City Commission Meeting

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
October 19, 2005

Mayor David Dermer
Vice-Mayor Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Jose Smith
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

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ATTENTION ALL LOBBYISTS

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

REGULAR AGENDA

R5 - Ordinances

R5A An Ordinance Amending Miami Beach City Code Chapter 2, Article VI, Division 3, By Creating Section 2-373 Thereof, Entitled "Requirement For City Contractors To Provide Equal Benefits For Domestic Partners," By Mandating That City Contractors Provide Equal Benefits For Domestic Partners; Providing For Repealer, Severability, Codification And An Effective Date. **10:15 a.m. Second Reading, Public Hearing** (Page 334)
(Requested by Commissioner Luis R. Garcia, Jr.)

R5B Reconstruction And Engineering Requirements
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 1, "Generally," By Amending Section 118-503 To Modify The Requirements For An After-The-Fact Certificate Of Appropriateness; By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 3, "Issuance Of Certificate Of Appropriateness/Certificate To Dig/Certificate Of Appropriateness For Demolition," By Amending Section 118-562 To Add A Requirement For An Independent Structural Evaluation For Demolition Requests; Providing For Repealer, Codification, Severability And An Effective Date. **10:30 a.m. Second Reading, Public Hearing** (Page 357)
(Planning Department)
(First Reading on September 8, 2005)

R5 - Ordinances (Continued)

R5C Removal Of Historic Signs
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 138, "Signs," By Amending Article I, "In General," By Amending Section 138-11 To Clarify The Requirements And Procedures For The Removal Of Signs; Providing For Inclusion In The City Code; Providing For Repealer, Severability And An Effective Date. **10:35 a.m. Second Reading, Public Hearing** (Page 370)
(Planning Department)
(First Reading on September 8, 2005)

R5D An Ordinance Amending The Land Development Regulations Of The Miami Beach City Code; By Amending Chapter 142, "Zoning Districts And Regulations," And By Amending Article III, "Overlay Districts," Creating Division 6, "Gilbert M. Fein Neighborhood Conservation Overlay District (NCD-1/RM-2)," Designating Specific Land Development And Streetscape Improvement Parameters For A Certain Area Which Is Generally Bounded By The Center Line Of Bay Road To The East, The Bulkhead Line Of Biscayne Bay To The West, The Northern Lot Lines Of The Northern Properties Fronting Lincoln Terrace To The North, And The Southern Lot Lines Of The Southern Properties Fronting 16th Street To The South, As More Particularly Described Herein; Providing That The City's Zoning Map Shall Be Amended To Include The Gilbert M. Fein Neighborhood Conservation District (NCD-1/RM-2); Adopting The NCD Plan Attached Hereto; Providing For Codification; Repealer; Severability; And An Effective Date. **5:01 p.m. First and Only Reading Public Hearing** (Page 379)
(Planning Department)

R5E An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 118, Article VIII, "Procedure For Variances And Administrative Appeals," By Clarifying The Language Of Prohibited Variance Applications; Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements," By Increasing The Off-Street Parking Requirement For Residential Uses And Suites Hotel Units In All Districts, Clarifying How Parking Requirements May Be Satisfied, Providing For Repealer, Severability, Codification And An Effective Date. **First Reading** (Page 390)
(Planning Department)

R5F An Ordinance Amending Miami Beach City Code Chapter 2, Entitled "Administration," Division 30 Entitled "Committee For Quality Education In Miami Beach Schools," Section 2-190.137 Thereof Entitled "Composition, Knowledge And Experience," By Deleting From The Committee's Membership The Two City Commissioner Ex Officio Members And Instead Providing For One City Commissioner Representative To Act As Liaison Between The Committee And The City Commission; Providing For Repealer, Severability, Codification, And An Effective Date. **First Reading** (Page 403)
(Requested by Vice-Mayor Matti Herrera Bower)

R5 - Ordinances (Continued)

R5G An Ordinance Amending Chapter 46 Of The City Code, Entitled "Environment," By Amending Article IV, Entitled "Noise," By Amending Section 46-151, Entitled "Definitions," To Provide New Terms And Definitions And Deleting Certain Terms And Definitions; Amending Section 46-152, Entitled "Unreasonably Loud Noise Prohibited," By Amending The Title And Adopting Section 21 - 28 Of The Code Of Miami-Dade County By Reference; Amending Section 46-153, Entitled "Responsibility For Compliance," By Amending The Provisions Thereof; Repealing Section 46-154, Entitled "Noise Level In Specific Area"; Repealing Section 46-155, Entitled "Additional Sound Limitations For Public Property"; Amending Section 46-156, Entitled "Temporary Permits," By Expanding The Prohibited Areas For Construction Noise To Within 300 Feet Of Certain Districts And Amending The Exemptions For Special Events And Film Permits; Amending Section 46-157, Entitled "Exemptions," And By Deleting Subsection (11) And Amending The Provisions Thereof; Amending Section 46-158, Entitled "Enforcement By Code Inspectors; Notice Of Violation," By Amending The Procedures For Enforcement And Warnings; Amending Section 46-159, Entitled "Civil Fines For Violation; Appeals," By Amending The Fines And Penalties For Violations, The Appeal Procedures, And The Alternate Means Of Enforcement; Amending And Renumbering Section 46-160, Entitled "Nuisance," As Section 46-161, And Renaming Section 46-160 As "Relief From Violations For Sound Systems And Compliance" And Creating Provisions Therefore; Amending And Renumbering Section 46-161, Entitled "Motor Vehicle Alarms" As Section 46-162 Which Is Hereby Created; Providing For Codification, Repealer, Severability, And An Effective Date. **First Reading** (Page 407)
(City Manager's Office)
(Deferred from September 8, 2005)

R7 - Resolutions

R7A A Resolution Approving, On First Reading Public Hearing, An Extension Of The City's Approval Of The Miami Beach Convention Center As A Venue Which Would Allow Conventions, Expositions Or Events Involving Adult Materials, Pursuant To The Provisions Of F.S. 847.0134, And Setting A Second Reading Public Hearing To Be Held On The Above Request Before The City Commission, On December 7, 2005. **10:20 a.m. First Public Hearing** (Page 445)
(Tourism & Cultural Development)

R7B A Resolution Approving And Officially Adopting The Basis Of Design Report (BODR) For The Collins Park Cultural Campus Project (Project), And Authorizing The Administration To Proceed With The Design And Construction Of The Project. (Page 454)
(Capital Improvement Projects)

R7C A Resolution Approving And Officially Adopting The Basis Of Design Report (BODR) For The City Center Right-Of-Way Neighborhood Improvement Project. (Page 459)
(Capital Improvement Projects)

R7 - Resolutions (Continued)

R7D A Resolution Authorizing The Mayor And City Clerk To Execute Amendment No. 1 To The Agreement With Hargreaves Associates, Inc., Dated January 12, 2005; Said Amendment, In The Amount Of $1,322,373, For The Remaining Professional Services, Including Design Development, Construction Documents, Bid And Award, And Construction Administration For The South Pointe Park Improvements Project, As Contemplated And Provided By RFQ No. 39-03/04. (Page 466)
(Capital Improvement Projects)

R7E A Resolution Approving And Authorizing The Mayor And City Clerk To Execute Amendment No. 2 To The Professional Services Agreement With The Firm Of Wolfberg Alvarez, Dated September 25, 2002; Said Agreement To Provide Additional Architectural And Engineering Services Required To Complete Phase II Of The South Pointe Right Of Way Improvement Project. In The Amount Of $272,673, Comprised Of $197,493 For Additional Design Services, And $75,180 For Adjustments To Other Services, And Providing Funding For The Amendment From Previously Appropriated Funds For The Project. (Page 503)
(Capital Improvement Projects)

R7F A Resolution Appropriating Funds, In The Amount Of $53,270 From The Gulf Breeze Loan Pool Interest, For The Construction Of An Air Conditioned Garbage Enclosure For The Miami Beach Golf Course Clubhouse Project. (Page 516)
(Capital Improvement Projects)

R7G A Resolution Appointing Commissioner Richard Steinberg To Serve As The City Representative On The Governing Board Of The Metropolitan Planning Organization ("MPO"). (Page 525)
(Requested By Mayor David Dermer)

R7H A Resolution Authorizing The City Manager, Or His Designee To Select, Negotiate, Award And Reject All Bids, Contracts, Agreements, Purchase Orders, Change Orders And Grant Applications; Renew Existing Contracts Which May Expire; Terminate Existing Contracts As Needed; From The Last Commission Meeting On October 19, 2005, Until The First Regularly Scheduled Commission Meeting On December 7, 2005, Subject To Ratification By The City Commission At Its First Regularly Scheduled Meeting On December 7, 2005. **Joint City Commission And Redevelopment Agency** (Page 529)
(Procurement)

R7I A Resolution Appropriating Funding, In The Amount Of $80,696, From The FY 2005/06 General Fund Operating Contingency, For The Scott Rakow Youth Center Project, For An HVAC System And Gas Water Heater For The Exterior Restroom Building. (Page 532)
(Capital Improvement Projects)

R7 - Resolutions (Continued)

R7J A Resolution Accepting The Recommendation Of The City Manager Pertaining To The Ranking Of Qualifications Received Pursuant To Request For Qualifications (RFQ) No. 26-04/05, For Architectural, Engineering, Urban Design, And Landscape Architecture Services For The Planning, Design, Bid And Award, And Construction Administration Services For The Historic Preservation, Restoration And/Or Rehabilitation Of The Little Stage Theater, Carl Fisher Clubhouse, And Demolition Of The 21st Street Bandshell Project (Little Stage Theater Complex), And Potential Recreation Improvements Adjacent To And/Or Part Of The Site; And Authorize The Administration To Enter Into Negotiations With The Firm Of Glavovic Studio, Inc.; And Should The Administration Not Be Able To Negotiate An Agreement With Glavovic Studio, Inc., Authorize The Administration To Negotiate With The Firm Of R.J. Heisenbottle Architects; And Should The Administration Not Be Able To Negotiate An Agreement With R.J. Heisenbottle Architects, Authorize The Administration To Negotiate With The Firm Of Gurri Matute, P.A. (Page 537)
(Capital Improvement Projects)

R7K A Resolution Approving And Authorizing The Mayor And City Clerk To Execute A Concession Agreement By And Between The City And Brother's Vending, Inc. For The Operation Of Vending Machine Concessions At Various Locations On City-Owned Properties, For A Term Of Two (2) Years, With Three (3) One-Year Renewal Options, Each At The City's Sole Discretion, And Subject To A Thirty (30) Day Termination For Convenience Provision, At The City's Sole Discretion. (Page 548)
(Economic Development)

R9 - New Business and Commission Requests

R9A Board And Committee Appointments. (Page 606)
(City Clerk's Office)

R9B(1) Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.) (Page 612)
R9B(2) Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

R9C Discussion And Report By Peter Dolara, Senior Vice President Of American Airlines, Regarding The On-Going Efforts By American Airlines To Enhance The Volume Of Visitors To Miami Beach. (Page 614)
(Requested by Commissioner Richard L. Steinberg)
(Deferred from July 27, 2005)

R9D Discussion Regarding The Removal Of Historic Signs Ordinance Amendment. (Page 616)
(Requested by Commissioner Richard L. Steinberg)

R9E Designation Of City Of Miami Beach Canvassing Board For November 1, 2005 General Election. (Page 618)
(City Attorney's Office)

R9 - New Business and Commission Requests

R9F Discussion Regarding A Resolution Electing The Next Vice-Mayor For A Term Commencing On November 1, 2005, And Terminating On February 28, 2006. (Page 620)
(City Clerks Office)

R9G A Recommendation Of The City Manager To The Mayor And Commission Of The City Of Miami Beach To Resolve The Impasse Between The City And The Communications Workers Of America (CWA) And Recommend To The CWA Membership For A Ratification Vote A Three Year Labor Agreement For The Period From October 1, 2003 Through September 30, 2006 And In The Event That The Agreement Is Not Ratified, Then The Items In The First Year Of The Proposed Package Shall Be Imposed. (Page 622)
(City Manager's Office)
(Memorandum to be Submitted in the Supplemental)

Reports and Informational Items

A City Attorney's Status Report. (Page 625)
(City Attorney's Office)

B Status Report On The Rehabilitation Of The Existing Building And Construction Of The New Fire Station No. 2. (Page 627)
(Capital Improvement Projects)

C Status Report On The Construction Of Fire Station No. 4. (Page 629)
(Capital Improvement Projects)

D Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, U.S. Communities, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days. (Page 631)
(Procurement)

E Non-City Entities Represented By City Commission:
1. Minutes From The Miami-Dade League Of Cities Meeting Of September 1, 2005 And Agenda For The August 4, 2005 Meeting. (Page 633)
(Requested by Vice-Mayor Matti Herrera Bower)

F Parking Status Report. (Page 639)
(Parking Department)

End of Regular Agenda

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

Office of the City Clerk

HOW A PERSON MAY APPEAR BEFORE THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA

THE REGULARLY SCHEDULED MEETINGS OF THE CITY COMMISSION ARE ESTABLISHED BY RESOLUTION. SCHEDULED MEETING DATES ARE AVAILABLE ON THE CITY'S WEBSITE, DISPLAYED ON CABLE CHANNEL 77, AND ARE AVAILABLE IN THE CITY CLERK'S OFFICE. COMMISSION MEETINGS COMMENCE NO EARLIER THAN 9:00 A.M. GENERALLY THE CITY COMMISSION IS IN RECESS DURING THE MONTH OF AUGUST.

1. DR. STANLEY SUTNICK CITIZENS' FORUM will be held during the first Commission meeting each month. The Forum is split into two (2) sessions, 1:30 p.m. and 5:30 p.m., or as soon as possible thereafter, provided that the Commission Meeting has not already adjourned prior to the time set for either session of the Forum. In the event of adjournment prior to the Stanley Sutnick Citizens' Forum, notice will be posted on Cable Channel 77, and posted at City Hall. Approximately thirty (30) minutes will be allocated for each session, with individuals being limited to no more than three (3) minutes or for a time period established by the Mayor. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

2. Prior to every Commission meeting, an Agenda and backup material are published by the Administration. Copies of the Agenda may be obtained at the City Clerk's Office on the Monday prior to the Commission regular meeting. The complete Agenda, including all backup material, is available for inspection the Monday and Tuesday prior to the Commission meeting at the City Clerk's Office and at the following Miami Beach Branch Libraries: Main, North Shore, and South Shore. The information is also available on the City's website: http://miamibeachfl.gov.

3. Any person requesting placement of an item on the Agenda must provide a written statement with his/her complete address and telephone number to the Office of the City Manager, 1700 Convention Center Drive, 4th Floor, Miami Beach, Fl 33139, briefly outlining the subject matter of the proposed presentation. In order to determine whether or not the request can be handled administratively, an appointment may be scheduled to discuss the matter with a member of the City Manager's staff. "Requests for Agenda Consideration" will not be placed on the Agenda until after Administrative staff review. Such review will ensure that the issue is germane to the City's business and has been addressed in sufficient detail so that the City Commission may be fully apprised. Such written requests must be received in the City Manager's Office <u>no later than noon on Tuesday of the week prior to the scheduled Commission meeting</u> to allow time for processing and inclusion in the Agenda package. Presenters will be allowed sufficient time, within the discretion of the Mayor, to make their presentations and will be limited to those subjects included in their written requests.

4. Once an Agenda for a Commission Meeting is published, persons wishing to speak on item(s) listed on the Agenda, other than public hearing items and the Dr. Stanley Sutnick Citizens Forum, should call or come to City Hall, Office of the City Clerk, 1700 Convention Center Drive, telephone 673-7411, before 5:00 p.m., no later than the day prior to the Commission meeting and give their name, the Agenda item to be discussed, and if known, the Agenda item number.

5. All persons who have been listed by the City Clerk to speak on the Agenda item in which they are specifically interested, and persons granted permission by the Mayor, will be allowed sufficient time, within the discretion of the Mayor, to present their views. When there are scheduled public hearings on an Agenda item, IT IS NOT necessary to register at the City Clerk's Office in advance of the meeting. All persons wishing to speak at a <u>public hearing</u> may do so and will be allowed sufficient time, within the discretion of the Mayor, to present their views.

6. If a person wishes to address the Commission on an emergency matter, which is not listed on the Agenda, there will be a period allocated at the commencement of the Commission Meeting when the Mayor calls for additions to, deletions from, or corrections to the Agenda. The decision as to whether or not the matter will be heard, and when it will be heard, is at the discretion of the Mayor. On the presentation of an emergency matter, the speaker's remarks must be concise and related to a specific item. Each speaker will be limited to three minutes, or for a longer or shorter period, at the discretion of the Mayor.

2005 Schedule of City of Miami Beach
City Commission and RDA Redevelopment Agency Meetings

Meetings begin at 9:00 a.m. and are held in the City Commission Chambers, 3rd Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida.

Commission Meetings	**"*Alternate*" Commission Meetings**
January 12 (Wednesday)	
February 2 (Wednesday)	
February 23 (Wednesday)	
March 16 (Wednesday)	
April 20 (Wednesday)	
May 18 (Wednesday)	*May 25 (Wednesday)*
June 8 (Wednesday)	
July 6 (Wednesday)	
July 27 (Wednesday)	
~~September 7 (Wednesday)~~	*September 14 (Wednesday)*
September 8 (Thursday)	
September 21 (Wednesday) Special Commission Meeting	
October 19 (Wednesday)	*October 26 (Wednesday)*
November 2* (Wednesday)	
November 16* (Wednesday)	
December 7 (Wednesday)	*December 14 (Wednesday)*

* Election related items only.

The "alternate" City Commission meeting date have been reserved to give the Mayor and City Commission the flexibility to carry over a Commission Agenda item(s) to the "alternate" meeting date, if necessary. Any Agenda item(s) carried over will be posted on the City's website, aired on Government Channel 20, or you may call the City Clerk's office at (305)673-7411.

Dr. Stanley Sutnick Citizens' Forum will be held during the first Commission meeting each month. The Forum will be split into two (2) sessions, 1:30 p.m. and 5:30 p.m. Approximately thirty (30) minutes will be allocated per session for each of the subjects to be considered, with individuals being limited to no more than three (3) minutes. No appointment or advance notification is needed in order to speak to the Commission during this Forum.

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

An Ordinance (Second Reading) Entitled "Requirement For City Contractors To Provide Equal Benefits For Domestic Partners," By Mandating That City Contractors Provide Equal Benefits For Domestic Partners.

Issue:

Shall the City Commission Adopt the Ordinance?

Item Summary/Recommendation:

The proposed Ordinance is being sponsored by Commissioner Luis Garcia and was prepared at the recommendation of the Neighborhood/Community Affairs Committee.

The City Attorney's Office and the City's Procurement Division worked on the proposed Ordinance which would require certain contractors doing business with the City (as further defined herein) to provide "equal benefits" to their employees, including their employees with domestic partners. The proposed Ordinance was prepared after having reviewed various equal benefits legislation from counties and municipalities in other states, as well as having conducted independent research and legal review. The Ordinance has also been reviewed with representatives of SAVE Dade, including their advisory legal counsel on this issue.

The Mayor and Members of the City Commission at its September 8, 2005 City Commission meeting, approved on first reading the proposed ordinance entitled "Requirement for City Contractors to Provide Equal Benefits for Domestic Partners"(the Ordinance), and the Contract Compliance Specialist position, by a ballot vote of 7-0.

As part of the discussion relevant to the Ordinance and Contracts Compliance Specialist position, the following requests were made by the City Commission and in turn, the Administration conducted its due diligence relative to the issues raised which are addressed in the attached Commission Memo.

Adopt the Ordinance, to be submitted in the Supplemental Agenda, reflecting the Finance & Citywide Projects Committee and the Neighborhood/Community Affairs Committee's requested modifications.

Advisory Board Recommendation:

On September 1, 2005, the Finance and Citywide Projects Committee and the Neighborhood/Community Affairs Committee unanimously moved the item to the full Commission, recommending approval of the proposed Ordinance. The Committees also recommended establishing a ramp-up period for ordinance and the creation of dedicated position for contract compliance issues.

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1			
2			
3			
4			
Total			

City Clerk's Office Legislative Tracking:

Gus Lopez, ext. 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL	PDW	JMG

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AGENDA ITEM RSA

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez City Manager

SECOND READING PUBLIC HEARING

Subject: **AN ORDINANCE OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VI, DIVISION 3, BY CREATING SECTION 2-373 THEREOF, ENTITLED "REQUIREMENT FOR CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS," BY MANDATING THAT CITY CONTRACTORS PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

Adopt the Ordinance.

ANALYSIS

The Mayor and Members of the City Commission at its September 8, 2005 City Commission meeting, approved on first reading the proposed ordinance entitled "Requirement for City Contractors to Provide Equal Benefits for Domestic Partners"(the Ordinance), and the Contract Compliance Specialist position, by a ballot vote of 7-0.

As part of the discussion relevant to the Ordinance and Contracts Compliance Specialist position, the following requests were made by the City Commission and in turn, the Administration conducted its due diligence relative to the following issues:

1. Commissioner Simon Cruz requested that the Contracts Compliance Specialist position reflect the enforcement not only of the Ordinance, but also the City's Living Wage Ordinance.

   The Administration has prepared the Contracts Compliance Specialist job description with duties and responsibilities that will include enforcement of the requirements set forth in the City's Living Wage Ordinance, Equal Benefits Requirements for Contractors Ordinance, and any other ordinance adopted by the Mayor and City Commission that requires enforcement by the Procurement Division. See attached Contracts Compliance Specialist job description.

2. Commissioner Cruz requested to have penalties in the Ordinance before second reading.

The City Attorney's Office has incorporated the following penalty provisions in the proposed Ordinance:

- The failure of the Contractor to comply with the Ordinance will be deemed to be a material breach of the Covered Contract;
- If the Contractor fails to comply with the Ordinance, the City may terminate the Covered Contract and all monies due or to become due under the Covered Contract may be retained by the City;
- The City may also pursue any and all other remedies at law or in equity for any breach;
- If the City Manager or his designee determines that a Contractor has set up or used its contracting entity for the purpose of evading the requirements of this section, the City may terminate the Covered Contract;
- Failure to comply with this section may subject the Contractor to the procedures set forth in Division 5, entitled "Debarment of Contractors from City Work.";
- Monies due or to become due under the Covered Contract may be retained by the City until compliance is achieved; and
- Failure to comply with the requirements of the Ordinance may also subject Contractor to the procedures set forth in the Miami Beach City Code, entitled "Debarment of Contractors from City Work."

3. Commissioner Jose Smith stated that as it relates to the enforcement issue, the City needs to look at creative ways to enforce the Ordinance, and suggested that perhaps another governmental agency, or law schools (i.e., University of Miami and University of New York) as opposed to hiring full-time employee.

The City's Procurement Director explored Commissioner Smith's suggestion with the following entities/individuals:

MIAMI-DADE COUNTY

Marsha Jackman, Director, Department of Business Development, Miami-Dade County. Ms. Jackman also oversees the County's Compliance Division, which oversees the County's Living Wage Ordinance.

Ms. Jackman informed the City's Procurement Director that the Miami-Dade County Commission established a 15-person Living Wage Commission with the purpose of reviewing the effectiveness of the County's Living Wage Ordinance, review certifications submitted by covered employers, review complaints filed by employees and to make recommendations to the County Mayor and the County Commission. And the County's Living Wage Ordinance is enforced by the Compliance Division within the Department of Business Development. The Compliance Division consists of 28 individuals, of which 9 are Contract Compliance Specialist II, and 14 are Contract Compliance Specialist I, and the 5 are support staff positions.

When asked if the County would consider enforcing the City's Living Wage and/or Equal Benefits Ordinance, Ms. Jackman indicated that her office is only familiar with the Living Wage Ordinance. And as it relates to the Living Wage Ordinance, in order for her office to present a recommendation to the County Manager, the County needs to know if the City wants an "aggressive enforcement" process that includes but is not

limited to on-site interviews with employees of all covered employers, or enforcement only when complaints are filed?

If the City desires "aggressive enforcement", based on the County's Compliance Division's existing staff and the volume of current County contracts that fall under the County's Living Wage Ordinance, coupled with the City's Living Wage contracts, then the County would need to hire additional staff and all costs associated with enforcement would be part of an inter-governmental agreement with the City.

Should the City desire the County to process and resolve all complaints filed relative to Living Wage, then all costs associated with complaint procedures, sanctions, remedies, and administrative hearing processes would be part of an inter-governmental agreement with the City.

University of Miami

Professor Michael Fischl, University of Miami, School of Law. Professor Fischl had heard about the City's Equal Benefits Requirements Ordinance but was not aware of the particulars. His area of expertise and study has been the Living Wage Ordinance. Professor Fischl offered suggestions including the establishment of an oversight committee that would make recommendations and review staff reports relative to compliance or lack thereof by vendors. Additionally, Professor Fischl believed that a "specialist" whose job responsibilities would require enforcement of the various ordinances was a good idea.

New York University (NYU)

Professor Paul Sonn, Brennan Center for Justice at NYU School of Law. Professor Sonn informed me that the NYU Center has assisted activists, lawmakers in cities across the country in designing, enacting and defending living wage laws. He is not familiar with Equal Benefits laws, but has done extensive research on Living Wage laws. However, as it relates to enforcement issues, he would defer to his colleague at the University of Massachusetts, Stephanie Luce.

At the time this Commission Memorandum was being finalized, several messages and e-mails were sent to Professor Luce, and Professor Gerald Lopez, NYU School of Law. Any information provided by Professor Lopez or Professor Luce will be submitted as supplemental material.

4. Commissioner Richard Steinberg asked if the False Claims Ordinance can be changed, so that if someone is asking the City for payment based on a contract that they are supposed to pay a living wage or provide for domestic partner benefits, and they are not adhering the requirements of said Living Wage or Equal Benefits Ordinances, then that would trigger the False Claims Ordinance.

   The City Attorney's Office has reviewed the False Claims Ordinance, and, the current version would not apply with regard to enforcement of the proposed Equal Benefits Ordinance and, other ordinances such as the Living Wage Ordinance. An amendment to the False Claims Ordinance would be required which, upon request by the City Commission, the City Attorney's Office would prepare.

5. Commissioner Smith requested to know what the potential fiscal impact would be if the City Commission exercised the waiver provisions set forth in the Ordinance.

   The Commission Memorandum presented to the City Commission on September 8, 2005, informed the Mayor and City that if the proposed Ordinance was enacted five years ago, the fiscal impact would have been have been $2,149,887.56. This estimated fiscal impact was based on applying the requirements of the proposed Ordinance to the contracts awarded by the City over the past five years, without any waiver considerations. The potential fiscal impact if the City Commission had exercised the waiver provisions set forth in the Ordinance is reduced from $2,149.887.56 to $366,119.56. The significant difference is in large part attributable to one contract – the North Shore Park and Youth Center which shows a difference between the low bidder who is not compliant, and the second low bidder who is compliant, of $1,652,768.

FISCAL IMPACT

Determining the five-year fiscal impact of the proposed Ordinance beyond the cost associated with aforementioned Contract Compliance Specialist position is extremely difficult when one considers the variables of the proposed Ordinance (i.e. applicability, exemptions, and waiver provisions). However, the Administration applied survey results to the bid results of the last five years' contract awards to determine the impact of the proposed Ordinance. In other words, if the proposed Ordinance was enacted five years ago, what would the fiscal impact have been? Based on the above, had the Ordinance been in place, the additional cost to the City would have been in excess of $2 million.

The following are the bid results *if* the Ordinance applied at the time of award (looking back five years):

(1) Total number of contracts awarded that the results were applied to:.....174
(2) Total number/percentage of contractors who provide or offer equal benefits to all employees including individuals in a domestic partnership 129 (74%)
(3) Total number/percentage of contractors who would not provide or offer equal benefits to all employees including individuals in a domestic partnership.....17 (10%)
(4) Total number/percentage of contracts exempted.....28 (16%)
(5) Fiscal Impact Without Waiver $2,149.887.56
(6) Fiscal Impact With City Commission Waiver $366,119.56

The fiscal impact in subsection (5) above, was calculated by comparing the lowest and best bids which did not meet the requirement of the proposed Ordinance (in terms of offering equal benefits to employees with domestic partners), versus the next lowest and best bids that did meet the requirements of the Ordinance (i.e., offered equal benefits to employees with domestic partners).

BACKGROUND

Pursuant to the request of Commissioner Luis Garcia, the Mayor and City Commission passed and adopted on July 28, 2004, Ordinance No. 2004-3451, which amended Chapter 62 of the Miami Beach Code entitled "Human Relations" by adding Article IV thereto to provide for Registered Domestic Partnerships for those wishing to register who meet eligibility requirements, and granting certain rights including health care visitation and heath care decisions, among other rights.

