company key personnel (**5 points**).
6) Past Performances based on number and quality of the Performance Evaluation Surveys **(10 points**).

After considering the recommendation(s) of the Evaluation Committee, the City Manager shall recommend to the City Commission the response or responses, acceptance of which the City Manager deems to be in the best interest of the City.

The City Commission shall consider the City Manager's recommendation(s) in light of the recommendation(s) and evaluation of the Evaluation Committee and, if appropriate, approve the City Manager's recommendation(s). The City Commission may reject the City Manager's recommendation(s) and select another response or responses. In any case, City Commission shall select the response or responses, acceptance of which the City Commission deems to be in the best interest of the City. The City Commission may also reject all proposals.

Negotiations between the selected respondent and the City take place to arrive at agreement terms. If the City Commission has so directed, the City may proceed to negotiate an agreement with a respondent other than the top ranked respondent if the negotiations with the top ranked respondent fail to produce a mutually acceptable agreement within a reasonable period of time.

A proposed contract or contracts are presented to the City Commission for approval, modification and approval, or rejection.

If and when a contract or contracts acceptable to the respective parties is approved by the City Commission, the Mayor and City Clerk sign the contract(s) after the selected respondent(s) has (or have) done so.

RESOLUTION TO BE SUBMITTED

R9

NEW BUSINESS
AND
COMMISSION REQUESTS

MIAMIBEACH

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

OFFICE OF THE CITY CLERK, Robert Parcher, City Clerk
Tel: (305) 673-7411, Fax: (305) 673-7254

COMMISSION MEMORANDUM

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

From: Jorge M. Gonzalez, City Manager

Date: January 11, 2012

Subject: BOARD AND COMMITTEES

ADMINISTRATION RECOMMENDATION:

That appointments be made as indicated.

ANALYSIS:

Attached are the applicants that have filed with the City Clerk's Office for Board and Committee appointments.

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC	PAGE
Affordable Housing Advisory Committee	11	City Commission	9	Page 1
Art in Public Places	7	City Commission	1	Page 3
Capital Improvements Projects Oversight Committee	9	City Commission	2	Page 7
Committee for Quality Education in MB	16	Commissioner Jorge Exposito	1	Page 9
Committee on the Homeless	9	Commissioner Deede Weithorn	1	Page 11
		Commissioner Michael Góngora	1	
		Mayor Matti Herrera Bower	1	

Agenda Item R9A
Date 1-11-12

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC	PAGE
Community Development Advisory Committee	14	Commissioner Deede Weithorn	1	Page 12
		Commissioner Jonah M. Wolfson	1	
		Commissioner Michael Góngora	1	
Community Relations Board	17	Commissioner Jerry Libbin	1	Page 14
		Jorge M. Gonzalez, City Manager	2	
Convention Center Advisory Board	7	Commissioner Ed Tobin	1	Page 16
Design Review Board	7	City Commission	3	Page 18
Disability Access Committee	7	Commissioner Jorge Exposito	1	Page 20
Fine Arts Board	14	Commissioner Deede Weithorn	1	Page 21
		Commissioner Jonah M. Wolfson	1	
		Commissioner Michael Góngora	1	
Golf Advisory Committee	12	Commissioner Jonah M. Wolfson	1	Page 23
Hispanic Affairs Committee	7	Commissioner Deede Weithorn	1	Page 26
		Commissioner Ed Tobin	1	
		Mayor Matti Herrera Bower	1	
Historic Preservation Board	7	City Commission	1	Page 27
Housing Authority	5	Mayor Matti Herrera Bower	1	Page 28
Marine Authority	7	Mayor Matti Herrera Bower	1	Page 30

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC	PAGE
Miami Beach Commission For Women	21	Commissioner Deede Weithorn	1	Page 31
		Commissioner Ed Tobin	1	
		Commissioner Jerry Libbin	1	
Miami Beach Cultural Arts Council	9	City Commission	3	Page 32
Miami Beach Sister Cities Program	24	Mayor Matti Herrera Bower	6	Page 34
Personnel Board	10	City Commission	1	Page 38
Planning Board	7	City Commission	1	Page 39
Police Citizens Relations Committee	17	Commissioner Deede Weithorn	1	Page 40
		Commissioner Michael Góngora	1	
Production Industry Council	7	Mayor Matti Herrera Bower	1	Page 42
Single Family Residential Review Panel	3	Jorge M. Gonzalez, City Manager	3	Page 44
Visitor and Convention Authority	7	City Commission	1	Page 48
Waterfront Protection Committee	10	Mayor Matti Herrera Bower	1	Page 49
Youth Center Advisory Board	10	Commissioner Jonah M. Wolfson	1	Page 50

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC	PAGE

Attached is breakdown by Commissioner or City Commission:

REP

JMG:REP/lg

City Commission Committees

Committee	Position	First Name	Appointed by
Finance & Citywide Projects Committee			
	Chairperson	Commissioner Deede Weithorn	Mayor Bower
	Vice-Chair	Commissioner Jorge Exposito	Mayor Bower
	Member	Commissioner Jonah Wolfson	Mayor Bower
	Alternate	Commissioner Edward L. Tobin	Mayor Bower
	Liaison	Patricia Walker, Chief Financial Off.	
Land Use & Development Committee			
	Chairperson	Commissioner Jonah Wolfson	Mayor Bower
	Vice-Chair	Commissioner Michael Góngora	Mayor Bower
	Member	Commissioner Jorge Exposito	Mayor Bower
	Alternate	Commissioner Jerry Libbin	Mayor Bower
	Liaison	Richard Lorber, Acting Planning Dir	
Neighborhoods/Community Affairs Committee			
	Chairperson	Commissioner Edward L. Tobin	Mayor Bower
	Vice-Chair	Commissioner Jerry Libbin	Mayor Bower
	Member	Commissioner Deede Weithorn	Mayor Bower
	Alternate	Commissioner Michael Góngora	Mayor Bower
	Liaison	Barbara Hawayek, Building Depart	

NON-CTIY COMMISSION COMMITTEES

Ricky Arriola Term ending May 2014
Mitchell Kaplan Term ending September 2012
Richard Milstein Term ending July 2014
The Adrienne Arsht Center for the Performing Arts Center Trust

Mayor Matti Herrera Bower
Citizens Oversight Committee
Greater Miami Convention and Visitors Bureau
Tourism Development Council

Hilda Fernandez, Assistant City Manager
Miami-Dade County Homeless Trust Board

Commissioner Edward L. Tobin
Metropolitan Planning Organization

Vacant
Dade Cultural Alliance

Commissioner Deede Weithorn
Miami Dade League of Cities

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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: January 11, 2012

SUBJECT: **BOARD AND COMMITTEE APPOINTMENTS – CITY COMMISSION APPOINTMENTS**

ADMINISTRATION RECOMMENDATION

Make appointments as indicated.

BOARDS AND COMMITTEES

1. Affordable Housing Advisory Committee
2. Art in Public Places
3. Board of Adjustment
4. Capital Improvements Projects Oversight Committee
5. Design Review Board
6. Health Advisory Committee
7. Historic Preservation Board
8. Miami Beach Cultural Arts Council
9. Miami Beach Human Rights Committee
10. Personnel Board
11 Planning Board
12. Visitors and Convention Authority

JMG/REP

Agenda Item R9A1
Date 1-11-12

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Board and Committees Current Members

Affordable Housing Advisory Committee

Sec. 2-167

Composition:

The committee shall consist of eleven (11) voting members with two (2) year terms appointed at large by a majority vote of the Mayor and City Commission:

One citizen:
1) actively engaged in the residential home building industry in connection with affordable housing;
2) actively engaged in the banking or mortgage banking industry in connection with affordable housing;
3) two at-large who have resided in one of the city's historic districts for at least one year, and have demonstrated interest and knowledge in urban design and the preservation of historic buildings.
4) actively engaged as a for-profit provider of affordable housing;
5) actively engaged as a not-for-profit provider of affordable housing (Housing Authority member);
6) actively engaged as a real estate professional in connection with affordable housing;
8) actively serving on the local planning agency pursuant to Florida Statute § 163.3174 (Planning Board member);
9) who resides within the jurisdiction of the local governing body making the appointments;
10) who represents employers within the jurisdiction;
11) who represents essential services personnel as defined in the local housing assistance plan.

Members of the Loan Review Committee, members of the Community Development Advisory Committee (CDAC), Planning Board and Miami Beach Housing Authority may be appointed to fill any of the eleven (11) categories and serve as ex-officio voting members on this committee. If due to conflict of interest by prospective appointees, or other reasonable factor, the City is unable to appoint a citizen actively engaged in these activities in connection with affordable housing, a citizen engaged in the activity without regard to affordable housing may be appointed.
City Liaison: Richard Bowman

Appointments To Be Made :

Michael	Burnstine	(7) Real Estate Prof.	12/31/2011	City Commission	12/31/13

Vacancy:

	To replace Stephanie Berman	(3) Rep. Labor Home Bl	12/31/2012	City Commission
	To replace Jonathan Fryd	(8) Local Planning Boar	12/31/2012	City Commission
	To replace Roberto DaTorre	(6) Not For Profit	12/31/2012	City Commission
	To replace Clark Reynolds	(9) Res. Juris. Local Gvt	12/31/2013	City Commission
	To replace Dr. Barry Ragone	(10) Rep. Empl. with/ju	12/31/2013	City Commission
	To replace Ada Llerandi	(4) Low-Income Advoc.	12/31/2013	City Commission
	To replace Brian Ehrlich	(1) Res. Home Bldg.	12/31/2012	City Commission
	To replace Lianne Pastoriza	(11) Rep. Essential Serv	12/31/2013	City Commission
	To replace Robert Saland	(5) For Profit	12/31/2012	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*

Board and Committees Current Members

Juan	Rojas	(2) Banking/Mortgage	12/31/2012	City Commission	12/31/16

Applicants	Position/Title	Applicants	Position/Title
Amy Perry		Andrew Fischer	
Arian Adorno		Dr. Barry Ragone	
Karen Fryd		Marie Towers	
Mark Wohl		Roberto DaTorre	

Board and Committees Current Members

Art in Public Places

Sec. 82-561

Composition:

Two (2) year term.
Appointed by a minimum of 4 votes.
Seven (7) members to be appointed by a majority of the entire City Commission, and who shall possess a high degree of competence in evaluation of art history and architectural history, art, architecture, sculpture, painting, artistic structure design and other appropriate art media for display or integration in public places.
City Liaison : Dennis Leyva

Appointments To Be Made :

Lisette	Olemberg Golds	12/31/2011	City Commission	12/31/14
Rhonda	Mitrani-Buchman (TL 12/31/2012)	12/31/2011	City Commission	12/31/12

Vacancy:

To replace Flavia Lowenstein	12/31/2013	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Elizabeth	Resnick	(TL 12/31/2012)	12/31/2012	City Commission	12/31/12
James	Lloyd		12/31/2012	City Commission	12/31/16
Janda	Wetherington		12/31/2012	City Commission	12/31/16
Megan	Riley		12/31/2012	City Commission	12/31/16

Applicants	Position/Title	Applicants	Position/Title
Adrian Gonzalez		Ana Cordero	
Annette Fromm		Anthony Japour	
Brian Levin		Britta Hanson	
Claire Warren		Dale Stine	
Elizabeth Schwartz		Emma DeAlbear	
Francis Trullenque		Ilija Mosscrop	
Kathleen Kowall		Larkin Menezes	
Leslie Tobin		Lisa Austin	
Lisa Austin		Maria Rodriguez	
Mark Alhadeff		Merri Mann	
Molly Leis		Mykel (Michael) Tulloch	
Pamela Palma		Patricia Fuller	
Robert Barrera		Rosemarie Likens	
Silvia Ros		Stella Gelsomino	
Wetherington Janda		Xavier Cortada	
Zarco Cyn		Zoila Datorre	

Board and Committees Current Members

Board of Adjustment

RSA I-2 Sec 118-121

Composition:

Two (2) year term.
Appointed by a 5/7th vote.
Seven (7) voting members composed of two members appointed as citizens at-large and five members shall be appointed from each of the following categories (no more than one per category), namely: Law, Architecture, Engineering, Real Estate Development, Certified Public Accountant, Financial Consultation, and General Business. The members representing the professions of law, architecture, engineering and public accounting shall be duly licensed by the State of Florida; the member representing general business shall be of responsible standing in the community, and each member shall be bound by the requirements of the Conflict of Interest Ordinance of the city and shall be subject to removal from office for the violation of the terms thereof. No member shall have any financial or other interest in any matter coming before the board.

Members shall be apppointed for a term of two years by a five-seventh vote of the city commission. Members of the Board of Adjustment must be either residents of or have their principal place of business in Miami Beach; provided, however, that this amendment shall not affect the term of existing members of the Board of Adjustment.

City Liaison: Antonieta Stohl

Appointments To Be Made :

Alexander	Annunziato	At-large	12/31/2011	City Commission	12/31/13
Bryan	Rosenfeld	CPA	12/31/2011	City Commission	12/31/15
Sherry	Roberts	General Business	12/31/2011	City Commission	12/31/13
Lior	Leser	Financial Consultation	12/31/2011	City Commission	12/31/13

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Andrew	Resnick	Real Estate Developer	12/31/2012	City Commission	12/31/15
Joy	Malakoff	At-Large	12/31/2012	City Commission	12/31/16
Richard	Preira	Law	12/31/2012	City Commission	12/31/16

Applicants	Position/Title	Applicants	Position/Title
Alan Fishman		Avi Ciment	
Brent Coetzee		Brian Ehrlich	
Brian Gilderman		Dov Konetz	
Gabriel Paez		Jessica Conn	
Josh Gimelstein		Micky Ross Steinberg	
Noah Fox		Rafael Velasquez	
Robert Newman		Roberta Gould	
Roger Houle		Scott Needelman	

Board and Committees Current Members

Capital Improvements Projects Oversight Committee

2-190-127

Composition:

The Capital improvement projects oversight committee shall consist of nine (9) voting members, eight (8) of whom shall be appointed by the city commission as a whole (at-large-appointees), and one (1) member appointed by the Mayor or designee, and one (1) non-voting ex-officio member selected from three nominees. The membership of the committee shall further be comprised as follows:

1. The mayor or his/her designee, who shall sit as a voting member of the committee, and shall also serve as chair person of the committee;

2. At least two (2) members shall be selected with experience in one of the following technical fields:
a. engineering;
b. architecture and/or landscape architecture; or historic preservation;

3. At least two (2) members shall be selected with experience in one of the following technical fields:
a. construction/general contractor; or
b. developer;

4. Two (2) members shall be selected with experience in the following technical field and/or the following category:
a. capital budgeting and/or finance; or
b. citizen-at-large; and

5. The remaining two (2) members shall be selected from any of the technical experience categories set forth in subsections (2) or (3) above.

6. One (1) non-voting ex-officio member shall be either a member of the disabled community or a person with special knowledge of Americans with Disiabilities Acts (ADA) issues in order to provide accessibility-related input to the committee.

City Liaison: Fernando Vazquez

Appointments To Be Made :

Saul	Gross	(1) Mayor Designee	12/31/2011	Mayor Matti Herrera Bower	12/31/15
Christina	Cuervo	(C5) Developer	12/31/2011	City Commission	12/31/13
Eleanor	Carney	(C4) At-large	12/31/2011	City Commission	12/31/15
Elizabeth	Camargo	(C2) Architect	12/31/2011	City Commission	12/31/13

Vacancy:

To replace Fred Karlton	(C3) Developer	12/31/2013	City Commission
To replace Richard (Rick) Kendle	(C5) Engineer	12/31/2012	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Dwight	Kraai	(2) Engineer	12/31/2012	City Commission	12/31/13
Stacy	Kilroy	(C3) Const/Gen Contrac	12/31/2012	City Commission	12/31/13
Tony	Trujillo	(C4) Cap.Budg/Finance	12/31/2012	City Commission	12/31/16

Applicants	Position/Title	Applicants	Position/Title

Board and Committees Current Members

Annsheila Turkel
Cheryl Jacobs
Dominique Bailleul
Ivette Isabel Borrello
James Lloyd
Josh Gimelstein
Rima Gerhard
Brian Ehrlich
Christian Folland
Gerhard Rima
Jacobs Jacobs
Jason Green
Michael Laas
Ronald Starkman

Design Review Board

Sec. 118.71

Composition:

Two (2) year term.
Appointed by a minimum of 4 votes.
Seven (7) regular members and two (2) ex-officio members.
The seven (7) regular members shall consist of:
two (2) registered architects,
one (1) registered architect or a member of the faculty of a school of architecture, urban planning or urban design in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture, or a professional architectural designer or professional urban planner
one (1) registered landscape architect,
one (1) registered architect, professional designer or professional urban planner,
and two (2) citizens at-large.

One person appointed by the City Manager from an eligibility list provided by the Disability Access Committee shall serve in an advisory capacity with no voting authority. The Planning Director, or designee and the City Attorney or designee shall serve in an advisory capacity.

Residency and place of business in the county. The two (2) citizen-at-large members and one of the registered landscape architects, registered architects, professional designer or professional urban planners shall be residents of the city.

City Liaison: Thomas Mooney

Appointments To Be Made :

Seraj	Saba	Landscape Architect	12/31/2011	City Commission	12/31/13
Jason	Hagopian	Registered Architect	12/31/2011	City Commission	12/31/15

Vacancy:

To replace Thomas DeLuca	Reg. Architect	12/31/2013	City Commission
To replace Gabrielle Redfern	At-large	12/31/2013	City Commission
To replace Michael Laas	Urban Planner	12/31/2012	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Carol	Housen	At-large	12/31/2012	City Commission	12/31/16
Lilia	Medina	Urban Planner	12/31/2012	City Commission	12/31/15

Gary Held	advisory/City Attorney Designee
Richard Lorber	advisory/Acting Planning Director
Vacant	ex-officio/Disability Access Committee

Applicants	Position/Title	Applicants	Position/Title
Beth Dunlop		Britta Hanson	
Daniel Garcia		Elizabeth Camargo	
Gilbert Squires		Ileana Bravo-Gordon	
Jane Gross		Jessica Conn	
John Stuart		Larkin Menezes	

Board and Committees Current Members

Leonard Wien, Jr.
Pamela Palma
Scott Needelman
Leslie Tobin
Ray Breslin
Zarco Cyn

Board and Committees Current Members

Health Advisory Committee

Sec. 2-81 2002-3358

Composition:

Eleven (11) voting members. Appointed by the City Commission at-large, upon recommendations of the City Manager:
One (1) member shall be the chief executive officer (CEO's) or a designated administrator from Mount Sinai Medical Center,
One (1) member shall be the Chief Executive Officer (CEO) from Stanley C. Myers Community Health Center or his/her designee administrator;
Two (2) member shall be an administrator from an Adult Congregate Living Facility (ACLF). And/or an Assisted Living Facility (ALF);
One (1) member shall be a representative from the nursing profession;
One (1) member shall be a health benefits provider;
Two (2) members shall be physicians.;
Two (2) members shall be consumers consisting of:
1) one (1) individual from the corporate level and ;
2) one (1) private individual.
One member shall be a physician or an individual with medical training or experience.

There shall be one (1) non-voting ex-officio representative from each of the following: The Miami Dade County Health Department, the Health Council of South Florida, and the Fire Rescue Department. The director of the Office of the Children's Affairs shall be added as a non-voting ex-officio member of the board.
City Liaison: Cliff Leonard

Appointments To Be Made :

Tobi	Ash	Nursing Profession	12/31/2011	City Commission	12/31/15
Harold	Foster	Private Individual	12/31/2011	City Commission	12/31/15
Shaheen	Wirk	Private Individual	12/31/2011	City Commission	12/31/15
Baruch	Jacobs M.D.	Health Provider	12/31/2011	City Commission	12/31/15

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Anthony	Japour	ACLF	12/31/2012	City Commission	12/31/16
Dr. Andrew	Nullman	Physician	12/31/2012	City Commission	12/31/14
Dr. Jay	Reinberg	Physician	12/31/2012	City Commission	12/31/16
Dr. Stacey	Kruger	Physician	12/31/2012	City Commission	12/31/16
Kathryn	Abbate	CEO MB Community Health	12/31/2012	City Commission	
Rachel	Schuster	ACLF	12/31/2012	City Commission	12/31/16
Steven	Sonenreich	CEO/Mt. Sinai/MH (NTL)	12/31/2012	City Commission	

Maria Ruiz	ex-officio, Director of Children's Affairs
Marisel Losa	Rep. from the Health Council of South Fla

Applicants	Position/Title	Applicants	Position/Title
Caroline Cardenas		Charlotte Tomic	
Daniel Brady		Eli Strohli	
Jared Plitt		Michael Baum	
Paul Venette		Samuel Reich	
Todd Narson			

Board and Committees Current Members

Historic Preservation Board

Sec. 118-101

Composition:

Two (2) year term. Appointed by a minimum of 4 votes.
Seven (7) members. There shall be a member from each of the following categories:
1) A representative from the Miami Design Preservation League (MDPL);
Selected from three names nominated by the League.
2) A representative from Dade Heritage Trust (DHT);
Selected from three names nominated by the Trust.
3) Two at-large member who have resided in one of the city's historic districits for at least one year, and have demostrated ineterest and knowledge in urban design and the preservation of historic buildings.
4) An architect registered in the State of Florida with practical experience in the rehabilitation of historic structures;
5) A registered architect, registered landscape architect, professional designer or professional urban planner with practical experience in the rehabilitation of historic structures; or an attorney, or a licensed engineer who has professional experience and demonstrated interest in historic preservation.;
6) A member of the faculty of a school of architecture in the State of Florida, with academic expertise in the field of design and historic preservation or the history of architecture, with a preference for an individual with practical experience in architecture and the preservation of historic structures.
City Liaison: Thomas Mooney

Appointments To Be Made :

David	Wieder	Attorney	12/31/2011	City Commission	12/31/15
Henry	Lares	Faculty Member	12/31/2011	City Commission	12/31/13

Vacancy:

To replace Norberto Rosenstein	Reg. Architect	12/31/2013	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Dominique	Bailleul	At-large	12/31/2012	City Commission	12/31/16
Herb	Sosa	MDPL	12/31/2012	City Commission	12/31/15
Jane	Gross	Dade Heritage	12/31/2012	City Commission	12/31/16
Josephine	Manning	At-large	12/31/2012	City Commission	12/31/14

Applicants	Position/Title	Applicants	Position/Title
Andrew Fischer		Beth Dunlop	
Daniel Garcia		Elizabeth Pines	
Jeffrey Cohen		Jessica Jacobs	
John Stuart		Josh Gimelstein	
Morris Sunshine		Raymond Adrian	

Board and Committees Current Members

Miami Beach Cultural Arts Council

Sec. 2-51

Composition:

Three (3) years term.
Vacancies submitted by slate of candidates provided by the council.
Eleven (11) members to be appointed at-large by a majority vote of the Mayor and City Commission. Effective December 31, 2001, concurrent with the expiration of the terms of six (6) members of the council, and the resulting vacancies thereon, three (3) members shall be appointed for three (3) year terms each, provided that one of those appointments shall be to fill the vacancy of the one (1) year term expiring on December 31, 2001, and three (3) members shall be appointed for two (2) year terms each. Additionally, effective December 31, 2002, no council member may serve more than six (6) consecutive years.
City Liaison: Gary Farmer

Appointments To Be Made :

Zoila	Datorre	12/31/2011	City Commission	12/31/14
Eda	Valero-Figueira	12/31/2011	City Commission	12/31/14
Gregory	Melvin	12/31/2011	City Commission	12/31/15

Vacancy:

To replace Ileana Bravo-Gordon	12/31/2012	City Commission
To replace Solomon Genet	12/31/2013	City Commission
To replace Israel Sands	12/31/2013	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Beatrice	Hornstein		12/31/2012	City Commission	12/31/15
Daniel	Novela		12/31/2012	City Commission	12/31/15
Isadore	Havenick		12/31/2013	City Commission	12/31/13
Marjorie	O'Neill-Butler		12/31/2012	City Commission	12/31/15
Nina	Duval		12/31/2013	City Commission	12/31/13

Applicants	Position/Title	Applicants	Position/Title
Annette Fromm		Brian Levin	
Calvin Kohli		Darin Feldman	
Elizabeth Pines		Eugenio Cabreja	
George Durham		Janda Wetherington	
Jean Fils		Jonathan Parker	
Karlene Mcleod		Kumar Prakash	
Maria Cifuentes Marrero		Mark Alhadeff	
Melvin Brazer		Merle Weiss	
Michael McManus		Molly Leis	
Monica Harvey		Monica Minagorri	
Nathaniel Korn		Oliver Oberhauser	
Patti Hernandez		Paul Venette	
Rebecca Diaz		Robert Barrera	
Robert Newman		Tamra Sheffman	
Wetherington Janda		Zarco Cyn	

Board and Committees Current Members

Miami Beach Human Rights Committee

2010-3669

Composition:

The committee shall consist of a minimum of five (5) and a maximum of eleven (11) members, with one (1) out of every five (5) members, to be a direct appointment by the Mayor, and with the remaining members to be at-large appointments of the City Commission.

The members of the committee shall reflect as nearly as possible, the diversity of individuals protected under the City's Human Rights Ordinance. In keeping with this policy, not less than two (2) months prior to making appointments or re-appointments to the committee, the City Manager shall solicit nominations from as many public service groups and other sources, which he/she deems appropriate, as possible.

At least one (1) of the committee members shall possess, in addition to the general qualifications set forth herein for members, a license to practice law in the State of Florida; be an active member of and in good standing with the Florida Bar, and have experience in civil rights law. The attorney member shall also serve as chair of the committee.

City Liaison: Ralph Granado

Appointments To Be Made :

Walker	Burttschell		12/31/2011	City Commission	12/31/16
Elsa	Urquiza		12/31/2011	Mayor Matti Herrera Bower	12/31/16
Alan	Fishman		12/31/2011	City Commission	12/31/16
Elizabeth	Schwartz	Law	12/31/2011	City Commission	12/31/16
Michael	Andrew		12/31/2011	City Commission	12/31/16

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Carlos J	Ortuno		12/31/2012	City Commission	12/31/16
Dr. Barry	Ragone		12/31/2012	City Commission	12/31/16
Rafael	Trevino		12/31/2012	City Commission	12/31/16
Todd	Narson		12/31/2012	City Commission	12/31/16

Applicants	Position/Title	Applicants	Position/Title
Erik Carrion		Ivana Vento	
Michael Perlmutter		Monica Harvey	

Board and Committees Current Members

Personnel Board

Sec. 2-190.66

Composition:

Ten (10) members appointed by a 5/7 vote.
Six (6) of which shalll be citizens of Miami Beach not in the employment of the city, each having a different vocation;
and three (3) regular employees of the City of Miami Beach, to be elected by the probationary and regular employees of the city and who shall be elected from the employees of regular status in the respective groups:

Group I shall consist of the employees of the Police Department, Fire Department and Beach Patrol Department,
Group II shall consist of employees who are in clerical and executive positions,
Group III shall consist of all other employees,

The Personnel Director is a non-voting member.
City Liaison: Ramiro Inguanzo

Appointments To Be Made :

Michael	Perlmutter	(TL 12/31/2012)	12/31/2011	City Commission	12/31/12
Rosalie	Pincus		12/31/2011	City Commission	12/31/15

Vacancy:

	To replace Barbara Patchen	12/31/2013	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
David	Alschuler	(TL 12/31/2012)	12/31/2012	City Commission	12/31/12
Gabriel	Paez		12/31/2012	City Commission	12/31/15
Mojdeh	Khaghan		12/31/2012	City Commission	12/31/16

Christopher Diaz	elected 07/20/2011 exp. 7/31/2014- Group I
Evette Phillips	elected 06/26/2009 exp. 7/31/2012 Group III
George Castell	elected 07/23/2010 exp. 7/31/2013 Group II
Ramiro Inguanzo	Human Resources Director

Applicants	Position/Title	Applicants	Position/Title
Brent Coetzee		Bryan Rosenfeld	
Carlos Condarco		Darius Asly	
Elsa Orlandini		Gail Harris	
Raquel Elejabarrieta		Richard Preira	

Board and Committees Current Members

Planning Board

Sec. 118-51

Composition:

Two (2) year term. Appointed by a minimum of 4 votes.
Seven (7) regular voting members. The voting members shall have considerable experience in general business, land development, land development practices or land use issues.
The board shall at a minimum be comprised of:
one registered architect or a member of the faculty of a school of architecture in the state, with practical or academic expertise in the field of design, planning, historic preservation or the history of architecture, or a professional architectural designer or professional urban planner,
one developer,
one attorney who has considerable experience in land use and zoning issues,
and one person who has education and/or experience in historic preservation issues. For purposes of this section, the term "education and/or experience in historic preservation issues" shall be a person who meets one or more of the following criteria:

(1). Has earned a college degree in historic preservation
(2). Is responsible for the preservation, revitalization or adaptive reuse of historic buildings; or
(3). Is recognized by the city commission for contributions to historic preservation, education or planning. No person except a resident of the city, or an individual having their main business interest in the city shall be eligible for appointment to the Planning Board.
City Liaison: Katia Hirsh.

Appointments To Be Made :

Jonathan	Beloff	Attorney	12/31/2011	City Commission	12/31/15
Jonathan	Fryd	Developer	12/31/2011	City Commission	12/31/13
Henry	Stolar	General Business	12/31/2011	City Commission	12/31/13

Vacancy:

To replace Seth Frohlich	General Business	12/31/2013	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Daniel	Veitia	Historic Preservation	12/31/2012	City Commission	12/31/14
Leslie	Tobin	Architect	12/31/2012	City Commission	12/31/16
Randy	Weisburd	General Business	12/31/2012	City Commission	12/31/13

Applicants	Position/Title	Applicants	Position/Title
Avi Ciment		Beth Dunlop	
Brian Ehrlich		Bryan Rosenfeld	
Charles Urstadt		Daniel Garcia	
Frank Kruszewski		Gary Twist	
Gilbert Squires		Jane Gross	
Jeffrey Cohen		Jessica Conn	
John Stuart		Joy Malakoff	
Leonard Wien, Jr.		Lior Leser	
Maria Gomez		Mark Alhadeff	
Michael Bernstein		Rebecca Diaz	
Scott Needelman			

Visitor and Convention Authority

Sec. 102-246

Composition:

Two (2) year term. Appointed by a minimum of 4 votes.
Seven (7) member who shall be permanent residents of Miami-Dade County.
The seven (7) members of the authority shall be representative of the community as follows:
1) Not less than two (2) nor more than three (3) members shall be representative of the hotel industry;
2) and the remaining members none of whom shall be representative of the hotel industry, shall represent the community at-large. Any member of the authority or employee therefore violating or failing to comply with provisions of this article shall be deem to have vacated his office or position.
City Liaison: Grisette Roque.

Appointments To Be Made :

Jaqueline	Hertz	At-large	12/31/2011	City Commission	12/31/13
Jeff	Lehman	Hotel Industry	12/31/2011	City Commission	12/31/13
Micky	Ross Steinberg	At-large	12/31/2011	City Commission	12/31/15
Keith	Menin	Hotel Industry	12/31/2011	City Commission	12/31/15

Vacancy:

To replace Elsie Sterling Howard	At-large	12/31/2012	City Commission

Members:

Name	Last Name	Position/Title	Term Ends:	Appointed by:	*Term Limit:*
Aaron	Perry	At- Large	12/31/2012	City Commission	12/31/16
Steven	Adkins	At-large	12/31/2012	City Commission	12/31/14

Applicants	Position/Title	Applicants	Position/Title
Brian Richard		Calvin Kohli	
Christopher Todd		Diana Fontani Martinez	
Eric Lawrence		Frank Kruszewski	
George Castillo		Harold Foster	
Ileana Bravo-Gordon		Israel Sands	
James Lloyd		Jeffrey Graff	
Joy Malakoff		Karen Brown	
Karlene Mcleod		Leif Bertrand	
Margaret (Peggy) Benua		Mark Tamis	
Mykel (Michael) Tulloch		Natalia Datorre	
Nesip Toykan		Prakash Kumar	
Steven Gonzalez		Zahara Mossman	

R9 - New Business and Commission Requests

R9B1	Dr. Stanley Sutnick Citizen's Forum. (12:30 p.m.)
R9B2	Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

AGENDA ITEM: **R9B1-2**
DATE: 1-11-12

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MIAMIBEACH

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

COMMITTEE OF THE WHOLE MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: January 11, 2012

SUBJECT: **COMMITTEE OF THE WHOLE – AUDIT COMMITTEE**

BACKGROUND

The "Committee Of The Whole" serves as the City's audit committee to review the following items:

- The External Auditors' reports.
- Internal Audit's annual risk areas / plan.
- Annual Review of Internal Audit findings and status.

Typically, the Committee reviews the status of the City's audits in the spring; however since the external auditor reports are not usually finalized until July, these reports are typically discussed around this time along with a discussion of the City's Internal Audit's annual risk areas / plan.

1. External Auditor's Reports for FY 2009/10 (Previously distributed via LTC on July 22, 2011)

The City's External Auditors are responsible for issuing an opinion after conducting an audit of the City's financial statements in accordance with Generally Accepted Auditing Standards and the standards applicable to financial audits contained in the Governmental Auditing Standards.

The City contracts an external independent audit firm of licensed certified public accountants to prepare and issue an auditor's opinion after conducting an audit of the City Comprehensive Annual Financial Report (CAFR) in accordance with Generally Accepted Auditing Standards and the standards applicable to financial audits contained in the Governmental Auditing Standards, issue by the Comptroller General of the United States. The current firm under contract is McGladrey & Pullen, LLP.

The audit is conducted and an opinion expressed on the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining funds information of the City except for the retirement and pension funds which are audited by other auditors. Florida State Statues requires this annual audit. The external auditors also perform a Single Audit separate from the CAFR audit to satisfy the audit requirements imposed by the Single Audit Act and the U.S. Office of Management and Budget (OMB) Circular A-133 and the Florida Single Audit Act in accordance with and Florida Rules of the Auditor General, Section 10.550.

The external auditors issue a separate management letter which addresses any recommendations to improve financial management, accounting procedures, and internal

Agenda Item R9C
Date 1-11-12

control. Their report on internal controls included any reportable condition and material weaknesses in the system of which they became aware as a result of obtaining an understanding of the City's internal controls and performance of tests of internal controls. The report of compliance addresses any material errors, fraud, violation of compliance requirement and other responsibility imposed by state and federal statutes and regulations which they may be aware. For the past several years, the external auditor's management letters contained no reportable conditions and/or material weakness only minor recommendations to improve financial management, accounting procedures and internal controls.

Further, the external auditors issue separate opinions on the Miami Beach Redevelopment Agency, (RDA), the Parking Service Fund, the Miami Beach Convention Center and Jackie Gleason Theater, the Visitor and Convention Authority (VCA), City of Miami Beach Safe Neighborhood Parks Bonds Projects, the City of Miami Beach Building Bond Communities Bond Projects, and the City's Children Trust Fund.

Annually, a Letter to Commission is sent to satisfy the auditors' required communication with management. Information forwarded with this letter included their Management Letter, the Single Audit Report, the City's Comprehensive Annual Financial Report and the auditors required communication with management. Attached as Exhibit 1 is LTC 187-2011 dated July 22, 2011 containing the required reports for communication with the City Commission.

2. Internal Auditor's Reports

The City's Internal Audit Division, a component of the Office of Budget and Performance Improvement, is responsible for ensuring:

- Compliance with Resort Tax Ordinances by auditing Miami Beach businesses;
- Compliance with City policies and procedures and financial integrity and sufficiency of internal controls by Departments and Not-for-Profits;
- Supporting and special projects assisting other City areas; and
- Integrity of performance measures reported Citywide.

The Division is comprised of nine full time staff including four auditors, four field agents and one office associate. Three field agents are responsible for auditing business required to file resort taxes and one is responsible for sanitation audits of franchise haulers and roll-off operators and administrative functions of the City's Cleanliness Assessment program. Additionally, resources are shared between resort tax and internal audit functions for the Internal Auditor, Assistant Internal Auditor, and the office associate.

Resort Tax Audits

The majority of resources in the Division are dedicated to auditing the Miami Beach businesses required to report and remit resort taxes. This effort is supported by approximately half of the positions in the Division as well as by outside contract auditors. Resort tax generated for the fiscal year 2010/11 was $49,011,381.

Scheduled audits are based upon the type of business, actual resort tax receipts received, and the frequency of the last audit. There are approximately 1,802 businesses registered to collect resort taxes. Our goal is to audit the 733 businesses consisting of hotels, restaurants, nightclubs, and bars at least once every 4 years, approximately 183 per year. New accounts are to be audited soon after they are opened. The remaining 1,069 accounts representing apartments having less risk are audited much less frequently.

In fiscal year 2010/11 the Division completed 205 resort tax audits (82% of our total goal) of which 120 were hotels, restaurants, nightclubs, and bars. The 205 audits resulted in

additional tax assessments of $411,438. This represented 2.54% of the total resort tax reported for these 205 entities over the multi-tax year audited and approximately 0.84% of the total resort tax generated for fiscal year 2010/11. More importantly, the audits serve as a deterrent to ensure compliance with the City's resort tax ordinances.

Internal Audits

Scheduled audits are those areas targeted by the Internal Audit Division based on a risk assessment approach. Audits are classified as to high, medium or low risk. Higher assigned risk areas are subject to more frequent audits, and lower risk areas are often less frequent. The Parking Department is considered particularly high risk due to the considerable revenues received and the manner of collection and therefore has resources dedicated for ongoing audits. The review of waste franchise contractors and roll-off haulers for compliance with the City's sanitation ordinance also has been made a priority over the past several years. In addition, inputs for audits in other Departments are obtained from Directors and the City Manager. In general, our internal audit goals are as follows:

- Audit 90% of the high risk areas approximately once every five years
- Audit 75% of the medium risk areas approximately once every seven years
- Audit 60% of the low risk areas approximately once every ten years.