At the direction of the Neighborhood/Community Affairs Committee, the City Attorney's Office and the City's Procurement Division worked on the proposed Ordinance which would require certain contractors doing business with the City (as further defined herein) to provide "equal benefits" to their employees, including their employees with domestic partners.

The attached Ordinance, entitled "Requirement for City Contractors to Provide Equal Benefits for Domestic Partners" (and which may hereinafter also be referred to as the Ordinance) was prepared by the City Attorney's Office and the Administration after having reviewed various equal benefits legislation from counties and municipalities in other states, as well as having conducted their own independent research and legal review. The Ordinance has also been reviewed with representatives of SAVE Dade, including their advisory legal counsel on this issue, and incorporates their comments and/or revisions.

On September 1, 2005, the Finance and Citywide Projects Committee and the Neighborhood/Community Affairs Committee (the "Committees"), held a joint meeting to discuss the proposed Ordinance.

The Committees listened to a presentation from Raul Aguila, First Assistant City Attorney, which provided an analysis of the major points of the proposed Ordinance. Additionally, the Committees listened to a presentation from Gus Lopez, Procurement Director, which provided the results of surveys issued to more than 2,800 vendors, and information relative to potential fiscal impact.

Commissioner Steinberg requested that the "cash equivalent" option for compliance be further reviewed and/or modified to ensure that the applicability requirements are consistent. Additionally, Commissioner Steinberg recommended as part of the waiver provisions, some consideration for the City Commission to waive the requirements of the proposed Ordinance, should the City Commission determine it is in the City's best economic interest.

The Committees unanimously moved the item to the full Commission, recommending approval of the proposed Ordinance. The Committees also recommended establishing a ramp-up period for ordinance and the creation of dedicated position for contract compliance issues.

Commissioner Garcia and Ms. Pena thanked the Committees for supporting the proposed Ordinance.

PROPOSED EQUAL BENEFITS ORDINANCE SUMMARY

The foregoing analysis provides a summary of the major points of the proposed Ordinance:

1) What is the intent of the Ordinance?

The proposed Ordinance will require certain contractors doing business with the City of Miami Beach, who are awarded a contract pursuant to competitive bids, to provide "Equal Benefits" to their employees with Domestic Partners, as they provide to employees with spouses.

2) How are "Equal Benefits" defined and what kind of "Benefits" does the Ordinance cover?

"Equal Benefits" means that contractors doing business with the City who are covered by the Ordinance shall be required to provide the same type of benefits that they offer to employees and their spouses, to employees with Domestic Partners.

The type of "Benefits" defined by the Ordinance and which **may** be offered by a contractor include: sick leave, bereavement leave, family medical leave, and health benefits.

The "Benefits" defined in the Ordinance are the same type of benefits that the City provides to Domestic Partners of City employees, pursuant to Section 62-128 of the City Code].

Notwithstanding the definition of "Benefits" in the Ordinance, to comply with the Ordinance a Contractor is not required to provide all the above-described benefits. Contractors are only required to offer the same type of Benefits they offer to their employees with spouses, to employees with Domestic Partners. Additionally, a Contractor who offers no benefits to employees or their spouses, would not be required to offer any benefits to employees with Domestic Partners (and would still be in compliance with the Ordinance).]

3) Who is considered a "Domestic Partner" under the Ordinance?

A "Domestic Partner" shall mean any two (2) adults of the same or different sex who have registered as domestic partners with a government body pursuant to state or local law authorizing such registration, **or** with an internal registry maintained by the employer of at least one of the domestic partners.

4) What type of Contracts and/or which Contractors are covered by the Ordinance?
The Ordinance only applies to the following:

- competitively bid City contracts (bids, RFP's, RFQ's, RFLI's, etc.).
- contracts valued at over $100,000.
- contractors who maintain 51 or more full time employees on their payrolls during 20 or more calendar work weeks in either the current or the preceding calendar year.
- contractors covered by the Ordinance are only required to comply as to employees who: 1) either work within the City limits of the City of Miami Beach; or 2) the contractor's employees located in the United States, but outside of the City limits,

only if those employees are directly performing work on the City contract (covered by the Ordinance).

5) In what cases does the Ordinance not apply?

The provisions of the Ordinance do not apply where:

- the City contract has been has been entered into prior to the effective date of the Ordinance (including renewal terms contained in such contracts).
- the City contract is not competitively bid.
- the City contract is valued at less than $100,000.
- the contractor has less than 51 employees.
- the contractor does not provide Benefits either to employees' spouses or to employees' Domestic Partners.
- the contractor is a religious organization, association, society or any non profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.
- the contractor is another government entity.

The following City contracts are not covered by the Ordinance:

- contracts for sale or lease of City property.
- Development Agreements.
- contracts/grants for CDBG, HOME, SHIP, and Surtax funds administered by the City's Office of Community Development
- Cultural Arts Council grants
- contracts for professional A/E, landscape A/E, or survey and mapping services procured pursuant to Chapter 287.055, Florida Statutes ("The Consultants Competitive Negotiation Act".
- contracts for the procurement of life, health, accident, hospitalization, legal expense, annuity insurance, or any and all other kinds of insurance for the officers and employees of the City and their dependents, from a group insurance plan.

The Ordinance provides, upon written recommendation of the City Manager, that the City Commission may, by 5/7ths vote, waive application of the Ordinance for the following:

- emergency contracts.
- contracts where only one bid response is received.
- contracts where more than one bid response is received, but none of the bidders can comply with the requirements of the Ordinance.

The City's ability to apply the Ordinance may also be preempted in instances where the Ordinance impacts health, retirement, or pension program which fall within the jurisdiction of the Employee Retirement Income Security Act (ERISA), and may under certain circumstances be held invalid under Federal preemption.

6) How is the Ordinance enforced by the City?

- City contracts that are covered by the Ordinance shall notify potential bidders/proposers of the Ordinance and its requirements in the issued bid

documents.

- at the time of entering into the contract with the City, the proposed City contractor shall certify to the City that it intends to provide Equal Benefits, along with the description of its employee benefits plan, which needs to be delivered to the Procurement Director prior to entering into the contract.

- the City has the ongoing right to investigate/audit contracts for compliance with the provisions of the Ordinance.

- the contractor is required to post notice to its employees at its place of business that it provides Equal Benefits.

7) Is there another way for a Contractor who does not provide Equal Benefits to comply with the Ordinance?

If a contractor covered by the Ordinance has made a reasonable yet unsuccessful effort to provide Equal Benefits, it can still comply with the Ordinance by providing an employee with the "Cash Equivalent" of the similar benefit(s) offered to the contractor's employees and their spouses.

8) What are the penalties for non compliance?

Failure of a contractor to comply with the requirements of the Ordinance may result in the following:

- breach/default under the contract.
- termination of the contract.
- monies due under the contract may be retained by the City until compliance is achieved.
- debarment of contractors from City work, as prescribed by the City Code.

ADMINISTRATIVE SURVEY AMONG CURRENT CITY VENDORS AND INITIAL FISCAL IMPACT ANALYSIS

In addition to research and preparation of the proposed Ordinance, the City's Procurement Division prepared a written survey/questionnaire which was sent to vendors currently doing business with the City of Miami Beach. The purpose of the survey/questionnaire was to determine both the viability of the proposed Ordinance, particularly in terms of gauging potential fiscal impact, as well as impact upon the City's competitive bidding process and current available bidder "pools."

More than 2,800 surveys were issued to City vendors to determine among them the number of contractors who currently offer equal benefits to all their employees including employees in a domestic partnership; and the number of contractors who currently do not offer equal benefits to all their employees but would comply if required as a condition of doing business with the City. Of the 2,800 surveys issued, 604 responses were received (representing 22% of the surveys issued). The specific questions asked and the responses thereto are listed below:

a. Does your company provide or offer equal benefits to all employees including

individuals in a domestic partnership?

Yes – 64.7% No – 33.3% N/A or No Answer – 2%

b. If the City was to require your company (as a condition of contract award), to provide/offer equal benefits to all your employees, including employees in a domestic partnership, would you continue to do business with the City?

Yes–76.3% No–19.2% N/A or No Answer – 4.5%

RECOMMENDATION

The Administration recommends that the Mayor and City Commission approve and adopt the attached Ordinance on second reading, public hearing; and approve the Contract Compliance Specialist position subject to the City's classification review process, in order to enforce the requirements set forth in the proposed Ordinance and the City's Living Wage Ordinance and any other ordinance the City Commission may adopt that requires the Administration to enforce.

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Contracts Compliance Specialist

NATURE OF WORK

Employees in this class are responsible for inspecting and monitoring vendors, firms, individuals, contractors and sub-contractors for compliance with requirements pertaining to the Living Wage Ordinance, Equal Benefits Requirements for Contractors Ordinance, and any other ordinance adopted by the Mayor and City Commission that requires enforcement by the Procurement Division. Considerable field work is required to ensure contract compliance, through interviews and examination of documentation. Supervision is received from the Procurement Director who reviews work for compliance with established policies and procedures.

ILLUSTRATIVE EXAMPLES OF ESSENTIAL DUTIES

Performs field work to verify that vendors, contractors and sub-contractors are compliant with established living wage rates and equal benefits requirements.
Provides City departments with general support and technical assistance, as required.
Plans and schedules reviews of contractor payrolls and other applicable records required to determine compliance with appropriate ordinances.
Conducts job-site interviews with contractor management staff and employees, as needed, concerning wage, benefit and job classification issues.
Investigates complaints related to enforcement of applicable ordinances and prepares for administrative hearings.
Determines any underpayments on the part of contractors or sub-contractors; reviews findings with Procurement Director.
Prepares program evaluation reports.
Exercises considerable independent judgment in ensuring vendor/contractor compliance with applicable ordinances
Performs related work as required.

KNOWLEDGE, SKILLS AND ABILITIES

Considerable knowledge and understanding of ordinances and procedures pertaining to wages and benefits.
Working knowledge of contracts, all applicable clauses, contract compliance and enforcement.
Considerable knowledge of techniques in monitoring contracts for compliance.
Knowledge of interviewing practices and techniques.
Knowledge of regulations and rules governing payroll reporting procedures.
Knowledge of public relations principles and techniques.
Knowledge of job classifications in the construction and services industries.
Ability to obtain, collect and organize pertinent information required to review contracts compliance issues.
Ability to analyze detailed payroll and bookkeeping records.
Ability to develop interview questionnaires and conduct interviews.
Ability to deal effectively with departmental staff members, private contractors and their employees.
Ability to communicate clearly and concisely, verbally and in writing.

Ability to plan and schedule work to meet scheduled reviews of contractor' payroll records.

MINIMUM REQUIREMENTS

Graduation from an accredited college or university with a Bachelor's degree in Public or Business Administration, or a related field. Three (3) years experience which demonstrates competencies in required knowledge, skills and abilities needed for this position. Experience may substitute for education on a year-for-year basis.

DESIRES:

Positive attitude and ability to maintain composure. Excellent written and oral communication skills. Knowledge of Windows, Office Suite (i.e., Word, Excel, Access, PowerPoint) and automated purchasing system.

PHYSICAL REQUIREMENTS

Must have the use of sensory skills in order to effectively communicate and interact with other employees and the public through the use of the telephone and personal contact. Physical capability to effectively use and operate various items of office related equipment, such as, but not limited to, word processor, calculator, copier, and fax machine. No significant standing, walking moving, climbing, carrying, bending, kneeling, crawling, reaching, and handling, sitting, standing, pushing, and pulling.

SUPERVISION RECEIVED

General and specific assignments are received and work is performed with moderate latitude for the use of independent judgment in the selection of work methods and procedures and is subject to review for compliance with departmental standards and objectives.

SUPERVISION EXERCISED

May supervise the work of Procurement clerical staff

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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ARTICLE VI, DIVISION 3, BY CREATING SECTION 2-373 THEREOF, ENTITLED "REQUIREMENT FOR CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS," BY MANDATING THAT CITY CONTRACTORS PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the City to be responsible to the changing needs of society and to treat all persons fairly and equitably; and

WHEREAS, the City recognizes that long-term committed relationships foster economic stability and emotional and physiological bonds; and

WHEREAS, the City has adopted a human rights ordinance and seeks to comply with the full spirit of it.

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

SECTION 1. That Miami Beach City Code Chapter 2, Article VI, Division 3, is hereby amended to create a new Section 2-373 thereof, entitled "Requirement for City Contractors to Provide Equal Benefits for Domestic Partners", to read as follows:

ARTICLE VI. PROCUREMENT

* * *

DIVISION 3. CONTRACT PROCEDURES

* * *

SECTION 2-373. REQUIREMENT FOR CITY CONTRACTORS TO PROVIDE EQUAL BENEFITS FOR DOMESTIC PARTNERS

(A) Definitions.

For purposes of this section only, the following definitions shall apply:

(1) *Benefits* mean the following plan, program or policy provided or offered by a Contractor to its employees as part of the employer's total compensation package: sick leave, bereavement leave, family medical leave, and health benefits.

(2) *Bid* shall mean a competitive bid procedure established by the City through the issuance of an invitation to bid, request for proposals, request for qualifications, or request for letters of interest.

(3) *Cash Equivalent* means the amount of money paid to an employee with a Domestic Partner (or spouse, if applicable) in lieu of providing Benefits to the employee's Domestic Partner (or spouse, if applicable). The Cash Equivalent is equal to the employer's direct expense of providing Benefits to an employee for his or her spouse.

Cash Equivalent. The cash equivalent of the following benefits apply:

a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
b. For health benefits, the cost to the Contractor of the Contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself or herself.
c. For family medical leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

(4) *Contract* means any written agreement, purchase order, standing order or instrument entered into pursuant to the award of a Bid whereby the City is committed to expend or does expend funds in return for work, labor, professional services, consulting services, supplies, equipment, materials, construction, construction related services or any combination of the foregoing.

(5) *Contractor* means any person or persons, sole proprietorship, partnership, joint venture, corporation, or other form of doing business, that is awarded a Bid and enters into a Covered Contract with the City, and which maintains 51 or more full-time employees on the payroll during twenty (20) or more calendar work weeks in either the current or the preceding calendar year. Work weeks include consecutive and non-consecutive work weeks.

(6) *Covered Contract* means a Contract between the City and a Contractor awarded subsequent to the date when this section becomes effective valued at over $100,000.

(7) *Domestic Partner* shall mean any two (2) adults of the same or different sex, who have registered as domestic partners with a governmental body pursuant to

state or local law authorizing such registration, or with an internal registry maintained by the employer of at least one of the domestic partners. A Contractor may institute an internal registry to allow for the provision of equal benefits to employees with domestic partner who do not register their partnerships pursuant to a governmental body authorizing such registration, or who are located in a jurisdiction where no such governmental domestic partnership registry exists. A Contractor that institutes such registry shall not impose criteria for registration that are more stringent than those required for domestic partnership registration by the City of Miami Beach.

(8) *Equal Benefits* means the equality of benefits between employees with spouses and employees with Domestic Partners, and/or between spouses of employees and Domestic Partners of employees.

(B) Equal Benefits Requirements.

(1) All Bids for Covered Contracts which are issued on or after the effective date of this section shall include the requirement to provide Equal Benefits in the procurement specifications for such Bids.

(2) The City shall not enter into any Covered Contract unless the Contractor certifies that such Contractor does not discriminate in the provision of Benefits between employees with Domestic Partners and employees with spouses and/or between the Domestic Partners and spouses of such employees.

(3) Such certification shall be in writing and shall be signed by an authorized officer of the Contractor and delivered, along with a description of the Contractor's employee benefits plan, to the City's Procurement Director prior to entering into such covered Contract.

(4) The City Manager or his/her designee shall reject a Contractor's certification of compliance if he/she determines that such Contractor discriminates in the provision of Benefits or if the City Manager or designee determines that the certification was created, or is being used for the purpose of evading the requirements of this section.

(5) The Contractor shall provide the City and/or the City Manager or his/her designee, access to its records for the purpose of audits and/or investigations to ascertain compliance with the provisions of this section, and upon request shall provide evidence that the Contractor is in compliance with the provisions of this section upon each new Bid, Contract renewal, or when the City Manager has received a complaint or has reason to believe the Contractor may not be in compliance with the provisions of this section. This shall include but not be limited to providing the City and/or the City Manager or his/her designee with certified copies of all of the Contractor's records pertaining to its Benefits policies and its employment policies and practices.

(6) The Contractor must post a copy of the following statement in conspicuous places at its place of business available to employees and applicants for employment:

> "During the performance of a Contract with the City of Miami Beach, Florida, the Contractor will provide Equal Benefits to its employees with spouses and its employees with Domestic Partners".

The posted statement must also include a City contact telephone number which will be provided each Contractor when the Covered Contract is executed.

(7) The Contractor may not set up or use its contracting entity for the purpose of evading the requirements imposed by this section.

(C) Other Options for Compliance.

Provided that the Contractor does not discriminate in the provision of Benefits, a Contractor may also comply with this section in the following ways:

1) The Contractor may provide an employee with the Cash Equivalent of such Benefit or Benefits, if the City Manager or his/her designee determines that either:

a) The Contractor has made a reasonable yet unsuccessful effort to provide Equal Benefits. The Contractor shall provide the City Manager or his/her designee with sufficient proof of such inability to provide such Benefit or Benefits which shall include the measures taken to provide such Benefits or Benefits and the Cash Equivalent proposed, along with its certificate of compliance, as is required under subsection (B) of this section. The City Manager or his designee shall, based on submitted evidence, determine whether the Contractor's failure to provide such Benefit or Benefits precludes such Contractor from entering into a Covered Contract pursuant to the requirements of this section; or

b) Under the circumstances, it would be unreasonable to require the Contractor to provide Benefits to the Domestic Partner (or spouse, if applicable).

2) The Contractor provides benefits neither to employees' spouses nor to employees' Domestic Partners.

(D) Applicability.

1) Unless otherwise exempt, a Contractor is subject to and shall comply with all applicable provisions of this section.

2) The requirements of this section shall apply to Contractor's operations as follows:

a) Employees of a Contractor with a Covered Contract who work within the City limits of the City of Miami Beach, Florida; and

b) The Contractor's employees located in the United States, but outside of the City of Miami Beach limits, if those employees are directly performing work on the Covered Contract within the City of Miami Beach.

(E) Mandatory Contract Provisions Pertaining to Equal Benefits.

Unless otherwise exempt, every Covered Contract shall contain language that obligates the Contractor to comply with the applicable provisions of this section. The language shall include provisions for the following:

1) During the performance of the Covered Contract, the Contractor certifies and represents that it will comply with this section.

2) The failure of the Contractor to comply with this section will be deemed to be a material breach of the Covered Contract.

3) If the Contractor fails to comply with this section, the City may terminate the Covered Contract and all monies due or to become due under the Covered Contract may be retained by the City. The City may also pursue any and all other remedies at law or in equity for any breach.

4) If the City Manager or his designee determines that a Contractor has set up or used its contracting entity for the purpose of evading the requirements of this section, the City may terminate the Covered Contract.

5) Failure to comply with this section may subject the Contractor to the procedures set forth in Division 5, entitled "Debarment of Contractors from City Work."

(F) Enforcement.

1) If the Contractor fails to comply with the provisions of this section:

1) The failure to comply may be deemed to be a material breach of the Covered Contract; or

2) The City may terminate the Covered Contract; or

3) Monies due or to become due under the Covered Contract may be retained by the City until compliance is achieved; or

4) The City may also pursue any and all other remedies at law or in equity for any breach;

5) Failure to comply with this section may also subject Contractor to the procedures set forth in Division 5, entitled "Debarment of Contractors from City Work."

(G) Non-applicability, Exceptions and Waivers.

1) The provisions of this section shall not apply where:

a) The Contractor provides Benefits neither to employees' spouses nor to employees' Domestic Partners.

b) The Contractor is a religious organization, association, society or any non-profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

c) The Contractor is a governmental entity.

2) The provisions of this section shall not apply to Covered Contracts which involve:

a) The sale or lease of City property.

b) Development agreements entered into pursuant to Chapter 163.3220, Florida Statutes, (the "Florida Local Government Development Agreement"), as same may be amended.

c) The award, pursuant to competitive processes, of CDBG, HOME, SHIP and Surtax Funds administered by the City's Office of Community Development.

d) The award, pursuant to competitive processes, of Cultural Arts Council Grants.

e) The acquisition of professional architectural, engineering, landscape architectural, or survey and mapping services procured pursuant to Chapter 287.055, Florida Statutes (the "Consultants' Competitive Negotiation Act"), as same may be amended.

f) The procurement of life, health, accident, hospitalization, legal expense, annuity insurance, or all or any kinds of other insurance for the officers and employees of the City, and for the dependents of such officers and employees, from a group insurance plan.

3) Upon the request and written recommendation of the City Manager, the City Commission may, by resolution adopted by a five-seventh (5/7ths) vote of the City Commission, waive compliance of this section under the following circumstances:

a) The Covered Contract is necessary to respond to an emergency, where the existence of an emergency is requested, upon written recommendation of the City Manager, and same is determined by the City Commission. For purposes of waiver under this subsection only, in determining whether there is an emergency, the City Commission may consider the following non-exclusive factors:

i) The nature of the Covered Contract;
ii) The length of the Covered Contract;
iii) The cost of the Covered Contract;
iv) Whether grants are involved in the Covered Contract and the requirements of those grants
v) Whether there is a need to have materials, goods, and services furnished immediately and the consequences of a delay in having those materials, goods, and services furnished;
vi) The monetary consequences if action is not taken immediately;
vii) Any health, safety, and welfare issues that may be involved.
viii) Increased labor costs, and scheduling of labor;
ix) The need to complete work before a strict deadline; or
x) The impact of delaying one phase or portion of a project on the other phase(s) or portion(s) of the project.

b) Where only one Bid response is received;

c) Where more than one Bid response is received, but the Bids demonstrate that none of the bidders can comply with the requirements of this section, and one or more of the Bids received would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the Bid specifications;

d) Where more than one Bid response is received and Bid responses are received from:

i) one or more bidders that comply with the requirements of this section and are otherwise responsive; and

ii) one or more bidders that do not or cannot comply with the requirements of this section, but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the Bid specifications; and

iii) the Procurement Director's review of the Bids demonstrates that the cost of the Bid (and/or the proposed Covered Contract which may be negotiated for such Bid), as submitted by the lowest responsive bidder which complies with the requirements of this section (or, in the case of a proposal, the proposal of the top-ranked proposer), would be at least five percent (5%), or two hundred fifty thousand dollars ($250,000) (whichever is less), greater than the lowest responsive bid submitted by the bidder which does not comply with the requirements of this section but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the Bid specifications (or, in the case of a proposal, where the top-ranked proposer which does not comply with the requirements of this section, but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the Bid specifications);

then, upon request and written recommendation of the City Manager, the City Commission may, by resolution adopted by a 5/7ths vote of the City Commission, waive compliance of this section, and award the Bid to the lowest bidder (or, if a proposal, to the top ranked proposer) which does not comply with the requirements of this section but would otherwise have been responsive if compliance with this section would not have been listed as a requirement in the Bid specifications.

(H) Consistency with Federal or State Law.

The provisions of this section do not apply where the application of these provisions would violate or be inconsistent with the laws, rules or regulations of federal or state law, or where the application would violate or be inconsistent with the terms or conditions of a grant or contract with the United States of America, the State of Florida, or the instruction of an authorized representatives of any of these agencies with respect to any grant or contract.

(I) Nothing in this section shall be construed to limit the City's authority to cancel or terminate a Contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding,

deny a person or entity pre-qualifications, or otherwise deny a person or entity City business.

(J) Timing of Application.

This section shall be applicable only to Covered Contracts awarded pursuant to Bids which are issued six (6) months from the date when this section becomes effective.

SECTION 2. REPEALER

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

SECTION 3. 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 4. CODIFICATION

It is 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 relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article", or other appropriate word.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect the _____ day of _____ , 200_.

PASSED and **ADOPTED this ___ day of _____, 200_.**

ATTEST:

_____
MAYOR

_____
CITY CLERK

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

10-10-05
City Attorney Date

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CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that 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 19, 2005,** to consider the following:

10:15 a.m.
An Ordinance Amending Miami Beach City Code Chapter 2, Article VI, Division 3, By Creating Section 2-373 Thereof, Entitled "Requirement For City Contractors To Provide Equal Benefits For Domestic Partners," By Mandating That City Contractors Provide Equal Benefits For Domestic Partners.

Inquiries may be directed to the Procurement Division at (305) 673-7490.

10:20 a.m.
A Resolution Setting A First Public Hearing To Consider Extending The Approval Of The Miami Beach Convention Center As A Venue For Conventions, Expositions Or Events Involving Adult Materials, Pursuant To The Provisions Of Section 847.0134, Florida Statutes; and Referring The Matter To The Land Use And Development Committee.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:30 a.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 1, "Generally," By Amending Section 118-503 To Modify The Requirements For An After-The-Fact Certificate Of Appropriateness; By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 3, "Issuance Of Certificate Of Appropriateness/Certificate To Dig/ Certificate Of Appropriateness For Demolition," By Amending Section 118-562 To Add A Requirement For An Independent Structural Evaluation For Demolition Requests.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:35 a.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 138, "Signs," By Amending Article I, "In General," By Amending Section 138-11 To Clarify The Requirements And Procedures For The Removal Of Signs; Providing For Inclusion In The City Code.

Inquiries may be directed to the Planning Department at (305) 673-7550.

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 authorizechallenges 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 #331

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

Ordinance amending the Historic Preservation Section pertaining to requirements for new construction on those properties where a contributing building is demolished and requirements for evaluations by independent structural engineers.

Issue:

Amendment to the Historic Preservation Section of the City Code to clarify procedures and requirements for new construction on those properties where a contributing building is demolished and to implement new requirements for evaluations by independent structural engineers.

Item Summary/Recommendation:

On September 8, 2005, the City Commission approved the proposed Ordinance on First Reading, subject to minor modifications regarding the allocation of funding for an independent engineer. The Administration recommends that the Mayor and City Commission adopt the proposed Ordinance.

Advisory Board Recommendation:

The Historic Preservation Board reviewed the Ordinance on March 8, 2005 and recommended approval. The Planning Board reviewed the proposed Ordinance on March 29, 2005, recommended certain modifications and continued the item to the April 26, 2005 meeting. On April 26, 2005 the Planning Board transmitted the proposed Ordinance to the City Commission with a favorable recommendation. On July 11, 2005, the Land Use and Development Committee reviewed the proposed Ordinance and recommended approval.

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1			
2			
3			
4			
Total			

City Clerk's Office Legislative Tracking:

Jorge Gomez or Thomas Mooney

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM R5B

DATE 10-19-05

CITY OF MIAMI BEACH
CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
http:\\ci.miami-beach.fl.us

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members Of The City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez City Manager

SECOND READING PUBLIC HEARING

Subject: **Reconstruction and Engineer Requirements**

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 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, ENTITLED "HISTORIC PRESERVATION," DIVISION 1, ENTITLED "GENERALLY," BY AMENDING SECTION 118-503 TO MODIFY THE REQUIREMENTS FOR AN AFTER-THE-FACT CERTIFICATE OF APPROPRIATENESS; BY AMENDING CHAPTER 118, ENTITLED "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, ENTITLED "HISTORIC PRESERVATION," DIVISION 3, ENTITLED "ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION", BY AMENDING SECTION 118-562 TO ADD A REQUIREMENT FOR AN INDEPENDENT STRUCTURAL EVALUATION FOR DEMOLITION REQUESTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

Adopt the proposed Ordinance.

ANALYSIS

Recently, the City Commission adopted, on First Reading, modifications to the Non-Conforming Structures section of the City Code, which was the result of the recommendations of the Mayor's Blue Ribbon Panel on the Structural Integrity of Historic Buildings. This ordinance, however, did not address "conforming" buildings in the City's historic districts.

In order to address any "conforming" buildings which may be required to be demolished in the future, by order of the Building Official, the same policy clause that was developed for the "non-conforming structures" section of the City Code has been proposed for "conforming" buildings. Specifically, a section has been added creating a policy that any contributing structure demolished shall be fully reconstructed without any additional floor

area. The Historic Preservation Board will have the latitude, on a case-by-case basis, to require the reconstruction of any structure deemed to be structurally unsafe.

By limiting the amount of floor area that can be added to a contributing structure, it is anticipated that this change will encourage the preservation of structures by creating an incentive for their preservation. It will also put all current and future property owners on notice that existing structures in local historic districts, that are designated contributing, would have to be reconstructed if they are found to be structurally unsafe.