However, special circumstances are taken into account which may lengthen or shorten the period. In addition unplanned projects may impact the schedule in any given year. Annually required audits include those mandated by City Code and State Agreements, as well as providing assistance to the City's external auditors.

At previous Finance and City Wide Projects Committee meetings, the Committee recommended that the administration present a report annually on the status of Department and Not-For-Profit Internal Audits within the City. Attached is our Status of Audit Areas through Fiscal Year 2010/11 (Exhibit 2). Audits completed in 2011 are shown in bold.

Overall, twenty-five Department and Not-For-Profit audit areas were completed during fiscal year 2010/11. The represents 89.2% completed out of twenty-eight audit areas initially targeted for the year. Out of the audit areas completed, one audit was added during the year. The remaining four audits were carried forwarded to next fiscal year. This was accomplished by a staff of five, including 4 continuous monitoring audits in parking and sanitation by two of the staff. Attached is Summary of Internal Audit Activities (Exhibit 3) for the past fiscal year.

The Finance and Citywide Projects Committee suggested that Committee members have the opportunity to review the Internal Audit Reports on-line. Reports are listed on-line on the City's website at http://web.miamibeachfl.gov/obpi/scroll.aspx?id=36612.

Fiscal Year 2011/12 Risk Assessment Areas /Audit Plan

Areas highlighted on the Status of Audit Areas report represent those areas considered for audits based upon the projected frequency. These highlighted areas are a primary source in developing the annual audit plan. However, the comments provided also indicate reasons why areas may not be audited within the projected frequency.

The Division continues to take on more supporting projects and other activities relating to OBPI objectives. These areas include coordinating a revision of City-wide policies and procedures for posting to intranet and developing a coordinated approach for contract management reviews for all citywide contracts.

JMG:KGB:JJS

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Exhibit 1 – LTC 187-2011

MIAMIBEACH

OFFICE OF THE CITY MANAGER
NO LTC # **187-2011**

LETTER TO COMMISSION

RECEIVED
2011 JUL 25 PM 2:26
CITY CLERK'S OFFICE

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

FROM: Jorge M. Gonzalez, City Manager

DATE: July 22, 2011

SUBJECT: **External Auditor's (McGladrey & Pullen) Annual Audit Report on the City of Miami Beach (the City) for the period ended September 30, 2010**

Attached for your information is the external auditor's report on the City for the fiscal year ended September 30, 2010. This package includes the following:

A. The Report to the Mayor and Members of the City Commission, discussing the Auditor's required communications to the Mayor and City Commission, summary of recorded audit adjustments, accounting estimates and, recently issued governmental accounting standards.

   The Report also includes the following:

   - Exhibit A - Certain written communications between management and the Auditors – Representation letter;
   - Exhibit B - McGladrey & Pullen's Independent auditor's report on compliance with requirements applicable to each major federal program and state project and on internal controls over compliance in accordance with OMB Circular A-133 and Chapter 10.550, *Rules of the Auditor General of the State of Florida* and Schedule of Expenditures on Federal Awards and State Financial Assistance; and
   - Exhibit B - McGladrey & Pullen's management letter, in accordance with the *Rules of the Auditor General of the State of Florida,* to the Mayor and Members of the City Commission.

B. The City's Comprehensive Annual Financial Report (CAFR) for the fiscal year ended September 30, 2010.

If you have any questions or need additional information please contact Patricia Walker at 305-673-7574

JMG:PDW:aw

McGladrey & Pullen, LLP
Certified Public Accountants

McGladrey

The City of Miami Beach

Report to the Honorable Mayor and the Members of the City Commission

September 30, 2010

McGladrey is the brand under which RSM McGladrey, Inc. and McGladrey & Pullen, LLP serve clients' business needs. The two firms operate as separate legal entities in an alternative practice structure.

Member of RSM International network, a network of independent accounting, tax and consulting firms.

McGladrey & Pullen, LLP
Certified Public Accountants

The City of Miami Beach, Florida
1700 Convention Center Drive
Miami Beach, Florida 33139

Attention: The Honorable Mayor and Members of the City Commission

We are pleased to present this report related to our audit of the financial statements of The City of Miami Beach, Florida (the City) for the year ended September 30, 2010. In addition to our report on your financial statements which was modified to refer to the use of other auditors related to the City of Miami Beach Florida Employees' Retirement Plan, the City of Miami Beach Florida Pension Fund for Firefighters and Police Officers, the Firemen's Relief and Pension Fund, and the Policemen's Relief and Pension Fund (collectively, the Plans), the Visitor and Convention Authority and the Miami Beach Convention Center as managed by Global Spectrum, we have provided, under separate cover, a letter, dated March 30, 2011, concerning whether there were any significant deficiencies and material weaknesses in internal control that we noted during our audit of the City of Miami Beach, Florida's (the "City") basic financial statements for the year ended September 30, 2010. This report summarizes certain matters required by professional standards to be communicated to you in your oversight responsibility for the City's financial reporting process. Also included is a summary of recently issued accounting standards that may affect future financial reporting by the City.

This report is intended solely for the information and use of the Mayor and Members of the City Commission and management and is not intended to be and should not be used by anyone other than these specified parties. It will be our pleasure to respond to any questions you have regarding this report. We appreciate the opportunity to continue to be of service to the City.

McGladrey & Pullen, LLP

Miami, Florida
March 30, 2011

McGladrey is the brand under which RSM McGladrey, Inc. and McGladrey & Pullen, LLP serve clients' business needs. The two firms operate as separate legal entities in an alternative practice structure.

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Exhibit B – Single Audit Reports in Accordance with OMB-Circular A-133 and the Florida Single Audit Act and Management Letter in Accordance with the *Rules of the Auditor General of the State of Florida*	

Required Communications

Statement on Auditing Standards No. 114 requires the auditor to communicate certain matters to keep those charged with governance adequately informed about matters related to the financial statement audit that are, in our professional judgment, significant and relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. The following summarizes these communications.

Area	Comments
Auditor's Responsibility Under Professional Standards	Our responsibility under auditing standards generally accepted in the United States of America *Government Auditing Standards* issued by the Comptroller General of the United States; the provisions of the Single Audit Act; OMB Circular A-133; OMB's *Compliance Supplement;* has been described to you in our arrangement letter dated October 26, 2006.
Accounting Practices	**Adoption of, or Change in, Accounting Policies** • GASB Statement No. 51, *Accounting and Financial Reporting for Intangible Assets.* This Statement provides guidance regarding how to identify, account for and report intangible assets. The new standard characterizes an intangible asset as an asset that lacks physical substance, is nonfinancial in nature and has an initial useful life extending beyond a single reporting period. • Statement No. 53, *Accounting and Financial Reporting for Derivative Instrument.* This statement improves financial reporting by requiring governments to measure derivative instruments at fair value in their economic resources measurement focus financial statements. The changes in fair value of hedging derivative instruments do not affect investment revenue but are reported as deferrals. On the other hand, the changes in fair value of investment derivative instruments (which include ineffective hedging derivative instruments) are reported as part of investment revenue in the current reporting period. **Significant or Unusual Transactions** We did not identify any significant or unusual transactions or significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Area	Comments
	Alternative Treatments Discussed with Management We did not discuss with management any alternative treatments within generally accepted accounting principles for accounting policies and practices related to material items during the current audit period.
Management's Judgments and Accounting Estimates	Summary information about the process used by management in formulating particularly sensitive accounting estimates and about our conclusions regarding the reasonableness of those estimates is in the attached "Summary of Accounting Estimates."
Financial Statement Disclosures	In our meeting with you we will discuss with you the following items as they relate to the neutrality, consistency and clarity of the disclosures in the financial statements: • Adoption of accounting standards • Results of the Single Audit
Audit Adjustments	There were no audit adjustments.
Uncorrected Misstatements	There are no uncorrected misstatements.
Disagreements with Management	We encountered no disagreements with management over the application of significant accounting principles, the basis for management's judgments on any significant matters, the scope of the audit, or significant disclosures to be included in the financial statements.
Consultations with Other Accountants	We are not aware of consultations management had with other accountants about accounting or auditing matters.
Significant Issues Discussed with Management	No significant issues arising from the audit were discussed or were the subject of correspondence with management.
Difficulties Encountered in Performing the Audit	We did not encounter any difficulties in dealing with management during the audit.
Certain Written Communications Between Management and Our Firm	Copies of certain written communications between our firm and the management of the City are attached as Exhibit A.

The City of Miami Beach
Summary of Accounting Estimates

Year Ended September 30, 2010

Accounting estimates are an integral part of the preparation of financial statements and are based upon management's current judgment. The process used by management encompasses their knowledge and experience about past and current events and certain assumptions about future events. You may wish to monitor throughout the year the process used to compute and record these accounting estimates. The following describes the significant accounting estimates reflected in the City's September 30, 2010 financial statements:

Area	Accounting Policy	Estimation Process	Comments
Depreciation of Capital Asset	Depreciation on capital assets is provided using the straight-line method. Leasehold improvements are amortized on a straight-line basis over the shorter of the lease term or estimated useful life of the assets.	Capital assets are recorded at historical cost or estimated historical cost and depreciated using the straight-line method over the estimated useful lives of the related assets.	We have audited the underlying data supporting the estimate and believe the resulting estimate to be reasonable.
Allowance for Doubtful Accounts	All trade and other receivables are reported at net realizable value.	Receivables are analyzed for their collectability based on the creditors' ability to pay (i.e. financial condition, credit history, and current economic conditions).	We have audited the underlying data supporting the estimate and believe the resulting estimate to be reasonable.
Other post-employment benefit	The net OPEB obligation/(asset) reported for the difference between the annual required contribution and the actual contributions made by the City.	The City has informed us they used all the relevant facts available to them at the time to determine the assumptions used by the actuary in calculating the City's Annual Required Contribution and have approved the results of the actuarial determination.	We have audited the underlying data supporting the estimate and believe the resulting estimate to be reasonable.

Risk Management	The City is partially self-insured for general and auto liability, property, workers' compensation, and employees' health and dental. The accrued liability for estimated claims represents an estimate of the eventual loss on claims including claims incurred but not yet reported.	Management with input from its Risk actuary developed the actuarial assumptions based on relevant criteria. Management reviewed and approved the financial statement estimates derived from the Risk actuarial report.	We have audited the underlying data supporting the estimate and believe the resulting estimate to be reasonable.
Pension Plans	A net pension obligation/(asset) is reported for the difference between the annual required contribution and the actual contributions made by the City.	The City has informed us that they used all the relevant facts available to determine the assumptions used by the actuary in calculating the City's Annual Required Contribution and have approved the results of the actuarial determination.	We have audited the underlying data supporting the estimate and believe the resulting estimate to be reasonable.

GASB Statement No. 59, Financial Instruments Omnibus	This Statement, issued June 2010, will be effective for the City beginning with its year ending 2011 (effective for periods beginning after June, 15, 2010) The objective of this Statement is to update and improve existing standards regarding financial reporting and disclosure requirements of certain financial instruments and external investment pools for which significant issues have been identified in practice.
GASB Statement No. 60, Accounting and Financial Reporting for Service Concession Arrangements	The Statement, issued November 2010, will be effective for the City beginning with its year ending 2013 (effective for periods beginning after December 15, 2011.)The objective of this Statement is to improve financial reporting by addressing issues related to service concession arrangements (SCAs), which are a type of public-private or public-public partnership.
GASB Statement No. 61, The Financial Reporting Entity: Omnibus—an amendment of GASB Statements No. 14 and No. 34	The Statement, issued November 2010, will be effective for the City beginning with its year ending 2013 (effective for periods beginning after June 15, 2012.) The objective of this Statement is to modify certain requirements for inclusion of component units in the financial reporting entity. This Statement also amends the criteria for reporting component units as if they were part of the primary government (that is, blending) in certain circumstances. This Statement also clarifies the reporting of equity interests in legally separate organizations. It requires a primary government to report its equity interest in a component unit as an asset.
GASB Statement No. 62, Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements	This Statement, issued December 2010, will be effective for the City beginning with its fiscal year ending September 30, 2013. The objective of this Statement is to incorporate into the GASB's authoritative literature certain accounting and financial reporting guidance that is included in the following pronouncements issued on or before November 30, 1989, which does not conflict with or contradict GASB pronouncements: (1) Financial Accounting Standards Board (FASB) Statements and Interpretations; (2) Accounting Principles Board Opinions; and (3) Accounting Research Bulletins of the American Institute of Certified Public Accountants' (AICPA) Committee on Accounting Procedure.

Exhibit A - Certain Written Communications Between Management and Our Firm

MIAMIBEACH

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

FINANCE DEPARTMENT
Tel: 305-673-7466, Fax: 305-673-7795

March 30, 2011

McGladrey & Pullen, LLP
801 Brickell Avenue, suite 1050
Miami, Fl 33131

In connection with your audit of the basic financial statements of the City of Miami Beach, Florida, (the "City") as of and for the year ended September 30, 2010 we confirm that we are responsible for the fair presentation in the financial statements of financial position, changes in financial position, and cash flows in conformity with accounting principles generally accepted in the United States of America.

We confirm to the best of our knowledge and belief, as of March 30, 2011 the following representations made to you during your audit.

1. The financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America.
2. We have identified for you all organizations that are part of this reporting entity or with which we have a relationship, as these organizations are defined in Section 2100 of the Governmental Accounting Standards Board Codification of Governmental Accounting and Financial Reporting Standards that are Component units. The City's Blended Component Units and two Discrete Component Units are properly presented in the financial statements.
3. We are not a component unit of any other government, as this term is defined in Section 2100 of the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards.
4. We do not meet the definition of an other organization, as defined in Section 2100 of the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards.
5. We do not have a joint venture relationship with any other organization, as defined in Section 2100 of the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards.
6. We are not a jointly governed organization, as this term is defined in Section 2100 of the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards.
7. We have identified for you all of our funds, governmental functions, and identifiable business-type activities.
8. We have properly classified all funds and activities.

MH 1/6

9. We have properly determined and reported the major governmental and enterprise funds based on the required quantitative criteria.

10. We are responsible for compliance with laws and regulations applicable to the City including adopting, approving, and amending budgets.

11. We have identified and disclosed to you all laws and regulations that have a direct and material effect on the determination of financial statement amounts including legal and contractual provisions for reporting specific activities in separate funds.

12. We have made available to you:

    a. All financial records and related data of all funds and activities, including those of all special funds, programs, departments, projects, activities, etc., in existence at any time during the period covered by your audit.

    b. All minutes of the meetings of the governing board and committees of board members or summaries of actions of recent meetings for which minutes have not yet been prepared.

    c. All communications from grantors, lenders, other funding sources or regulatory agencies concerning noncompliance with:

        (1) Statutory, regulatory or contractual provisions or requirements.

        (2) Financial reporting practices that could have a material effect on the financial statements.

13. We have no knowledge of fraud or suspected fraud affecting the entity involving:

    a. Management or employees who have significant roles in the internal control.

    b. Others where the fraud could have a material effect on the financial statements.

14. We have not received any communications from employees, former employees, regulators, vendors or others of any allegations of fraud or suspected fraud affecting the City.

15. We acknowledge our responsibility for the design and implementation of programs and controls to provide reasonable assurance that fraud is prevented and detected.

16. We are aware of no significant deficiencies, including material weaknesses, in the design or operation of internal controls that could adversely affect the entity's ability to record, process, summarize, and report financial data, except as reported in your compliance and internal control letters.

17. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.

18. We have no plans or intentions to engage in any activity that may materially affect the carrying value or classification of assets and liabilities.

19. The following have been properly recorded and/or disclosed in the financial statements, where applicable:

    a. Related party transactions, including those as defined in Section 2100 of the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards, and interfund transactions, including interfund accounts and advances receivable and payable, sale and purchase transactions, interfund transfers, long-term loans, leasing arrangements and

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guarantees, all of which have been recorded in accordance with the economic substance of the transaction and appropriately classified and reported.

b. Security agreements in effect under the Uniform Commercial Code.

c. Any other liens or encumbrances on assets or revenues or any assets or revenues which were pledged as collateral for any liability or which were subordinated in any way.

d. The fair value of investments.

e. Amounts of contractual obligations for construction and purchase of real property or equipment not included in the liabilities or encumbrances recorded on the books.

f. Any liabilities which are subordinated in any way to any other actual or possible liabilities.

g. Debt issue provisions and bond refunding amounts.

h. All leases and material amounts of rental obligations under long-term leases.

i. All significant estimates known to management which are required to be disclosed in accordance with the AICPA's Statement of Position 94-6, *Disclosure of Certain Significant Risks and Uncertainties.* Significant estimates are estimates at the balance sheet date which could change materially within the next year.

j. Risk financing activities.

k. Deposits and investment securities categories of risk.

l. Pollution remediation obligations as required under GASB Statement No. 49.

m. Defined benefit plans and other post employment benefit plans.

n. Line of credit or similar arrangements.

o. Authorized but unissued bonds and/or notes.

p. We have adopted the following GASB Statements:
   - GASB Statement No. 51, "*Accounting and Financial Reporting for Intangible Assets," and*

   It is management's decision not to disclose the following GASB Statements which have been issued, but not yet adopted, due to the fact that these statements will not have a material effect on the financial statements of the City until upcoming fiscal years:
   - GASB Statement No. 59, *Financial Instruments Omnibus*
   - GASB Statement No. 60, *Accounting and Financial Reporting for Service Concession Arrangements*
   - GASB Statement No. 61, *The Financial Reporting Entity: Omnibus*
   - GASB Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*

20. We are responsible for making the accounting estimates included in the financial statements. Those estimates reflect our judgment based on our knowledge and experience about past and current events and our assumptions about conditions we expect to exist and courses of action we expect to take. In that regard, adequate provisions have been made:

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a. To reduce receivables to their estimated net collectable amounts.

b. For risk retention, including uninsured losses or loss retentions (deductibles) attributable to events occurring through September 30, 2010 and/or for expected retroactive insurance premium adjustments applicable to periods through September 30, 2010.

c. For pension obligations, post-retirement benefits other than pensions and deferred compensation agreements attributable to employee services rendered through September 30, 2010.

No provision is required:

a. To reduce obsolete, damaged, or excess inventories to their estimated net realizable values.

b. To reduce investments, intangibles, and other assets which have permanently declined in value to their realizable values.

21. There are no:

a. Material transactions that have not been properly recorded in the accounting records underlying the financial statements. For purposes of this representation, we consider items to be material, regardless of their size if they involve the misstatement or omission of accounting information that in light of surrounding circumstances makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

b. Violations or possible violations of laws or regulations whose effects should be considered for disclosure in the financial statements or as a basis for recording a loss contingency. In that regard, we specifically represent that we have not been designated as, or alleged to be, a "potentially responsible party" by the Federal Environmental Protection Agency or any equivalent state agencies in connection with any environmental contamination.

c. Other material liabilities or gain or loss contingencies that are required to be accrued or disclosed by Statement of Financial Accounting Standards No. 5 and/or GASB Statement No. 10.

d. Guarantees, whether written or oral, under which the Government is contingently liable.

e. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances.

f. Agreements to repurchase assets previously sold.

g. Debt issue repurchase options or agreements, or sinking fund debt repurchase ordinance requirements.

h. Special and extraordinary items.

i. Impairment of capital assets.

j. Material losses to be sustained in the fulfillment of, or from the inability to fulfill, any service commitments.

k. Material losses to be sustained as a result of purchase commitments.

l. Arbitrage liabilities.

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m. Derivative financial instruments.

n. ~~Material environmental clean-up obligations~~. MW

22. In connection with your audit, conducted in accordance with Government Auditing Standards, we confirm:

    a. We are responsible for:

        i. Compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to the City.

        ii. Establishing and maintaining effective internal control over financial reporting.

    b. We have identified and disclosed to you:

        i. All laws, regulations, and provisions of contracts and grant agreements that have a direct and material effect on the determinations of financial statement amounts or other financial data significant to audit objectives.

        ii. Violations (and possible violations) of laws, regulations, and provisions of contracts and grant agreements whose effects should be considered for disclosure in the auditor repository or noncompliance.

    c. We have no violations of provisions of contracts or grant agreements that have been reported.

    d. We have a process to track the status of audit findings and recommendations.

    e. We have identified for you previous financial audits, performance audits, or other studies related to the objectives of the audit being undertaken and the corrective action taken to address significant findings and recommendations.

23. We have no direct or indirect, legal or moral, obligation for any debt of any organization, public or private or to special assessment bond holders that is not disclosed in the financial statement.

24. We have satisfactory title to all owned assets.

25. We have complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.

26. Net asset components (invested in capital assets, net of related debt; restricted included and not limited to excess building permit fees; and unrestricted) are properly classified and, if applicable, approved.

27. GASB 54 establishes fund balance classifications (nonspendable, restricted, committed, assigned and unassigned) that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in governmental funds. Fund balance for governmental funds in each of the aforementioned categories is properly classified and disclosed in accordance with GASB 54 and if applicable, approved.

28. Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.

29. Revenues are appropriately classified in the statement of activities within program revenues and general revenues.

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30. Capital assets, including infrastructure assets, are properly capitalized, reported, and depreciated.
31. Required supplementary information is properly measured and presented.
32. There are no unasserted claims or assessments that our lawyers have advised us are probable of assertion and must be disclosed in accordance with Statement of Financial Accounting Standards No. 5 and/or GASB Statement No. 10.
33. We are responsible for and have reviewed and approved the proposed adjustments to the trial balances identified during the audit and will post all adjustments accordingly.
34. The City has complied with the provisions of Section 218.415, Florida Statutes regarding the investment of public funds.
35. The City is not in a state of emergency based upon the conditions described in Section 218.503(1), Florida Statutes.
36. Management has assessed the financial condition of the City and noted no deteriorating financial condition.

Except for the issuance of Parking revenue refunding bonds on November 16, 2010, and the authorization of a line of credit not to exceed an aggregate principle amount of $30 million on January 19, 2011, there are no events or transactions that have occurred subsequent to the balance sheet date and through the date of this letter that would require adjustment to, or disclosure in, the financial statements.

During the course of your audit, you may have accumulated records containing data which should be reflected in our books and records. All such data have been so reflected. Accordingly, copies of such records in your possession are no longer needed by us.

The City of Miami Beach, Florida

Jorge M. Gonzalez
City Manager

Patricia D. Walker
Chief Financial Officer

Allison R. Williams
Chief Accountant

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

FINANCE DEPARTMENT
Tel: 305-673-7000 Fax: 305.673.7795

June 24, 2011

McGladrey & Pullen, LLP
801 Brickell Avenue, suite 1050
Miami, Fl 33131

In connection with your audit of federal awards and state projects as of and for the year ended September 30, 2010 conducted in accordance with OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and Chapter 10.550, Rules of the Auditor General, we confirm:

1. a. We are responsible for complying, and have complied in all material respects with the requirements of Circular A-133 and Chapter 10.550, *Rules of the Auditor General.*

   b. We have prepared the schedule of expenditures of federal awards and state projects in accordance with Circular A-133 and Chapter 10.550, *Rules of the Auditor General* and have included expenditures made during the period being audited for all awards provided by federal agencies in the form of grants, federal cost-reimbursement contracts, loans, loan guarantees, property (including donated surplus property, cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance.

   c. We are responsible for establishing and maintaining, and have established and maintained, effective internal control over compliance for federal programs and state projects that provides reasonable assurance that the City is managing federal awards and state projects in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on our federal programs and state projects.

   d. We are responsible for complying with the requirements of laws, regulations, and the provisions of contracts and grant agreements related to each of the City's federal programs and state projects and have complied, in all material respects, with those requirements.

   e. We have identified and disclosed to you the requirements of laws, regulations, and the provisions of contracts and grant agreements that are considered to have a direct and material effect on each major program.

   f. We have provided you with our interpretations of any compliance requirements that have varying interpretations.

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g. We have made available all contracts and grant agreements (including amendments, if any) and any other correspondence that has taken place with federal agencies or pass-through entities related to federal programs and state projects.

h. We have identified and disclosed to you all amounts questioned and any known noncompliance with the requirements of federal awards and state projects, including those resulting from other audits or program reviews.

i. We have charged costs to federal awards and state projects in accordance with applicable cost principles.

j. We have made available to you all documentation related to the compliance requirements, including information related to federal program and state projects financial reports and claims for advances and reimbursements.

k. Federal program and state projects financial reports and claims for advances and reimbursements are supported by the books and records from which the basic financial statements have been prepared.

l. The copies of federal program and state projects financial reports provided to you are true copies of the reports submitted, or electronically transmitted, to the federal and state agency or pass-through entity, as applicable.

m. We are responsible for and have accurately prepared the summary schedule of prior audit findings to include all findings required to be included by Circular A-133 and Chapter 10.550, *Rules of the Auditor General.*

n. We have provided you with all information on the status of the follow-up on prior audit findings by federal awarding agencies and pass-through entities, including all management decisions.

o. We have accurately completed the appropriate sections of the data collection form.

p. We have disclosed all contracts or other agreements with service organizations.

q. We have disclosed to you all communications from service organizations relating to noncompliance at those organizations.

r. We have disclosed any known noncompliance occurring subsequent to the period for which compliance is audited.

s. We have disclosed whether any changes in internal control over compliance or other factors that might significantly affect internal control, including any corrective action taken by management with regard to significant deficiencies (including material weaknesses), have occurred subsequent of the date as of which compliance is audited.

t. We have monitored subrecipients to determine that they have expended pass-through assistance in accordance with applicable laws and regulations and have met the requirements of Circular A-133 and Chapter 10.550, *Rules of the Auditor General.*

u. We have issued management decisions on a timely basis after our receipt of subrecipients' auditors reports that identified noncompliance with laws, regulations, or the provisions of contracts or grant agreements, and we have ensured that subrecipients have taken the appropriate and timely corrective action on findings.

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2. Unless disclosed to you, there have been no complaints filed with or concerning our compliance with the provisions of:
    a. Davis-Bacon Act relative to payment of prevailing wage rates.
    b. Uniform Relocation Assistance and Real Property Acquisition Polices Act of 1970 relative to acquisition or real property and the relocation of occupants of acquired property.
3. We have acknowledged the findings as described in the single audit report and the management letter and have provided responses and planned corrective actions accordingly.

The City of Miami Beach, Florida

Patricia D. Walker
Chief Financial Officer

Hilda Fernandez
Assistant City Manager

Allison R. Williams
Chief Accountant

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Exhibit B - Single Audit Reports in Accordance with OMB-Circular A-133 and the Florida Single Audit Act and Management Letter in Accordance with the Rules of the Auditor General of the State of Florida

City of Miami Beach, Florida

Single Audit Reports in Accordance With OMB Circular A-133 and
Chapter 10.550, Rules of the Auditor General of the State of Florida
September 30, 2010

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Independent Auditor's Report
on Internal Control Over Financial Reporting
and on Compliance and Other Matters Based on an Audit
of Financial Statements Performed in Accordance With
Government Auditing Standards

The Honorable Mayor and City Commissioners
City of Miami Beach, Florida

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Miami Beach, Florida (the "City") as of and for the year ended September 30, 2010, which collectively comprise the City's basic financial statements and have issued our report thereon dated March 30, 2011. Our report included references to other auditors. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Other auditors audited the financial statements of the Visitor and Convention Authority; the Miami Beach Convention Center as managed by Global Spectrum ("Global Spectrum"); the City of Miami Beach Florida Employees' Retirement Plan; the City of Miami Beach Florida Pension Fund for Firefighters and Police Officers; the Firemen's Relief and Pension Fund; and the Policemen's Relief and Pension Fund, as described in our report on the City's financial statements. This report does not include the results of the other auditors' testing of internal controls over financial reporting or compliance and other matters that are reported on separately by those auditors. The financial statements of Global Spectrum, the City of Miami Beach Florida Employees' Retirement Plan; the City of Miami Beach Florida Pension Fund for Firefighters and Police Officers; and the Miami Beach Policeman's Relief and Pension Fund, audited by other auditors, were not audited in accordance with *Government Auditing Standards.*

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the City's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over financial reporting.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

McGladrey is the brand under which RSM McGladrey, Inc. and McGladrey & Pullen, LLP serve clients' business needs. The two firms operating as separate legal entities in an alternative practice structure.

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Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the City's basic financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards.*

We noted certain matters that we reported to management of the City in a separate letter dated March 30, 2011.

This report is intended solely for the information and use of the Honorable Mayor, the Members of the City Commission, management of the City, the Auditor General of the State of Florida, federal and state awarding agencies and pass-through entities, and is not intended to be, and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

Miami, Florida
March 30, 2011

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Independent Auditor's Report
on Compliance With Requirements That Could Have a Direct and Material effect on Each Major Program and State Project and on Internal Control Over Compliance in Accordance With OMB Circular A-133 and Chapter 10.550,
Rules of the Auditor General, State of Florida

The Honorable Mayor and City Commissioners
City of Miami Beach, Florida

Compliance

We have audited the City of Miami Beach, Florida (the "City") compliance with the types of compliance requirements described in the OMB *Circular A-133 Compliance Supplement* and the requirements described in the Department of Financial Services' State Projects Compliance supplement, that could have a direct and material effect on each of the City's major federal programs and each of its major state projects for the year ended September 30, 2010. The City's major federal programs and state projects are identified in the summary of auditor's results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts, and grants applicable to its major federal programs and state projects is the responsibility of the City's management. Our responsibility is to express an opinion on the City's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards,* issued by the Comptroller General of the United States; OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations;* and Chapter 10.550, *Rules of the Auditor General*, State of Florida. Those standards, OMB Circular A-133 and Chapter 10.550, *Rules of the Auditor General,* require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program or major state project occurred. An audit includes examining, on a test basis, evidence about the City's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the City's compliance with those requirements.

In our opinion, the City complied, in all material respects, with the compliance requirements referred to above that could have a direct and material effect on each of its major federal programs and its major state projects for the year ended September 30, 2010. However, the results of our auditing procedures disclosed instances of noncompliance with those requirements, which are required to be reported in accordance with OMB Circular A-133 and Chapter 10.550, *Rules of the Auditor General*, and which are described in the accompanying schedule of findings and questioned costs as items CF 2010-01 through CF 2010-03.

Internal Control Over Compliance

The Management of the City is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts, and grants applicable to federal programs and state projects. In planning and performing our audit, we considered the City's internal control over compliance with requirements that could have a direct and material effect on a major federal program or major state project to determine the auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133 and Chapter 10.550, *Rules of the Auditor General*, but not for the purpose of expressing an opinion on the effectiveness of internal control over compliance. Accordingly, we do not express an opinion on the effectiveness of the City's internal control over compliance.

A *deficiency in internal control over compliance* exists when the design or operation of a control over compliance does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, noncompliance with a type of compliance requirement of a federal program or state project on a timely basis. A *material weakness in internal control over compliance* is a deficiency, or combination of deficiencies, in internal control over compliance, such that there is a reasonable possibility that material noncompliance with a type of compliance requirement of a federal program or state project will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over compliance that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies over compliance that we consider to be material weaknesses, as defined above. However, we identified certain deficiencies in internal control over compliance that we consider to be significant deficiencies as described in the accompanying Schedule of Findings and Questioned Costs, as items IC 2010-01 through IC 2010-06. A *significant deficiency in internal control over compliance* is a deficiency, or a combination of deficiencies, in internal control over compliance with a type of compliance requirement of a federal program or state project that is less severe than a material weakness in internal control over compliance, yet important enough to merit attention by those charged with governance.

Schedule of Expenditures of Federal Awards and State Financial Assistance

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City as of and for the year ended September 30, 2010 and have issued our report thereon dated March 30, 2011. Our audit was performed for the purpose of forming our opinions on the financial statements that collectively comprise the City's basic financial statements. The accompanying schedule of expenditures of federal awards and state financial assistance is presented for purposes of additional analysis as required by OMB Circular A-133, and Chapter 10.550, *Rules of the Auditor General*, and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

The City's responses to the findings identified in our audit are described in the accompanying schedule of findings and questioned costs. We did not audit the City's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of the Honorable Mayor, the Members of the City Commission, management of the City, the Auditor General of the State of Florida, federal and state awarding agencies, and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

Miami, Florida
June 24, 2011, except for the
Schedule of Expenditures of Federal
Awards and State Financial Assistance
which is dated March 30, 2011

Schedule of Expenditures of Federal Awards and State Financial Assistance
Year Ended September 30, 2010

Federal/State Grantor/Pass-Through Entity Program Title	CFDA/ CSFA Number	Grant/Contract Number	Expenditures
Federal Grants:			
U.S. Department of Housing and Urban Development:			
Direct Programs:			
Community Development Block Grant/Entitlement Grants	14.218	B-XX-MC-12-0014	$ 1,534,050
Home Investment Partnership Program	14.239	M-XX-MC-12-0014	1,549,407
Community Development Block Grants_Section 108 Loan Guarantees	14.248	B-94-MC-12-0014	7,063
ARRA-Community Development Block Grant Recovery ARRA Entitlement Grants (CDBG-R) Recovery Act Funded	14.253	B-09-MY-12-0014	91,086
ARRA-Homeless Prevention and Rapid Rehousing Program	14.257	S09-MY-12-0007	359,082
Pass-through Dept. Community Affairs – Pass through – Miami Dade County:			
Supportive Housing Program	14.235	FL14B800034 & FL0177B4D000802	62,460
Community Development Block Grant-DRI-Villa Maria	14.228	08DB-D3-11-23-01-A01	398,250
Community Development Block Grant-DRI Flamingo Park Neighborhood Improvements	14.228	08-DB-D3-11-23-01-A01	58,900
Pass-through Department of Community Affairs:			
Community Development Block Grants-Neighborhood Stabilization Program	14.228	10DB-4X-11-23-01-F16	7,154,374
			7,611,524
Total U.S. Department of Housing and Urban Development			11,214,672
U.S. Department of Justice:			
Direct Program:			
Part E – Developing, Testing and Demonstrating Promising New Programs – Juvenile Justice and Delinquency Prevention –Teen Club	16.541	2008-JL-FX-0481	205,317
Part E – Developing, Testing and Demonstrating Promising New Programs – Juvenile Justice and Delinquency Prevention –Teen Club Salary	16.541	2009-D1-BX-0291	192,232
			397,549
ARRA- Edward Byrne Memorial Justice Assistance (JAG -CAD/RMS)	16.804	2009-SB-B9-2634	32,686
Community Oriented Policing Services:			
Public Safety Partnership and Community Policing Grants-Child Sexual Predator Program	16.710	2009CSWX0004	168,378
National Institute of Justice:			
National Institute of Justice Research, Evaluation, and Development-Police Homicide Cold Case	16.560	2009-DN-BX-K009	70,020
Bulletproofvest Partnership/Body Armor Safety Initiative			
Bulletproof Vest Partnership Program	16.607	OMB# 1121-0235	4,638
Bulletproof Vest Partnership Program	16.607	OMB# 1121-0235	2,200
			6,838
Pass-Through State of Florida/Miami-Dade County:			
Edward Byrne Memorial Justice Assistance Grant Program – Byrne Criminal Justice Records	16.738	N/A	14,437
Total U.S. Department of Justice			687,908

(Continued)

Schedule of Expenditures of Federal Awards and State Financial Assistance (Continued)
Year Ended September 30, 2010

Federal/State Grantor/Pass-Through Entity Program Title	CFDA/ CSFA Number	Grant/Contract Number	Expenditures
U.S. Department of Energy:			
Direct Program:			
ARRA-Energy Efficiency and Conservation Block Grant	81.128	DE-SC0003489	197,438
Total U.S. Department of Energy			197,438
Pass-through State of Florida:			
Office of Attorney General			
Crime Victim Assistance – VOCA	16.575	V09027	52,927
Total Office of Attorney			52,927
Pass-through State of Florida:			
Department of Agriculture and Consumer Services			
Cooperative Forestry Assistance – Urban and Community Forestry	10.664	015154	15,000
ARRA-Recovery Act of 2009: Wildland Fire Management: Forest Health Improvement Initiative	10.688	015956	18,000
Total Department of Agriculture and Consumer Services			33,000
U.S. Department of Transportation:			
Federal Transit Administration			
Direct Program:			
Federal Transit – Capital Investment Grants – Electrowave Shuttle Service	20.500	FL-03-0233	735,821
Federal Transit – Capital Investment Grants – Electrowave Shuttle Service	20.500	FL-03-0245	377,951
Federal Transit – Capital Investment Grants – Electrowave Shuttle Service	20.500	FL-90-X487-00	600,000
			1,713,772
Pass-through State of Florida:			
Florida Department of Transportation			
Highway Planning and Construction-Beachwalk II	20.205	412796-1	34,626
ARRA-Highway Planning and Construction-Sunset Dr. Bridge	20.205	426501-1 (ARRA-453)	269,450
ARRA-Highway Planning and Construction-Sunset Dr. Bridge	20.205	426502-1 (ARRA-454)	254,014
ARRA-Highway Planning and Construction-Henedon Ave. Bridge	20.205	426497-1 (ARRA-339)	199,834
			757,924
Total U.S. Department of Transportation			2,471,696
U.S. Department of Homeland Security:			
Direct Program:			
Emergency Food and Shelter National Board Program – EFS Phase 27	97.024	159400-076	7,739
Emergency Food and Shelter National Board Program – EFS Phase 28	97.024	159400-076	9,675
Total U.S. Department of Homeland Security			17,414
Pass-through State of Florida:			
Florida Department of Community Affairs			
Pass-through Miami Dade County			
Office of Domestic Preparedness			
Homeland Security Grant Program – Urban Areas Security Initiative 2007	97.067	09DS-24-11-23-02-011	228,037
Homeland Security Grant Program – Urban Areas Security Initiative 2008	97.067	10DS-48-11-23-02-195	15,000
			243,037
Pass-through State of Florida:			
Florida Department of Community Affairs			
Disaster Grants-Public Assistance-FEMA-Disaster Relief Funding Agreement	97.036	06-WL-&K-11-23-02-567&	68,466
Hazard Mitigation Grant	97.039	08HM-6G-11-23-02-060	59,831
Total State-Pass-Florida Dept. of Community Affairs			371,334
Total Expenditures of Federal Awards			15,046,389

(Continued)

Schedule of Expenditures of Federal Awards and State Financial Assistance (Continued)
Year Ended September 30, 2010

Federal/State Grantor/Pass-Through Entity Program Title	CFDA/ CSFA Number	Grant/Contract Number	Expenditures
State Grants:			
Florida Department of Health:			
Pass-Through Miami-Dade County:			
Emergency Prev/Prep/Response-EMS County Grants	64.005	C-9013	$ 49,794
Florida Department of Health:			
Emergency Prev/Prep/Response-EMS County Grants	64.003	M9273	14,426
Department of Management Services			
Pass through Miami-Dade County:			
E911 State Grant Program	72.002	S2-08-10-5	467,324
Florida Department of State:			
Division of Historical Resources:			
Historic Preservation Grant-Fire Station No 2	45.031	SC114	81,918
Division of Cultural Affairs:			
Cultural and Museum Grants/Culture Builds Florida-Sleepless Night 2009	45.058	N/A	25,000
Florida Department of Environmental Protection:			
Florida Recreation Development Assistance Program-Flamingo Park Tennis Renov.	37.017	A08187	178,910
Florida Housing Finance Corporation:			
State Housing Initiatives Partnership Program	52.901	NA	1,039,266
Florida Department of Transportation			
State Highway Project Reimbursement-Indian Creek SR A1A 41st-26th Street	55.023	AOY 48	939,803
16th Street Corridor	55.012	ANH65	27,265
Total Expenditures of State Financial Assistance			2,823,706
Total Expenditures of Federal Awards and State Financial Assistance			$ 17,870,095

See Notes to Schedule of Expenditures of Federal Awards and State Financial Assistance.