In addition to this change, new language has been added requiring that an independent licensed structural engineer with expertise in historic structures, be retained to evaluate any application which involves the full demolition of any contributing building located within an historic district, inclusive of an application for an after-the-fact certificate of appropriateness for demolition. The independent engineer shall be chosen from a list approved pursuant to an RFQ, and the evaluation of the engineer shall take into consideration any potential methods for retaining and preserving the subject structure. This portion of the proposed ordinance amendment was referred by the City Commission to the Planning Board in order to address the potential conflicts associated with a structural evaluation of an historic structure being performed by an engineer retained and paid for by the property owner.

The Ordinance was reviewed by the Historic Preservation Board on March 8, 2005, which recommended approval. The Planning Board reviewed the revised Ordinance on March 29, 2005 and continued the item to the April 26, 2005 meeting. The Planning Board had specific concerns pertaining to the inclusion of parking impact fees in areas outside of local historic districts, as well as the proposed mandatory requirements for new construction in the event a contributing building is demolished. In order to address these concerns the following modifications to the Ordinance were made:

1. The policy for buildings demolished by an Order of the Building Official or without a Certificate of Appropriateness from the Historic Preservation Board has been modified to require that any new structure be limited to the height, massing and square footage of the original structure (not to exceed the height and FAR requirements of the Code) and that the architectural style of the new structure be subject to the review and approval of the Historic Preservation Board.

2. Specific criteria was established that allows the Historic Preservation Board to rebut the aforementioned policy.

3. The requirements for an independent structural engineer were modified so that such engineer would act on behalf of the Historic Preservation Board, and not the property owner. Also, such engineer would be chosen by the Board, from a qualified list to be maintained by the Planning Department.

On April 26, 2005 the Planning Board transmitted the Ordinance to the City Commission with a favorable recommendation. On June 8, 2005 the City Commission referred the matter to the Land Use and Development Committee for further study.

On July 11, 2005, the Land Use and Development Committee endorsed the proposed ordinance, with the proviso that the structure of the ordinance be simplified and made easier to read. In order to address this requirement, the Administration has redrafted the proposed Ordinance in a manner that reorganizes the language.

The most significant change was introducing a new portion of the Ordinance pertaining to the new City policy on the reconstruction requirements for lots on which a contributing structure was located and the ability of the Historic Preservation Board to waive such policy. This section of the proposed Ordinance amendment was relocated from the proposed Ordinance pertaining to "Non-Conforming Structures".

On September 8, 2005, the City Commission approved the subject Ordinance on First Reading. The Commission expressed some concern with regard to the funding of the independent engineer and a strong desire to assure fiscal control. In this regard, new language has been added to the proposed Ordinance requiring that the Commission, at their discretion, ratify any and all services of an independent engineer requested by the Historic Preservation Board.

Additionally, the City Commission must also allocate the appropriate funds, to cover the costs associated with the retention of an independent engineer, prior to the commencement of any work. Finally, instead of the engineer being chosen by the Historic Preservation Board, the Commission requested that responsibility be transferred to the Planning Department. The selection would come from a qualified list of structural engineers approved pursuant to an RFQ, and maintained by the Planning Department.

FISCAL IMPACT

The proposed Ordinance is expected to have a fiscal impact under certain circumstances. If the independent structural engineer determines that the structure cannot be retained, preserved or restored, then the City bears responsibility of all costs incurred by the engineer. This is estimated to cost $25,000 per analysis.

In order to assure fiscal control, the Ordinance has been modified to require that the City Commission have final authority over the retention of an independent engineer, as well as the allocation of funds.

CONCLUSION

Adopt the proposed Ordinance.

Pursuant to Section 118-164(4) of the City Code, an affirmative vote of five-sevenths shall be necessary in order to enact any amendments to the Land Development Regulations.

JMG/TH/JGG/TRM
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RECONSTRUCTION OF DEMOLISHED PROPERTIES AND ENGINEERING REQUIREMENTS

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 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, "HISTORIC PRESERVATION," DIVISION 1, "GENERALLY," BY AMENDING SECTION 118-503 TO MODIFY THE REQUIREMENTS FOR AN AFTER-THE-FACT CERTIFICATE OF APPROPRIATENESS; BY AMENDING CHAPTER 118, "ADMINISTRATION AND REVIEW PROCEDURES," ARTICLE X, "HISTORIC PRESERVATION," DIVISION 3, "ISSUANCE OF CERTIFICATE OF APPROPRIATENESS/CERTIFICATE TO DIG/CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION", BY AMENDING SECTION 118-562 TO ADD A REQUIREMENT FOR AN INDEPENDENT STRUCTURAL EVALUATION FOR DEMOLITION REQUESTS; PROVIDING FOR REPEALER, CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach wishes to preserve its unique architectural history and to maintain the structural, historical and architectural integrity of existing structures in the City's designated historic districts and sites; and

WHEREAS, the City of Miami Beach Historic Preservation Board and the Planning Department are the primary vehicles for preserving this history and integrity; and,

WHEREAS, the City of Miami Beach desires to refine, clarify, expand and enhance existing procedures of the Historic Preservation Board regarding after-the-fact Certificates of Appropriateness in order to preserve the architectural history and built character of the City; and,

WHEREAS, the City of Miami Beach desires to refine, clarify, expand and enhance existing procedures and requirements for Certificates of Appropriateness for Demolition in order to ensure an objective review of contributing structures; and,

WHEREAS, the City of Miami Beach Historic Preservation Board and Planning Board strongly endorses the proposed amendments to the Historic Preservation Section of the Code; 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 118, Entitled "Administration and Review Procedures", Article X, Entitled "Historic Preservation", Division 1, entitled "Generally" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 118-503. Scope**, policies** and exemptions.

(a) Scope. Unless expressly exempted by subsection (b) of this section, no building permits shall be issued for new construction, demolition, alteration, rehabilitation, signage or any other physical modification of any building, structure, improvement, 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, nor shall any construction, demolition, alteration, rehabilitation, signage or any other exterior or public interior physical modification, whether temporary or permanent, without a permit, be undertaken, without the prior issuance of a certificate of appropriateness or certificate to dig by the historic preservation board, or the planning director or his designee, in accordance with the procedures specified in this section. For purposes of this article, "alteration" or "modification" shall be defined as any change affecting the external appearance and internal structural system including columns, beams, load bearing walls and floor plates and roof plates of a structure or other features of the site including but not limited to landscaping and relationship to other structures, by additions, reconstruction, remodeling, or maintenance involving a change in color, form, texture, signage or materials, or any such changes in the appearance of public interior spaces. The foregoing shall exclude the placement of objects in or on the exterior or public interior of a structure or site, not materially affecting its appearance or architectural integrity.

(b) **Policies.**

(1) After-the-Fact Certificates of Appropriateness for Demolition.

In the event any demolition as described above or in subsection (b) of this section should take place prior to historic preservation board review, the demolition order shall be conditioned to require the property owner to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board, within 15 days of the issuance of the demolition order. No "after-the-fact" fee shall be assessed for such application. The board shall review the demolition and determine whether and how the demolished building, structure, landscape feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and restore any demolished feature of a structure until such time as the Board reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board within 15 days of the issuance of an emergency demolition order, the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article may be enforced and violations may be punished as provided in section 114-8 of this Code; or by enforcement procedures as set forth in the Charter and penalties as provided in section 1-14 of this Code.

(2) Replacement of Existing Structures.

The policy of the City of Miami Beach shall be that a contributing building demolished without obtaining a Certificate of Appropriateness from the historic preservation board, shall only be replaced with a new structure that incorporates the same height, massing and square footage of the previous structure on site, not to exceed the maximum FAR and height permitted under the City Code, with no additional square footage added. This policy shall be applicable in the event a building permit for new construction or for repair or rehabilitation is issued, and demolition occurs for any reason, including but not limited to, an order of the Building Official or the County Unsafe Structures Board. This policy shall also be applicable to any request for an "after-the-fact" Certificate of Appropriateness. This policy may be rebutted, and the Historic Preservation Board may allow for the addition of more square footage, where appropriate, not to exceed the maximum permitted under the City Code, if it is established to the satisfaction of the Historic Preservation Board that the following criteria have been satisfied:

i. The proposed new structure is consistent with the context and character of the immediate area; and

ii. The property owner made a reasonable effort to regularly inspect and maintain the structure free of structural deficiencies and in compliance with the minimum maintenance standards of this Code.

(3) Replication of Demolished Contributing Structures.

The historic preservation board shall determine, on a case-by-case basis, whether the replication of an original, contributing structure is warranted. For purposes of this subsection, replication shall be defined as the physical reconstruction, including all original dimensions in the original location, of a structure in totality, inclusive of the reproduction of primary facade dimensions and public area dimensions with appropriate historic materials whenever possible, original walls, window and door openings, exterior features and finishes, floor slab, floor plates, roofs and public interior spaces. The Historic Preservation Board shall have full discretion as to the exact level of demolition and reconstruction required. If a building to be reconstructed is non-conforming, any such reconstruction shall comply with all of the requirements of Chapter 118, Article IX of these Land Development Regulations.

(c) Exemptions. The following permits are exempt from the regulations of this section:

(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment not located on exteriors or within public interior spaces, and not visible from the public right-of-way.

(2) Any permit necessary for compliance with a lawful order of the building official, county unsafe structures board, fire marshal, or public works director when issuance of such permit on an immediate basis is necessary for the public health or safety or to prevent injury to life, limb or property. In the event that compliance includes full or partial demolition of any building, structure, improvement, 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 an emergency meeting of the historic preservation board shall be called prior to the demolition being authorized, unless the work is of an emergency nature and must be done before a meeting could be convened. The historic preservation board may offer alternative suggestions regarding the need for manner and scope of demolition; these suggestions shall be taken into consideration by the official issuing the final determination regarding demolition. However, the final determination regarding demolition shall be made by the official issuing the order. In the event that the historic preservation board does not hold the meeting prior to the scheduled demolition, the demolition may take place as scheduled. ~~In the event any demolition as described above should take place prior to historic preservation board~~

~~review, the demolition order shall be conditioned to require the property owner to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board, within 15 days of the issuance of the demolition order: no "after-the-fact" fee shall be assessed for such application. The board shall review the demolition and determine whether and how the demolished building, structure, landscape feature or the partially or fully demolished feature of the exterior or public interior space of a structure, shall be replaced. The property owner shall also be required, to the greatest extent possible, to retain, preserve and store any demolished feature of a structure until such time as the Board reviews and acts on the "after-the-fact" application. In the event the property owner fails to file an "after-the-fact" application for a certificate of appropriateness for demolition to the historic preservation board within 15 days of the issuance of an emergency demolition order the city may initiate enforcement proceedings including proceedings to revoke the certificate of use, occupational license, any active building permit(s) or certificate of occupancy of the subject site, whichever is appropriate. Additionally, this article may be enforced and violations may be punished as provided in section 114-8 of this Code; or by enforcement procedures as set forth in the Charter and penalties as provided in section 1-14 of this Code.~~

(3) Any permit issued for an existing structure in a designated historic district which has been specifically excluded from the district.

SECTION 2. That Chapter 118, Entitled "Administration and Review Procedures", Article X, Entitled "Historic Preservation", Division 3, entitled "Issuance Of Certificate Of Appropriateness/Certificate To Dig/Certificate Of Appropriateness For Demolition" of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 118-562. Application.

(a) An application for a certificate of appropriateness may be filed with the historic preservation board at the same time or in advance of the submission of an application for a building permit. Copies of all filed applications shall be made available for inspection by the general public.

(b) All applications involving demolition, new building construction, alteration, rehabilitation, renovation, restoration or any other physical modification of any building, structure, improvement, 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 be on a form provided by the planning department and shall include such information and attached exhibits as the board and the planning department determine are needed to allow for complete evaluation of the proposed demolition, construction and other physical improvements, alterations or modifications including, but not limited to, the following:

(1) Written description of proposed action.

(2) Survey.

(3) Complete site plan.

(4) Materials containing detailed data as to architectural elevations and plans showing proposed changes and existing conditions to be preserved.

(5) Preliminary plans showing new construction in cases of demolition.

(6) A financial feasibility study of the new project in cases of demolition and a feasibility study for an existing structure which addresses the possibility of substantially renovating or operating the

existing historic structure. Consideration of parking needs and demands shall be addressed within the feasibility study, as well as alternative methods of providing parking. The study will also determine whether the retention of the building would deny the owner economically viable use of the property.

(7) An historic resources report, containing all available data and historic documentation regarding the building, site or feature.

(8) Any application which involves substantial structural alterations to or the substantial or full 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, with the exception of non substantial exterior structural repairs, alterations and improvements (as may be more specifically defined by the board in its by-laws and application procedures), shall be required to include a structural evaluation and corrective action report prepared by a professional (structural) engineer, licensed in the state as a part of the application at time of submission. For non substantial exterior structural repairs, alterations and improvements (as may be more specifically defined by the board in its by-laws and application procedures), a signed and sealed engineering drawing shall be required. The structural evaluation and corrective action report shall include, but not be limited to, the following:

a. Review and analysis of structural conditions, based upon the engineer's direct on-site inspection and analysis of the structural condition of the subject property, as well as any and all earlier structural records and drawings, as may be available. This shall include documentation, in the form of photographs, plans, elevations, and written descriptions, of any and all areas, portions, or elements of the building or structure that shows existing or potential structural problems or concerns, in full accordance with the requirements of the building official.

b. Results of testing and analysis of structural materials and concrete core samples, taken at a sufficient number of locations in and about the building, inclusive of but not limited to foundations, columns, beams, walls, floors and roofs. The report shall professionally analyze and evaluate the compressive strength, chloride content, and overall structural condition of each and every core sample and assess the condition of all other structural elements or systems in the building or structure, regardless of material, that may be of structural concern.

c. Proposed corrective measures and monitoring of the work, including detailed plans, elevations, sections and specifications, as well as written descriptions of any and all structural corrective measures that will be undertaken for any and all areas, portions, or elements of the building or structure that may be of structural concern. These documents shall contain sufficient supporting evidence to establish that the corrective measures proposed will be adequate to restore and preserve the structural integrity of the identified areas, portions, or elements to be preserved, including a written and detailed description of the process by which the proposed corrective work will proceed, as well as the sequencing of the work. Finally, a written verification shall be included stating that all structural conditions throughout the building or structure shall be closely monitored by a special inspector, approved by the building department and employed by the applicant, during the course of all demolition, new construction, and bracing and shoring work. This provision is required in order to immediately identify any and all adverse changes in the structural integrity or stability of the subject building or structure during the course of the work, inclusive of architectural features. The special inspector shall provide expeditious direction to the contractor specific to how the observed adverse changes shall be quickly and properly stabilized and permanently corrected. This information shall be immediately conveyed to the city's planning and building departments for

their review and any necessary actions.

d. Proposed methodology and process for demolition, including detailed plans, elevations, sections and specifications, as well as a written description of any and all temporary shoring and bracing measures and all measures required to protect the safety of the public and workers. These measures shall be fully implemented and in place prior to and during the course of any demolition and construction activity on the subject property. The documents shall contain sufficient supporting evidence to establish that the corrective measures proposed will be adequate to restore and preserve the structural integrity of the identified areas, portions, and elements, including a written and detailed description of the proposed process and sequencing of demolition, as well as a detailed description of the demolition methods to be utilized. Finally, a written verification shall be included stating that all work as described above shall be closely monitored during the course of work by a special inspector approved by the building department. This inspector shall be employed by the applicant.

e. A signed and sealed certification that the structural integrity and stability of the subject building(s)/structure(s), and its architectural features, shall not be compromised in any way during the course of any and all proposed work on the subject site.

(9) The Historic Preservation Board, for applications involving the full demolition of any contributing building, structure or site individually designated in accordance with sections 118-591, 118-592 and 118-593, or located within an historic district, **may request the City to** retain a licensed independent structural engineer, with expertise in historic structures, to perform an independent evaluation of the structure proposed to be demolished. **The City Commission, in its sole discretion, may review the request and appropriate funds to cover the costs associated with the retention of such engineer.** The **Planning Department** shall select the independent structural engineer from a qualified list **it maintains**. If it is determined by the independent structural engineer that the building, structure or site can be retained, preserved or restored, **and a certificate of appropriateness is issued based upon such determination**, then the property owner shall reimburse the City for all costs it paid to such engineer, and the property may be liened to assure payment. If it is determined by the independent structural engineer that the building, structure or site cannot be retained, preserved or restored, then the City shall bear the responsibility of all costs incurred by such independent structural engineer.

SECTION 3. 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 4. REPEALER.

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

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 _____, 2005.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney — Date 10/07/05

First Reading: September 8, 2005
Second Reading: October 19, 2005
Verified by: _____
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language
Double Bold Underscore denotes changes pursuant to and following First Reading Approval

10/3/2005
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CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that 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 19, 2005,** to consider the following:

10:15 a.m.
An Ordinance Amending Miami Beach City Code Chapter 2, Article VI, Division 3, By Creating Section 2-373 Thereof, Entitled "Requirement For City Contractors To Provide Equal Benefits For Domestic Partners," By Mandating That City Contractors Provide Equal Benefits For Domestic Partners.

Inquiries may be directed to the Procurement Division at (305) 673-7490.

10:20 a.m.
A Resolution Setting A First Public Hearing To Consider Extending The Approval Of The Miami Beach Convention Center As A Venue For Conventions, Expositions Or Events Involving Adult Materials, Pursuant To The Provisions Of Section 847.0134, Florida Statutes; and Referring The Matter To The Land Use And Development Committee.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:30 a.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 1, "Generally," By Amending Section 118-503 To Modify The Requirements For An After-The-Fact Certificate Of Appropriateness; By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 3, "Issuance Of Certificate Of Appropriateness/Certificate To Dig/ Certificate Of Appropriateness For Demolition," By Amending Section 118-562 To Add A Requirement For An Independent Structural Evaluation For Demolition Requests.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:35 a.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 138, "Signs," By Amending Article I, "In General," By Amending Section 138-11 To Clarify The Requirements And Procedures For The Removal Of Signs; Providing For Inclusion In The City Code.

Inquiries may be directed to the Planning Department at (305) 673-7550.

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 authorizechallenges 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 #331

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

Proposed revision to the Signage section of the Code to allow for exemptions from the required removal of signs on vacant building, when the buildings are located within a designated historic district or site.

Issue:

Amendment to the Signage Section of the City Code to amend the procedures and requirements for removing signage from vacant buildings.

Item Summary/Recommendation:

The Administration recommends that the Mayor and City Commission approve the proposed Ordinance.

Advisory Board Recommendation:

The Historic Preservation Board reviewed the Ordinance on May 10, 2005 and recommended approval. On May 24, 2005 the Planning Board transmitted the proposed Ordinance to the City Commission with a favorable recommendation. On July 11, 2005, the Land Use and Development Committee reviewed the proposed Ordinance and recommended approval.

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1			
2			
3			
4			
Total			

City Clerk's Office Legislative Tracking:

Jorge Gomez or Thomas Mooney

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM RSC

DATE 10-19-05

CITY OF MIAMI BEACH
CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
http:\\ci.miami-beach.fl.us

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members Of The City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez City Manager

SECOND READING

Subject: **REMOVAL OF HISTORIC SIGNS**

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 138, "SIGNS", BY AMENDING ARTICLE I, "IN GENERAL", BY AMENDING SECTION 138-11 TO CLARIFY THE REQUIREMENTS AND PROCEDURES FOR THE REMOVAL OF SIGNS; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

Adopt the proposed Ordinance.

ANALYSIS

Recently, architecturally significant building signage was removed from the Curry's building at 7433 Collins Avenue. The removal of such signage was pursuant to a violation of Section 138-11 of the City Code, pertaining to the mandatory removal of signage from vacated buildings.

Currently, the City Code requires that any sign previously associated with a vacated premise be removed no later than six months from the time the building becomes vacant. Since Curry's had been vacated for a period greater than six (6) months, a code violation was issued, unbeknownst to Planning Department staff.

In order to prevent the future removal of architecturally significant building signage, the Historic Preservation Board has recommended that a code amendment be adopted that would allow the Planning Director, or designee, to waive the requirement for the removal of a sign from a vacated premises, regardless of the permit status, if the sign is determined to be historic or architecturally significant.

On May 10, 2005 the Historic Preservation Board reviewed the proposed ordinance and recommended approval. On May 24, 2005 the Planning Board transmitted the Ordinance to the City Commission with a favorable recommendation.

On July 11, 2005, the Land Use and Development Committee reviewed the proposed Ordinance and recommended approval.

On September 8, 2005, the City Commission approved the proposed Ordinance on First Reading. However, members of the Commission expressed some concern at First Reading with the potential of requiring that signs associated with a particular business or use be retained even if a different business or use is proposed for the building.

The future removal of architecturally significant building signage is likely to pertain mainly to large architectural signage associated with hotels and apartment buildings; the following are examples of such signs (see attached photos):

1. The Delano Hotel.
2. The Catalina Hotel.
3. The Di Lido Hotel.
4. The Shelbourne Hotel.

The Administration believes that there will be very few examples of small businesses in the City that may have to retain architectural signage.

The requirement for retaining architecturally significant signage is a separate preservation issue that should be addressed by amending Article X (Historic Preservation) of the Land Development Regulations. If the Commission desires to address this particular issue, the Administration would recommend that a separate Ordinance Amendment be referred to the Land Use and Development Committee for formal consideration.

FISCAL IMPACT

The proposed Ordinance is not expected to have any fiscal impact.

CONCLUSION

Adopt the proposed Ordinance.

Pursuant to Section 118-164(4) of the City Code, an affirmative vote of five-sevenths shall be necessary in order to enact any amendments to the Land Development Regulations.

JMG/TH/JGG/TRM
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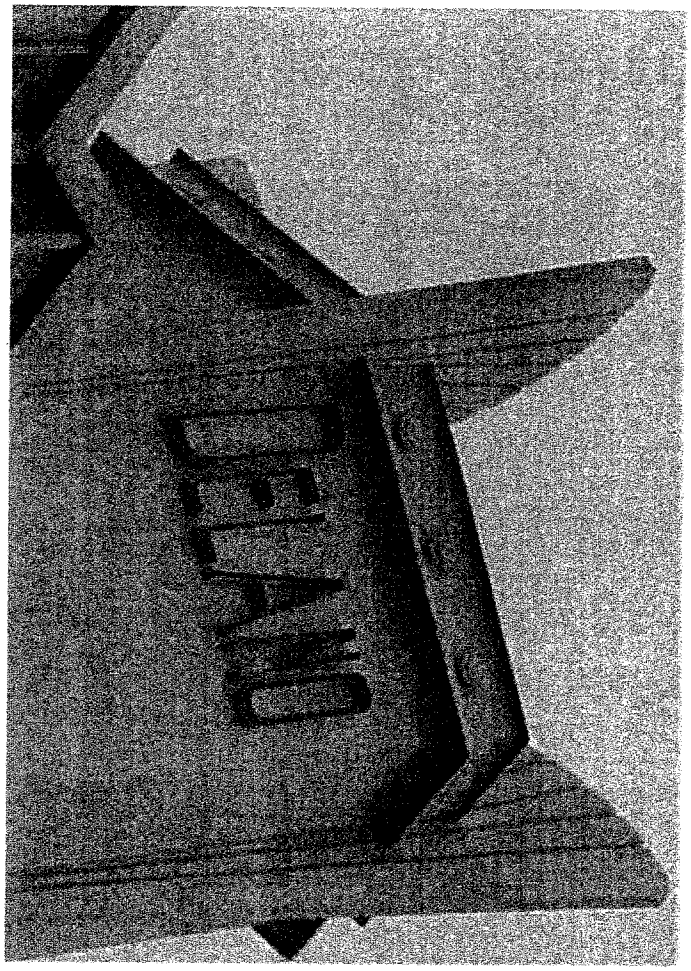
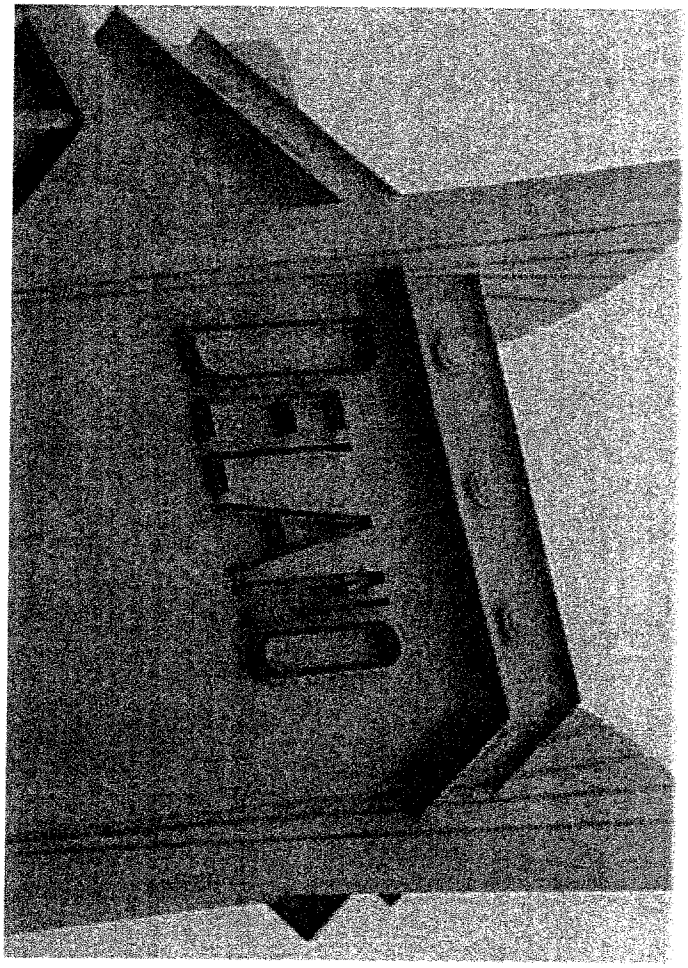

DELANO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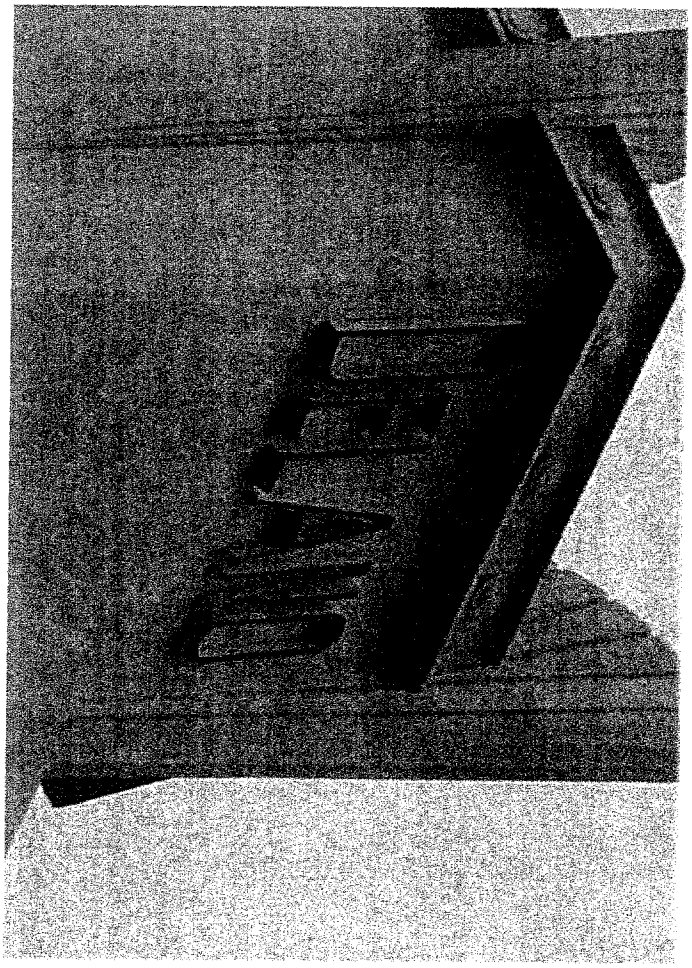
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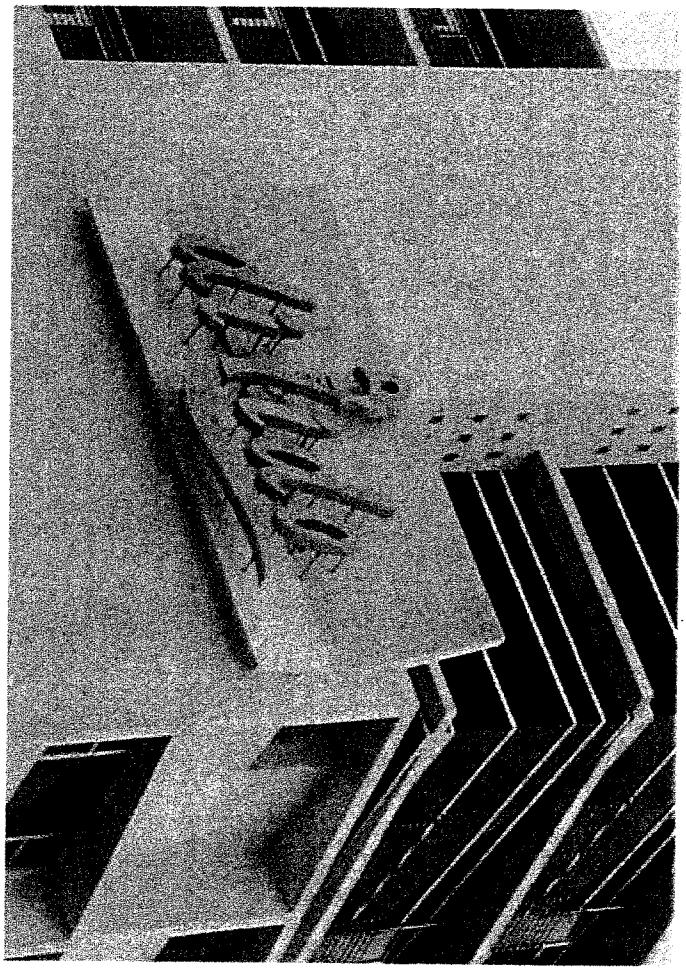

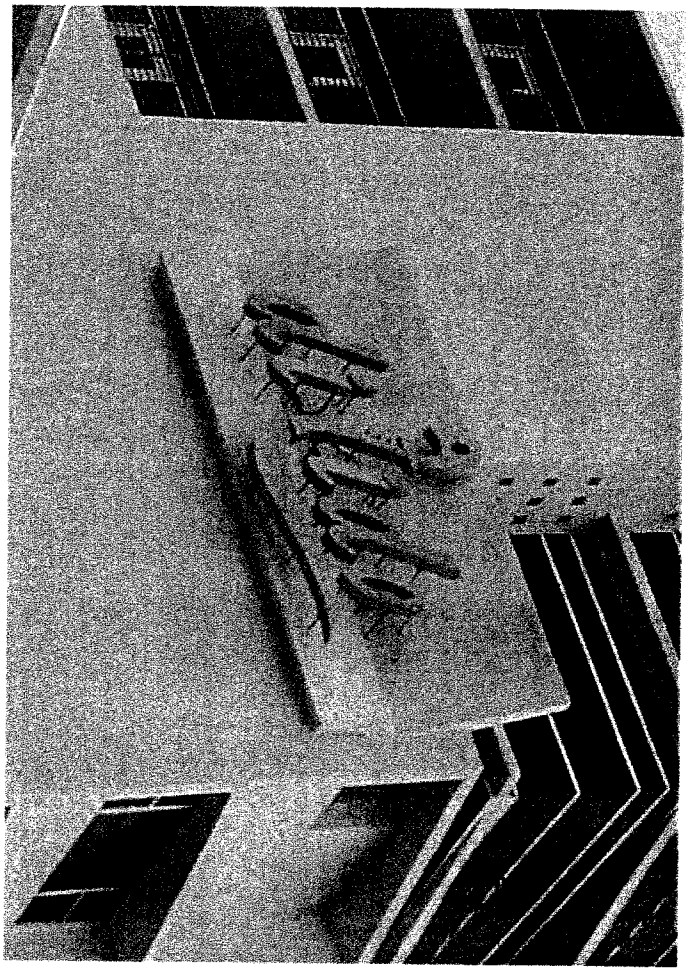

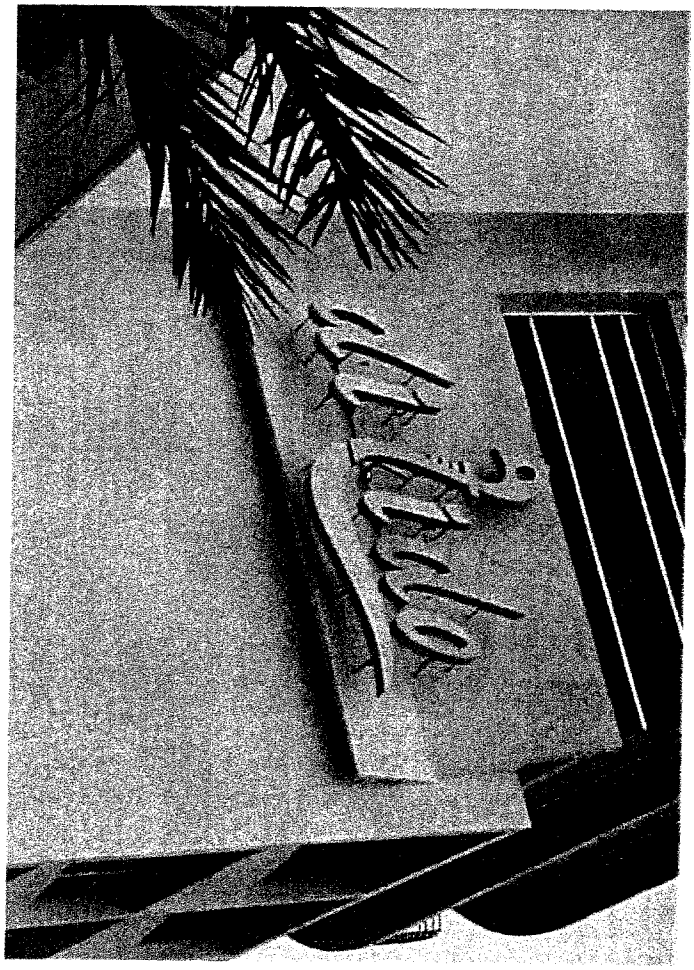

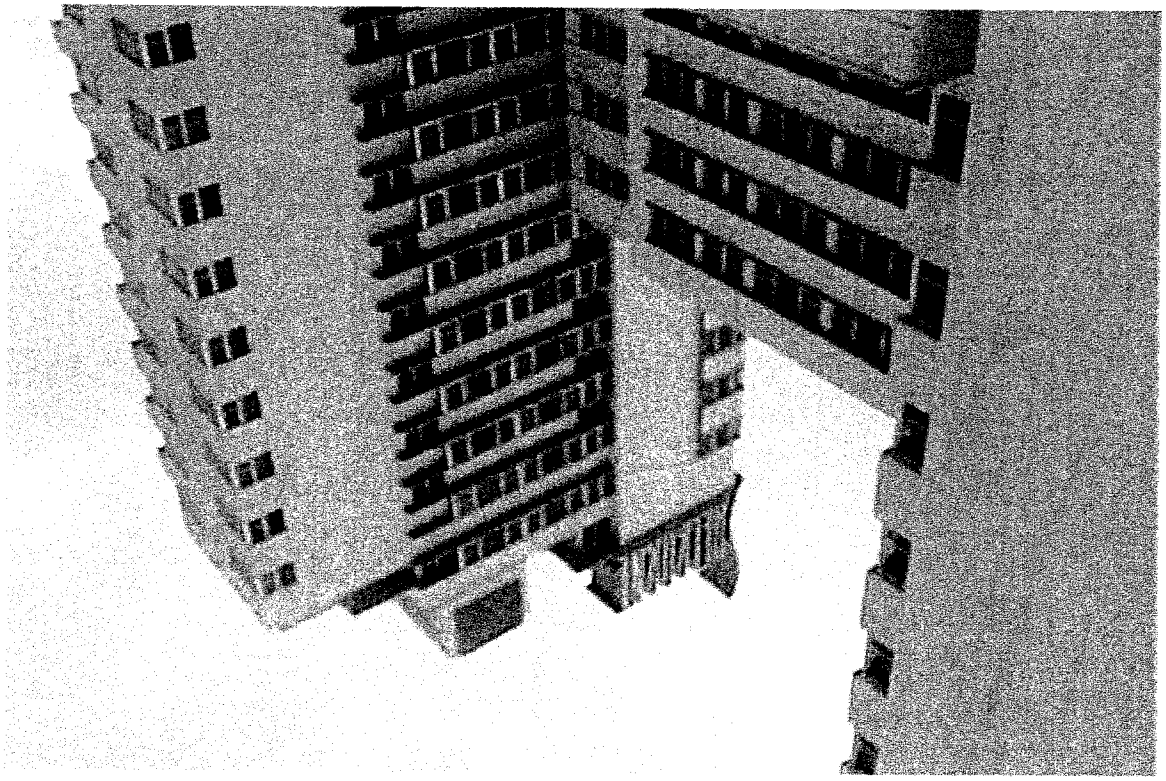

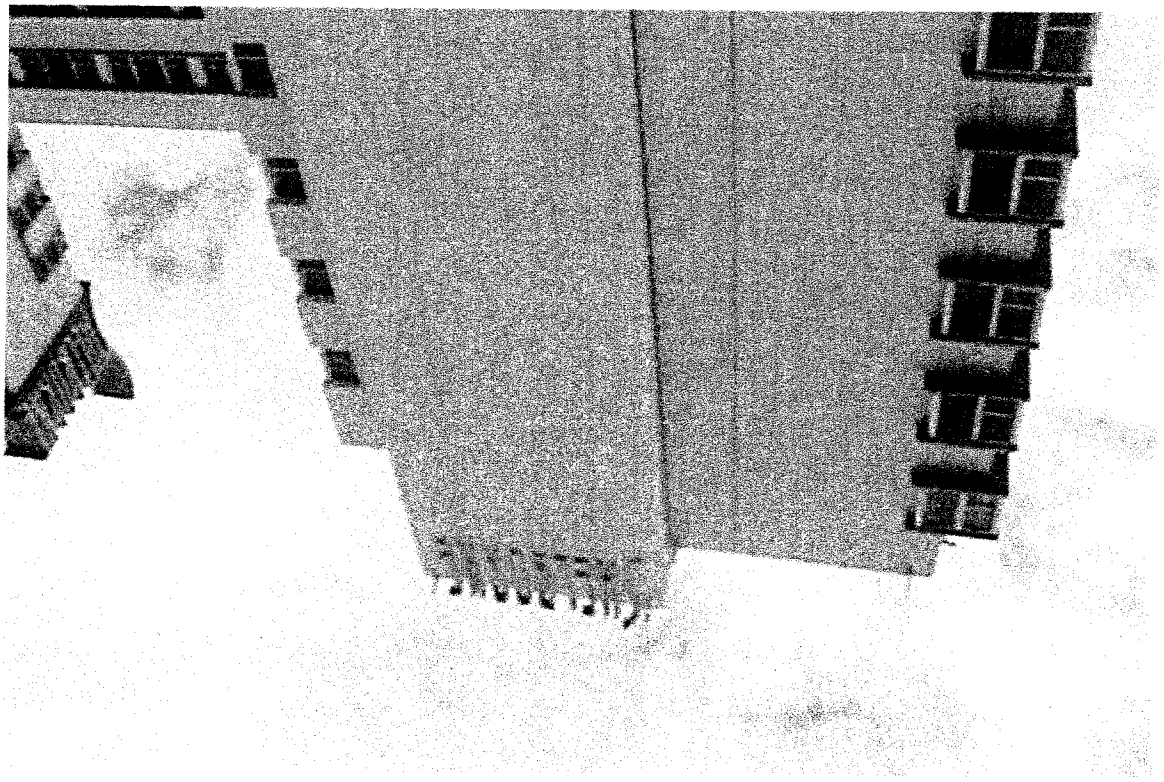

REMOVAL OF HISTORIC SIGNS

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 138, "SIGNS", BY AMENDING ARTICLE I, "IN GENERAL", BY AMENDING SECTION 138-11 TO CLARIFY THE REQUIREMENTS AND PROCEDURES FOR THE REMOVAL OF SIGNS; PROVIDING FOR INCLUSION IN THE CITY CODE; PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Miami Beach endeavors to recall its unique social and architectural history, as well as further the dynamic character of the City through the use of signage; and

WHEREAS, the City of Miami Beach desires to expand existing requirements and procedures for removing architecturally significant signage in the City; and

WHEREAS, the City of Miami Beach Historic Preservation Board and Planning Board strongly endorse the proposed amendment to the Signage Section of the Code; and

WHEREAS, the amendment set forth below is 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 138, Article I, entitled "In General", of the Land Development Regulations of the Code of the City of Miami Beach, Florida is hereby amended as follows:

Sec. 138-11. Removal required.
(a) All signs shall be maintained in good condition and appearance. Any persons responsible for the erection or maintenance of a sign which fails to comply with this regulation or any other regulation of this chapter shall be subject to enforcement procedures as set forth in section 114-8.
(b) Any sign previously associated with a vacated premises shall either be removed from the premises by the owner or lessee not later than six months from the time such activity ceases to exist, or such signs shall be altered or resurfaced by the owner or lessee within the same six-month time period, so that the sign no longer displays letters, numerals, symbols, figures, designs, or any other devices for visual communication that pertain to the activity formerly associated with the vacated premises.
(c) The building official may initiate proceedings that result in the removal of any sign erected or maintained without a permit.
(d) In any district where a sign does not comply with the provisions of these land development regulations and has not received a building permit, such sign and any supporting structures other than a building shall be removed not later than two years from October 1, 1989. Supporting structures for

nonconforming signs shall be removed when the sign is removed.

(e) Notwithstanding the foregoing, the planning director, or designee, may waive the requirement for the removal of a sign, regardless of the permit status, if the sign is determined to be historic or architecturally significant. The code compliance department shall inquire of the planning director, or designee, prior to the issuance of any violation of this section, whether a waiver has been or will be issued pursuant to this section.

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 _____, 2005.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

10/7/05
Date

First Reading: September 8, 2005
Second Reading: October 19, 2005

Verified by: _____
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language

9/28/2005

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CITY OF MIAMI BEACH
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that 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 19, 2005,** to consider the following:

10:15 a.m.
An Ordinance Amending Miami Beach City Code Chapter 2, Article VI, Division 3, By Creating Section 2-373 Thereof, Entitled "Requirement For City Contractors To Provide Equal Benefits For Domestic Partners," By Mandating That City Contractors Provide Equal Benefits For Domestic Partners.

Inquiries may be directed to the Procurement Division at (305) 673-7490.

10:20 a.m.
A Resolution Setting A First Public Hearing To Consider Extending The Approval Of The Miami Beach Convention Center As A Venue For Conventions, Expositions Or Events Involving Adult Materials, Pursuant To The Provisions Of Section 847.0134, Florida Statutes; and Referring The Matter To The Land Use And Development Committee.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:30 a.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 1, "Generally," By Amending Section 118-503 To Modify The Requirements For An After-The-Fact Certificate Of Appropriateness; By Amending Chapter 118, "Administration And Review Procedures," Article X, "Historic Preservation," Division 3, "Issuance Of Certificate Of Appropriateness/Certificate To Dig/ Certificate Of Appropriateness For Demolition," By Amending Section 118-562 To Add A Requirement For An Independent Structural Evaluation For Demolition Requests.

Inquiries may be directed to the Planning Department at (305) 673-7550.

10:35 a.m.
An Ordinance Amending The Land Development Regulations Of The Code Of The City Of Miami Beach, By Amending Chapter 138, "Signs," By Amending Article I, "In General," By Amending Section 138-11 To Clarify The Requirements And Procedures For The Removal Of Signs; Providing For Inclusion In The City Code.

Inquiries may be directed to the Planning Department at (305) 673-7550.

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 authorizechallenges 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 #331

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida, amending the Land Development Regulations of the Code by designating the Gilbert M. Fein Neighborhood Conservation Overlay District (NCD-1/ RM-2).

Issue:

Should the Mayor and City Commission approve the ordinance designating the Gilbert M. Fein Neighborhood Conservation District?

Item Summary/Recommendation:

Following the May 18, 2005, Preliminary Public Hearing at which the City Commission evaluated the merits of the proposed Gilbert M. Fein NCD and formally directed the Planning Department to continue finalizing the NCD designation, the City Administration has since been diligently taking the report through the remaining steps of the adoption process.

Based on the analysis and findings of the attached NCD report as well as the favorable recommendations from the subsequent public hearings and community meetings, the Administration believes that the proposed residential and streetscape improvement parameters prepared for the cohesive, low-scale neighborhood existing along the narrow *cul de sac* streets of Lincoln Terrace and 16th Street to be worthy of designation.

The Administration recommends approving the ordinance adopting the proposed Gilbert M. Fein Neighborhood Conservation District Plan on first reading public hearing.

Advisory Board Recommendation:

The Historic Preservation Board formally initiated the NCD adoption process regarding the proposed district by a vote of (4-0) in favor, 3 absent, at a legally noticed Community Workshop held December 6, 2004.

The Design Review Board discussed and provided advisory comments and voted (4-0) in favor, 3 absent, to support the proposed NCD plan at their July 19, 2005, meeting.

The Planning Board, following a duly noticed public hearing, held August 23, 2005, unanimously voted (7-0) in favor to recommend the proposed NCD Plan for adoption by the City Commission.

Financial Information:

Source of Funds:		Amount	Account	Approved
	1			
	2			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Jorge G. Gomez, Planning Director/ Reuben N. Caldwell, Senior Planner

Sign-Offs:

Department Director	Assistant City Manager	City Manager

AGENDA ITEM R5D

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE MIAMI BEACH CITY CODE; BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," AND BY AMENDING ARTICLE III, "OVERLAY DISTRICTS," CREATING DIVISION 6, "GILBERT M. FEIN NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT (NCD-1/RM-2)," DESIGNATING SPECIFIC LAND DEVELOPMENT AND STREETSCAPE IMPROVEMENT PARAMETERS FOR A CERTAIN AREA WHICH IS GENERALLY BOUNDED BY THE CENTER LINE OF BAY ROAD TO THE EAST, THE BULKHEAD LINE OF BISCAYNE BAY TO THE WEST, THE NORTHERN LOT LINES OF THE NORTHERN PROPERTIES FRONTING LINCOLN TERRACE TO THE NORTH, AND THE SOUTHERN LOT LINES OF THE SOUTHERN PROPERTIES FRONTING 16th STREET TO THE SOUTH, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING THAT THE CITY'S ZONING MAP SHALL BE AMENDED TO INCLUDE THE GILBERT M. FEIN NEIGHBORHOOD CONSERVATION DISTRICT (NCD-1/ RM-2); ADOPTING THE NCD PLAN ATTACHED HERETO; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

The City Administration recommends that the City Commission adopt the proposed Gilbert M. Fein Neighborhood Conservation District Plan on first reading public hearing.

BACKGROUND

The proposed district is generally bounded by the center line of Bay Road to the east, the bulkhead line of Biscayne Bay to the west, the northern lot lines of the northern properties fronting Lincoln Terrace to the north, and the southern lot lines of the southern properties fronting 16th Street to the south.

The process which has transpired relative to the "Gilbert Fein" district has been an unfolding one, involving a working dialog with the Community, City Boards and the City Commission in determining the degree of transformation that may occur within this existing low-scale, bay front, planned unit enclave as a result of its current medium intensity (RM-2) zoning. The outcome necessitated the formalization of a new *"form based"* overlay district technique for the City through which current development review and neighborhood planning processes might better address the unique circumstances impacting certain areas of interest within the City.

As thorough clarification of the background, intent and specific content of this district plan, attached is a copy of the proposed Gilbert M. Fein Neighborhood Conservation District Designation Report, District Ordinance and Streetscape Improvement Plan as first presented to the Historic Preservation Board on February 8, 2005, and subsequently reviewed by the City Commission at the May 18, 2005, Preliminary Public Hearing regarding the district. Since then, the administration has diligently taken the NCD plan through the remaining steps of the formal adoption process, first gaining further validation of the plan through a Community workshop held June 23, 2005, and then onto a discussion with the Design Review Board at their July 19, 2005, meeting. Most recently, the Planning Board reviewed the item at an August 23, 2005, public hearing and at both meetings, the plan was favorably endorsed.

ANALYSIS:

As described in the executive summary of the NCD report, this residential neighborhood has been of particular community interest due to the high level of uncertainty regarding its potential for redevelopment. In this regard, the purpose of establishing the Gilbert M. Fein Neighborhood Conservation District will be to ensure that future redevelopment within the 16th Street-end and Lincoln Terrace neighborhood enhances the existing residential experience of the narrow *cul de sac* streets by embracing the fundamental planning facets of this unique mid-century, planned unit enclave. As enumerated on page 10, of the NCD designation report, new construction projects should strive to achieve the following objectives:

1) **Preserve the street scale on both Lincoln Terrace and 16th Street to the greatest extent possible without seriously diminishing the existing property rights.**

2) **Maintain and enhance the property values of adjacent structures through sympathetic redevelopment scenarios which do not necessitate speculative wholesale demolition.**

3) **Preserve the sense of meaningful neighborhood space between the existing buildings to the greatest extent possible.**

4) **Concentrate maximum new building height on the waterfront lots to the south to the greatest extent possible.**

5) **Create and enhance physical and visual access from Lincoln Terrace and 16th Street to the Biscayne Bay front.**

6) **Enhance the public *rights-of-way* for both 16th Street and Lincoln Terrace by facilitating the creation of a high quality landscaped pedestrian friendly neighborhood environment through the formalization of a significant street parking plan that may incorporate a limited amount of private land with the property owner's approval.**

In achieving the objectives of this NCD, the effect of the proposed Gilbert M. Fein district designation will be to:

1) **Create an illustrative neighborhood master plan to accurately inform and streamline the development review process with regard to neighborhood redevelopment and improvement projects.**

2) **Modify certain aspects of the existing RM-2 zoning regulations through the NCD overlay to better address the existing conditions.**

3) **Enact district specific design guidelines to maintain the special close-knit character of the enclave and enhance the overall streetscape character.**

Selected elements of the *form based* code for the Gilbert M. Fein NCD include the following:

Page	Section	Description
20	3.1(a)(1)	Rooftop and other additions may be approved administratively.
22	3.3(a)(2)	Lot splits and lot assemblies must respect the original increment of parcelization.
23	3.3(a)(2)b.	Primary entrance courtyards facing Lincoln Terrace shall be retained.
23	3.3(b)	Demolition of existing structures is permitted provided the DRB has approved the redevelopment project and a building permit has been issued for the redevelopment.
24	3.3(c)(1)a.	New infill redevelopment shall be constructed to maintain the setbacks of the original two story building footprints and shall be allowed to rise to 60 feet, as identified in the underlying RM-2 zoning district, with the provision that the taller portions of the structure's frontage be further set back in order to maintain the quality of light and air along the view corridors of the narrow street sections.
27	3.3(c)(3)b.	The creation of significant view corridor and public access to Biscayne Bay from both 16th Street and Lincoln Terrace is identified in the Code and the development review order of the DRB relative to the current *Capri on the Bay* waterfront redevelopment incorporates this element.
30	3.5(a)(3)a.	The existing parking requirement of (1.5) spaces per dwelling unit for new construction may be reduced to (1) space per unit for the smaller redevelopments projects within the NCD through participation in the

Page	Section	Description
		City's Parking Impact Fee Program. This has been created to increase the economic viability of the new infill projects constructed in accordance with the NCD building setback and frontage requirements.
33	4.1	The intent of the Streetscape Improvement Plan along 16th Street will be to formalize and beautify the existing pattern of parking based on the Dutch model of the *Woonerf* whereby the public and private outdoor realms are designed as an integrated usable environment.
34	4.2	The intent of the Streetscape Improvement Plan along Lincoln Terrace will be to beautify the existing roadway with pavers and lighting and to bring its cross section into Code compliance.
37	4.4	Design development, construction and maintenance for the Streetscape Improvement projects has been identified to occur through the exacting of funds from private redevelopment projects within the district and to this end, the development review order of the DRB for the current *Capri on the Bay* waterfront redevelopment has incorporated this element.

Finally, the administration believes that given the densely cohesive urban pattern of the existing original planned unit development, any unmitigated incremental *as-of right* RM-2 redevelopment, which does not follow a neighborhood plan, will most likely result in tenement-like conditions for the area. In this regard, the administration has prepared several redevelopment scenarios in addition to the report, which should further graphically depict why the tiered methods of the district plan, in comparison to other redevelopment scenarios, are preferred toward effectively conserving the light and air of the neighborhood view corridors as well as some semblance of the consistent two story pattern of the original street experience.

CITY COMMISSION ACTION

The City Commission held a duly noticed Preliminary Public Hearing in accordance with section 118-705(b), on May 18, 2005, at which the merits of the proposed Gilbert M. Fein Neighborhood Conservation District where evaluated. Following this meeting, the City Commission directed the Planning Department to continue the NCD designation process imposing the interim development review controls relative to building permits and demolition for a period of six months pursuant to section 118-708.

PLANNING BOARD ACTION

In accordance with sections 118-705(e) and 118-164, the Planning Board heard this matter at a duly noticed public hearing held on August 23, 2005, and voted unanimously (7-0) in favor to recommend the ordinance to the City Commission for adoption.

FISCAL IMPACT

The proposed Gilbert M. Fein Neighborhood Conservation Overlay District Ordinance, (NCD-1/ RM-2) has been developed not to diminish but rather to better refine and clarify the parameters for redevelopment within the existing RM-2 zoning district. Adverse fiscal impact is not contemplated as a result of the adoption of this ordinance.

CONCLUSION

In accordance with section 118-705(e) of the NCD enabling ordinance, adoption of NCD overlay districts and accompanying regulations shall be by the same procedures as set forth in article III of chapter 118 and because the subject district is less than 10 acres in area, the City Commission may adopt the ordinance by a 5/7ths vote at the first reading public hearing pursuant to section 118-164(1).

JMG/TH/JGG/WHC/RNC
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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE MIAMI BEACH CITY CODE; BY AMENDING CHAPTER 142, "ZONING DISTRICTS AND REGULATIONS," AND BY AMENDING ARTICLE III, "OVERLAY DISTRICTS," CREATING DIVISION 6, "GILBERT M. FEIN NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT (NCD-1/RM-2)," DESIGNATING SPECIFIC LAND DEVELOPMENT AND STREETSCAPE IMPROVEMENT PARAMETERS FOR A CERTAIN AREA WHICH IS GENERALLY BOUNDED BY THE CENTER LINE OF BAY ROAD TO THE EAST, THE BULKHEAD LINE OF BISCAYNE BAY TO THE WEST, THE NORTHERN LOT LINES OF THE NORTHERN PROPERTIES FRONTING LINCOLN TERRACE TO THE NORTH, AND THE SOUTHERN LOT LINES OF THE SOUTHERN PROPERTIES FRONTING 16th STREET TO THE SOUTH, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING THAT THE CITY'S ZONING MAP SHALL BE AMENDED TO INCLUDE THE GILBERT M. FEIN NEIGHBORHOOD CONSERVATION DISTRICT (NCD-1/ RM-2); ADOPTING THE NCD PLAN ATTACHED HERETO; PROVIDING FOR CODIFICATION; REPEALER; SEVERABILITY; AND AN EFFECTIVE DATE.