Notes to Schedule of Expenditures of Federal Awards and State Financial Assistance

1. General

The accompanying Schedule of Expenditures of Federal Awards and State Financial Assistance (the "Schedule") presents the expenditure activity of all federal awards and state projects of the City of Miami Beach, Florida (the "City") for the year ended September 30, 2010. The City's reporting entity is defined in Note 1 of the City's basic financial statements. All federal awards and state financial assistance received directly from federal and state agencies, as well as amounts passed through other government agencies are included in the accompanying Schedule of Expenditures of Federal Awards and State Financial Assistance. Because the schedule presents only a selected portion of the operations of the City, it is not intended to and does not present the financial position or changes in net assets of the City.

2. Basis of Accounting

The accompanying Schedule of Expenditures of Federal Awards and State Financial Assistance is presented using the modified accrual basis of accounting for grants which are accounted for in the governmental fund types and on the accrual basis of accounting for grants which are accounted for in the proprietary fund types. The information in the Schedule of Expenditures of Federal Awards and State Financial Assistance is presented in accordance with the requirements of OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* and Chapter 10.550, *Rules of the Auditor General.* Therefore, some amounts presented in this schedule may differ from amounts presented in or used in the preparation of the basic financial statements.

3. Subrecipient Awards

Of the federal awards and state financial assistance presented in the Schedule of Expenditures of Federal Awards and State Financial Assistance, the City provided the following amounts to subrecipients:

Name of Program/Projects	CFDA/CSFA Number	Amount Provided to Subrecipient
Federal:		
Community Development Block Grant	14.218	$ 909,386
Community Development Block Grant – DRI	14.228	398,250
Community Development Block Grant – Neighborhood Stabilization Grant	14.228	7,057,456
Home Program	14.239	1,447,860
ARRA-Community Development Block Grant Recovery	14.253	91,086
Total Federal		$ 9,904,038
State:		
State Housing Initiatives Partnership Program	52.901	$ 1,023,370

Schedule of Findings and Questioned Costs
Federal Awards Programs and State Projects

Section I – Summary of Auditor's Results

Financial Statements

Type of auditor's report issued:			Unqualified	
Internal control over financial reporting:				
Material weakness(es) identified?		Yes	X	No
Significant deficiency(ies) identified that are not considered to be material weakness(es)?		Yes	X	No
Noncompliance material to financial statements noted?		Yes	X	No

Federal Awards

Internal control over major program:				
Material weakness(es) identified?		Yes	X	No
Significant deficiency(ies) identified that are not considered to be material weakness(es)?	X	Yes		None reported
Type of auditor's report issued on compliance for major programs:			Unqualified	
Any audit findings disclosed that are required to be reported in accordance with Section 510(a) of Circular A-133?	X	Yes		No

Identification of major program:

Federal CFDA No.	Name of Federal Program or Cluster
14.218	U.S. Department of Housing and Urban Development: Community Development Block Grant
14.228	U.S. Department of Housing and Urban Development: Community Development Block Grants-Neighborhood Stabilization Program
14.257	U.S. Department of Housing and Urban Development: ARRA-Homeless Prevention and Rapid Rehousing Program
20.205	U.S. Department of Transportation: ARRA-Highway Planning and Construction
20.500	U.S. Department of Transportation: FTA Section 5309-Electrowave Shuttle Service

Dollar threshold used to distinguish between type A and type B programs:			$451,392	
Auditee qualified as low-risk auditee?	X	Yes		No

Schedule of Findings and Questioned Costs (Continued)
Federal Awards Programs and State Projects

State Financial Assistance

Internal control over major projects:				
Material weakness(es) identified?		Yes	X	No
Significant deficiency(ies) identified that are not considered to be material weakness(es)?	X	Yes		None reported
Type of auditor's report issued on compliance for major projects:			Unqualified	
Any audit findings disclosed that are required to be reported in accordance with Chapter 10.550, *Rules of the Auditor General?*	X	Yes		No

Identification of major projects:

State CSFA No.	Name of State Projects
52.901	Florida Housing Finance Corporation: State Housing Initiatives Partnership Program
55.023	Florida Department of Transportation: State Highway Project Reimbursement - Indian Creek SR A1A 41st-26th Street
72.002	Department of Management Services Pass through Miami-Dade County: E911 State Grant Program

Dollar threshold used to distinguish between type A and type B programs: $300,000

Section II – Financial Statement Findings

A. *Internal Control*
None reported.

B. *Compliance*
None reported

Section III – Federal Awards and State Financial Assistance Findings and Questioned Costs

A. *Internal Control over Compliance*

Federal Awards

IC 2010-01 Subrecipient Monitoring

U.S. Department of Housing and Urban Development (HUD) – Community Development Block Grant (CDBG)(CFDA No. 14.218)

U.S. Department of Housing and Urban Development (HUD) – Community Development Block Grant (CDBG)(CFDA No. 14.228)

Criteria: OMB Circular A-133, and the subrecipient agreements, requires that a pass-through entity be responsible for monitoring subrecipient activities and that the subrecipient is administering federal awards in compliance with federal requirements. A control system should be in place to ensure subrecipient monitoring activities occur on a timely basis.

Condition: Monthly and/or quarterly reports were not prepared and/or submitted in a timely manner by the subrecipients to the City. It was noted that the following reports were not submitted correctly by the subrecipients:

- One out of twelve required monthly reports was submitted for the Miami Beach Community Development Corporation – N. Beach Scattered Site project.
- Five out of twelve required monthly reports were submitted for the Housing Authority Rebecca Towers N. Elevators. Additionally of the five, December 2009, January 2010, March 2010, were submitted past their due date project.
- One out of four required quarterly reports was submitted for the Miami Beach Community Development Corporation – Home Ownership project.
- One out of four required quarterly reports was submitted for Miami Beach Community Development Corporation - Rehab Rental Housing project.
- Eight out of twelve required reports were not submitted for Miami Beach Community Development Corporation-Neighborhood Stabilization Program.

Questioned costs: Undeterminable.

Context: We selected five of the eighteen subrecipients who received CDBG funds. See relationship of findings to the population tested in the condition above.

Effect: Subrecipients may not be administering the activities funded by the program in accordance with the provisions of the program requirements and grant agreements which may result in repayment of awards.

Cause: The City has not developed formal policies and procedures on subrecipient monitoring and report review.

Recommendation: We recommend the City establish formal policies and procedures for monitoring and reviewing the activities of the sub-grantees of the program. A spreadsheet should be maintained for all subrecipients to track the timely submission of the reports.

Views of responsible officials and planned corrective action: Policies and Procedures were developed in January 2011 and are being reviewed for implementation. These include moving to quarterly reporting versus monthly reporting for all new sub recipients. Monitoring requirements for Real Estate, Housing & Community Development (REHCD) staff is also included and staff training will be conducted once they are finalized and implemented.

IC 2010-02 Reporting

U.S. Department of Housing and Urban Development (HUD) –
Community Development Block Grant "CDBG" (CFDA No. 14.218)

Criteria: By the 15th of each quarter, a Federal Cash Transaction Report is to be submitted to the agency. The City must have an internal control policy in place to review each Federal Cash Transaction Report and ensure compliance with the reporting requirements.

Condition: There were no procedures in place to monitor and ensure compliance with the reporting requirements of the CDBG Program. As a result, the required report for one quarter was submitted approximately 5 months past due by the City to the Department of Housing and Urban Development.

Questioned costs: Undeterminable.

Context: In fiscal year 2010, the City submitted the Federal Cash Transaction Report for the quarter ended 9/30/10 on March 2, 2011, approximately 5 months past due.

Effect: City's non compliance with grant requirements may result in repayment of award monies.

Cause: The City has not developed a procedure to ensure compliance requirements are being adhered to.

Recommendation: We recommend the City establish a formal policy and procedure to notify City employees on pertinent due dates relating to grant awards. A tracking system should be developed to track the timely submission of the reports.

Views of responsible officials and planned corrective action: A procedure has been established which includes the designation of responsibility for this requirement, and the inclusion of deadlines for the Federal Cash Transaction Reports on the Division's master calendar of required reports. Additionally, staff is reviewing current contract tracking/monitoring software options for feasibility of implementation.

IC 2010-03 Procurement & Suspension and Debarred

**U.S. Department of Housing and Urban Development (HUD) –
Community Development Block Grant "CDBG" (CFDA No. 14.218)**

Criteria: Local governments shall use their own procurement procedures provided that they conform to applicable Federal law and regulations and standards identified in the A-102 Common Rule. Additionally, Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. "Covered transactions" including those procurement contracts for goods and services awarded under a nonprocurement transaction (e.g., grant or cooperative agreement) that are expected to equal or exceed $25,000 or meet certain other specified criteria.

Condition: In fiscal year 2010, the City did not have a system in place to verify whether vendors under contract were suspended or debarred.

Questioned costs: Undeterminable.

Context: In fiscal year 2010, four of the five covered transactions/contracts that were entered into on behalf of the City, were not reviewed for the suspension and debarred requirement.

Effect: City's non compliance with grant requirements may result in repayment of award monies.

Cause: The City has not developed a procedure to ensure compliance requirements are being adhered to.

Recommendation: We recommend the City establish a formal policy and procedure to notify City employees on pertinent requirements relating to grant awards and to ensure compliance requirements are being adhered to.

Views of responsible officials and planned corrective action: Policies and Procedures (PAP) were developed in January 2011 and are under review. A procedure will be included in the PAP requiring the confirmation and documentation by the City's sub-awardees that parties that they will contract with have been screened by them to ensure that none have been suspended or debarred/have principals that have been suspended or debarred, prior to the City's sub-awardee receiving any allocations of funding from the City relating to that contracted entity.

IC 2010-04 Davis Bacon Act

U.S. Department of Housing and Urban Development (HUD) – Community Development Block Grant "CDBG" (CFDA No. 14.218)

Criteria: According to Department of Labor Regulation 29 CFR Part 5 and the OMB Circular A-110, all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of $2,000 financed by Federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the Department of Labor.

Condition: In fiscal year 2010, wages for three work classifications were noted to be under the Miami-Dade County minimum requirement.

Questioned costs: Undeterminable.

Context: In fiscal year 2010, wages for three work classifications were noted to be under the Miami-Dade County minimum requirement.

Effect: City's non compliance with grant requirements may result in repayment of award monies.

Cause: The City has not developed a procedure to ensure compliance requirements are being adhered to.

Recommendation: We recommend the City establish a formal policy and procedure to notify City employees on pertinent requirements relating to grant awards and to ensure compliance requirements are being adhered to.

Views of responsible officials and planned corrective action: Policies and Procedures (PAP) were developed in January 2011 and are being reviewed for implementation. The PAP will delineate the requirements for the monitoring of construction projects and establishes criteria for use by contract monitors to ensure compliance with all federal requirements, including the Davis-Bacon Act.

State Awards

IC 2010-05 – Subrecipient Monitoring

Florida Department of Environmental Protection
State Housing Initiatives Partnership "SHIP" (CFSA No. 52.901)

Criteria: Florida statutes, Sections 420.907 through 420.9079 over the SHIP grant and Chapter 67-37.007 Florida Administrative Code, stipulates that a pass-through entity is responsible for monitoring subrecipient activities and that the subrecipient is administering state awards in compliance with state requirements. A control system should be in place to ensure subrecipient monitoring activities occur on a timely basis.

Condition: There were no procedures in place to monitor and ensure compliance with the subrecipient requirements of the SHIP Program. As a result, monthly reports were not prepared and or submitted in a timely manner by the subrecipient, Miami Beach Community Development Center, to the City as required by the subrecipient's agreements.

Questioned costs: Undeterminable.

Context: In fiscal year 2010, there was one subrecipient who received SHIP funds. We tested the one subrecipient and noted for the months of January, February, April, July, and August of 2010 the reports were submitted past the due date of 10 days after month end.

Effect: Subrecipients may not be administering the activities funded by the program in accordance with the provisions of the program requirements and grant agreements which may result in repayment of awards.

Cause: The City has not developed a formal policy and procedures on subrecipient monitoring and site visit review.

Recommendation: We recommend the City establish a formal policy and procedure for monitoring and reviewing the activities of the sub-grantees of the program. A spreadsheet should be maintained for all subrecipients to track the timely submission of the reports.

Views of responsible officials and planned corrective action: Policies and Procedures (PAP) were developed in January 2011 and are being reviewed for implementation. The PAP will delineate the requirements for contract monitoring. In addition, staff is reviewing current contract tracking software options for feasibility of implementation to assist in tracking compliance requirements.

However, it should be noted that the Florida Housing Program Administration Manual, which are the rules for the SHIP program, does not require monthly or quarterly reporting from sub-recipients, only the submission of an annual report by the City to the State. However, the City's Fiscal Year 2009/2010 contract with the City's sub-recipient required quarterly status reports containing information derived from each reimbursement request submitted by the sub-recipient.

IC 2010-06 – Reporting

Florida Department of Environmental Protection
State Housing Initiatives Partnership "SHIP" (CFSA No. 52.901)

Criteria: Each county of eligible municipality shall submit to the Florida Housing Finance Corporation (FHFC) by September 15 of each year a report of its affordable housing programs and accomplishments through June 30th. The City must have an internal control policy in place to review each housing project and ensure compliance with the reporting requirements.

Condition: There was no procedure in place to monitor and ensure compliance with the reporting requirements of the SHIP Program. As a result, the required report was submitted two days late by the City to FHFC.

Questioned costs: Undeterminable.

Context: In fiscal year 2010, the City submitted the Annual Report for fiscal years 2007-2008, 2008-2009, and 2009-2010 on September 17, 2010, two days past due.

Effect: City's non compliance with grant requirements may result in repayment of award monies.

Cause: The City has not developed a procedure to ensure compliance requirements are being adhered to.

Recommendation: We recommend the City establish a formal policy and procedure to notify City employees on pertinent due dates relating to grant awards. A tracking system should be developed to track the timely submission of the reports.

Views of responsible officials and planned corrective action: The annual SHIP report was sent on the due date, September 15, 2010, via electronic correspondence to Florida Housing Finance Corporation, but was not accepted as a timely submission due to the new online submission requirement. A procedure and new time-line has been established and calendared to complete and file the annual SHIP report as required by program rules. This procedure will be memorialized in the Policies and Procedures manual.

B. Compliance Findings

Federal Awards

CF 2010-01 Reporting

**U.S. Department of Housing and Urban Development (HUD) –
Community Development Block Grant "CDBG" (CFDA No. 14.218)**

See IC 2010-02

Views of responsible officials and planned corrective actions: See IC 2010-02 for detailed view of responsible officials and planned corrective action.

CF 2010-02 Davis Bacon

**U.S. Department of Housing and Urban Development (HUD) –
Community Development Block Grant "CDBG" (CFDA No. 14.218)**

See IC 2010-04

Views of responsible officials and planned corrective actions: See IC 2010-04 for detailed view of responsible officials and planned corrective action.

State Financial Assistance

CF 2010-03 – Reporting

**Florida Department of Environmental Protection
State Housing Initiatives Partnership "SHIP" (CFSA No. 52.901)**

See IC 2010-06

Views of responsible officials and planned corrective actions: See IC 2010-06 for detailed view of responsible officials and planned corrective action.

Schedule of Prior Year Audit Findings
Federal Awards Programs and State Projects

Finding #	Finding Title	Status	Explanation
Findings related to financial statements:			
CF 2009-01	**Subrecipient Monitoring (CFDA No.14.218)**		
	Monthly reports were not prepared and/or submitted in a timely manner by the subrecipients to the City as required by the subrecipient agreements. In addition, no evidence of monitoring visits were found in several subrecipient's files.	Not Corrected	The City agrees that formal policies and procedures for monitoring and reviewing activities are necessary. The City concurs that a formal process must be implemented for monitoring visits and other program compliance. The City is currently undergoing a review of all files and developing monitoring tools for each subrecipient file which will document responsibilities, contract deliverables, and deadlines. Furthermore, The City is in the process of notifying all subrecipients that failure to file monthly reports is a default under their contracts.
CF 2009-02	**Earmarking (CFDA No. 14.218)**		
	There was no procedure in place to monitor and ensure compliance with the earmarking requirements of the CDBG Program, therefore, the City exceeded the allotted amount during fiscal year 2009.	Corrected	The City corrected the specific finding in fiscal year 2009.
CF 2009-03	**Special Test (CFDA No.14.218)**		
	An environmental review was not completed for the Miami Beach Community Development Corporation – Allen House Apartments.	Corrected	The City corrected the specific finding in fiscal year 2009.
CF 2009-04	**Subrecipient Monitoring (CFDA No.14.239)**		
	Monitoring of subrecipent activities was not conducted during fiscal year 2009 for the Miami Beach Community Development Center – Community Housing Development Organization.	Corrected	The City corrected the specific finding in fiscal year 2009.
CF 2009-05	**Reporting (CSFA No. 55.901)**		
	There was no procedure in place to monitor and ensure compliance with the reporting requirements of the SHIP Program. As a result, the required report was submitted forty-nine days late by the City to FHFC.	Corrected	The City corrected the specific finding in fiscal year 2009.