WHEREAS, the City Commission at its April 14, 2004, meeting discussed the area between 12th and 17th Streets, west of Alton Road, relative to traffic congestion and the scale and character of redevelopment and requested that the Historic Preservation Board review the "Gilbert Fein" Neighborhood relative to possible historic district designation; and

WHEREAS, demolition permits for three of the four existing structures located on the waterfront sites within the potential district were obtained in May of 2004, in conjunction with a proposed development project that was subsequently approved by the Design Review Board on July 20, 2004; and

WHEREAS, the Historic Preservation Board at its June 8, 2004, meeting initiated *zoning in progress* relative to further demolition within the proposed historic district by directing staff to commence preparation of a local Historic District Preliminary Evaluation, but following public comment, requested that staff defer the Board's formal consideration until after the City Commission had adopted a Neighborhood Conservation District (NCD) enabling ordinance; and

WHEREAS, the City Commission, based on recommendations from the Planning Board, Historic Preservation Board, Design Review Board and Planning Department, after discussions with the Community, adopted a NCD enabling ordinance addressing the unique planning issues impacting this and other potential NCD overlay districts citywide; and

WHEREAS, the Historic Preservation Board in further considering the codified overlay district options available, formally initiated the process toward adopting a proposed Gilbert M. Fein Neighborhood Conservation District in accordance with Section 118-705(a)(1) of the NCD enabling ordinance by a vote of (4-0) in favor, 3 absent, at a publicly noticed Community Workshop held December 6, 2004; and

WHEREAS, at this workshop the Historic Preservation Board chose not to rescind its previous direction to staff to continue the consideration of a possible Historic District until after

the City Commission held its Preliminary Public Hearing to review the merits of the proposed NCD; and

WHEREAS, in accordance with Miami Beach City Code section 118-705(b)(1), the City Commission approved Resolution No. 2005-25865, on April 20, 2005, thereby setting a preliminary public hearing in order to consider the benefits of the proposed NCD and determine whether to continue the NCD designation process; and

WHEREAS, in accordance with Miami Beach City Code section 118-705(b)(2)(3), the City Commission, following a duly noticed Preliminary Public Hearing, held May 18, 2005, evaluated the merits of the proposed Gilbert M. Fein Neighborhood Conservation District and directed the Planning Department, through Resolution No. 2005-25901, to continue the NCD designation process; imposing the interim development review controls relative to building permits and demolition for a period of six months, pursuant to City Code section 118-708; and

WHEREAS, *zoning in progress* relative to a local historic district designation expired on June 8, 2005; and

WHEREAS, in accordance with Miami Beach City Code section 118-705(b)(3), the Planning Department sponsored another Community Workshop, held June 23, 2005, in order to review and further validate the proposed NCD plan; and

WHEREAS, in accordance with Miami Beach City Code section 118-705(d)(1), the Design Review Board discussed and provided advisory comments and voted (4-0) in favor, 3 absent, to support the proposed NCD plan at their July 19, 2005, meeting; and

WHEREAS, in accordance with Miami Beach City Code section 118-705(e), the Planning Board, following a duly noticed public hearing, held August 23, 2005, unanimously voted (7-0) in favor to recommend the proposed NCD Plan for adoption by the City Commission; and

WHEREAS, in accordance with Miami Beach City Code section 118-705(e), the City Commission, following a duly noticed public hearing, voted to adopt the Gilbert M. Fein NCD Plan; and

WHEREAS, these recommendations of approval for the designation of the Gilbert M. Fein Neighborhood Conservation District were based upon the information documented in the Designation Report, Part II of the NCD Plan Report prepared by the City of Miami Beach Planning Department and attached hereto.

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

SECTION 1. DESIGNATION OF THE GILBERT M. FEIN NEIGHBORHOOD CONSERVATION DISTRICT

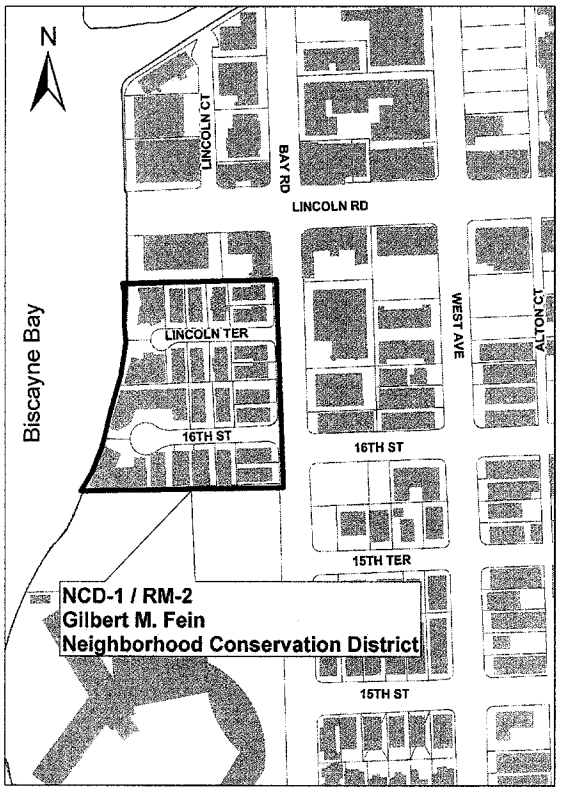
That those certain areas which are generally bounded by the centerline of Bay Road to the east, the bulkhead line of Biscayne Bay to the west, the northern lot lines of the northern properties fronting Lincoln Terrace to the north, and the southern lot lines of the southern properties fronting 16th Street to the south; and having the legal description as described

herein, are hereby designated as a Neighborhood Conservation District of the City of Miami Beach and shall be known as the " Gilbert M. Fein Neighborhood Conservation District." That the Executive Summary (Part I), Designation Report (Part II), District Ordinance (Part III), Streetscape Improvement Plan (Part IV) and (Parts V through VII) of the attached NCD Plan Report are hereby adopted, and that the regulations set forth within the District Ordinance (Part III) as well as the streetscape improvement parameters set forth within (Part IV) shall be applicable within the Gilbert M. Fein NCD.

SECTION 2. INCLUSION IN THE LAND DEVELOPMENT REGULATIONS OF THE CODE

That Chapter 142, "Zoning Districts and Regulations," Article III, "Overlay Districts," of the Land Development Regulations of the Code of the City of Miami Beach is hereby amended by creating Division 6, "Gilbert M. Fein Neighborhood Conservation Overlay District (NCD-1/ RM-2)", which shall be included in the Code of the City of Miami Beach as follows:

DIVISION 6. GILBERT M. FEIN NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT (NCD-1/ RM-2)



Sec. 142-850. General Boundary Description
The Gilbert M. Fein Neighborhood Conservation District shall be bounded by the centerline of Bay Road to the east, the bulkhead line of Biscayne Bay to the west, the northern lot lines of the northern properties fronting Lincoln Terrace to the north, and the southern lot lines of the southern properties fronting 16th Street to the south.

Sec.142-851. Compliance with Regulations
The regulations contained within the District Ordinance (Part III) of the Gilbert M. Fein Neighborhood Conservation District Plan Report shall apply within this District and where more restrictive, control over the general district regulations of the underlying RM-2 zoning district.

Sec. 142-852. NCD Plan Report
The Gilbert M. Fein NCD Plan Report including the Executive Summary (Part I), Designation Report (Part II), District Ordinance (Part III), Streetscape Improvement Plan (Part IV), and (Parts V through VII), shall be available on file at the Planning Department and online at:

http://www.miamibeachfl.gov/newcity/depts/planning/neighborhood conservation districts/ Gilbert M. Fein NCD Plan Report /.asp

Sec. 142-853. Detailed District Boundaries
NCD-1/ RM-2: The boundaries of the Gilbert M. Fein Neighborhood Conservation District include those properties of Block 43, ALTON BEACH BAY FRONT SUBDIVISION, recorded in

Plat Book 4, at page 125, Public Records of Miami-Dade County, Florida fronting or abutting Bay Road, Lincoln Terrace and 16th Street and commences at the point of intersection of the northern lot line of Lot 1 of the LINCOLN TERRACE SUBDIVISION, and the bulkhead line of Biscayne Bay as recorded in Plat Book 49, at page 100, Public Records of Miami-Dade County, Florida. Said point being the POINT OF BEGINNING of the tract(s) of land herein described; thence run easterly, along the northern lot line of Lot 1 and its easterly extension to the point of intersection with the centerline of Bay Road; thence run southerly, along the centerline of Bay Road to the point of intersection with the Easterly extension of the south lot line of Lot 15 of the BAY LINCOLN SUBDIVISION, recorded in Plat Book 58, at page 86, Public Records of Miami-Dade County, Florida; thence run westerly, along the south lot line of Lot 15 and its easterly extension to the point of intersection with the bulkhead line of Biscayne Bay; thence run northerly, along the bulkhead line to the POINT OF BEGINNING. Said lands located, lying and being in the City of Miami Beach, Miami-Dade County, Florida.

SECTION 3. AMENDMENT OF ZONING MAP

That the Mayor and City Commission hereby amend the Zoning Map of the City of Miami Beach as contained in the Land Development Regulations of the City Code by identifying the area described herein as, "NCD-1/ RM-2 Gilbert M. Fein Neighborhood Conservation District".

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, 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 , 2005.

ATTEST:

Mayor David Dermer

City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney Date

The underscored language and district map delineated in Section 2 above shall appear in the Code.

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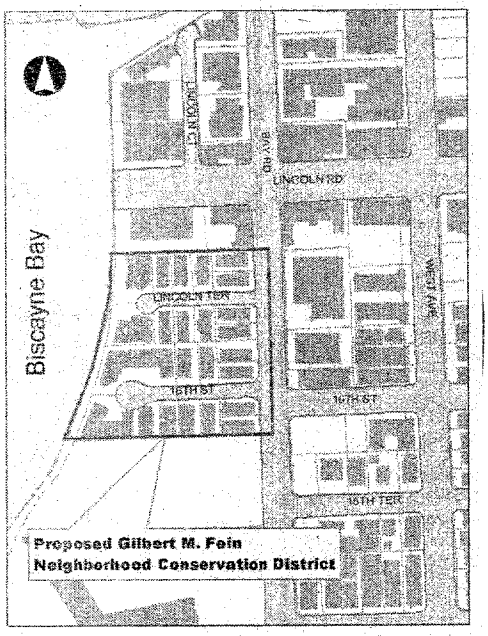
MB www.herald.com | THE HERALD | SUNDAY, SEPTEMBER 11, 2005 | 4

CITY OF MIAMI BEACH

NOTICE OF PUBLIC HEARING

NOTICE OF ZONING MAP CHANGE



The City of Miami Beach proposes to adopt the following Ordinance:

An Ordinance of the Mayor and City Commission of the City of Miami Beach, Florida, Amending the Land Development Regulations of the Miami Beach City Code; By Amending Chapter 142, "Zoning Districts and Regulations", and By Amending Article III, "Overlay Districts", Creating Division 6, "Gilbert M. Fein Neighborhood Conservation Overlay District (NCD-1/RM-2)", Designating Specific Land Development and Streetscape Improvement Parameters for a Certain Area Which Is Generally Bounded by the Center Line of Bay Road to the East, the Bulkhead line of Biscayne Bay to the West, the Northern Lot Lines of the Northern Properties Fronting Lincoln Terrace to the North, and the Southern Lot Lines of the Southern Properties Fronting 16th Street to the South, as More Particularly Described Herein; Providing that the City's Zoning Map Shall Be Amended to Include the Gilbert M. Fein Neighborhood Conservation District (NCD-1/ RM-2); Adopting the NCD Plan Attached Hereto; Providing for Codification; Repealer; Severability; and an Effective Date.

PUBLIC NOTICE IS HEREBY GIVEN that a first and only reading public hearing on the Ordinance will be held by the City Commission on **Wednesday, October 19, 2005, at 5:01 p.m., or as soon thereafter as possible, in the City Commission Chambers**, Third Floor, City Hall, 1700 Convention Center Drive, Miami Beach, Florida.

The neighborhood conservation district proposed for designation is shown on the Map within this Zoning Map Change.

All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the Miami Beach City Commission c/o the City Clerk, 1700 Convention Center Drive, First Floor, City Hall, Miami Beach, Florida 33139.

The Ordinance and other related materials regarding the proposed neighborhood conservation district are available for public inspection during normal business hours in the City Clerk's Office. Inquiries may be directed to the Planning Department at (305) 673-7550. The hearing on this Ordinance may be continued at this meeting and, under such circumstances, additional legal notice would not be provided. Any person may contact the City Clerk's Office at (305) 673-7411 for information as to the status of the Ordinance as a result of the meeting.

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 insure 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) or 305-673-7218 (TTY) five days in advance to initiate your request. TTY users may also call 711 (Florida Relay Service). **(Ad # 326)**

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

Amending Chapter 118, Article VIII, "Procedure for Variances and Administrative Appeals," by clarifying the language of prohibited variance applications; Chapter 130, "Off-Street Parking," Article II, "Districts; Requirements," by increasing the off-street parking requirement for residential uses in all districts, and clarifying how parking requirements may be satisfied; Amending Chapter 142-1105 "Suites Hotel," by amending required parking for suites hotel units.

Issue:

Should the parking requirements for residential construction and suites hotel be increased?

Item Summary/Recommendation:

The Administration recommends that the City Commission approve the proposed ordinance on first reading and set a second reading public hearing for the December 7, 2005 meeting.

Advisory Board Recommendation:

At the August 23, 2005 meeting, a motion was made and approved by a vote of 6-0 recommending that the City Commission adopt the Ordinance. The Planning Board also recommended that the proposed ordinance be modified to include a clarification that suites hotel should also require 2 spaces per unit when they include full kitchens. This action is included in the attached proposed ordinance.

Financial Information:

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

City Clerk's Office Legislative Tracking:

Mercy Lamazares/Jorge Gomez

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM RSE

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

First Reading

Subject: **OFF-STREET PARKING REQUIREMENT FOR RESIDENTIAL USES**

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 118, ARTICLE VIII, "PROCEDURE FOR VARIANCES AND ADMINISTRATIVE APPEALS," BY CLARIFYING THE LANGUAGE OF PROHIBITED VARIANCE APPLICATIONS; CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICTS; REQUIREMENTS," BY INCREASING THE OFF-STREET PARKING REQUIREMENT FOR RESIDENTIAL USES IN ALL DISTRICTS, AND CLARIFYING HOW PARKING REQUIREMENTS MAY BE SATISFIED; AMENDING CHAPTER 142-1105 "SUITES HOTEL," BY AMENDING REQUIRED PARKING FOR SUITES HOTEL UNITS. PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the City Commission approve the proposed ordinance on first reading and set second reading public hearing for the December 7, 2005 meeting.

ANALYSIS

The amendments to the parking regulations of the City Code propose to increase the required parking for new residential buildings from 1½ spaces per unit to 2 spaces per unit regardless of the size of the unit and also include a provision for guest parking. Guest parking would be in addition to the required parking spaces and calculated at the rate of 10% of the required parking spaces. This proposal would exempt those residential developments built on lots that are 50 feet in width, as the size of the lot already restricts the number of units that can be developed and any increase in the number of parking spaces may not be feasible. In addition, the proposed amendments also changes the parking requirement for suites hotel, which according to Section 142-1105 of the Land Development Regulations (LDRs) of the City Code is defined as a hotel unit that contains

cooking facilities and shall conform to a minimum unit size of 550 square feet or 400 square feet for suites hotels in historic districts. This section of the LDRs contains minimum criteria by which a suites hotel can be considered as such.
A review of the current parking regulations showed that when the City Code was changed to allow reduced parking requirements for elderly housing, a scrivener's error occurred. The current Code read as follows – the shaded portion is the portion that was misplaced:

> Sec. 130-33. Off-street parking requirements for parking districts nos. 2, 3 and 4.
>
> Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3 and 4 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:
>
> (1) Apartment building and apartment-hotel: 1 1/2 spaces for each unit regardless of size or number of bedrooms.
>
> The parking requirement may be satisfied by entering into a development agreement with the city to provide for such parking through the construction of facilities over city-owned properties (air rights) or by providing for off-site parking facilities in accordance with section 130-36.

Attached are copies of the City Code pages showing how this read originally and how it reads after the amendment to the elderly parking requirement. It was not the intention of the amendment to allow the elderly parking requirement to be satisfied as otherwise provided for other uses. It is suggested that this clause be eliminated as it is no longer necessary.

The genesis of the clause in question was researched and the following timeline is included as further proof of the proper location within the Code. This provision was included in the Code at a time when incentives were being offered for developments in and around Lincoln Road. As many may remember, from the 1970s until the mid 1990s, Lincoln Road took a spiraling downturn. Although it had already been converted to a pedestrian-only street, there were many factors, including the general economic malaise the entire nation was suffering that prevented many property owners from attracting merchants or improving the properties. There were also a large number of parking spaces available in the garages facing 17th Street (including the double-deck portion east of Pennsylvania Avenue, demolished in the mid-1990s) and the surface lots north of Lincoln Road. The idea behind this regulation was to attract residential mixed-uses to the area. Currently, Lincoln Road is thriving and it is suggested that this kind of incentives are no longer necessary; therefore, It is recommend that the clause be eliminated.

1969 – Zoning Ordinance No. 289

2 parking districts – one for the entire City except for district No. 2 which generally ran from

44th Street to 69th Street from Collins to Indian Creek.

Parking requirements for apartment building and apartment-hotel was based on the number of bedrooms.

1979 – Zoning Ordinance No. 1891

2 parking districts – same as 1969.

1983 – Zoning Ordinance 1891
2 parking districts – same as 1969.

1986 – Zoning Ordinance No. 1891

By then there were 4 parking districts:

District No. 1 – all the areas not included in No. 2, 3, and 4.
District No. 2 - This generally ran from 44th Street to 69th Street from Collins to Indian Creek.
District No. 3 – Area bounded by the established bulkhead line and the erosion control line extended to the northern and southern boundary of the City.
District No. 4 – Area commonly known as the Lincoln Road Mall and corresponding to the C-3 Central Business district.

Parking requirements in district No. 4 are for apartment buildings and apartment-hotel, ALF, offices and theaters. Apartment buildings and apartment-hotel requirements are based on the number of bedrooms. At this time a provision is included that the parking requirement could be satisfied by entering into a development agreement with the City to provide for the parking in a municipal parking facility or through the construction of facilities over City owned properties (air rights) or by providing for off-site parking facilities within 400 feet from the property and a written agreement assuring their retention for such purposes.

1989 – Zoning Ordinance 89-2665

Two parking districts:
Parking District No 1 – the area not included in District No. 2
Parking District No. 2 – Properties with a lot line on Lincoln Road from the west side of Washington Avenue to the east side of Alton Road.
Parking requirements in District No. 2 are for ALF, offices and theatres. Requirements for apartment buildings and apartment-hotel are 1½ spaces per unit regardless of the number of bedrooms, and the parking requirements could be satisfied by entering into a development agreement with the City to provide for the parking in a municipal parking facility or through the construction of facilities over City owned properties (air rights) or providing parking off-site within 1200 from the property and providing a unity of title executed by the owners and approved by the City Attorney, recorded in public records as a covenant running with the land.

1998 - Ordinance No. 98-3108, effective 1-21-98

Parking Districts 3 and 4 are created; district 3 includes properties with a lot line on 41st Street from the east side of Alton Road to the west side of Indian Creek Waterway. Parking district 4 includes those properties within the CD-2 and CD-3 commercial districts with a lot line on 71st Street from the west side of Collins Avenue to the east side of Rue Notre Dame, and properties with a lot line on Normandy Drive from the west side of the Indian Creek Waterway to the east side of Rue Notre Dame.

Notwithstanding the creation of two additional districts, the boundaries of parking district No. 2 remained unchanged, and the provision of allowing the required parking through a development agreement remained.

It is also recommends that Section 118-353, "Variance applications," be amended to eliminate the language that refers to parking variances. It is believed that the current language is a vestige from another era in the history of the City when parking variances could be requested. Chapter 130, "Off-street Parking," is self-explanatory as to parking requirements for different uses, contains permitted exceptions and requires the payment of a fee in lieu of providing the required spaces when permitted. The Administration believes that the proposed amendment is a prudent one and recommends that this section is deleted as proposed.

PLANNING BOARD ACTION

At the August 23, 2005 meeting, a motion was made and approved by a vote of 6-0 recommending that the City Commission adopt the Ordinance. The Planning Board also recommended that the proposed ordinance be modified to include a clarification that suites hotel should also require 2 spaces per unit when they include full kitchens. This action is included in the attached proposed ordinance.

GROWTH MANAGEMENT INITIATIVES

This proposed ordinance is the first in a series of zoning code amendments based upon the City Commission's direction at its May 25, 2005 Growth Management Workshop. As part of this package, proposals will be presented to the Commission in the coming months addressing minimum and average unit sizes, lot coverage and aggregation, the FAR exemption for parking, minimum size of parking spaces, and the fee in lieu of parking. These individual changes may be incremental, but should have a cumulative effect to slow and/or limit the amount of new development. Please note that each potential amendment should also be analyzed for effect on workforce housing, and exemptions should be considered.

Additionally, as directed at the Growth Management Workshop, a request for approval to issue a Request for Proposals (RFP) for a planning/impact fee consultant to help further explore the potential for an impact analysis and mitigation development review system has been placed on the Commission agenda.

FISCAL IMPACT

The proposed ordinance has no associated negative fiscal impact upon enactment.

CONCLUSION

Pursuant to Section 118-164(3), when a request to amend the Land Development Regulations of the City Code does not change the actual list of permitted, conditional or prohibited uses in a zoning category, the proposed ordinance may be read by title or in full on at least two separate days and shall, at least ten days prior to adoption, be noticed once in a newspaper of general circulation in the city. Immediately following the public hearing at the second reading, the City Commission may adopt the ordinance by an affirmative vote of five-sevenths of all members of the City Commission.

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for eating and drinking uses shall be as established under subsection (32) of this section.

(41) Theatre: 1 space per 4 seats.

(42) Telephone exchanges or equipment buildings: 1 space per 1,500 square feet of floor area.

(43) Townhouse: 2 spaces for each unit plus 1 designated guest space per 5 units.

(Ord. No. 89-2665, § 7-2(A), eff. 10-1-89; Ord. No. 90-2684, eff. 3-3-90; Ord. No. 90-2685, eff. 3-3-90; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 94-2934, eff. 8-7-94; Ord. No. 98-3108, § 5(A), 1-21-98; Ord. No. 99-3222, § 3, 12-15-99)

Sec. 130-33. Off-street parking requirements for parking districts nos. 2, 3 and 4.

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3 and 4 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:

(1) *Apartment building and apartment-hotel:* 1½ spaces for each unit regardless of size or number of bedrooms.

The parking requirement may be satisfied by entering into a development agreement with the city to provide for such parking through the construction of facilities over city-owned properties (air rights) or by providing for off-site parking facilities in accordance with section 130-35.

(2) *Adult congregate living facility:* 1 space for every 2 beds.

(3) *Hotel, convention:* For structures with less than 250 units, one space per unit; for structures with 250 to 499 units, 0.75 space per unit; for structures with 500 units or more, 0.50 space per unit. Required parking for convention hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 500 square feet of floor area, minus seven and one-half square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per seven seats or one space per 105 square feet of floor area where there is no seating, minus one seat for 15 square feet per unit.

c. Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per seven seats or one space per 105 square feet of floor area where there is no seating, minus one seat or 15 square feet per two units.

d. Required parking for all other uses shall be as set forth in this section.

The zoning board of adjustment may grant a variance for the total amount of parking required for a convention hotel and related accessory uses of up to ten percent.

(4) *Hotel, suites hotel, motel or motor lodge:* One space per unit; however, suites hotel units as defined in section 142-1105 which are greater than 550 square feet and which contain full cooking facilities shall have a parking requirement of one and one-half spaces per unit. Required parking for hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 400 square feet of floor area, minus seven and one-half square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per four seats or one space per 60

for eating and drinking uses shall be as established under subsection (32) of this section.

(41) Theatre: 1 space per 4 seats.

(42) Telephone exchanges or equipment buildings: 1 space per 1,500 square feet of floor area.

(43) Townhouse: 2 spaces for each unit plus 1 designated guest space per 5 units.

(Ord. No. 89-2665, § 7-2(A), eff. 10-1-89; Ord. No. 90-2684, eff. 3-3-90; Ord. No. 90-2685, eff. 3-3-90; Ord. No. 90-2718, eff. 11-6-90; Ord. No. 91-2767, eff. 11-2-91; Ord. No. 92-2778, eff. 3-28-92; Ord. No. 93-2882, eff. 10-1-93; Ord. No. 94-2934, eff. 8-7-94; Ord. No. 98-3108, § 5(A), 1-21-98; Ord. No. 99-3222, § 3, 12-15-99; Ord. No. 2003-3410, § 1, 5-21-03)

Sec. 130-33. Off-street parking requirements for parking districts nos. 2, 3 and 4.

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3 and 4 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:

(1) *Apartment building and apartment-hotel:* 1½ spaces for each unit regardless of size or number of bedrooms.

(1A) *Housing for low and/or moderate income elderly.* For purposes of this regulation, the following definitions shall apply:

Elderly person shall be defined as a person who is at least 62 years of age.

Elderly household means a one or two person household in which the head of the household or spouse is at least 62 years of age.

Housing for the elderly shall not to be construed as homes or institutions for the aged, which are primarily assisted living facilities, convalescent or nursing homes.

Low income means households whose incomes do not exceed 50 percent of the median income for the area as determined by U. S. Department of Housing and Urban Development.

Moderate income means households whose incomes are between 51 percent and 80 percent of the median income for the area as determined by U. S. Department of Housing and Urban Development.

Parking requirements for housing for low and/or moderate income elderly:

a. 0.75 parking space per dwelling unit.

b. For the purposes of this section only, housing for low and/or moderate income elderly shall be publicly owned or nonprofit sponsored and owned, or developed by for-profit organizations utilizing public funds.

c. The applicant shall submit written certification from the corresponding state or federal agency in charge of the program.

d. Off-street parking, pursuant to this section, shall be permitted only after a finding by the planning director that, in view of the location of such housing and the economic status of anticipated occupants, the proposed parking will be adequate to serve proposed occupants, visitors and employees, including the proposed unit size and likelihood that the occupants will have a need for parking.

e. A covenant running with the land restricting the use of the property for housing for low and/or moderate income elderly for a period of no less than 30 years shall be executed by the owner of the property, approved as to form by the city attorney, recorded in the public records of the county and shall be submitted prior to the issuance of a building permit. The declarations within the covenant are not severable. If a subsequent judicial determination invalidates the age restriction in this

section, or the covenant, the city shall not issue a certificate of use and occupancy for a new use until the property owner satisfies the then applicable parking requirements under this Code. The property owner may satisfy the parking requirements by actually providing the additional parking spaces or by reducing the number of residential units. However, a property owner shall not be able to satisfy the parking requirements by the payment of a fee in lieu of providing parking. At the time of development review, the property owner shall submit a statement of intent to construct housing for low and/or moderate income elderly in accordance with this section.

f. After approval of the decrease in parking spaces, the premises shall not be used other than as housing for the elderly unless and until any parking requirements and all other requirements or limitations of this Code for the district involved and applying to the new use shall have been met.

The parking requirement may be satisfied by entering into a development agreement with the city to provide for such parking through the construction of facilities over city-owned properties (air rights) or by providing for off-site parking facilities in accordance with section 130-36.

(2) *Adult congregate living facility:* 1 space for every 2 beds.

(3) *Hotel, convention:* For structures with less than 250 units, one space per unit; for structures with 250 to 499 units, 0.75 space per unit; for structures with 500 units or more, 0.50 space per unit. Required parking for convention hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 500 square feet of floor area, minus seven and one-half square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per seven seats or one space per 105 square feet of floor area where there is no seating, minus one seat for 15 square feet per unit.

c. Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per seven seats or one space per 105 square feet of floor area where there is no seating, minus one seat or 15 square feet per two units.

d. Required parking for all other uses shall be as set forth in this section.

The zoning board of adjustment may grant a variance for the total amount of parking required for a convention hotel and related accessory uses of up to ten percent.

(4) *Hotel, suites hotel, motel or motor lodge:* One space per unit; however, suites hotel units as defined in section 142-1105 which are greater than 550 square feet and which contain full cooking facilities shall have a parking requirement of one and one-half spaces per unit. Required parking for hotel accessory uses shall be as follows:

a. Retail: Required parking shall be computed at one space per 400 square feet of floor area, minus seven and one-half square feet per unit.

b. Auditorium, ballroom, convention hall, gymnasium, meeting rooms or other similar places of assembly: Required parking shall be one space per four seats or one space per 60 square feet of floor area where there is no seating, minus one seat or 15 square feet per unit.

c. Restaurant or other establishment for consumption of food or beverages on the premises: Required parking shall be one space per four seats minus one seat for every two units.

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 118, ARTICLE VIII, "PROCEDURE FOR VARIANCES AND ADMINISTRATIVE APPEALS," BY CLARIFYING THE LANGUAGE OF PROHIBITED VARIANCE APPLICATIONS; CHAPTER 130, "OFF-STREET PARKING," ARTICLE II, "DISTRICTS; REQUIREMENTS," BY INCREASING THE OFF-STREET PARKING REQUIREMENT FOR RESIDENTIAL USES AND SUITES HOTEL UNITS IN ALL DISTRICTS, CLARIFYING HOW PARKING REQUIREMENTS MAY BE SATISFIED. PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, based upon an on-going analysis of the City's overall parking needs and the current shortages of residential parking spaces; and

WHEREAS, in order to alleviate these parking shortages for residents and their guests it is necessary to amend the current parking requirements of the City Code; and

WHEREAS, this proposed amendment to the City Code will increase the residential parking requirements and include required guest parking; and

WHEREAS, the Planning Board has recommended approval of the proposed amendment; and

WHEREAS, the proposed amendment is necessary to improve the general health and welfare of the citizens of the City of Miami Beach.

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

SECTION 1. That Section 118-353(a), "Variance applications" is hereby amended as follows:

(a) An application for a variance for the following items is prohibited: Floor area ratio, required parking (except as provided for in <u>these Land Development Regulations),</u> ~~this subsection (a)), requests pertaining to a waiver of off-street parking for less than one space per apartment unit or~~ a request pertaining to the reduction of an impact fee, or for lot area when determining floor area ratios.

* * *

<u>SECTION 2.</u> That Section 130-32, "Off-street parking requirements for parking district No. 1," is hereby amended as follows:

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking district no. 1, accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows:

* * *

(6) Apartment building and apartment-hotel~~, or hotel~~: 1½ spaces per unit for apartment buildings on lots that are 50 feet in width or less; 2 spaces per apartment unit plus 10% of the required parking as designated guest parking for apartment buildings on lots wider than 50 feet. ~~1 space per hotel unit.~~

* * *

(26) Hotel, suites hotel, motel or motor lodge: 1 space per unit; however, suites hotel units as defined in section 142-1104 ~~which~~ that are greater than 550 square feet and ~~which~~ that contain full cooking facilities on lots that are 50 feet in width or less, shall have a parking requirement of ~~1 1/2~~ 2 spaces per unit. Required parking for hotel accessory uses shall be as follows:

* * *

SECTION 3. That Section 130-33, "Off-street parking requirements for parking districts Nos. 2, 3 and 4," is hereby amended as follows:

Except as otherwise provided in these land development regulations, when any building or structure is erected or altered in parking districts nos. 2, 3 and 4 accessory off-street parking spaces shall be provided for the building, structure or additional floor area as follows. There shall be no off-street parking requirement for uses in this parking district except for those listed below:

(1) *Apartment building, and apartment-hotel*: 1½ spaces per unit for apartment buildings on lots that are 50 feet in width or less; 2 spaces per apartment unit, plus 10% of the required parking as designated guest parking for apartment buildings on lots wider than 50 feet. ~~for each unit regardless of size or number of bedrooms~~.

(1A) *Housing for low and/or moderate income elderly.* For purposes of this regulation, the following definitions shall apply:

* * *

~~The parking requirement may be satisfied by entering into a development agreement with the city to provide for such parking through the construction of facilities over city owned properties (air rights) or by providing for off-site parking facilities in accordance with section 130-36.~~

* * *

(4) Hotel, suites hotel, motel or motor lodge: One space per unit; however, suites hotel units as defined in section 142-1105 ~~which~~ that are greater than 550 square feet and ~~which~~ that contain full cooking facilities in buildings on lots that are 50 feet in width or less shall have a parking requirement of ~~one-and-one-half~~ 2 spaces per unit. Required parking for hotel accessory uses shall be as follows:

* * *

SECTION 4. Repealer.

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

SECTION 5. 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 6. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 7. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2005.

ATTEST:

_____
MAYOR

_____
CITY CLERK

First Reading:
Second Reading:

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney 10-12-05
Date

Verified by: _____
Jorge G. Gomez, AICP
Planning Director

Underscore denotes new language
~~Strikethrough~~ denotes deleted language

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OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

MURRAY H. DUBBIN
City Attorney

Telephone: (305) 673-7470
Telecopy: (305) 673-7002

COMMISSION MEMORANDUM

DATE: OCTOBER 19, 2005

TO: **MAYOR DAVID DERMER**
MEMBERS OF THE CITY COMMISSION AND
CITY MANAGER JORGE M. GONZALEZ

FROM: **MURRAY H. DUBBIN**
CITY ATTORNEY

SUBJECT: **ORDINANCE AMENDING CITY CODE CHAPTER 2, DIVISION 30 THEREOF ENTITILED "COMMITTEE FOR QUALITY EDUCATION IN MIAMI BEACH SCHOOLS".**

Pursuant to the request of City Commissioner Matti H. Bower, the attached Ordinance has been prepared amending Code Section 2-190.137 governing the composition of the Committee for Quality Education in Miami Beach Schools—the amendment deletes the two City Commissioner members from membership on the Quality and Education Committee, and instead provides for a City Commissioner liaison who shall report actions of the Committee to the City Commission.

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Agenda Item R5F
Date 10-19-05

1700 Convention Center Drive -- Fourth Floor -- Miami Be

CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: **MURRAY H. DUBBIN**
CITY ATTORNEY

FROM: **MATTI H. BOWER**
COMMISSIONER

DATE: **September 27, 2005**

RE: **Amending Committee for Quality Education for Miami Beach Schools**

Please prepare for the October 19, 2005 City Commission agenda an Ordinance to be placed on for 1st reading which will delete the City Commissioners from membership on the Quality and Education Committee, and instead provide for a City Commissioner liaison who shall report actions of the Committee to the City Commission.

JKO/ed
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ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING MIAMI BEACH CITY CODE CHAPTER 2, ENTITLED "ADMINISTRATION", DIVISION 30 ENTITLED "COMMITTEE FOR QUALITY EDUCATION IN MIAMI BEACH SCHOOLS", SECTION 2-190.137 THEREOF ENTITLED "COMPOSITION, KNOWLEDGE AND EXPERIENCE", BY DELETING FROM THE COMMITTEE'S MEMBERSHIP THE TWO CITY COMMISSIONER EX OFFICIO MEMBERS AND INSTEAD PROVIDING FOR ONE CITY COMMISSIONER REPRESENTATIVE TO ACT AS LIAISON BETWEEN THE COMMITTEE AND THE CITY COMMISSION; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

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

SECTION 1. That Miami Beach City Code Chapter 2, Division 30 entitled "Committee for Quality Education in Miami Beach Schools", Section 2-190.137 thereof entitled "Composition; knowledge and experience", is hereby amended to read as follows:

Sec. 2-190.137. Composition; knowledge and experience.

The committee shall consist of 15 voting members and ~~three~~ one nonvoting ex officio members to be comprised as follows:

(1) A representative selected by the Parent Teacher Association of North Beach Elementary.

(2) A representative selected by the Parent Teacher Association of Biscayne Elementary.

(3) A representative selected by the Parent Teacher Association of Feinberg-Fisher Elementary.

(4) A representative selected by the Parent Teacher Association of South Pointe Elementary.

(5) A representative selected by the Parent Teacher Association of Nautilus Middle School.

(6) A representative selected by the Parent Teacher Association of Miami Beach High School.

(7) A representative selected by the Parent Teacher Association of Ruth K. Broad Elementary School.

(8) A representative selected by the Parent Teacher Association of Treasure Island Elementary School.

(9) Seven members of the public with knowledge or expertise with regard to education issues who shall be direct appointments by the mayor and each city commissioner with no more than three who can be employed or contracted by Miami-Dade County public schools.

(10) An assistant city manager or any appropriate city staff member for the city, as designated by the city manager for the city, who shall sit as a nonvoting ex-officio member of the committee.

~~(11) Two city commissioners who shall be appointed by a majority vote of the city commission and who shall sit as nonvoting ex-officio members of the committee.~~

The City Commission shall designate one of its members to serve as a City Commission liaison who shall report to the City Commission actions of the Committee for Quality Education.

SECTION 2. REPEALER

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

SECTION 3. 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 4. 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 relettered to accomplish such intention, and the word "ordinance" may be changed to "section", "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect the _____ day of _____, 2005.

PASSED and ADOPTED this _____ day of _____, 2005.

ATTEST:

_____
MAYOR

_____
CITY CLERK

(Requested by Commissioner Matti H. Bower)
JKO\ed
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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 9-29-05 Date

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

An Ordinance of the City of Miami Beach, Florida, amending the City Code to adopt a Noise Ordinance.

Issue:

Determine the City Commission's policy on the point of a complaint initiated enforcement process for the Noise Ordinance and determine a date for First Reading consideration of a Noise Ordinance.

Item Summary/Recommendation:

Since the City Commission's September 8, 2005 meeting, representatives of the Administration, the hotel industry, nightlife businesses, and resident representatives have met four times to attempt to reconcile language to submit to the City Commission for consideration in the Noise Ordinance.

At the conclusion of the last meeting of the Noise Ordinance participants on Wednesday, October 12, 2005, the hotel and nightlife business representatives expressed the opinion that since there was still at least one fundamental point of disagreement among the parties, the Noise Ordinance was not ready for presentation to the City Commission at the October 19, 2005 meeting. Resident representatives at this meeting expressed a desire to have the City Commission consider First Reading of a Noise Ordinance so as to continue to move the process forward.

The most significant area of disagreement among the Noise Ordinance participants is and remains whether or not enforcement of the Noise Ordinance should be through a complaint-drive process.

In virtually every other enforcement activity which is pursued by the City of Miami Beach across all of the City's regulatory divisions, no limitations such as what is proposed by the hotel and nightlife businesses on noise violations is imposed in the City's response. In all enforcement endeavors, the City consistently takes a proactive enforcement posture that allows the City to identify and correct any violation before it is necessary for somebody to issue a formal complaint.

In the area of noise enforcement specifically, it is suggested that a proactive enforcement posture is appropriate given the level of citizen concern and attention that has been expressed to date, and particularly in light of the recently approved addition to the City's Charter relative to quality of life and specifically noise issues.

Given the request of the Noise Ordinance discussion participants and the difficulty that the parties are having in resolution of the complaint-driven enforcement question, it is recommended that the City Commission provide policy guidance to the parties on the compliant-driven enforcement question and grant an extension of time for a First Reading on the Noise Ordinance.

Advisory Board Recommendation:

N/A

Financial Information:

City Clerk's Office Legislative Tracking:

Robert C. Middaugh

Sign-Offs:

Department Director	Assistant City Manager	City Manager

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AGENDA ITEM R5G

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-151, ENTITLED "DEFINITIONS," TO PROVIDE NEW TERMS AND DEFINITIONS AND DELETING CERTAIN TERMS AND DEFINITIONS; AMENDING SECTION 46-152, ENTITLED "UNREASONABLY LOUD NOISE PROHIBITED," BY AMENDING THE TITLE AND ADOPTING SECTION 21-28 OF THE CODE OF MIAMI-DADE COUNTY BY REFERENCE; AMENDING SECTION 46-153, ENTITLED "RESPONSIBILITY FOR COMPLIANCE," BY AMENDING THE PROVISIONS THEREOF; REPEALING SECTION 46-154, ENTITLED "NOISE LEVEL IN SPECIFIC AREA"; REPEALING SECTION 46-155, ENTITLED "ADDITIONAL SOUND LIMITATIONS FOR PUBLIC PROPERTY"; AMENDING SECTION 46-156, ENTITLED "TEMPORARY PERMITS," BY EXPANDING THE PROHIBITED AREAS FOR CONSTRUCTION NOISE TO WITHIN 300 FEET OF CERTAIN DISTRICTS AND AMENDING THE EXEMPTIONS FOR SPECIAL EVENTS AND FILM PERMITS; AMENDING SECTION 46-157, ENTITLED "EXEMPTIONS," AND BY DELETING SUBSECTION (11) AND AMENDING THE PROVISIONS THEREOF; AMENDING SECTION 46-158, ENTITLED "ENFORCEMENT BY CODE INSPECTORS; NOTICE OF VIOLATION," BY AMENDING THE PROCEDURES FOR ENFORCEMENT AND WARNINGS; AMENDING SECTION 46-159, ENTITLED "CIVIL FINES FOR VIOLATION; APPEALS," BY AMENDING THE FINES AND PENALTIES FOR VIOLATIONS, THE APPEAL PROCEDURES, AND THE ALTERNATE MEANS OF ENFORCEMENT; AMENDING AND RENUMBERING SECTION 46-160, ENTITLED "NUISANCE," AS SECTION 46-161, AND RENAMING SECTION 46-160 AS "RELIEF FROM VIOLATIONS FOR SOUND SYSTEMS AND COMPLIANCE" AND CREATING PROVISIONS THEREFOR; AMENDING AND RENUMBERING SECTION 46-161, ENTITLED "MOTOR VEHICLE ALARMS," AS SECTION 46-162 WHICH IS HEREBY CREATED; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.**

ADMINISTRATION RECOMMENDATION

Provide policy direction on the issue of a complaint-driven noise enforcement system and defer the balance of the Ordinance to the next regular meeting to allow further discussion with stakeholders.

BACKGROUND

At the September 8, 2005 City Commission meeting, the Commission granted an extension of time for consideration of the First Reading of the Noise Ordinance until the October 19, 2005 City Commission Meeting.

Since the City Commission's September 8, 2005 meeting, representatives of the Administration, the hotel industry, nightlife businesses, and resident representatives have met four times to attempt to reconcile language to submit to the City Commission for consideration in the Noise Ordinance. Each meeting was a minimum of two hours in duration.

The participants in the Noise Ordinance discussions have all agreed that the face to face exchange of ideas and concerns have been very helpful in their respective understanding of positions and potential Ordinance provisions. Even though the meetings have helped to advance the understanding of the issues and there is agreement in a number of areas, there remains a fundamental division of opinion on a key policy area which has not allowed the participants to complete a consensus draft to present to the members of the City Commission. This memorandum will briefly outline the areas of agreement among the noise meeting participants, as well as the areas of continued disagreement and potential options for the City Commission to consider relative to the Ordinance.

The Ordinance which is included in the agenda materials is not a consensus agreement among the parties as presented. It does represent the areas where consensus has been reached and many points not in contention. However, the key sections of fines and penalties, and the basis for the initiation of a complaint, principally located in Sections 46-158 and 46-159, are currently not acceptable to key stakeholders.

It is significant to note that the group of representatives that have met to reconcile differences and recommend language to the City Commission has been a small working group with each of the stakeholder groups: i.e., residents, hotels and nightlife businesses selecting their own representatives for the discussion. The group was limited by specific agreement of the stakeholders in size so as to allow the greatest opportunity for full and complete discussion between and among the parties on the various points contained within the Noise Ordinance. While this effort has been successful to some degree, as the group was consciously limited as to size and participation, there are very likely to be a number of individuals within the community or within the respective stakeholder groups that may have different opinions or issues that are raised before the members of the City Commission.

Areas of Agreement

The points agreed upon by stakeholders that were identified in the September 8, 2005 City Commission Memorandum have remained intact. Those points of agreement together with other pertinent sections of the Noise Ordinance are briefly described and highlighted as follows:

- The Noise Ordinance has been drafted to create mechanisms that provide for effective noise enforcement to protect the interests of residents and businesses and

a framework to provide for increasingly severe penalties in order to achieve compliance and to deter repeat offenses.

- Section 46-152 – This section adopts by reference Miami-Dade County Section 21-28 which has been used and is proposed to continue to be the Ordinance used for the enforcement of noise within the City of Miami Beach. The full text of Section 21-28 is included in the City's Ordinance for easy reference. Section 46-154 provides for the repeal of the questionable City of Miami Beach Code Section which regulated noise prior to the use of Miami-Dade County Section 21-28. Section 46-151 provides for definitions utilized in the new Noise Ordinance, many of which are intended to provide conforming language with Miami-Dade County 21-28 so as not to provide a conflict or different interpretation.

  Most notable among the conforming changes is the deletion of the definition of the term "plainly audible". This was a term that was defined in the City's original Noise Ordinance and is not a definition or standard which is contained within Miami-Dade County Section 21-28. As this particular definition and other definitions may serve to alter, further interpret, or modify the terms of Miami-Dade County Section 21-28, they are either suggested for deletion or modification in the City's proposed Ordinance to provide the appropriate conformity with Miami-Dade County Section 21-28. The significance of this conformity is that the United States District Court has written a very thorough and well reasoned decision that upholds the constitutionality and specific word utilization within Miami-Dade County Section 21-28. Any amendment, alteration or interpretation of that existing language would subject the City to unnecessary future ordinance challenge and litigation.

- Section 46-156 Temporary Permits. The proposed Noise Ordinance continues the existing limitations relative to construction noise and also codifies a reference to Special Event and Film Print Permits as recently enacted by the City Commission.

- Section 46-159 alters the current Special Master hearing process. In current practice, after a violation is issued for noise, it is referred to the Special Master for a hearing, adjudication, and assessment of a penalty. The proposed language will allow noise violations to be written as a violation and, unless appealed to the Special Master, must be paid at the prescribed fine amount. The appeal period is (10) ten days and continuances are limited. The revised process will expedite violation processing and assure a consistent and predetermined penalty.

- Section 46-160 provides a mechanism whereby a property that has received violations of the Noise Ordinance may retain an expert to provide for mitigation of the sound emanating from the property. Upon the implementation of the expert's recommended measures to achieve compliance, the property owner is allowed to restart a fine and penalty history at the level of a first violation for any subsequent noise violations related at the subject property for the balance of the year and escalating from that point forward. The noise expert/engineer is to be selected from a list maintained by the City of Miami Beach on an annual proposal basis.

- Section 46-162 carries forward the existing provisions for motor vehicle alarms.

- There is also agreement among the group that uniform training needs to be available to all Code Compliance Officers on noise enforcement, as well as offered to the respective license holders who may have establishments with entertainment or other noise producing activities. (This does not require Ordinance language).

- There is agreement among the parties that an improved tracking and monitoring system for compliance is necessary both for City use, as well as for citizen and business access. A system has been budgeted for acquisition in the 2006 Budget in Neighborhood Services. (This does not require Ordinance language).

- There is agreement in the group that an improved system of communications between complaining parties and the regulatory agency is necessary and appropriate. (This does not require Ordinance language).

Areas of Disagreement

The principal areas of stakeholder disagreement and continued discussion remain as presented in the City Commission agenda item on September 8, 2005. The nature or basis of initiation of complaints filed under the Noise Ordinance, along with the combined topic area of fines and penalties and the definition of a habitual offender under the Noise Ordinance, have been the subject of the meetings subsequent to the September 8, 2005 Commission meeting and remain unresolved at this juncture.

At the conclusion of the last meeting of the Noise Ordinance participants on Wednesday, October 12, 2005, the hotel and nightlife business representatives expressed the opinion that since there was still at least one fundamental point of disagreement among the parties, the Noise Ordinance was not ready for presentation to the City Commission at the October 19, 2005 meeting. The preference of the hotel and nightlife business representatives was to request that the City Commission again permit an extension of time for the parties to continue to discuss and attempt to resolve Noise Ordinance issues. Resident representatives at the October 12, 2005 meeting expressed a desire to have the City Commission consider First Reading of a Noise Ordinance so as to continue to move the process forward, with an expectation that the participants would be able to meet and continue to attempt to resolve the issues still at dispute, between the First and Second Reading of the Ordinance. (The Second Reading would not be scheduled until the Commission's December meeting).

The most significant area of disagreement among the Noise Ordinance participants is and remains whether or not enforcement of the Noise Ordinance should be through a complaint-driven process. The Administration, together with resident representatives, are seeking to retain the current enforcement posture which permits noise complaints to be initiated by Code Compliance officers, while the hotel and nightlife businesses are seeking specific language to provide limits on Noise Ordinance complaints. Hotel and nightlife businesses also expressed concern about extreme adverse business impacts with what might be able to occur if new provisions of a Noise Ordinance were enacted by the City without a limit on complaints, and the potential for a business and tourism unfriendly message to be conveyed on the part of the City.

In attempting to resolve this policy point, a range of limitations on enforcement were raised and discussed, each of which was rejected by the City as unnecessarily or inappropriately impacting the City's ability to protect its residents from unnecessary and excessive noise.

While it is possible from a policy perspective for the City to agree to limit its ability to initiate complaints relative to noise enforcement, it will be recommended by the Administration that the City's and the citizen's best interests are served with a different policy response.

The concern about negatives that might happen to adversely impact businesses without a compliant limitation is severely over stated when compared to the current and actual practice. In the current enforcement of the Noise Ordinance used by the City of Miami Beach (Miami-Dade County Section 21-28), noise complaints can be generated by a variety of sources without limit. The City can and does receive anonymous complaints from individuals who choose not to reveal their identity. The City also receives calls from individuals and businesses who do establish their identity. Code Enforcement officers are also able to proactively address Noise Ordinance violations in instances where they observe a violation. While relying heavily on complaints to allocate resources and response, the current enforcement practices associated with the Noise Ordinance anticipate and utilize proactive response to assure compliance with the Noise Ordinance.

Moreover, noise violations make up only a small percentage of the total volume of work that is completed by Code Enforcement Officers. Of all violations issued by the Code Enforcement Division, typically noise violations constitute only from 5-10%. For example, in the month of August 2005, only 29 violations for noise were issued, which constituted 5% of the 588 total violations in that month. August included a major event (VMA awards) and is typical of the Code Compliance Division's experience for violations over the past 1 1/2 years. In the September 8, 2005 Commission agenda memorandum, the last 22 month violation history was identified as a total of 502 violations, which is an average of 22 violations per month. The current practice of enforcing the Noise Ordinance without a complaint limitation clearly is not indicative of abuse or misuse.

In virtually every other enforcement activity which is pursued by the City of Miami Beach across all of the City's regulatory divisions, no limitations such as what is proposed by the hotel and nightlife businesses on noise violations is imposed in the City's response. In all enforcement endeavors, the City consistently takes a proactive enforcement posture that allows the City to identify and correct any violation before it is necessary for somebody to issue a formal complaint.

In the area of noise enforcement specifically, it is suggested that a proactive enforcement posture is appropriate given the level of citizen concern and attention that has been expressed to date, and particularly in light of the recently approved addition to the City's Charter relative to quality of life and specifically noise issues.

The Administration's position has been that it is the role of the City government to act on behalf of its residents to remedy concerns identified within the community and that it should not be necessary for a resident to be inconvenienced in every instance in order to create a response on behalf of the City. This posture of supporting resident interests is not in conflict

with being supportive of business interests, as in all cases the proactive role of the City is to address only valid violations of a law that all parties have agreed is necessary in order to preserve the community quality of life.

The Code Compliance Division currently uses a proactive compliance posture and as indicated by the previous statistics, responds to all sources of a complaint in the area of noise and makes a determination whether or not the complaint is valid and requires further enforcement response in order to assure compliance. The hotel and nightlife businesses expressed substantial concern with continuing the current practice without limit. Each of these parties was concerned that the hotel or nightlife business might be unfairly subjected to calls from competitors wishing to impact their business and invalid calls from individuals within the community. As Code Compliance makes a determination in every case whether or not a complaint is valid, in the event a complaint is invalid or unfounded there is no contact with a property owner and, as such, there is no adverse impact of that invalid or unfounded complaint passed forward to the property owner. Limiting complaints only serves to inconvenience residents with no benefit to the business community.

Current experience and practice indicates that most of the noise violations are supported by complaints, thereby making a limitation on how complaints are initiated unnecessarily restrictive.

The City also expressed concern with language which added interpretations or amendments to the existing language of Miami-Dade County Section 21-28, so as to affect the future ability to enforce that Ordinance and the possibility of future issues for challenge.

It is significant to note that throughout all of the Noise Ordinance conversations, the City has consistently resisted and/or rejected language being added to the Ordinance that might alter the interpretation, use, or meaning of Miami-Dade County Section 21-28. The City's position relative to altering the provisions of Miami-Dade Section21-28 was consistent throughout all of the Noise Ordinance discussions, but are particularly important in this specific policy area of the Noise Ordinance. The United States District Court decision which granted Summary Judgment in favor of the County and City and found the Noise Ordinance (Miami-Dade County Section 21-28) constitutional, was a well written judicial opinion that clearly supported and explained the basis for the specific words utilized in Miami-Dade County Section 21-28. Any changes introduced into the text or interpretation of Miami-Dade County Section 21-28 via new City Ordinance changes raise entirely new areas for a potential legal challenge and future areas of litigation which, absent the changes, would not be anticipated or necessary.

The focus of the City draft of the Noise Ordinance has been to retain the integrity of Miami-Dade County Section 21-28 and to address the due process and fines and penalties which are and can safely be addressed with new language. The sections the City Administration has presented for Commission approval do not impact the core meaning, use, or interpretation of Miami-Dade County Section 21-28.

In the Summary Judgment issued by the District Court, the Court found that the use of the terms "unreasonably loud, excessive, unnecessary, or unusual" as it relates to noise when read together with the specific provisions associated with radios, television, phonographs or other devices to reproduce sound, were both flexible in that it was not an unreasonable limit on alternative forms of communication and tailored narrowly enough so as to be constitutional on its face. The specific provisions in Miami-Dade County Section 21-28 relative to reproduced

sound that must be read with the unreasonably loud standard is that sound must be generated as to disturb the peace, quiet, and comfort of the neighboring inhabitants or by sound that is louder volume than is necessary for convenient hearing for the person or persons who are in the room in which such devices are operated. The Court in its Summary Judgment clearly suggested that the enforcement standard to determine if a sound is unreasonably loud is that it disturbs the peace, quiet, and comfort of neighboring inhabitants. This is significant in the City's ongoing enforcement of the Noise Ordinance in that it establishes a burden on Code Enforcement agents of the City to provide to a Special Master or Court information that neighboring inhabitants were disturbed by virtue of the noise which was the subject of a complaint or prospective violation or by sound that is louder than necessary for the convenient hearing of persons in a vehicle, room or chamber.

In addition, the Court also recognized that, for enforcement purposes, the "unreasonably loud, excessive, unnecessary, or unusual noise" standard that provided for a disturbance of neighboring inhabitants was also more fully defined so as to be more restrictive between the hours of 11:00 p.m. and 7:00 a.m. In the 11:00 p.m. to 7:00 a.m. time frame, a "prima facie" case for violation of the Ordinance can be made by a Code Enforcement officer when such noise is plainly audible at a distance of 100 feet from a building or structure in which the noise is located. The Court opinion also clearly expresses that this is a rebuttable presumption with which potential violators may take issue and make a factual case to dispute.

While the hotel and the nightlife businesses would prefer to have specific language to provide a limitation on complaining parties, the full reading and understanding of the Court's Summary Judgment opinion is helpful in addressing those concerns. The Summary Judgment established for those charged with noise violations various defenses to the claim that a violation has occurred and indicated that one of the tests for a violation was whether a disturbance had been created for neighboring inhabitants.

The Noise Ordinance participants have discussed the number of violations that would constitute a habitual offender, the level of penalties associated with each violation, and whether or not warnings and if there are warnings how many are to be represented in the Ordinance. However, in light of the fundamental disagreement on the question of a complaint-driven Noise Ordinance enforcement, the parties have not been able to come to consensus on a fine and penalty schedule which also forms a critical component of the Noise Ordinance.

Conclusions/Options

The City Commission has requested that the Noise Ordinance item be presented for review and action at the October 19, 2005 City Commission meeting. There are a range of options which might be pursued by the members of the City Commission to address the Noise Ordinance, which are as follows:

- Allow an extension of time for the parties to continue Noise Ordinance discussions for a time certain as established by the City Commission.
- Assist the parties by providing Commission guidance on the fundamental question of whether or not the Noise Ordinance should be a complaint-driven process, either at the City Commission meeting or in another forum (such as a committee meeting, workshop or other appropriate venue) as specified by the City Commission.

- Adopt a Noise Ordinance on First Reading as presented and/or as modified by the City Commission and charge the respective parties with finalizing language prior to a Second Reading, currently tentatively scheduled for the December 7, 2005 Commission Meeting.

While noise is and remains a topic of concern within the community that deserves careful long-term consideration, there is not an eminent crisis or rash of noncompliance which currently necessitates an immediate resolution of the noise issue. The current enforcement of Miami-Dade County 21-28 is being undertaken in an effective manner by the Code Compliance Division and at least in the short term, noise issues are being addressed and compliance achieved. This certainly appears to be supported by the violation history, as well as, the recent resident survey.

The Administration has devoted a considerable amount of resources to the long term resolution of the noise issue in our community and will continue to assist in the manner directed by the members of the City Commission. Given the request of the Noise Ordinance discussion participants and the difficulty that the parties are having in resolution of the complaint-driven enforcement question, it is recommended that the City Commission provide policy guidance to the parties on the complaint-driven enforcement question and grant an extension of time for a First Reading on the Ordinance.

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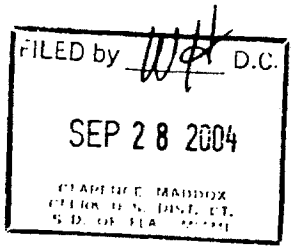
Attachments

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami Division



Case Number: 03-20684-CIV-MARTINEZ-KLEIN

DA MORTGAGE, INC., and
136 COLLINS AVENUE, L.C.,

Plaintiffs,

vs.

CITY OF MIAMI BEACH and
MIAMI-DADE COUNTY,

Defendants.
_____ /

ORDER GRANTING THE COUNTY'S MOTION FOR SUMMARY JUDGMENT

THIS CAUSE came before the Court upon Defendant Miami-Dade County's Motion for Summary Judgment (D.E. No. 37), filed on February 17, 2004. The Court heard oral argument on July 26, 2004. For the reasons stated more fully herein, Defendant Miami-Dade County's motion is granted.