Schedule of Prior Year Audit Findings
Federal Awards Programs and State Projects (Continued)

CF 2009-06	**Special Test (CSFA No. 55.901)**		
	There was no procedure in place to monitor and ensure compliance with the earmarking requirements of the SHIP Program. As a result, the City did not meet any of the required earmarking requirements during fiscal year 2009 for the closing year of fiscal year 2006-2007.	Corrected	The City corrected the specific finding in fiscal year 2009.
CF 2009-07	**Subrecipient Monitoring (CSFA No.55.901)**		
	There was no procedure in place to monitor and ensure compliance with the subrecipient requirements of the SHIP Program. As a result, monthly reports were not prepared and or submitted in a timely manner by the subrecipient, Miami Beach Community Development Center, to the City as required by the subrecipient's agreements. Additionally, monitoring of subrecipent activities was not conducted during fiscal year 2009 by the City.	Corrected	The City corrected the specific finding in fiscal year 2009.

City of Miami Beach, Florida

Management Letter in Accordance with the Rules of the
Auditor General of the State of Florida
September 30, 2010

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McGladrey

Management Letter in Accordance with the
Rules of the Auditor General of the State of Florida

To the Honorable Mayor and City Commissioners
City of Miami Beach, Florida

We have audited the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information of the City of Miami Beach, Florida (the "City") as of and for the year ended September 30, 2010, which collectively comprise the City's basic financial statements, and have issued our report thereon dated March 30, 2011. Our report was modified to include a reference to other auditors.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. We have issued our Independent Auditor's Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with *Government Auditing Standards* dated March 30, 2011, and Independent Auditor's Report on Compliance with Requirements Applicable to Each Major Federal Program and State Project and on Internal Control over Compliance and Schedule of Findings and Questioned Costs dated March 30, 2011. Disclosures in those reports and schedule should be considered in conjunction with this management letter.

Additionally, our audit was conducted in accordance with the provisions of Chapter 10.550, Rules of the Auditor General, which governs the conduct of local governmental entity audits performed in the State of Florida. This letter includes the following information, which is not included in the aforementioned auditor's reports or schedule:

Section 10.554(1)(i) 1., Rules of the Auditor General, requires that we determine whether or not corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report. Corrective actions have been taken to address findings and recommendations made in the preceding annual financial audit report, except for those reported below under the heading "Prior Year's Recommendations to Improve Financial Management, Accounting Procedures and Internal Controls" listed in Appendix B.

Section 10.554(1)(i)2., Rules of the Auditor General, requires our audit to include a review of the provisions of Section 218.415, *Florida Statutes*, regarding the investment of public funds . In connection with our audit, we determined that the City complied with Section 218.415, *Florida Statutes*, relating to local government investment policies.

Section 10.554(1)(i)3., Rules of the Auditor General, requires that we address in the management letter any recommendations to improve financial management. The recommendations to improve the City's financial management have been addressed in Appendix A – Current Year's Recommendations to Improve Financial Management, Accounting Procedures and Internal Controls to this report.

McGladrey is the brand under which RSM McGladrey, Inc. and McGladrey & Pullen, LLP serve clients' business needs. The two firms operating as separate legal entities in an alternative practice structure.

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Section 10.554(1)(i)4., Rules of the Auditor General, requires that we address violations of provisions of contracts or grant agreements, or abuse that have occurred, or are likely to have occurred, that have an effect on the financial statements that is less than material but more than inconsequential. In connection with our audit, we did not have any such findings.

Section 10.554(1)(i)5., Rules of the Auditor General provides that the auditor may, based on professional judgment, report the following matters that have an inconsequential effect on financial statements, considering both quantitative and qualitative factors: (1) violations of provisions of contracts or grant agreements, fraud, illegal acts, or abuse, and (2) deficiencies in internal control that are not significant deficiencies. In connection with our audit, we did not have any such findings.

Section 10.554(1)(i)6., Rules of the Auditor General, requires that the name or official title and legal authority for the primary government and each component unit of the reporting entity be disclosed in this management letter, unless disclosed in the notes to the financial statements. The information is disclosed in Note 1A to the financial statements.

Section 10.554(1)(i)7.a., Rules of the Auditor General, requires a statement be included as to whether or not the local governmental entity has met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific condition met. In connection with our audit, we determined that the City did not meet any of the conditions described in Section 218.503(1), Florida Statutes.

Section 10.554(1)(i)7.b., Rules of the Auditor General, requires that we determine whether the annual financial report for the City for the fiscal year ended September 30, 2010 filed with the Florida Department of Financial Services pursuant to Section 218.32(1)(a), Florida Statutes, is in agreement with the annual financial audit report for the fiscal year ended September 30, 2010. In connection with our audit, we determined that these two reports were in agreement.

Pursuant to Sections 10.554(1)(i)7.c. and 10.556(7), Rules of the Auditor General, we applied financial condition assessment procedures. It is management's responsibility to monitor the City's financial condition, and our financial condition assessment was based in part on representations made by management and the review of financial information provided by same.

Pursuant to Chapter 119, Florida Statutes this management letter is a public record and its distribution is not limited. Auditing standards generally accepted in the United States of America require us to indicate that this letter is intended solely for the information and use of the Honorable Mayor, City Commissioners, management of the City, the State of Florida Office of the Auditor General, federal and state awarding agencies, and pass-through entities, and is not intended to be and should not be used by anyone other than these specified parties.

McGladrey & Pullen, LLP

Miami-Dade County, Florida
March 30, 2011

Appendix A
Current Year's Recommendations to Improve Financial Management, Accounting Procedures and Internal Controls
Year Ended September 30, 2010

No.	Current Year's Observations
2010-1	Self-Insurance Fund Deficit and Actuarial discount rate of the Self-Insurance Program

2010-1 Self-Insurance Fund Deficit and Actuarial discount rate

Criteria: Proprietary funds (which include internal service funds) should be accounted for on a cost reimbursement basis. Also, actuarial assumptions used to estimate the City's self insurance liability should be reasonable and reflect current market related conditions.

Condition: The City's self-insurance fund reported a net asset deficit of approximately $7.0 million, as of September 30, 2010. Additionally, it was noted, it may not be appropriate for the City to use a 5% rate for discounting the loss reserves, since the City's self-insurance fund has no assets and does not earn any investment income.

Cause: The rates established to charge each participating fund of the City were not adequate enough to reimburse the cost of insurance.

Effect: The City's may not have enough resources accumulated to fully liquidate insurable liabilities as they become due. In addition, by not properly allocating these charges to the various funds and functions, the City might not incorporate all of the City's cost that would be applicable in order to accurately establish rates and fees for services that are charged by the City to external parties.

Recommendation: We recommend that the City evaluate its self-insurance program, to not only help ensure that the level of amounts charged to user funds are sufficiently balanced to sustain the self-insurance program, but to help ensure that reserves will be replenished in order to fund the deficit. The total charge by the internal service fund to the other funds should be based on a systematic method and adjusted over a reasonable period of time so that internal service fund revenue and expenses are approximately equal.

Views of responsible officials and planned corrective actions: The deficit in the Risk Management self insurance fund decreased from $8.985 million at September 30, 2009 to $6.811 million at September 30, 2010, a decrease of $2.174 million. It is the City's intention to continue to increase revenues and thus reduce the deficit in future years. In addition, the City considers, subject to commission budget approval, an annual contribution to reduce the Fund's deficit.

As with all other local governments, Fiscal Year 2010 was a difficult budget year, as is Fiscal Year 2011. Furthermore, Fiscal Year 2012 is expected to be even more challenging due to continued declines in property values through January 2011 and increased pension contribution requirements primarily because pension investments have not met actuarial assumptions in the last two years. As a result, for the short-term, the City has elected to use year-end surplus in the General Fund as carry-forward to future fiscal years, rather than to fund deficit increases in the self insurance fund. It is anticipated that property values will stabilize in the coming years and then resume normal historical increases and that investment returns will return to historical levels, thereby reducing the stress on the budget. It is therefore anticipated that, in the longer term, the City will once again be in the position to reduce the risk deficit as it has done in prior years.

Appendix A
Current Year's Recommendations to Improve Financial Management, Accounting Procedures and Internal Controls (Continued)
Year Ended September 30, 2010

In FY 2010 the City decreased the rate for discounting loss reserves from 6% to 5% and plans to further decrease it to 4% in FY 2011. At September 30, 2010, the City had $13.989 million in IBNR liabilities and $9,850 million in pending insurance claims liabilities. We feel that this is sufficient to liquidate any insurable liabilities that become due.

City of Miami Beach, Florida

Appendix B
Prior Year's Recommendations to Improve Financial Management, Accounting Procedures and Internal Controls
Year Ended September 30, 2010

No.	Prior Years' Observations	Observation is Still Relevant	Comment No Longer Relevant
2009-1	Complexity of Passwords		X
2009-3	Budget Compliance		X
2002-2	Self-Insurance Fund Deficit see current year's comment at 2010-1	X	

Exhibit 2 – Audit Areas

Exhibit 2 – Audit Areas for FY2010/11

CITY OF MIAMI BEACH
INTERNAL AUDIT DEPARTMENT
Audit Areas

Areas highlighted are considered for audit based on projected frequency. Comments provided indicate reasons why area may not be audited within the projected frequency.

Department - Audit Area		Last Audit	Risk Type	Comments
Mayor and City Commission				
Operations			L	
Administrative Support Services				
City Manager Office				
Operations			L	
Communications			L	
Budget & Performance Improvement				
Management & Budget			L	Annual budget has been presented to GFOA and earned their Distinguish Budget Award, and audited by external auditors.
Grants Management			L	Grants are included in the City's single audit by the City's external auditors.
Finance				
Cashier Functions - Central Cashier		2008	H	
Cashier Functions - Other areas Building, Police, Parking)		2008	M	
City Payment Processing		2009	H	
Fixed Assets		2009	H	
Interfund Transfers (includes management fees for Convention Center, Parking, Sanitation, Storm, Sewer, Internal Service, Resort Tax)			M	City's external auditors review the internal controls of these financial areas annually within the scope of their comprehensive financial audit of the city. While this does not constitute a detailed internal audit, the controls are being reviewed. The City has a consultant study underway to update the basis of determination for management fees.
Intergovernmental Rev (S/Tax, Gas Tax Motor Fuel)			M	
Miscellaneous Revenues to include the following; Road Impact Fee reimbursement, Beach Access,			L	
Accumulated Leave Liability		**2011**	L	
Business Tax Receipts / Certificate of Use		2008	M	
Communication Service Tax		2009	M	Previously Franchise Cable & Utility Tax - Telephone
Franchise Fees & Utility Taxes - Electric		2009	M	
Franchise Fees & Utility Taxes - Gas		2009	M	
Investments			M	Strong investment policy and oversight by investment advisor.
Lien Letter Fees			L	
Payroll Processing		2008	H	
Resort Tax Operations		1995	L	Audits of resort tax business are under the internal audit function. Daily contact with this Finance section keeps Audit Division informed.
Storm Water Fee Billing		**2011**	M	
Water and Sewer Billings		**2011**	H	

Exhibit 2 – Audit Areas for FY2010/11

CITY OF MIAMI BEACH
INTERNAL AUDIT DEPARTMENT
Audit Areas

Areas highlighted are considered for audit based on projected frequency. Comments provided indicate reasons why area may not be audited within the projected frequency.

Department - Audit Area		Last Audit	Risk Type	Comments
Procurement				
Operations		**2011**	H	
Public Auctions / Sale of Surplus Property		2010	M	
Information Technology				
Operations (Applications, Support, Communications Services)			M	Each year, external auditor reviews internal controls over IT functions in their annual audit.
IT Security (contract) recommended			H	
Inventory		2002	L	
Human Resources				
Operations includes Labor Relations			L	
Review of Benefits Formulas		2005	L	
Pension Time Purchased by Leave Hours		2008	L	
Health, Dental and Life Insurance		2010	L	
Risk Management				
Workers Compensation		2005	M	
General Liability Insurance		2005	L	
City Clerk				
Operations, Record Retention / Public Requests		**2011**	L	
Special Masters		2010	M	
Election Invoices		2008	L	
Central Services				
Inventory		2003	L	
Operations / Billings for Department Services		2009	L	
City Attorney				
Operations			L	
Economic Dev. & Cultural Events				
Economic Development				
Economic Development				
Anchor Shop Retail / Garages		2010	L	
RDA - Administrative & Operations			L	
Asset Management				
Beachfront Concession (Boucher Brothers)		**2011**	L	
City Leases, Historic City Hall, 777 Building, etc.		2010	M	Historic City hall under renovation through 2008.
Colony Theater Restaurant Agreement		2008	L	Reviewed RFP
Ballet Valet Company Lease Agreement		2010	L	
Vending Machines		1993	M	Contract calls for annual certified statement of revenue. Audit reviewed 2008 year revenues in 4/2009.
Penrods Pier Park		2009	L	
Miami Beach Marina		2010	L	
South Pointe Restaurant (Smith & Wollensky)		2009	L	
State Beachfront Management Agreement		**2011**	L	Required Annually by State Agreement
Market Places Concession Agreement		2005	L	

Exhibit 2 – Audit Areas for FY2010/11

CITY OF MIAMI BEACH
INTERNAL AUDIT DEPARTMENT
Audit Areas

Areas highlighted are considered for audit based on projected frequency. Comments provided indicate reasons why area may not be audited within the projected frequency.

Department - Audit Area		Last Audit	Risk Type	Comments
Building				
Operations		2009	H	Outside Consultant completed an organizational review and operations analysis of the Building Department in 2009.
Master Building Permit Fee		2008	H	
Other Building Fees - Electrical, Plumbing, Mechanical, Training, Elevator Inspections, Recertification, Demolition, Building Code Violations, Expired Permits,			H	Building Development Process Fee Study completed in 2009. Procurement of new permitting system in 2009.
Certificate of Completion / Occupancy			H	
Planning				
Operations			L	
Plans Review, Application Fees		1996	L	Building Development Process Fee Study completed in 2009. Procurement of new permitting system in 2010
Concurrency Fees		**2011**	M	
Parking Impact fees		2010	L	
Tourism & Cultural Development				
Special Events		**2011**	L	
Byron Carlyle			L	
Bass Museum Operation		1989	L	Expenditure audit, minimum risk. Analysis of revenues and operations was done in 2003 for Friends of the Bass Audit
Cultural Arts Council		**2011**	L	Required Annually by City Code
Convention Center Management Contract / Revenues - Rents & leases, Concessions, Telephones, Electrical, Services		2008	M	Close-out audit of SMG contract
Convention Center Food & Beverage/Centerplate		2009	M	
Convention Development Tax			L	County audit completed in 2008.

Operations

Code Compliance				
Code Enforcement Violations and Operations		2010	H	Code Compliance system being procured in 2010.
Community Services				
Community Services		2001	L	
Homeless Outreach Services			L	
Housing & Community Development				
CDBG grants			M	Department is reviewed periodically by the State of Florida and HUD.
Home Investment Partnerships (HOME Entitlement)			M	
State Housing Initiatives Part (SHIP) Programs			M	

Exhibit 2 – Audit Areas for FY2010/11

CITY OF MIAMI BEACH

INTERNAL AUDIT DEPARTMENT

Audit Areas

Areas highlighted are considered for audit based on projected frequency. Comments provided indicate reasons why area may not be audited within the projected frequency.

Department - Audit Area		Last Audit	Risk Type	Comments
Parks and Recreation				
Golf Management Agreement Miami Beach Golf		2010	M	
Golf Management Agreement Normandy Shores		2010	M	Course under renovation, completion in FY 2008/09.
Greenspace Management			L	
Landscaping Agreements		2010	M	Contracts are effectively monitored by Parks Greenspace Mgmt and Procurement. Results are shared with Internal Audit.
Overtime (Parks & Recreation)		2010	M	
Recreation fees / Cashier functions		2010	M	
Tennis Centers Agreement		2010	L	
Public Works				
Administration / Engineering			L	
Bus Shelter / Lincoln Road Directories		2009	M	
Environmental Resource Management			L	Area considered minimum risk.
Inventory (Public Works)		**2011**	M	
Inventory Processing		2009	M	
Operations - Sewer			M	Various operational components were reviewed in conjunction with reimbursement requests made for prior hurricanes.
Operations - Storm Water		**2011**	M	
Operations - Streets, Street Lights			L	
Operations - Water			M	
Overtime (Public Works)		2010	M	
Permit Fees - News Racks			L	
Permit Fees - Work in Right of Way		**2011**	L	
Permit Fees - Sidewalk			L	
Purchasing - Public Works		2009	M	
Transportation Management		2002	L	
Water & Sewer Impact Fees		**2011**	L	
Sanitation				
Operations		1999	L	Worked with department management on hurricane debris and roll-offs last four years, no problems noted.
Waste Franchise Fees		2009	M	Audited four contractors
Sanitation Fee Residential Billing		**2011**	M	
Sanitation Impact Fees (Construction & Commercial Billings)		**2011**	M	
Fines & Forthwiths (Sanitation)		**2011**	L	
Roll-Off Franchise Fees		2010	H	Continuous audits. Completed 8 audits in 2010.
Property Management				
Maintenance Agreements		2008	M	
Internal Service Charge Billings (Including CAM)		2010	M	
Inventory (Property Management)		2009	L	
Capital Improvement Projects				
Financial Controls & Operations			H	

Exhibit 2 – Audit Areas for FY2010/11

CITY OF MIAMI BEACH

INTERNAL AUDIT DEPARTMENT

Audit Areas

Areas highlighted are considered for audit based on projected frequency. Comments provided indicate reasons why area may not be audited within the projected frequency.

Department - Audit Area		Last Audit	Risk Type	Comments
Parking				
Attended Parking Lots Monitoring		**2011**	H	Completed 4 reviews during the year.
Boat Show Parking		2008	M	
Cashiers & Attendants Agreement (Parking)		2010	M	As of 8/2009 audit required annually.
Coin Room (Monitoring) Meter Collection		**2011**	H	Completed 4 reviews of coin room during the year.
County Court Fines Parking		2003	L	
Meter Collection Agreement		2009	M	
Parking Debit Card/In Car Meters		2010	M	
Parking Enforcement Reviews (Meters)		**2011**	H	Continuously monitored throughout year. 24 separate reviews performed.
Parking Permits (Non-Revenue)		**2011**	L	
Parking Permits (Revenue)		2007	M	
Space Rentals - Meters		2008	M	
Space Rentals - Parking Garages		2009	M	
Towing Fees - Parking Department		2009	L	
Valet Parking Agreement (Gold Star)		**2011**	M	
Fleet Management				
Fuel distribution		2009	M	
Inventory & Processing		2010	L	
Operations / Internal Service Charges Billings		**2011**	L	
Vehicle Purchases		2007	L	Audited vehicle purchasing process.

Public Safety

Police				
County Court Fines - Traffic		2001	L	Follow-up audit preformed 10/2003, no exceptions were noted.
False Alarm/Registration			L	Internal Audit assisted police in reviewing new procedures for false alarm. Police in process of obtaining new software for operations
Forfeited Funds - Federal		2006	L	
Forfeited Funds - State		**2011**	L	
Off Duty Account (Police)		2009	M	
Official Authorized Funds - Criminal Investigation Unit (CIU)		2007	L	
Official Authorized Funds - Strategic Investigation Unit (SIU)		2007	L	
Operations - (Patrol, Criminal Investigation, Support Services & Technical Services)			L	
Overtime (Police)		2009	H	
Property Evidence Unit (Police)		2009	M	
Towing Fees (Police)		2009	L	

Exhibit 2 – Audit Areas for FY2010/11

CITY OF MIAMI BEACH
INTERNAL AUDIT DEPARTMENT
Audit Areas

Areas highlighted are considered for audit based on projected frequency. Comments provided indicate reasons why area may not be audited within the projected frequency.

Department - Audit Area		Last Audit	Risk Type	Comments
Fire				
Annual Fire Inspection Fees			L	Building Development Process Fee Study completed in 2009. Procurement of new permitting system in 2009.
Fire Code Violations			L	
Fire Plan Review			L	Building Development Process Fee Study completed in 2009. Procurement of new permitting system in 2009.
Fire Rescue Fees		2008	M	
Ocean Rescue Operations			L	
Off Duty Account (Fire)		2008	M	
Fire Prevention			L	
Operations (Suppression, Rescue, Support Services,)			L	
Overtime - (Fire including Ocean Rescue)		2010	M	
Citywide Projects				
Capital Projects - Non-CIP, (Public Works, Parks, RDA, Convention Center, Etc.)			H	
Non-Profit Organizations				
CDBG funding source:				
American Veteran News	c		L	CDBG funding reviewed by City Econ Dev. Periodically reviewed by Federal HUD. Areas reviewed by external auditors through the Single Audit Report under OMB Circular A-133.
ASPIRA of South Florida	c		L	
Food for Life Network	c		L	
HIV Education law Project (HELP)	c		L	
HOPE, INC	c		L	
Little Havana Activities and Nutrition Center	c		L	
Miami Beach Adult Community Education Center	c		L	
Miami Beach Community Development Corp	c	2009	L	
Montessori Academy at St. John's	c		L	
Prime Time Seniors	c		L	
RAIN Parents Inc.	c		L	
Shelbourne House	c		L	
Unidad of Miami Beach, Inc.	c		L	
General fund funding source:				
Douglas Garden Community Mental Health Center	g		L	General fund for 2012 is $21,660.
Jewish Vocational Services -Hot Meals	g		L	General fund for 2012 is $46,930
Latin Chamber of Commerce	g	2006	L	General fund for 2012 is $18,000.
MDPL- 10th St auditorium	g		L	General fund for 2012 is $22,500.
Miami Beach Botanical Gardens	g	**2011**	L	General fund for 2012 is $137,228.
Miami Beach Chamber of Commerce	g	2008	L	General fund for 2012 is $36,000.
Sanford L. Ziff Jewish Museum			L	General fund for 2012 is $49,500
Sister Cities	g		L	General fund for 2012 is $13,680.
South Florida & Greater Miami Hispanic	g	2008	L	General fund for 2012 is $18,000.
Both general fund and CDBG funding source:				
Boys and Girls Club	gc	2010	L	General Fund for 2012 is $16,606.
Miami Beach Community Health Center			L	General Fund for 2012 is $21,660.
North Beach Development Corp	gc	2008	L	General Fund for 2012 is $18,000.
Other funding sources:				
Friends of the Bass	o	2003	L	
Police Athletic League	o	2009	L	

Exhibit 3 – Summary of Internal Audit Activities

Summary of Internal Audit Activities for Fiscal Year 2010/11

Internal Audits - Available On Line
Cultural Arts Council
First Class Parking, LLC Valet Parking Operational Audit - Art Basel 2010

Internal Audits - Pending Final Reports
Accumulated Leave Liability
Special Events Fees
State Beachfront Management Agreement
Boucher Brothers Miami Beach, LLC Beachfront Concession Agreement
Concurrency Mitigation Fees
Non-Revenue Municipal Parking Permits
State Forfeited Funds
Public Works Department's Warehouse Inventory
Sanitation Fees Residential Billing and Service Agreement
Sanitation Impact Fees
Sanitation Fines and Forthwiths
Storm Water Review
Water and Sewer Billings
Water and Sewer Impact Fees
Procurement Division Operations
City Clerk Operations
Fleet Management Division - Internal Service Charge Billings
Public Works Right of Way Permit Fees
Miami Beach Gardens Conservancy – Management Agreement

For fiscal year 2010/11 internal audits to date included the following recommendations:

- Additional safeguards over inventory processing for areas of Public Works;
- Revisions to update several departmental procedures and improve controls for Sanitation, Procurement and City Clerk offices;
- Changes in procedures to comply to reporting requirements of approved grant funds distributed by the Cultural Arts Council;
- Improve internal control processes and clarification of charges for Water and Sewer Impact Fees, Sanitation Impact Fees, Concurrency Mitigation Fees, Public Works Right of Way Permit Fees, Special Event Fees and Sanitation Fines;
- Improve process and verification of charges for Water and Sewer, Storm water, and Sanitation Residential billings;
- Strengthen oversight of compliance to the Beach Concession agreement;
- Improvement of internal controls over Fleet Division internal service charges; recording and processing State Forfeited Funds;
- Improve controls over donated leave and leave buy-back provisions;
- Confirmation of funds forwarded to Miami Beach Conservancy to be used for proper agency purpose and recommendations for improvement in internal controls;
- Verification of performance of valet parking operations and attended lots, and compliance with Parking Department procedures for Non-Revenue parking Permits.

Parking Monitoring Reviews

In the Parking area, the Division completed twenty-four meter, four attended lot cash operations and four coin room reviews during the past fiscal year. While our parking meter reviews identified an improvement in enforcement over the previous fiscal year, areas of enforcement still fell short of desired benchmarks. Operational procedures for attended lots were found to comply with the city's guidelines. In addition, coin room operations were functioning in accordance the city's procedures.

Sanitation Audits

In FY 2006/07 our part time position was expanded to a fulltime position dedicated to monitoring and auditing waste haulers. This effort led to the issuance of seven audit reports in fiscal year 2010/11 resulted in $41,744 of audit assessments

Other Support

Additional support was directed to performing non-audit activities.

- Assistance was provided for Cleanliness Assessment Program
  - Input of Daily Assessment results.
  - Preparation of Quarterly reports.
  - Testing new automated assessment system and reports.
- Hurricane related grant monitoring responsibilities for the past fiscal year included:
  - Assisting FEMA and the State with their ongoing closeout for Hurricane Wilma 2005.
  - Preparation of Quarterly Reports to FEMA (still ongoing for Hurricane Wilma projects).
  - Monitoring each open project for completion and requested reimbursement.
  - Assisting Office of Inspector General with audit of FEMA funding received for Hurricanes Katrina and Wilma.

Additional monies recovered during the past fiscal year for these claims amounted to $260,777 for Hurricane Wilma. Additional funds are pending as projects are completed. We anticipate that in fiscal year 2011/12 additional time will be spent on completing the request for payments and final closeouts for the 2005 storms.

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R9 - New Business and Commission Requests

R9D The Committee Of The Whole Will Meet During Lunch Recess In The City Manager's Large Conference Room To Discuss The Community Satisfaction Survey.

(Budget & Performance Improvement)

Agenda Item R9D
Date 1-11-12

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Ed Tobin, Commissioner

DATE: October 14, 2011

SUBJECT: Agenda Item for October 19th City Commission Meeting

Please place on the October 19th, 2011 Commission Meeting Agenda a discussion and update regarding the Tennis Management Contract RFP.

If you have any questions please contact, Dessiree Kane at Extension 6274

ET/dk

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Jonah Wolfson, Commissioner

DATE: November 7th, 2011

SUBJECT: Agenda Discussion Item

Please place on the December 14th, 2011, Commission meeting agenda a discussion item for the City Commission to talk about the creation of a Tennis Committee.

If you have any questions, please contact Leonor Hernandez at extension 6437.

JW/lh

Agenda Item R9F
Date 1-11-12

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge Gonzalez, City Manager

FROM: Michael Góngora, Commissioner

DATE: December 7, 2011

SUBJECT: Agenda Item for December 14, 2011 Commission Meeting

Please place on the December 14, 2011 Commission Meeting agenda as a discussion item regarding an ordinance on creating a committee entitled the Tennis Advisory Committee. The mission of the committee would be to improve the lives of the residents by promoting the development and sound management of public facilities dedicated to the sport of tennis in Miami Beach. The powers and the duties of the committee would be to provide reports and make recommendations as to the use, management, and development of public tennis facilities to the appropriate city officials. The committee would consist of a seven member committee each appointed by the Mayor and Commission. Please see attached ordinance. Another alternative is to combine the Golf Advisory Committee and Tennis Advisory Committee and then the Mayor and Commissioners can have two appointees to the newly created Golf and Tennis Advisory Committee. If you have any questions, please contact Diana Fontani Martinez at extension 7103.

Attachment

MG/df

Agenda Item R9G

Date 1-11-12

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE MIAMI BEACH CITY CODE BY AMENDING CHAPTER 2, ENTITLED "ADMINISTRATION," BY AMENDING ARTICLE III, ENTITLED "AGENCIES, BOARDS AND COMMITTEES," BY CREATING DIVISION 33, TO BE ENTITLED "TENNIS ADVISORY COMMITTEE," AND BY CREATING SECTIONS 2-190.148 THROUGH 2-190.153 THERETO TO CREATE A TENNIS ADVISORY COMMITTEE AND PROVISIONS ESTABLISHING THE COMMITTEE AND ITS MISSION, POWERS, DUTIES, COMPOSITION, AND SUPPORTING DEPARTMENT; AND PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, tennis is a popular recreational sport enjoyed by many residents and visitors in the City of Miami Beach; and

WHEREAS, in order to improve the lives of the residents in the City of Miami Beach by promoting the development and sound management of public tennis facilities, a Tennis Advisory Committee should be created.

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

SECTION 1.

That Chapter 2, Article III, of the Miami Beach City Code is hereby amended to create Division 33 thereof, and Sections 2-190.148 through 2-190.153 thereto, as follows:

DIVISION 33. TENNIS ADVISORY COMMITTEE

Section 2-190.148. Establishment.

There is hereby established the Tennis Advisory Committee, whose mission, powers, duties, and composition are set forth below.

Section 2-190.149. Mission.

To improve the lives of residents by promoting the development and sound management of public facilities dedicated to the sport of tennis in Miami Beach.

Section 2-190.150. Powers and Duties.

To provide reports and to make advisory recommendations as to the use, management, and development of public tennis facilities to the appropriate city officials who may include the City Commission, the City Manager, the Historic Preservation Board, the Capital Improvements Projects Office, and/or any other applicable committees or boards whose policies influence the sport of tennis in Miami Beach.

Section 2-190.151. Composition.

The Committee shall be composed of seven (7) members, each of whom shall be voting members who have demonstrated a high degree of interest, participation, and/or expertise in the sport of tennis. The Mayor and City Commissioners shall each make one direct appointment.

Section 2-190.152. Other Committees.

The chairperson of the Tennis Advisory Committee, or his or her designee, shall serve as a nonvoting, ex officio member of the Parks and Recreational Facilities Board.

Section 2-190.153. Supporting Department.

The supporting department of the committee is the Parks and Recreation Department.

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, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 5. 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 a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 6. Effective Date.

This Ordinance shall take effect the _____ day of December, 2011.

PASSED and **ADOPTED** this _____ day of December, 2011.

ATTEST:

MATTI HERRERA BOWER
MAYOR

ROBERT PARCHER, CITY CLERK

Underline denotes additions

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

12/7/11

CITY ATTORNEY DATE

F:\atto\TURN\ORDINANC\Creating Committee - Tennis Advisory Committee.doc

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MIAMIBEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

TO: Jorge M. Gonzalez, City Manager

FROM: Ed Tobin, Commissioner

DATE: December 5, 2011

SUBJECT: Agenda Item for December 14th Commission Meeting

Please place on the December 14th, 2011 Commission Meeting Agenda a request for a discussion and update of the City Wide Dunes Maintenance Plan.

If you have any questions please contact, Dessiree Kane at Extension 6274

ET/dk

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R10

CITY ATTORNEY REPORTS

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: Jose Smith, City Attorney

DATE: January 11, 2012

SUBJECT: **City Attorney's Status Report**

LAWSUITS FILED BY OR AGAINST THE CITY OF MIAMI BEACH SINCE THE LAST REPORT

1. Sanctuary South Beach Condominium Association, Inc. vs. Jacob Sopher, et al., Case No. 11-18584 CC 25 (County Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 1745 James Avenue, Unit 208, Miami Beach, Florida. The Summons and Complaint were served on the City on November 30, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

2. The Pavilion Condominium Association of Miami Beach, Inc. vs. Mireya Glavez et al., Case No. 11-39153 CA 22 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 5601 Collins Avenue, Unit 1208, Miami Beach, Florida. The Summons and Complaint were served on the City on November 30, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

3. Sanctuary South Beach Condominium Association, Inc. vs. William H. Demps, et al., Case No. 11-17328 CC 05 (County Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 1745 James Avenue, Unit 209, Miami Beach, Florida. The Summons and Complaint were served on the City on November 30, 2011.

Agenda Item R10A
Date 1-11-12

The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

4. Sanctuary South Beach Condominium Association, Inc. vs. James Omotosho, et al., Case No. 11-08278 CC 26 (County Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 1745 James Avenue, Unit 112, Miami Beach, Florida. The Summons and Complaint were served on the City on November 30, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

5. The Pavilion Condominium Association of Miami Beach, Inc. vs. Robert Rosell, et al., Case No. 11-39917 CA 32 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 5601 Collins Avenue, Unit 1516, Miami Beach, Florida. The Summons and Complaint were served on the City on December 2, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

6. The Pavilion Condominium Association of Miami Beach, Inc. vs. Arquimides Castro, et al., Case No. 11-18275 CC 05 (County Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 5601 Collins Avenue, Unit 618, Miami Beach, Florida. The Summons and Complaint were served on the City on December 2, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

7. The Pavilion Condominium Association of Miami Beach, Inc. vs. Roberto F. Gonzalez, et al., Case No. 11-18276 CC 05 (County Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose a condominium assessment lien on real property located at 5601 Collins Avenue, Unit 1724, Miami Beach, Florida. The Summons and Complaint were served on the City on December 2, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 16, 2011.

8. Bank of America, N.A. vs. Felipe Herrera, et al., Case No. 11-40158 CA 42 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

   This is an action to foreclose mortgage on real property located at 1500 Bay Road, Unit 1104S, Miami Beach, Florida. The Summons and Complaint were served on the City on December 5, 2011.

   The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes was filed on December 15, 2011.

9. Thamyris Cardelle; Raymond F. Chambersl Hanes F Harley; Andrew J. Kuncas; John McCabe; James V. Muro; Jess M. Metzgar; Joseph Previsch; Michael Pryor; Pedro Rodriguez; Bernie Ruder; Garfield Taylor; William Young; Eliseo R. Zacarias v. Miami Beach Fraternal Order of Police William Nichols Lodge No. 8 and City of Miami Beach, Miami Dade County, FL Case No. 11-24273-CIV-ZLOCH/ROSENBAUM (United States District Court for the Southern District of Florida)

   This is an age discrimination Complaint by 14 current or former police officers against the City and their union, the FOP. The Plaintiffs claim that several changes to the most recent collective bargaining agreement and other actions violate the Age Discrimination in Employment Act and the Florida Civil Rights Act. The Plaintiffs had filed charges with the EEOC which did not find any evidence of discrimination. This suit in federal court will be vigorously defended by the City which is in the process of filing a Motion to Dismiss.

10. Marilyn Serene v. City of Miami Beach, et al #11-39961 CA 31 (Circuit Court-11th Judicial Circuit Court – 11th Judicial Circuit in and for Miami-Dade County)

    The City was served with this complaint on December 8, 2011 alleging that on March 1, 2008, the plaintiff, Marilyn Serene, was an invitee of the Miami Beach Convention Center attending the Graphics of the Americas Expo when she sustained serious bodily injuries after she tripped and fell due to the existence of an uneven floor surface which consisted of overlapping carpet that was inadequately maintained. We have sent out a demand letter to the insurance carrier for the center requesting representation and indemnification. We have also requested a 30 day extension from January 8th 2012 to February 8th 2012 to respond to the complaint pending answers to our demand from the insurance carrier.

11. Eliseo La Bruno v. City of Miami Beach, and Jose Reina, Case No.11-39972 CA09 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

    This is a state court lawsuit by an individual against the City and one of its police officers for state claims, including use of excessive force and battery, and federal civil rights violations. The incident occurred in December 2007 in which the Plaintiff had a dispute with a taxi driver. The Plaintiff fled and eventually was

shot by the police officer. The Plaintiff plead guilty to one of the criminal charges against him. This case will be removed to federal court from state court. The City is in the process of responding to the Complaint.

12. Fabrio Gravaghi, First on Lincoln 102 Corp., Giammy & Chiara, LLC First on Lincoln 106 Corp, Federico Olivieri, and First on Lincoln Condo Association, Inc. v. City of Miami Beach, Case Nos. JC1100708-1100711; JC11000737-1100742 and JC11000744 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

    The Petition for Writ of Certiorari involves a decision of the City of Miami Beach's Special Master finding that Fabio Gravaghi, First on Lincoln 102 Corporation, et. al. (the "Petitioners") violated the terms of the City of Miami Beach's Land Development Regulations by leasing residential units in the condominium building that is located at 1619 Lennox Avenue. The Petitioners have alleged that their due process rights have been materially violated by the Special Master changing his decision from the oral ruling announced at the Hearing without conducting additional quasi-judicial proceedings. The City Attorney's Office is reviewing the legal merits of the Petition for Writ of Certiorari.

13. Aurora Bank FSB vs. Alison D. Brungart, et al., Case No. 11-41083 CA 42 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

    This is an action to foreclose mortgage on real property located at 710 Washington Avenue, Unit 310, Miami Beach, Florida. The Summons and Complaint were served on the City on December 14, 2011.