I. Relevant Factual and Procedural Background[1]

The parties believe the material facts are undisputed, and therefore, the Court should rule on Plaintiffs' claims as a matter of law, consistent with the positions taken by the parties in their respective motions for summary judgment. (D.E. No. 70, at 6).[2] After review of the motions for summary judgment, the Joint Pretrial Stipulation, and relevant pleadings, the Court agrees there are no disputed material facts, and it may rule upon Plaintiffs' claims as a matter of law. By this Order, the Court will consider only Plaintiffs' claims related to Miami-Dade County (the

[1] The facts are taken almost exclusively from the facts stipulated by the parties in the Joint Pretrial Stipulation. (D.E. No. 70).

[2] However, the parties also believe that if the Court were to rule in favor of Plaintiffs, issues of fact remain concerning the amount of damages.

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"County"), as alleged in Counts II and III of the Complaint. The claims relating to the City of Miami Beach (the "City") will be adjudicated by separate written order.[4]

Plaintiff DA Mortgage, Inc. ("DA Mortgage"), is a Florida corporation that currently holds a lease to real property located at 136 Collins Avenue, Miami Beach, Florida (the "Property"). The Property is owned by Lawrence Kaine. DA Mortgage holds the certificate of use for the entire premises. The South Beach area where the Property is located consists of apartments, condominiums, hotels, a designated historic district, stores, restaurants, and shops, in addition to entertainment establishments including nightclubs, bars, lounges, and cafes.

Plaintiff 136 Collins Avenue, L.C. ("136 Collins") is a Florida Corporation that has a sublease with DA Mortgage and operates a nightclub at the premises. The nightclub is a large, open air facility that occupies approximately 20,000 square feet and plays music as a primary form of entertainment for its patrons. 136 Collins has a valid City of Miami Beach occupational license for restaurant, entertaining, dancing, and serving alcohol until 5:00 a.m. The nightclub has operated since 1994 under different lessees and is licensed by the City to operate as such.

The County is a charter county established pursuant to the Florida Constitution. Article VIII, Section 1(g) of the Florida Constitution provides that charter counties

> shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of a conflict between county and municipal ordinances.

In addition, Article VIII, Section 6(f) of the Florida Constitution provides that "to the extent not

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[4] The City also filed a motion for summary judgment (D.E. No. 80). Plaintiffs filed a cross motion for summary judgment in conjunction with their response to the County's motion for summary judgment. (D.E. No. 84). Plaintiffs' cross-motion seeks summary judgment not only on its claims against the County, but also on its claims against the City. To the extent Plaintiffs' cross motion relates to its claims against the County, the motion is denied for the reasons stated more fully herein. The City's motion for summary judgment and Plaintiffs' cross-motion, as it relates to its claims against the City, will be adjudicated by separate written order.

inconsistent with the powers of existing municipalities or general law, the Metropolitan Government of Dade County may exercise all the powers conferred now or hereafter by general law upon municipalities." Thus, the County has a specific grant of power over municipalities located in the county. The City is a municipality organized and existing under the laws and constitution of the State of Florida. The City is located in Miami-Dade County.

Section 21-28(b) of the Code of Miami-Dade County, Florida, states:

> It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely. .
>
> (b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any ratio, receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7 00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section

Although the City has enacted its own noise ordinances in §§ 46-151 through 153 of the City Code, the City has not issued any notices of violation to DA Mortgage or 136 Collins for failure to comply with the City's noise ordinances. However, between May 2002 and April 2003, the City issued several notices of violation to 136 Collins for violating § 21 28 of the County code. In addition, on March 22, 2004, the City issued another notice of violation to 136 Collins for failure to comply with § 21 28 of the County code

The City has enacted an alternate code enforcement system under City of Miami Beach

Code Chapter 30 pursuant to Chapter 162, Florida Statutes. Section 30-1 of the City Code provides that the "city code enforcement special masters shall have jurisdiction to hear and decide cases in which violations are alleged of any provision of the city's or county's codes or ordinances." Section 30-2 of the City Code states:

> The city creates, pursuant to F.S. ch. 162, an alternate code enforcement system that gives special masters appointed as set forth in articles II and III of this chapter the authority to hold hearings and impose fines, liens and other noncriminal penalties against violators of the city's or county's codes and ordinances.

Section 162.03, Florida Statutes, provides:

> A charter county, a noncharter county, or a municipality may, by ordinance, adopt an alternate code enforcement system which gives code enforcement boards or special masters designated by the local governing body, or both, the authority to hold hearings and assess fines against violators of the respective county or municipal codes and ordinances. A special master shall have the same status as an enforcement board under this chapter. References in this chapter to an enforcement board, except in s. 162.05, shall include a special master if the context permits.

In addition, Section 162.22, Florida Statutes, provides:

> Designation of enforcement methods and penalties for violation of municipal ordinances The governing body of a municipality may designate the enforcement methods and penalties to be imposed for the violation of ordinances adopted by the municipality. These enforcement methods may include, but are not limited to, the issuance of a citation, a summons, or a notice to appear in county court or arrest for violation of municipal ordinances as provided for in chapter 901 Unless otherwise specifically authorized and provided for by law, a person convicted of violating a municipal ordinance may be sentenced to pay a fine, not to exceed $500, and may be sentenced to a definite term of imprisonment, not to exceed 60 days, in a municipal detention facility or other facility as authorized by law

The City is seeking to enforce § 21-28 of the County Code through the City's alternate code enforcement system On April 27, 2004, the notices of violation issued to 136 Collins between May 2002 and April 2003 were closed without adjudication As for the March 22, 2004, notice of violation, 136 Collins has requested a Special Master appeal hearing of the notice of violation before the Special Master

DA Mortgage and 136 Collins have filed a nine-count Complaint against the City and the County. As to the County, Plaintiffs allege § 21-28(b) of the County Code, which the City seeks to enforce through its alternate code enforcement system, violates the First and Fourteen Amendments of the United States Constitution. Plaintiffs seek declaratory relief (Count II) and damages (Count III) pursuant to 42 U.S.C. § 1983 against the County. The matter has been fully briefed and is ripe for adjudication.

II. Legal Standard

Under Rule 56(c) of the Federal Rules of Civil Procedure, a motion for summary judgment "shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." The United States Supreme Court has stated:

> In our view, the plain language of Rule 56(c) mandates entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial.

Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); *Everett v. Napper*, 833 F.2d 1507, 1510 (11th Cir. 1987). The Supreme Court has further stated that "Rule 56(c) therefore requires a non-moving party to go beyond the pleadings and by [its] own affidavits or by the 'depositions, answers to interrogatories, and admissions on file' designate 'specific facts showing that there is a genuine issue for trial'." *Celotex v. Catrett*, 477 U.S. at 324. An issue of fact is "genuine" if the record taken as a whole could lead a rational trier of fact to find for the non-moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248; *Matsushita Electric Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986). It is "material" if it might affect the outcome of the case under the governing law. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. at 248.

III. Analysis

Count II alleges the County's noise ordinance, § 21-28(b) of the County Code, should be declared unconstitutional pursuant to 42 U.S.C. § 1983, because it violates Plaintiffs' rights under the First and Fourteenth Amendments of the United States Constitution. Count III alleges Plaintiffs' are entitled to damages pursuant to 42 U.S.C. § 1983, because the City and the County allegedly deprived Plaintiffs of their rights under the First Amendment and Fourteenth Amendment of the United States Constitution. The Court first will consider whether § 21-28(b) violates the First Amendment, then whether § 21-28(b) violates the Fourteenth Amendment.

The Supreme Court has held "[m]usic, as a form of expression and communication, is protected under the First Amendment." *Ward v. Rock Against Racism*, 491 U.S. 781, 790 (1989). Nevertheless, the "government may impose reasonable restrictions on the time, place, or manner of protected speech," provided the restrictions are content neutral, narrowly tailored to serve a significant government interest, and leave open ample alternative channels of communication. *Id.* at 791.

To determine whether a law is content neutral, a court must consider:

> [W]hether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government's purpose is the controlling consideration. A regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not on others. Government regulation of expressive activity is content neutral so long as it is "*justified* without reference to the content of the regulated speech."

Id. (citations omitted). Here, the evidence before the Court shows § 21-28(b) specifically addresses excessive noise made by any instrument or device that reproduces sound, and it and makes no reference to content whatsoever. On its face, the ordinance does not address any particular message or viewpoint, and therefore, the Court finds § 21-28(b) is content neutral.

As for government interest, the Supreme Court has emphasized that "it can no longer be

doubted that government 'ha[s] a substantial interest in protecting its citizens from unwelcome noise.'" *Id.* at 796 (quoting *City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 806 (1984)). Although the Supreme Court has recognized this interest is strongest when the government seeks to protect the tranquility of the home, this government interest "is by no means limited to that context, for the government may act to protect even such traditional public forums as city streets and parks from excessive noise." *Ward v. Rock Against Racism*, 491 U.S. at 796. Accordingly, the Court finds the County has a significant government interest in regulating reproduced sound.

Therefore, the Court must consider whether the County's regulation is narrowly tailored to serve this significant government purpose. In *Ward v. Rock Against Racism*, the Supreme Court reiterated:

> Lest any confusion on the point remain, we reaffirm today that a regulation of the time, place, or manner of protected speech must be narrowly tailored to serve the government's legitimate, content-neutral interests but that it need not be the least restrictive or least intrusive means of doing so. Rather, the requirement of narrow tailoring is satisfied "so long as the ... regulation promotes a substantial government interest that would be achieved less effectively absent the regulation."

Id. at 798-99 (footnote omitted) (quoting *United States v. Albertini*, 472 U.S. 675, 689 (1985)). The County's significant interest in regulating reproduced sound is directly and effectively advanced by § 21-28(b), the requirements of which are limited to radios, televisions, musical instruments, phonographs, and other devices for the "producing or reproducing of sound." The County regulates other sources of noise, in ways distinct and appropriate for those sources, in other subsections of § 21-28. *See* Code of Miami-Dade County, § 21-28(a), (c)-(l) (regulating horns, signaling devices, animals, birds, whistles, exhausts, defective vehicles, noise near schools, courts, and hospitals, hawkers and peddlers, noises to attract attention, loudspeakers, power tools and landscaping equipment, and shouting).

Not only is § 21-28(b) narrowly tailored as to the type of noise it regulates, but it also contains a narrowly tailored standard to ensure that only truly excessive noise is proscribed. The ordinance prohibits sound reproduced

> in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto.

Id. at § 21-28(b). To aid in determining whether or not sound is having such an impermissible effect, the ordinance then crafts a rebuttable presumption:

> The operation of any such set, instrument, phonograph, machine or device between the hours of 11.00 p.m. and 7.00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

Id. This presumption, in conjunction with the remainder of the ordinance, forms a properly and narrowly tailored standard

Contrary to Plaintiffs' suggestion, § 21-28(b) does not create a blanket prohibition based upon any time, place, or manner. Therefore, § 21-28(b) does not implicate the constitutional problems found in other regulations that totally ban sound. *See Casey v. City of Newport*, 308 F.3d 106, 118 (1st Cir. 2002) (striking down a total ban on the amplification of a singer's voice), *Beckerman v. City of Tupelo*, 664 F.2d 502, 516 (5th Cir. 1981) (striking down a blanket prohibition on the use of sound equipment in residential areas), *Reeves v. McConn*, 631 F.2d 377, 384 (5th Cir. 1980) (striking down a total ban on sound amplification in a downtown business district during certain hours and days).[4] Unlike these constitutionally infirm regulations, § 21-28(b) contains no blanket prohibition on sound, but rather attempts, through flexible means, to prohibit only excessive noise that intrudes on the rights of "neighboring inhabitants."

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[4] In *Bonner v. Pritchard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.

Finally, the Court concludes the provisions of § 21-28(b) leave open ample alternative channels of communication remain. Section 21-28(b) does not attempt to bar any particular manner or type of expression at a given place or time. The ordinance permits expressive activity and reproduced sound and limits it only when the sound reaches excessive levels that impact the peace and quiet of those who reside in the neighborhood. The language of § 21-28(b) makes plain that ample, alternative channels of communication remain open. Therefore, the Court finds § 21-28(b) is a valid time, place, and manner regulation, and does not violate the First Amendment.

Next, the Court will consider whether § 21-28(b) is vague or overbroad, such that it violates the Fourteenth Amendment. In *Grayned v. City of Rockford*, the Supreme Court considered whether the City of Rockford's noise ordinance was void for vagueness. 408 U.S. 104 (1972). The noise ordinance at issue in *Grayned* prohibited "any noise or diversion which disturbs or tends to disturb the peace or good order of [a] school session or class thereof." *Id.* 108. In upholding the noise ordinance, the Supreme Court stated:

> Condemned to the use of words, we can never expect mathematical certainty from our language. The words of the Rockford ordinance are marked by 'flexibility and reasonable breadth, rather than meticulous specificity' . . . but we think it is clear what the ordinance as a whole prohibits . . .

Id. at 110 (internal citation omitted).

Section 21-28(b) contains some of the very terms upheld in *Grayned*. For example, like the noise ordinance in *Grayned*, § 21-28(b) prohibits noise that "disturb[s] the peace." However, § 21-28 is more specific than the ordinance in *Grayned*, because it couples the "disturb the peace" language with the "convenient hearing" language to define more particularly the general prohibition on sound that is "unreasonably loud, excessive, unnecessary or unusual."

In addition, the terms "unreasonably loud, excessive, unnecessary or unusual" survive a

challenge on vagueness grounds. The words "unreasonably," "loud," and "raucous," which is similar to "excessive," have all been upheld. *See Reeves v. McConn*, 631 F.2d at 386 (discussing cases). The words "unnecessary" and "unusual," viewed in their context, also inform anyone subject to § 21-28(b) of that which is prohibited by § 21-28(b). In fact, the *Reeves* court upheld the related words "jarring" and "nuisance" and held that although "these words are abstract, 'they have through daily use acquired a content that conveys to any interested person a sufficiently accurate concept of what is forbidden.'" *Id.* (quoting *Kovacs v. Cooper*, 336 U.S. 77, 79 (1949)).

Recognizing that "mathematical certainty" is not required in this area, the *Reeves* court also upheld language that prohibited sound "disturbing . . . to persons within the area of audibility." *Reeves v. McConn*, 631 F. 2d at 386 (quoting *Grayned v. City of Rockford*, 408 U.S. at 111). This language is similar to the "plainly audible" language of § 21-28(b), which, rather than prohibiting sound that is "plainly audible" at a distance of 100 feet, creates a presumption that such sound violates the ordinance. In any event, "plainly audible" means exactly what it says: sound that can be heard (or is audible) at a distance of 100 feet. Because it is an objective standard, it is not constitutionally impermissible. Therefore, § 21-28(b) is not void for vagueness.

For overbreadth analysis, the "crucial question is whether the ordinance sweeps within its prohibitions what may not be punished under the First and Fourteenth Amendments." *Grayned v. City of Rockford*, 408 U.S. at 114-15. As discussed *supra*, § 21-28(b) does not ban any form of constitutionally protected activity, but rather reasonably limits the amount of sound that may be produced when the rights of neighboring inhabitants are affected. This is a valid time, place, and manner restriction and therefore, is not overbroad.

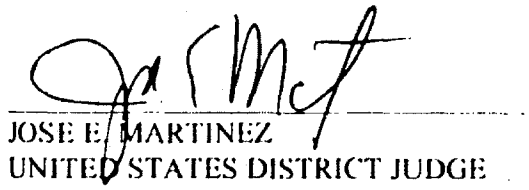
In sum, the County's noise ordinance, § 21-28(b) is consistent with the First and Fourteenth Amendments of the United States Constitution. Accordingly, the County is entitled to judgment as

a matter of law in its favor as to Count II. In addition, the County is entitled to judgment as a matter of law in its favor as to Count III, because Plaintiffs have not established their First or Fourteenth Amendment rights were violated. It is:

ORDERED AND ADJUDGED that

Defendant Miami-Dade County's Motion for Summary Judgment **(D.E. No. 37)** is GRANTED. To the extend Plaintiffs move for summary judgment against the County, their cross-motion is denied.

DONE AND ORDERED in Chambers at Miami, Florida, this 28 day of September, 2004.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge Klein
All Counsel of Record

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 46 OF THE CITY CODE, ENTITLED "ENVIRONMENT," BY AMENDING ARTICLE IV, ENTITLED "NOISE," BY AMENDING SECTION 46-151, ENTITLED "DEFINITIONS," TO PROVIDE NEW TERMS AND DEFINITIONS AND DELETING CERTAIN TERMS AND DEFINITIONS; AMENDING SECTION 46-152, ENTITLED "UNREASONABLY LOUD NOISE PROHIBITED," BY AMENDING THE TITLE AND ADOPTING SECTION 21 – 28 OF THE CODE OF MIAMI-DADE COUNTY BY REFERENCE; AMENDING SECTION 46-153, ENTITLED "RESPONSIBILITY FOR COMPLIANCE," BY AMENDING THE PROVISIONS THEREOF; REPEALING SECTION 46-154, ENTITLED "NOISE LEVEL IN SPECIFIC AREA"; REPEALING SECTION 46-155, ENTITLED "ADDITIONAL SOUND LIMITATIONS FOR PUBLIC PROPERTY"; AMENDING SECTION 46-156, ENTITLED "TEMPORARY PERMITS," BY EXPANDING THE PROHIBITED AREAS FOR CONSTRUCTION NOISE TO WITHIN 300 FEET OF CERTAIN DISTRICTS AND AMENDING THE EXEMPTIONS FOR SPECIAL EVENTS AND FILM PERMITS; AMENDING SECTION 46-157, ENTITLED "EXEMPTIONS," AND BY DELETING SUBSECTION (11) AND AMENDING THE PROVISIONS THEREOF; AMENDING SECTION 46-158, ENTITLED "ENFORCEMENT BY CODE INSPECTORS; NOTICE OF VIOLATION," BY AMENDING THE PROCEDURES FOR ENFORCEMENT AND WARNINGS; AMENDING SECTION 46-159, ENTITLED "CIVIL FINES FOR VIOLATION; APPEALS," BY AMENDING THE FINES AND PENALTIES FOR VIOLATIONS, THE APPEAL PROCEDURES, AND THE ALTERNATE MEANS OF ENFORCEMENT; AMENDING AND RENUMBERING SECTION 46-160, ENTITLED "NUISANCE," AS SECTION 46-161, AND RENAMING SECTION 46-160 AS "RELIEF FROM VIOLATIONS FOR SOUND SYSTEMS AND COMPLIANCE" AND CREATING PROVISIONS THEREFOR; AMENDING AND RENUMBERING SECTION 46-161, ENTITLED "MOTOR VEHICLE ALARMS" AS SECTION 46-162 WHICH IS HEREBY CREATED; PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, noise has been a topic of concern within the City of Miami Beach for many years and has recently been the subject of Commission discussion and community meetings to address modified enforcement and legislative solutions; and

WHEREAS, the provisions in this Ordinance will serve to further address the noise concerns of the City and its residents.

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

SECTION 1. That Section 46-151 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Chapter 46

ENVIRONMENT

* * *

ARTICLE IV. NOISE

Sec. 46-151. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use means those uses deemed accessory uses under the Land Development Regulations of this Code.

Amplification device means any instrument, machine, or system, which by electronic means augments sound by increasing the sound level or volume.

Amplified sound means sound augmented by any electronic means that increases the sound level or volume.

City manager means the city manager or the city manager's designee which may be one of his assistants or a department or division head of the city designated by the city manager, or the Special Master.

Code inspector means an authorized employee or agent of the city whose duty it is to ensure code compliance, including but not limited to inspectors of the city's code compliance department, ~~and~~ police officers, or any authorized agent or employee of the city whose duty it is to assure code compliance.

~~*Complainant* means any owner, lessee, manager or person with a legal interest in a receiving property who reports being disturbed by sound heard inside of a residence or place of business upon the receiving property and not originating therefrom.~~

Conditional use means those uses deemed conditional uses under the Land Development Regulations of this Code.

Emergency work means any work performed for the purpose of remedying conditions that create an imminent peril to life, health or property.

One year means a continuous period of time from October 1 of one calendar year to September 30 of the following calendar year.

~~*Plainly audible* means the sound can be clearly heard by a person of normal sensibilities using only unaided auditory senses. Plainly audible shall refer to a sound heard at a volume level above that of normal conversation and shall not include sounds which are just barely audible. With respect to music the detection of a rhythmic base reverberating type sound, beat or cadence shall be deemed plainly audible.~~

Premises means any real property or parcel of land, including the buildings, structures or other improvements thereon.

~~*Property line* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by a person from that owned by another person, but not including intrabuilding real property divisions.~~

Qualified Noise Engineer means any person from a list of engineers maintained by the City selected pursuant to the City's competitive bidding procedures.

~~*Receiving property* means any residence or place of business into which sound, not originating therefrom, is traveling.~~

~~*Residence* means any occupied room or rooms connected together containing sleeping facilities, including single- and multiple-family homes, town homes, apartments, condominium units, and hotel and motel rooms.~~

~~*Sound source* means the place from which sound emanates, including without limitation a speaker, loudspeaker, or other sound-producing instrument or person.~~

Special master means a hearing officer appointed pursuant to chapter 30 of this Code.

~~*Uninvited noise* means noise not originating on the receiving property.~~

~~*Unreasonably loud* means noise that is plainly audible inside of a receiving property across a property line.~~

Violator means a person or entity determined or cited by a code inspector as being in violation of the provisions of this Article.

SECTION 2. That Section 46-152 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-152. ~~Unreasonably loud noise prohibited.~~ Adoption by reference. Noises; unnecessary and excessive prohibited.

~~At all times, it shall be unlawful for any person to cause or permit to originate from the real property he controls any sound that crosses a real property line at a volume that is unreasonably loud.~~

Section 21-28 of the Code of Miami-Dade County, entitled "Noises; unnecessary and excessive prohibited,"[1] is recognized as being in force in the City and is hereby adopted by reference as if

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[1] Section 21 – 28 of the Code of Miami-Dade County provides as follows:

Sec. 21-28. Noises; unnecessary and excessive prohibited.
It shall be unlawful for any person to make, continue, or cause to be made or continued any unreasonably loud, excessive, unnecessary or unusual noise. The following acts, among others, are declared to be unreasonably loud, excessive, unnecessary or unusual noises in violation of this section, but this enumeration shall not be deemed to be exclusive, namely:
(a) *Horns, signaling devices, etc.* The sounding of any horn or signaling device on any automobile, motorcycle, bus or other vehicle on any street or public place of the County, except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for any unnecessary and unreasonable period of time.
(b) *Radios, televisions, phonographs, etc.* The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of 11:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of one hundred (100) feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
(c) *Animals, birds, etc.* The owning, harboring, possessing or keeping of any dog, animal or bird which causes frequent, habitual or long continued noise which is plainly audible at a distance of one hundred (100) feet from the building, structure or yard in which the dog, animal or bird is located.
(d) *Whistles.* The blowing of any locomotive whistle or whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger or upon request of the proper municipal or County authorities.

fully set forth herein, as that code may be amended from time to time. All code inspectors, as defined in this Article, are authorized and directed to enforce the provisions of said Section 21-28 and the provisions of this Article.

SECTION 3. That Section 46-153 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-153. Responsibility for compliance.

For purposes of ~~sections 46-152 through 46-155~~ this Article, any person owning or having responsibility for management of a ~~business~~ premises, however temporarily, any performer or disc jockey producing sound upon any ~~business~~ premises, any person playing music, any person

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(e) *Exhausts.* The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, or motor vehicle except through a muffler or other device which will effectively prevent unreasonably loud or explosive noises therefrom.

(f) *Defect in vehicle or load.* The use of any automobile, motorcycle, jet ski, water bike, recreational vehicle, dirt bike or motor vehicle so out of repair, so loaded or in such manner as to create unreasonably loud or unnecessary grating, grinding, rattling or other noise within a residential area.

(g) *Schools, courts, hospitals.* The creation of any excessive or unreasonably loud noise on any street adjacent to any school, institution of learning, house of worship or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, or which disturbs or unduly annoys the patients in the hospital, provided conspicuous signs are displayed in such streets indicating that it is a school, hospital or court street.

(h) *Hawkers, peddlers.* The shouting and crying of peddlers, hawkers, and vendors which disturbs the peace and quiet of the neighborhood.

(i) *Noises to attract attention.* The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of any unreasonably loud or unnecessary noise to any performance, show, sale, display or advertisement of merchandise.

(j) *Loudspeakers, etc.* The use or operation on or upon the public streets, alleys and thoroughfares anywhere in this County for any purpose of any device known as a sound truck, loud speaker or sound amplifier or radio or any other instrument of any kind or character which emits therefrom loud and raucous noises and is attached to and upon any vehicle operated or standing upon such streets or public places aforementioned. It is provided, however, that this subsection is not intended to be construed in a manner that would interfere with the legitimate use of the foregoing loudspeaker type devices in political campaigns.

(k) *Power tools and landscaping equipment.* The operation of noise-producing lawn mowers, lawn edgers, weed trimmers, blowers, chippers, chain saws, power tools and other noise-producing tools which are used to maintain or at a residence out-of-doors between 8:00 p.m. and 7:00 a.m.

(l) *Shouting.* Any unreasonably loud, boisterous or raucous shouting in any residential area.

(Ord. No. 58-5, § 21.07, 2-18-58; Ord. No. 96-130, § 1, 9-10-96)

having control of volume knobs or levels or amplification devices, and the business as named on the occupational license, if applicable, shall be jointly and severally liable for compliance with this article and shall be responsible for any violations of this article.

SECTION 4. That Section 46-154 of Article IV of Chapter 46 of the Miami Beach City Code is hereby repealed.

Sec. 46-154. ~~Noise level in specific area.~~ Repealed.

~~(a) *Purpose*. The purpose of these regulations is to allow for an area of the city where the ambience contributes to the enjoyment by residents and visitors of uses that feature the serving of food and beverages accompanied by outdoor live and pre-recorded musical entertainment.~~

~~(b) *Boundaries*. The area for which these regulations apply shall be located between 900 and 1090 Ocean Drive on Miami Beach. The legal description for this area is as follows:~~

~~Lots 1 through 8, inclusive, block 14; and lots 1 through 8, inclusive, block 15, Ocean Beach Addition No. 2, as recorded in plat book 2, page 56, public records of the county.~~

~~(c) *Limitation on noise volume.*~~

~~(1) For purposes of enforcement of this article, the following definition of "unreasonably loud" shall apply for all noises originating within the area as described in subsection (b) of this section:~~

~~Uninvited noise shall be deemed unreasonably loud if it is plainly audible inside a residential receiving property or part thereof at a distance greater than 50 feet away from the property line of the sound source or is plainly audible inside a place of business or part thereof at a distance greater than 100 feet away from the property line of the sound source. For purposes of enforcement of this section, measurements of distance from a sound source to a receiving property shall be measured in a straight line from the property line of the sound source to the residence or place of business which is the receiving property. The measurement will begin at that point on the property line of the sound source nearest to the receiving property.~~

~~(2) All procedures for enforcement of violations of the noise limitations in subsection (c)(1) of this section and for appeals of notices of violations issued by code inspectors shall be as set forth in this article.~~

~~(d) *No variances granted*. No variances shall be granted from the permissible volume limitations set forth in subsection (c) of this section.~~

~~(e) *Applicability of zoning provisions.* The regulations set forth in this section shall be supplementary to all other provisions, and zoning regulations shall continue to apply within the area.~~

SECTION 5. That Section 46-155 of Article IV of Chapter 46 of the Miami Beach City Code is hereby repealed.

Sec. 46-155. ~~Additional sound limitations for public property.~~ Repealed.

~~No person shall, on any public street or sidewalk, beach or park use, operate or play any radio, phonograph, stereo set, tape or CD player, television, sound amplifier, or other electronic audio device that produces or reproduces amplified sound, at a level that is plainly audible at a distance of more than ten feet from the sound source.~~

SECTION 6. That Section 46-156 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-156. Temporary permits.

(a) The city manager or his designee is authorized to issue a temporary permit to allow noise prohibited by section~~s~~ 46-152 ~~and 46-155~~ when produced by a temporary use or activity that does not ~~significantly~~ endanger the health, safety or welfare of the neighborhood. The city manager or his designee may prescribe any reasonable conditions necessary to minimize any adverse effect upon the community. A permit granted under this article shall contain all conditions upon which the permit has been granted, including the period of time for which the permit has been granted. Such relief may be granted in the following situations:

(1) *Code compliance in progress.* When an applicant is utilizing best efforts to comply with the noise restrictions in this article, but additional time is required for the applicant~~.~~, ~~S~~such permits may be granted for a period of time not to exceed ten days.