    The City's Answer and Affirmative Defense, asserting priority for any special assessments, including, but not limited to, utility water and sewer services, demolition or board-up liens, and resort taxes will be timely filed.

14. M. Vila & Associates, Inc. v. City of Miami Beach Case No. 11-42534 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

    This suit was recently served on the City, along with multiple discovery documents. Plaintiff was a contractor which was terminated by the City for the project known as the City Center Right of Way Infrastructure Improvement Project #9A due to non-performance issues.

15. Tower Group, Inc. v. City of Miami Beach Case No. 11-41518 (Circuit Court – 11th Judicial Circuit in and for Miami-Dade County, Florida)

    This suit was recently served on the City, along with multiple discovery documents. Plaintiff was the general contractor for City's multi-purpose municipal parking garage. The City has not paid the contractor the retainage due to defects and other outstanding items. A motion to dismiss will be filed shortly due to defective service on the City.

MIAMIBEACH

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

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower
Members of the City Commission
City Manager Jorge Gonzalez

FROM: Jose Smith, City Attorney

DATE: January 11, 2012

SUBJECT: Closed Attorney-Client Session

Pursuant to §286.011, Florida Statutes, the City Attorney hereby advises the Mayor and City Commission that he desires advice concerning the following pending litigation matter:

> The City of Miami Beach, vs. Hargreaves Associates, Incorporated, et al, Eleventh Judicial Circuit of Florida, Case No. 10-61979 CA 03, 11th Judicial Circuit in and for Miami-Dade County, Florida.

Therefore, a private closed Attorney-Client Session will be held during the lunch recess of the City Commission meeting on January 11, 2012 in the City Manager's Large Conference Room, Fourth Floor, City Hall, to discuss settlement negotiations and/or strategy related to litigation expenditures with regard to the above-referenced litigation matter.

The following individuals will be in attendance: Mayor Matti Herrera Bower; Members of the City Commission: Jorge Exposito, Michael Gongora, Jerry Libbin, Edward Tobin, Deede Weithorn and Jonah Wolfson; City Manager Jorge Gonzalez, City Attorney Jose Smith, First Assistant City Attorney Steven Rothstein, Special Counsel Richard Lydecker, and Special Counsel Meredyth Cooper.

JS/SR/lr/mem

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Agenda Item R10B
Date 1-11-12

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MIAMIBEACH

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

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower
Members of the City Commission
City Manager Jorge Gonzalez

FROM: Jose Smith, City Attorney

DATE: January 11, 2012

SUBJECT: Closed Attorney-Client Sessions

Pursuant to §286.011, Florida Statutes, the City Attorney hereby advises the Mayor and City Commission that he desires advice concerning the following pending litigation matter:

1) 1100 West Properties, LLC v. City of Miami Beach, Circuit Court Case No. 09-70789 CA 23

2) City of Miami Beach v. 1100 West Properties, LLC, Circuit Court Appellate Division Case No.: 11-505 AP

Therefore, a private closed Attorney-Client Session will be held during the lunch recess of the City Commission meeting on January 11, 2012 in the City Manager's Large Conference Room, Fourth Floor, City Hall, to discuss settlement negotiations and/or strategy related to litigation expenditures with regard to the above-referenced litigation matters.

The following individuals will be in attendance: Mayor Matti Herrera Bower; Members of the City Commission: Jorge Exposito, Michael Gongora, Jerry Libbin, Edward Tobin, Deede Weithorn and Jonah Wolfson; City Manager Jorge Gonzalez, City Attorney Jose Smith, and First Assistant City Rhonda Montoya Hasan.

JS/RM/mem

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Agenda Item R10C
Date 1-11-12

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MIAMIBEACH

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

COMMISSION MEMORANDUM

TO: Mayor Matti Herrera Bower
Members of the City Commission
City Manager Jorge Gonzalez

FROM: City Attorney Jose Smith

DATE: January 11, 2012

SUBJECT: Attorney Client Session

Pursuant to §286.011, Florida Statutes, the City Attorney hereby advises the Mayor and City Commission that he desires advice concerning the following pending litigation matter:

> Museum Walk Apartments v. City of Miami Beach, Eleventh Judicial Circuit of Florida, Appellate Jurisdiction, Case Nos. 11-058-061; 068-074; 076-084; 086-087; 115-124; 662; and 670

Therefore, a private closed Attorney-Client Session will be held during the lunch recess of the City Commission meeting on January 11, 2012 in the City Manager's Large Conference Room, Fourth Floor, City Hall, to discuss settlement negotiations and/or litigation strategy with regard to the above-referenced litigation matters.

The following individuals will be in attendance: Mayor Matti Herrera Bower; Members of the City Commission: Vice Mayor Deede Weithorn, Edward Tobin, Jorge Exposito, Michael Gongora, Jerry Libbin and Jonah Wolfson; City Attorney Jose Smith, City Manager Jorge Gonzalez, First Assistant City Attorney Rhonda Montoya Hasan and First Assistant City Attorney Steven Rothstein.

JS/RMH/SR/lr

Agenda Item R10D
Date 1-11-12

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REPORTS
AND
INFORMATIONAL ITEMS

Reports and Informational Items

(see LTC #004-2012)

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Condensed Title:

A Resolution of the Chairperson and Members of the Miami Beach Redevelopment Agency adopting the First Amendment to the FY 2010/11 Operating Budgets for the City Center Redevelopment Area, the Anchor Shops and Parking Garage and adopting the Budget for the Pennsylvania Avenue Shops and Garage for FY 2010/11.

Key Intended Outcome Supported:

Improve the City's overall financial health and maintain overall bond rating

Supporting Data (Surveys, Environmental Scan, etc.):

One of the City's Key Intended Outcomes is to ensure well designed and well maintained capital projects and infrastructure. In keeping with this goal, approximately 50 percent of actual expenditures in FY 2010/11 were allocated towards capital expenditures including new capital projects and renewal, maintenance and replacement of existing RDA capital infrastructure.

Issue:

Should the RDA Board adopt the proposed first amendment to the FY 2010/11 Operating Budgets for the City Center Redevelopment Area, the Anchor Shops and Parking Garage, as well as adopt the Budget for the Pennsylvania Avenue Shops and Garage for FY 2010/11?

Item Summary/Recommendation:

The year-end budget to preliminary actual comparisons for the RDA reflect that there is an operating budget surplus of $669,452 (1.8%) in the RDA, overall. However, because the RDA budget was adopted at a category level, a budget amendment is required to address certain expenditure categories that are over budget. Similarly, garage revenues at the Anchor Garage in FY 2010/11 came in approximately $709,000 greater than budget, which is more than sufficient to offset the resulting $78,837 increase in revenue-sharing obligations with Loews, to cover lower than expected retail revenues (due to the loss of a tenant earlier in the year) and unanticipated but necessary renewal and replacement costs totaling $96,274 (e.g. HVAC replacement for three retail tenants, elevator repairs). The Pennsylvania Avenue Garage opened during Fiscal Year 2010/11 and revenues and expenses for the facility were not adopted as part of the FY 2010/11 budget. The parking garage generated $478,583 in revenues in FY 2010/11, which more than adequately covers the $394,068 in related operating expenses for the facility.

In order to address instances where actual expenditures for budgeted categories exceeded the adopted budget for the reasons described in the related commission memorandum, the Administration recommends adopting a First Amendment to the FY 2010/11 Operating Budget for the City Center Redevelopment Area and the Anchor Shops and Parking Garage, and retroactively adopting the Budget for the Pennsylvania Avenue Shops and Garage for FY 2010/11.

Advisory Board Recommendation:

N.A.

Financial Information:

Source of Funds:		Amount	Account
	1		
	2		
OBPI			

City Clerk's Office Legislative Tracking:

Kent Bonde, Laura Aker and Kathie Brooks

Sign-Offs:

RDA Coordinator	Budget Director	Assistant Director (RDA)	Executive Director (RDA)
KOB	KB	HF	JMG

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MIAMIBEACH

AGENDA ITEM 1A

DATE 1-11-12

MIAMIBEACH

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

REDEVELOPMENT AGENCY MEMORANDUM

TO: Chairperson and Members of the Miami Beach Redevelopment Agency

FROM: Jorge M. Gonzalez, Executive Director

DATE: January 11, 2012

SUBJECT: **A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY ADOPTING AND APPROPRIATING THE FIRST AMENDMENT TO THE OPERATING BUDGET FOR THE CITY CENTER REDEVELOPMENT AREA AND THE ANCHOR SHOPS AND PARKING GARAGE FOR ITEMS THAT ARE OVER-BUDGET; AND, RETROACTIVELY ADOPTING AND APPROPRIATING THE BUDGET FOR THE PENNSYLVANIA AVENUE SHOPS AND PARKING GARAGE FOR FISCAL YEAR 2010/11.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

ANALYSIS

The year-end budget to preliminary actual comparisons for the RDA are presented in Exhibit A. Highlights are provided below. These comparisons show that there is an operating budget surplus of $669,452 (1.8%) in the RDA, overall. However, because the RDA budget was adopted at a category level, a budget amendment is required to address certain expenditure categories that are over budget.

In addition, it is recommended that a budget of $394,068 is retroactively adopted to cover operating expenses at the Pennsylvania garage, which opened during fiscal year 2010/11.

Operating Budget - Revenues

Overall, revenues in the RDA are $518,956 over budget. This is primarily due to increased contributions from the Resort Tax fund, which is based on 50% of the 1% Resort Tax revenues collected. Contributions from the Children's Trust are also above budget, although this is directly offset by the remittance of the ½ mill tax levy back to the Children's Trust. Additionally, the "other income/adjustments" line item reflects the inclusion of rent proceeds from the Miami City Ballet; these revenues are in turn used to offset capital maintenance costs related to the facility.

The overall increase in revenues is partially offset by continued declines in interest earnings and increased adjustments to the City and County tax increment from 2008.

Operating Budget - Expenditures

The total admin/operating expenditures are estimated at $150,496 below approved budget. However, management fees (including salaries and benefits) are slightly above budget due to the final actual salary costs of staff that provides administrative support to the RDA, as well as professional (legal) fees

incurred in connection with unanticipated settlement-related costs on prior-year RDA projects. Debt service costs were also above budget; this amount is the difference between the initial transfer to the RDA debt service fund and the actual amount that is required to be paid.

Anchor Shops and Parking Garage
Garage revenues at the Anchor Garage in FY 2010/11 came in approximately $709,000 greater than budgeted. This is more than sufficient to offset the resulting $78,837 increase in revenue-sharing obligations to the Loews. Retail revenues only came in slightly below forecast, despite the loss of a tenant earlier in the year. However, the additional overall revenue is more than sufficient to cover unanticipated and necessary renewal and replacement costs totaling $96,274. These generally included the replacement of three of the tenant's HVAC systems and elevator repairs.

Pennsylvania Avenue Shops and Garage
The Pennsylvania Avenue Garage and shops opened during fiscal year 2010/11. Revenues and expenses for the facility were not adopted as part of the FY 2010/11 Budget. During fiscal year 2010/11, the parking garage generated $478,583 in revenues and incurred $394,068 in related operating expenses for the facility.

In consideration of the fact that the Pennsylvania Avenue Shops and Garage was built by the RDA on City-owned property, the operation of the facility has been structured in the form of a ground lease between the City and the RDA, providing terms for both the garage and retail operations. Expenditures for the garage include ground lease rent payments, an administrative fee (consistent with that of the Anchor Garage) and the Parking Department's operational fee.

CONCLUSION

In order to address the existing and future obligations in the Redevelopment Area, it is recommended that the Redevelopment Agency adopt the attached Resolution, which amends the operating budgets for the City Center Redevelopment Area, and the Anchor Shops and Parking Garage; and the adopts the budget for the Pennsylvania Avenue Shops and Garage for FY 2010/11.

JMG/HF/KB/LA/KOB
Attachment

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Exhibit A.
Miami Beach Redevelopment Agency
City Center Redevelopment Area
Adopted FY 2010/11 Adopted Operating Budget to Actual

	FY 08/09 Actual	FY 09/10 Budget	FY 10/11 Budget	FY 10/11 Actual	Budget Variance From FY 10/11 Adopted
Revenues and Other Sources of Income					
Tax Increment - City Millage 6.2155	$18,345,335	$16,946,393	$18,377,816	$18,377,816	$0
Proj Adjustment to City Increment for FY 2008 Tax Roll (2)	(1,111,989)	(1,178,873)	(1,200,000)	(1,475,726)	($275,726)
Tax Increment - County Millage 5.4275	15,808,032	14,496,500	16,047,879	16,047,879	$0
Proj Adjustment to County Increment for FY 2008 Tax Roll (3)	(961,565)	(954,605)	(1,000,000)	(1,262,384)	($262,384)
50% Contribution from Resort Tax	3,908,668	3,460,000	3,578,067	4,492,075	$914,008
1/2 Mill Children's Trust Contribution (4)	1,366,290	1,498,222	1,225,249	1,474,830	$249,581
Interest Income	58,626	385,057	200,000	9,291	($190,709)
Fund Balance Reallocation: (Non-TIF)	0	0	0	0	$0
Other Income/Adjustments:	1,344	0	0	84,186	$84,186
TOTAL REVENUES	$37,412,741	$34,652,694	$37,229,011	$37,747,987	$518,956
Admin/Operating Expenses					
Management fee (salaries & benefits)	$464,775	$489,564	$988,563	$989,313	$750
Advertising & promotion	0	1,000	0	0	$0
Postage, printing & mailing	1,420	3,500	4,123	2,858	($1,265)
Office supplies & equipment	2,941	3,000	2,900	2,195	($705)
Meetings & conferences	1,799	4,000	1,351	12	($1,339)
Dues & subscriptions	0	1,000	1,260	788	($472)
Audit fees	0	8,500	9,000	5,388	($3,613)
Professional & related fees	57,157	55,000	47,000	70,903	$23,903
Miscellaneous expenses	4,223	10,000	5,000	1,388	($3,612)
Total Admin/Operating Expenses	$532,315	$575,584	$1,059,197	$1,072,844	$13,647
Project Expenses					
Community Policing	$2,693,942	$2,871,494	$3,052,215	$2,746,495	($305,720)
Capital Projects Maintenance (5)	3,456,896	3,050,775	3,332,673	3,127,883	($204,790)
NWS Project/Lincoln Park Complex Contingency	0	3,060,188	0	0	$0
NWS Project - Grant-in-Aid	0	0	15,000,000	15,000,000	$0
Transfer to Capital Projects (6)	20,319,813	13,170,050	136,758	136,758	$0
Total Project Expenses	$26,470,651	$22,152,508	$21,521,846	$21,011,136	($510,510)
Reserve and Debt Service Obligations					
Debt Service Cost - 2005 + Parity Bonds	$8,376,443	$8,393,267	$8,393,254	$8,498,087	$104,833
Current Debt Service - Lincoln Rd Project (7)	1,205,288	1,086,961	$1,094,176	$1,094,176	$0
Current Debt Service - Bass Museum (8)	506,108	506,531	505,859	505,859	$0
Reserve for County Admin Fee (9)	222,697	203,128	225,718	221,782	($3,936)
Reserve for CMB Contribution (10)	258,500	236,513	257,667	253,531	($4,136)
Reserve for Children's Trust Contribution (11)	1,366,290	1,498,222	1,225,249	1,474,855	$249,606
Repayment-Prior Yr Fund Balance	0	0	2,946,246	2,946,246	$0
Total Reserve and Debt Service Obligations	$11,935,326	$11,924,622	$14,648,168	$14,994,536	$346,368
TOTAL EXPENSES AND OBLIGATIONS	$38,938,292	$34,652,694	$37,229,011	$37,078,515	($150,496)
REVENUES - EXPENSES	($1,525,551)	($0)	$0	$669,452	$669,452

Note #1 Based on Preliminary Tax Increment Adjustment worksheet received from MDC on 6/30/10
Note #2 Adjustment for final FY 08/09 Tax Roll - Estimate based on pric
Note #3 Adjustment for final FY 08/09 Tax Roll - Estimate based on pric
Note #4 1/2 Mill Children's Trust pmt to RDA per Interlocal
Note #5 Separate detail for capital maintenance items from PW
Note #6 Reflects appropriations for CIP & PW projects
Note #7 Payment of Lincoln Road current debt service on Sunshine Stat
Note #8 Payment of Bass Museum current debt service on Gulf Breeze
Note #9 County admin fee @ 1.5% of County's increment revenue
Note #10 CMB TIF Contribution @ 1.5% of City's increment revenue
Note #11 1/2 mill Children's Trust Contribution

Adopted FY 2010/11 Anchor Shops and Parking Garage (16th Street Parking Garage) Operating Budget

	FY 08/09 Actual	FY 09/10 Budget (1)	FY 10/11 Budget	FY 10/11 Actual	Budget Variance From FY 10/11 Adopted
Revenues:					
Parking Operations	$2,585,000	$2,632,000	$2,368,000	$3,077,007	$709,007
Retail Leasing	683,779	696,489	714,150	704,365	($9,785)
Interest Pooled Cash	46,100	46,100	39,216	23,998	($15,218)
TOTAL REVENUES	$3,314,879	$3,374,589	$3,121,366	$3,805,370	$684,004
Operating Expenses:					
Parking Operations	$1,700,768	$1,802,864	$1,704,823	$1,313,809	($391,014)
Garage Use Fee (To Loews) (1)	342,000	355,208	281,288	360,125	$78,837
Retail Leasing Management Fee	55,000	60,000	95,433	76,917	($18,516)
Management Fee (Garage Ops)	0	158,129	189,074	189,074	$0
Renewal and Replacement Anchor Shops	0	0	0	96,274	$96,274
Reserve Future Capital - Parking Operations	563,832	375,922	219,415	0	($219,415)
Reserve Future Capital - Retail Operations	653,279	622,466	631,333	0	($631,333)
TOTAL EXPENSES	$3,314,879	$3,374,589	$3,121,366	$2,036,199	($1,085,167)
NET	$0	$0	$0	$1,769,171	$1,769,171

(1) - Based on 28% of annual gross parking revenuues in excess of $1,390,000. (Includes contingency amount)

FY 2010/11 Pennsylvania Ave. Shops and Parking Garage Operating Budget

	FY 08/09 Actual	FY 09/10 Budget	FY 10/11 Budget	FY 10/11 Actual	Budget Variance From FY 10/11 Adopted
Revenues:					
Parking Operations	$0	$0	$0	$478,583	$478,583
TOTAL REVENUES	$0	$0	$0	$478,583	$478,583
Operating Expenses:					
Parking Operations	$0	$0	$0	$300,727	$300,727
Parking Base Fee	$0	$0	$0	$30,073	$30,073
Garage Ground Lease	$0	$0	$0	$23,552	$23,552
Garage Management Fee	$0	$0	$0	$39,716	$39,716
TOTAL EXPENSES	$0	$0	$0	$394,068	$394,068
NET	$0	$0	$0	$84,515	$84,515

RESOLUTION TO BE SUBMITTED

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