(2) *Construction.* When construction activities pursuant to a valid building permit cannot be carried out in a manner which would comply with section~~s~~ 46-152 ~~and 46-155~~; provided that all equipment shall be operated in accordance with manufacturer's specifications, shall be in good repair and shall utilize all noise baffling methods as specified by the manufacturer, and further provided that such activities shall occur only as follows:

a. Between the hours of 7:30 a.m. and 6:30 p.m. and between the hours of 7:30 a.m. and 7:30 p.m. during daylight savings time, on any day in areas

zoned as CCC, GU, I-1, MR, CPS-1, CPS-2, CPS-3, CPS-4, RO, WD-1, WD-2, GC, HD, MXE, CD-1, CD-2 and CD-3.

b. Between the hours of 8:00 a.m. and 6:00 p.m. on weekdays and 10:00 a.m. and 4:00 p.m. on Saturdays in areas zoned as RM-1, RM-2, RM-3, RM-PRD, RPS-1, RPS-2, RPS-3, RPS-4, RMPS-1, RS-1, RS-2, RS-3, RS-4, TH and in any exclusively residential zoning district not otherwise specified in this subsection, or within three hundred feet of any of these zoning districts. No construction shall be permitted on Sundays or on national holidays.

Notwithstanding the provisions set forth in subsections (a)(2)a and b of this section, the ~~building official~~ City Manager or his designee may authorize any construction activity at a particular site within a zoning district set forth in subsection (a)(2)a of this section earlier than 7:30 a.m. Under emergency circumstances only, the building official may authorize any necessary construction activities earlier than 8:00 a.m. and/or later than 4:00 p.m. on any day within a zoning district set forth in subsection (a)(2)b of this section. The work authorized by the building official pursuant to this subsection may be conditioned upon notice to surrounding property owners and tenants. Such permits may be granted for a period of time not to exceed three consecutive days.

(3) *Special events and film and print permits.* A film permit issued pursuant to section 12-1, or a special event permit issued pursuant to section 12-5 may be exempted from the requirements of section 46-152 upon specific compliance with sections 12-1(9) or 12-5(8), as applicable. ~~When the applicant seeks to hold a special event or film and print production, or other activity, and has met all of the city's requirements for obtaining such permit as set forth in applicable regulations, resolutions or ordinances and the activity or special event cannot be performed or held in a manner that would comply with sections 46-152 and 46-155. Except for special events and film and print productions, such permits may be issued for a period of time not to exceed three days. In lieu of a separate permit issued hereunder, the special event or film and print permit may include the authorization and conditions contemplated hereunder. See section 12-1, for film and print production permits, or section 12-5, for special events.~~

(b) Failure to comply with any condition of a temporary permit issued pursuant to this section shall constitute a violation and shall result in enforcement procedures and penalties as set forth in sections 46-158, 46-159 and 46-160.

SECTION 7. That Section 46-157 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-157. Exemptions.

The following uses and activities shall be exempt from the requirements of section~~s~~ 46-152 ~~and 46-155~~ and from the enforcement procedures in this article:

(1) Cries for emergency assistance and warning calls.

(2) Radios, sirens, horns and bells and other sounds created by police, fire and other emergency response vehicles.

(3) Parades, fireworks displays, ~~special events~~ and other activities for which a permit has been obtained from the city, pursuant to section 46-156, within such hours and in accordance with such restrictions as may be imposed as conditions for the issuance of the permit.

(4) Activities on or in municipal ~~and school athletic~~ facilities and on or in publicly owned property and facilities, when such activities have been authorized by the public authority owning the properties or facilities or their agents; except where such publicly owned properties are under private operation or use. ~~pursuant to a lease or concession agreement.~~

(5) Fire alarms and burglar alarms, bells and chimes of churches or other religious institutions; however, false burglary alarms shall be subject to enforcement procedures and penalties as set forth in article II of chapter 42.

(6) Locomotives and other railroad equipment and aircraft, to the extent that city regulation is preempted by federal law.

(7) Noises resulting from emergency work.

(8) Any noise resulting from activities of a temporary duration permitted pursuant to section 46-156.

(9) Noise generated by motor vehicles as defined in F.S. § 320.01 when operated and equipped in accordance with requirements set forth in the Florida Statutes.

(10) Noise resulting from the operation of vessels when operated in compliance with the decibel limitations in F.S. § 327.65. However, noise exceeding the limitations set forth in F.S. § 327.65 shall be subject to enforcement and penalties as set forth in F.S. ch. 327.

~~(11) Noises emanating from the unamplified conversations of persons on the public streets and sidewalks.~~

SECTION 8. That Section 46-158 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-158. Enforcement by code inspectors; notice of violation.

(a) ~~If a code inspector receives a complaint from a complainant regarding a violation of this article, he shall investigate the complaint and determine whether the violation exists.~~ If ~~the~~ a code inspector ~~then~~ observes a violation of this article, the inspector shall issue a notice of violation to the violator and inform the violator that he must immediately cease the violation and that the violator will be subject to additional penalties if the violation continues. ~~and issue a notice of violation to the violator as provided in chapter 30 of this Code~~. The notice shall inform the violator of the:

(1) Name of the violator.

(2) Date and time of violation.

(3) Nature of the violation.

(4) Amount of fine or other penalty for which the violator may be liable pursuant to section 46-159 of this Code or as otherwise provided by law.

(5) Instructions and due date for paying the fine.

(6) Notice that the violation may be appealed by filing a written request for an administrative hearing with the clerk of the special master within ten days after service of the notice of violation, ~~for requesting an administrative hearing~~, that failure to do so shall constitute an admission of the violation and waiver of the right to a hearing, and that unpaid fines will result in the imposition of liens which may be foreclosed by the city.

The notice shall also inform the violator that repeat violations of this article will result in the imposition of larger fines and may also result in revocation of occupational license and/or certificate of use and/or injunctive proceedings as provided by law. The notice shall be signed by the code inspector who witnessed the violation.

(b) *Warnings.* Prior to issuing a notice of violation under this article, a code inspector shall first issue a written warning to immediately cease the violation. The written warning shall be substantially in the same form as the notice of violation as stated in sub-section (a) above. Failure to correct the violation within fifteen minutes following the issuance of a warning, shall result in the issuance of a notice of violation pursuant to this Article.

However, a code inspector shall not issue a warning, and instead shall issue a notice of violation, to any person, entity or establishment who in any one year period has already received a warning, or at any time during that one year has received a notice of violation. Additionally, during any period of time, as approved by resolution of the City

Commission, in which the city implements certain Major Events Plans which have been designated by resolution as eligible for a warning, the city will issue one warning to a violator prior to issuing a notice of violation, irrespective of whether a warning or notice of violation was issued prior to that Major Event time period.

SECTION 9. That Section 46-159 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-159. Civil fines and penalties for violation; appeals; alternate means of enforcement.

(a) *Civil fines and penalties.* The following civil fines and penalties shall be imposed for violations of this chapter:

(1) First offense, $~~100.00~~ 500.00 fine.

(2) Second offense ~~and each offense thereafter (~~ within one year~~of the first offense~~), ~~$500.00~~ $1000.00 fine.

(3) Third offense within one year, $2,000.00 fine.

(4) Fourth offense within one year, $5,000.00 fine.

(5) Fifth offense within one year, $10,000.00 fine.

(6) Sixth offense within one year, one weekend (Noon Friday through noon Monday) occupational license conditions and/or accessory use restrictions shall be imposed limiting the ability to produce amplified sound at that portion of the premise that caused the violation in addition to a $15,000.00 fine.

(7) Seventh offense within one year, two weekend (noon Friday through noon Monday) occupational license conditions and/or accessory use restrictions shall be imposed limiting the ability to produce amplified sound at that portion of the premise that caused the violation in addition to a $20,000.00 fine.

For purposes of this section, "offense" shall mean a notice of violation that has not been contested timely or a finding of violation by a special master following the appeal of a violation. A person may receive a separate notice of violation once every hour if a violation has occurred at any time within that period. Each notice of violation shall constitute a separate offense for which a separate fine may be imposed. An offense shall be deemed to have occurred on the date the violation occurred. License suspensions or accessory use restrictions pursuant to this section shall be imposed by order of the Special Master after finding an offense warranting suspension or restriction has occurred.

(b) A violator who has been served with a notice of violation shall elect either to:

(1) Pay the civil fine in the manner indicated on the notice; or

(2) File a written request ~~Request~~ for an administrative hearing before a special master to appeal the decision of the code inspector that resulted in the issuance of the notice of violation. The written request shall be submitted to the clerical staff of the special master no later than ten (10) days of service of the notice of violation, and shall be accompanied by a $75 appeal fee. The fee may be returned to the violator if the special master rules in favor of the violator. All disputes regarding proper notice of the violation and timeliness of the appeal shall be heard by the special master prior to any hearing on the merits of the violation itself.

(c) The procedures for appeal of the notice of violation shall be as set forth in sections 102-384 and 102-385. A courtesy mail notice ~~shall~~ may be provided to the complainant of any hearing regarding the notice of violation, and the complainant may testify at such hearings. Failure to give such notice shall not be a cause for continuance or cancellation of any scheduled hearing of the matter.

(d) ~~If the named violator after notice fails to pay the civil fine or fails to timely request an administrative hearing before a special master, the special master shall be informed of such failure by report from the code inspector.~~ Failure of the named violator to appeal the decision of the code inspector within the prescribed time period shall constitute a waiver of the violator's right to administrative hearing before the special master. A waiver of the right to an administrative hearing shall be treated as an admission of the violation and penalties ~~may~~ shall be assessed accordingly. In the event of a sixth or seventh offense, and following notification by the code inspector of the violator's failure to timely request an administrative hearing, the special master shall enter an order setting the time during which conditions shall be imposed on the violator's occupational license or ,as applicable, the accessory uses shall be restricted. Such conditions or restrictions shall begin no later than 30 days after entry of the order by the special master.

(e) Any party aggrieved by the decision of a Special Master may appeal that decision to a court of competent jurisdiction as provided in F.S. § 162.11 and section 30-77 of this Code.

(f) The city may institute proceedings in a court of competent jurisdiction to compel payment of civil fines. A certified copy of an order imposing a civil fine or city bill for penalties due under this section may be recorded in the public records and thereafter shall constitute a lien upon any other real or personal property owned by the violator and it may be enforced in the same manner as a court judgment by the sheriffs of this state, including levy against the personal property, but shall not be deemed to be a court judgment except for enforcement purposes. After two months from the filing of any such lien that remains unpaid, the city may foreclose or otherwise execute on the lien.

(g) As an alternative or additional means of enforcement, the city may institute proceedings to revoke or suspend an occupational license and/or certificate of use or seek injunctive relief ~~as set forth in section 46-158~~. Furthermore, in cases of ~~recurring~~ habitual violations or offenses, the ~~code inspector~~ City Manager may issue ~~a citation~~ an administrative complaint for ~~prosecution before the special master~~ suspension or revocation of an occupational license and certificate of use as provided in ~~this chapter wherein~~ Section 102-383. ~~u~~Upon a finding of habitual violations or offenses by the ~~special master~~ City Manager, an ~~per diem fine~~ occupational license suspension or revocation shall ~~may~~ be imposed. Suspensions shall be imposed with restrictions limiting the ability to provide amplified sound as either a condition of the occupational license or as an accessory use restriction. In the event the violator is a hotel, motel, condominium, apartment or other residential property, accessory use restrictions shall be imposed in lieu of an occupational license revocation which results in the eviction of residents. Additionally, in the event of a revocation as a condition of being permitted to resume operation under the occupational license, the City Manager shall utilized the criteria set forth in Section142-1362 of this Code in imposing such conditions or restrictions. ~~A~~ ~~v~~Violations or offenses shall be considered ~~recurring~~ habitual when a person or entity has received ~~three~~ more than seven notices of violation or offenses within one year. ~~a period of one month~~.

In determining the length of the suspension or accessory use restriction to be imposed under this subsection, the City Manager shall consider the following factors: the gravity of the violations or offenses; any actions taken by the violator to correct the violations or offenses; and, any previous violations or offenses committed by the violator. No suspension or accessory use restriction imposed under this subsection shall be for a period of time of less than 30 consecutive days.

(h) Any fine imposed under this Article shall become a lien pursuant to the procedures of sections 30-74 and 30-75 of this code.

(i) In addition, in the event a violator refuses to comply with a notice of violation issued under section 46-158, a violator may be punished by imprisonment not to exceed 60 days or by imposition of a fine not to exceed $500.00 per offense or both.

(j) Nothing herein shall restrict the powers and authority granted to the various boards and committees of the city, including the imposition of conditions and sanctions not specifically enumerated in this article.

(k) Nothing herein shall be deemed to modify existing applicable State, County or City building and fire codes, ordinances, laws or regulations.

SECTION 10. That Section 46-160 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-160. ~~Nuisance.~~ Relief from violations for sound system review and compliance.

After receiving at least one violation under this Article, a violator may request relief from the penalty schedule in subsection (a) by filing with the City a report from a Qualified Noise Engineer ("Engineer"), as defined by this Article, under the following procedure.

(1) The Engineer's report shall be submitted to the City Manager within thirty days of the issuance by the City Manager of written response that the Engineer submitted for verification meets the minimum qualifications established under this Article. The report shall be submitted on a form prepared by the City and shall review the violator's business activities and premises, and recommend measures for the violator to follow to assist the violator in achieving compliance with this Article. Any report submitted under this section shall not excuse the violation, nor shall it be evidence that the violation, or any subsequent violation has not occurred.

(2) The violator shall implement all measures recommended by the Engineer, and provide the City proof such measures were implemented. Upon verification by the City all measures recommend by the Engineer have been implemented, the violator shall be allowed to restart a fine and penalty history at the level of a first violation for any subsequent noise violation at the subject property for the balance of the year and escalating from that date forward, except that any fines due or paid for those violations before the new start period shall not be waived or returned.

(3) Following the issuance by the City Manager of a written response of verification the selected Engineer meets the minimum qualifications provided by the Article, and upon a showing of good cause, an enlargement of time to submit the report may be granted upon submission of a written request to the City Manager.

(4) The relief from previous violations provided under this Section may only be requested by a violator once during a one year period. Additionally, relief from violations shall not prohibit the city from utilizing evidence of the violations in proceedings to seek compliance with city and Miami-Dade County Codes or Florida and Federal laws by other means not provided in this Article.

SECTION 11. That Section 46-161 of Article IV of Chapter 46 of the Miami Beach City Code is hereby amended as follows:

Sec. 46-161. ~~Motor vehicle alarms~~. Nuisance.

Any violation of this article shall constitute a nuisance. The city attorney may bring suit on behalf of the city, or any affected citizen may bring suit in his name, against the person or

persons causing or maintaining the violation, and against the owner/agent of the building or property on which the violation exists. Relief may be granted according to the terms and conditions of F.S. § 60.05, relating to abatement of nuisances, or pursuant to section 46-159. In any such action, the city or affected citizen, if the prevailing party, shall be awarded costs, including reasonable attorney's fees.

SECTION 12. That Section 46-162 of Article IV of Chapter 46 of the Miami Beach City Code is hereby created to set forth the provisions formerly in section 46-161, and as amended, as follows:

Sec. 46-162. Motor vehicle alarms.

(a) Definition. The following term shall have the following meaning for purposes of this section: "alarm system" shall mean a motor vehicle siren or horn alarm system contained in or appurtenant to a motor vehicle, designed to activate and sound in the event of a break-in or attempted break-in of the vehicle.

(b) It shall be unlawful for any motor vehicle equipped with an alarm system to activate and emit a siren or horn noise, audible at a distance of 100 feet intermittently or continuously within a period in excess of ~~30~~ 15 minutes ~~between the hours of 11:00 p.m. and 7:00 a.m.~~ Any person who has custody of any such offending motor vehicle shall be deemed in violation of this section.

(c) A violation of this section on the public streets or areas within the city is hereby declared a public nuisance which may be abated by the removal of such vehicle upon authorization of a law enforcement officer. Prior to removing such vehicle, the law enforcement officer shall afford the owner or custodian of such vehicle the opportunity to disconnect or deactivate the alarm system at the scene. Otherwise, the vehicle shall be removed to an authorized facility. The law enforcement agency shall ascertain the name and address of the registered owner of such vehicle and provide written notice by certified mail, return receipt requested, within 24 hours of such removal, the reason(s) for the removal, and the place where such vehicle has been removed. The fees assessed for the removal of the vehicle may be appealed by filing a complaint in the county court and posting with the court a cash or surety bond or security equal to the amount for the removal and/or storage of the vehicle to ensure the payment of such in the event the owner or custodian of the vehicle does not prevail.

(d) A violation of this section on private property shall cause the person who owns or has custody of the offending vehicle to be fined $50.00. Any duly designated law enforcement officer and/or code enforcement officer is authorized and empowered to enter without force upon private property in order to detect and issue a citation or notice of violation to and upon the owner or custodian of the offending motor vehicle. A copy of the citation or notice of violation may also be left on the offending vehicle and shall constitute notice. The citation or notice of violation may be appealed in accordance with the procedures set forth in sections 102-384 and 102-385 and chapter 30 of this Code.

(e) It shall not be a violation of this section if it is determined by the law enforcement officer and/or code enforcement officer that the siren or horn noise has been triggered by the unauthorized opening of the hood, truck or door(s) of the vehicle, by the breaking or attempted breaking of a window or by lightning, thunderstorms, or severe weather conditions.

SECTION 13. 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 14. REPEALER

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

SECTION 15. SEVERABILITY

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 16. EFFECTIVE DATE

PASSED and **ADOPTED this _____ day of _____, 2005.**

This Ordinance shall take effect on the ____ day of _____, 2005.

ATTEST:

_____
MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

_____
CITY CLERK

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City Attorney 10/14/05 Date

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R7
Resolutions

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution extending on First Reading the approval of the Miami Beach Convention Center as a venue for conventions, expositions or events involving adult materials, and setting a Second Reading Public Hearing for December 7, 2005.

Issue:

Should the City Commission extend the approval of the Miami Beach Convention Center as a location to hold events involving adult materials?

Item Summary/Recommendation:

The provision of s. 847.0134, Florida Statutes prohibits adult entertainment establishments that display, sell, or distribute materials harmful to minors within 2,500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school; however, municipalities may approve the location under proceedings as provided in s. 166.041 (3) (c). On January 14, 2004, the City Commission approved by Resolution No. 2004-25458 a resolution approving the location (Miami Beach Convention Center), contingent upon certain regulations, with such approval set to sunset on January 14, 2006.

The Administration recommends that the City Commission extend the approval of the Miami Beach Convention Center as a venue for adult-oriented events for an additional two years.

Advisory Board Recommendation:

The Planning Board heard this matter at a public hearing on September 27, 2005. A motion for extending the approval for a one year period failed due to a 3-3 vote. The Land Use and Development Committee approved the extension of approval for a two-year period, through January 14, 2008, at its regular meeting of October 10, 2005 and further recommended amending condition number 7 to limit hours of operation for Adult Entertainment Oriented Events between 9 a.m. and 12 a.m. (midnight). The Committee also recommended that an additional condition, prohibiting the distribution of handbills, be added to the Operating Requirements.

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	N/A		
	2			
	3			
	4			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Doug Tober, General Manager, Miami Beach Convention Center

Sign-Offs:

Department Director	Assistant City Manager	City Manager
	Hilda M Fernandez	Jma

T:\AGENDA\2005\Oct1905\Regular\Comm Item Adult Event Waiver 101905 Summ.doc

Agenda Item R7A
Date 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, EXTENDING ON FIRST READING THE APPROVAL OF THE MIAMI BEACH CONVENTION CENTER AS A VENUE FOR CONVENTIONS, EXPOSITIONS OR EVENTS INVOLVING ADULT MATERIALS, PURSUANT TO THE PROVISIONS OF F.S. 847.0134, AND SETTING A SECOND READING PUBLIC HEARING TO BE HELD ON THE ABOVE REQUEST BEFORE THE CITY COMMISSION ON DECEMBER 7, 2005.**

ADMINISTRATION RECOMMENDATION:

The Administration recommends that the City Commission extend the approval of the Miami Beach Convention Center as a venue for adult-oriented events.

BACKGROUND:

The provision of s. 847.0134, Florida Statutes prohibits adult entertainment establishments that display, sell, or distribute materials harmful to minors within 2,500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school; however, municipalities may approve the location under proceedings as provided in s. 166.041 (3) (c).

On January 14, 2004, the City Commission approved Resolution No. 2004-25458, a resolution approving the location (Miami Beach Convention Center) for purposes of booking public shows that meet the definition of adult entertainment, contingent upon certain booking and operating regulations as listed herein, with such approval set to sunset on January 14, 2006. This 2004 resolution was prompted by the request to present an event entitled Gay Erotica Expo at the Miami Beach Convention Center, which was held on June 5-6, 2004. No other event defined as adult entertainment has occurred since that time, and no issues arose as a result of the above event being held.

The Convention Center has received a request to book a public show that would meet the definition of an adult entertainment event. The Convention Center and Administration are requesting the extension of the resolution approving the location of the Miami Beach Convention Center as a venue for the presentation of adult entertainment events to permit the booking of this or any other show that would meet this definition. The request is to approve the location to hold such events subject to the Booking Requirements and

Operating Requirements as listed below. These Booking and Operating Requirements were approved on January 14, 2004, and it is recommended that they continue to be conditions applicable to any show that meets the "adult entertainment event" definition.

Booking Requirements for Adult Entertainment Oriented Events

The following Operating Requirements for Adult Entertainment Oriented Events shall be used as operating criteria with respect to conduct for any adult entertainment oriented events to occur at the Miami Beach Convention Center:

- The requirements will be added to the Terms and Conditions of the Lease Agreement issued by the Miami Beach Convention Center (Operator) and executed by Lessee and allow the Lessee the opportunity to immediately cure and remedy any violations prior to the operator invoking its right to terminate the lease and close the show.

- The Lessee shall incorporate the Operating Requirements established herein into the exhibitor rules and regulations issued by the event organizer and shall be known by exhibitors that any violation of the requirements shall be cause for immediate expulsion from the show.

- Convention Center Management shall book events only into Hall C, located in the southwest quadrant of the facility, so as to minimize proximity to the residential areas on Washington Avenue and to Miami Beach Senior High School, with entrance to be permitted only from Convention Center Drive.

- No more than two (2) conventions, expositions or events involving adult materials per year shall be permitted.

Operating Requirements for Adult Entertainment Oriented Events

The following Operating Requirements shall be incorporated into any Lease Agreements for adult entertainment-oriented events.

1. All patrons and personnel shall be prohibited from the following: The display of less than completely and opaquely covered genitals, pubic region, buttocks, anus or female breasts below a point immediately above the top of the areolas.

2. Sexual activities are prohibited. Sexual activities include the fondling or other erotic touching of genitals, pubic region, buttocks, anus or female breasts.

3. Lessee shall provide, at its expense, a reasonable number of event security personnel as determined by the Convention Center to provide crowd control and to monitor compliance with the terms and conditions of this Agreement.

4. Lessee shall post signs prohibiting unlawful conduct at the entrance doors of the leased exhibit space. The size, wording and placement of any and all signs to be displayed in the public lobby area are subject to the prior approval of the General Manager of the Convention Center.

5. Lessee shall be responsible for insuring that all exhibitors, attendees, Lessee staff, and any other invitees and guests of Lessee shall comply with all applicable laws with respect to activities and materials inside the leased premises.

6. No adult or obscene materials shall be visible from any public right of way.

7. The hours of operation for this type of event at the Convention Center shall be no earlier than 9 a.m. and no later than 2 a.m.

8. No one under 18 years of age shall be admitted to these types of events. This minimum age may be increased voluntarily by event lessees if they so desire. The minimum age shall be 21 years of age if alcohol is sold at the event.

9. Lessee shall cooperate fully with representatives of the Miami Beach Police Department during the event and shall make no attempt to circumvent or undermine the law enforcement efforts of any officer patrolling the area.

10. The general public shall be permitted to bring cameras into the show as long as approved signs are posted in the exhibit area discouraging inappropriate conduct and behavior.

11. Lessee shall inform each and every exhibitor, in writing, of the Operating Requirements for participation as an exhibitor in the event and incorporate the exact language into all exhibitor agreements.

12. Prior to setting up exhibit space at the Miami Beach Convention Center, Lessee shall have each and every exhibitor execute an acknowledgement of the Operating Requirements that was included in the exhibitor agreement issued by Lessee. A copy of exhibitor agreements shall be provided to Operator by Lessee upon request.

13. Lessee shall supervise the show and exhibitor conduct at all times and be available at all times to take any and all appropriate actions to immediately remedy any violation.

14. Should any violation of the Operating Requirements occur, Lessee shall take immediate action to eject the exhibitor's personnel or any invitee or guest of an exhibitor contributing to the violation of the Operating Requirements and shall immediately close the exhibit.

15. Failure of the Lessee to take the above-stated action or attempt to prevent any violation of the Operating Requirements shall constitute a material breach of the Lease Agreement and shall be grounds for immediate termination of this contract and closure of the show.

16. Any violation of any of the terms and conditions of this Agreement or any law by the Lessee, Lessee's agents or staff, an exhibitor, any exhibitor personnel, or any invitee or guest of an exhibitor or Lessee shall constitute a material breach of this Agreement and shall be grounds for the immediate termination of this contract and closure of show. In such event, Lessee shall not be entitled to a refund of any portion of the prepaid rental fee or any other fees for incidental services (electrical, plumbing, etc.). Lessee acknowledges and agrees that the City of Miami Beach, SMG and the Miami Beach Convention Center, its officers, agents and employees shall not be responsible or liable for any injury, damage loss or expense incurred by Lessee or its exhibitors as a result of such termination or closure of the show following a breach of contract. Lessee further waives any and all claims for damages or losses against the City of Miami

Beach, SMG and the Miami Beach Convention Center, its officers, agents and employees which may arise as a result of the closure of the show following a breach of this contract, and Lessee shall indemnify and hold harmless the City of Miami Beach, SMG and the Miami Beach Convention Center from any and all such claims made by Lessee's exhibitors.

The Planning Board heard this matter at a public hearing on September 27, 2005. A motion extending the approval of the use of the Convention Center as a venue for adult-oriented events for a one-year period failed due to a 3-3 vote. This item was also presented to the Convention Center Advisory Board on September 27, with no discussion introduced by the CCAB.

On October 10, 2005, the Land Use and Development Committee approved the extension of approval of the venue for an additional two years, through January 14, 2008, and further recommended amending condition number seven (7) to limit hours of operation for Adult Entertainment Oriented Events between 9 a.m. and 12 a.m. (midnight). The committee also recommended that an additional condition, prohibiting the distribution of handbills within the City of Miami Beach, be added to the Operating Requirements.

CONCLUSION

It is recommended that this resolution be approved on First Reading, extending the approval of the location of the Convention Center as a venue to hold events that involve adult materials as recommended above, and setting a Second Reading Public Hearing for December 7, 2005.

The procedure set forth in 166.041 (3) (c) F.S. refers to the process by which a municipality may approve the location under certain proceedings. This procedure requires that the City Commission hold two advertised public hearings. At least one hearing shall be held after 5:00 p.m. The first public hearing shall be held at least seven days after the day that the first advertisement is published. The second public hearing shall be held at least ten days after the first hearing and shall be advertised at least five days prior to the public hearing. Immediately following the public hearing at the second reading, the City Commission may adopt the resolution by an affirmative vote of five-sevenths of all members of the City Commission.

JMG/HMF/MAS/DT
T:\AGENDA\2005\Oct1905\Regular\Comm Item Adult Event Waiver 101905 Memorandum.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, ON FIRST READING PUBLIC HEARING, AN EXTENSION OF THE CITY'S APPROVAL OF THE MIAMI BEACH CONVENTION CENTER AS A VENUE WHICH WOULD ALLOW CONVENTIONS, EXPOSITIONS OR EVENTS INVOLVING ADULT MATERIALS, PURSUANT TO THE PROVISIONS OF F.S. 847.0134, AND SETTING A SECOND READING PUBLIC HEARING TO BE HELD ON THE ABOVE REQUEST BEFORE THE CITY COMMISSION, ON DECEMBER 7, 2005.

WHEREAS, Section 847.0134, Florida Statues, states that an adult entertainment establishment that sells, rents, loans, distributes, transmits, shows, or exhibits adult materials, may not be located within 2,500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location under proceedings as provided in section 166.041 (3) (c), Florida Statues; and

WHEREAS, the use of the Miami Beach Convention Center as a venue for an event that will involve vendors and exhibitors demonstrating and selling their products, including adult entertainment products, requires approval by the municipality in accordance with the statute; and

WHEREAS, on January 14, 2004, Resolution No. 2004-25458, approved the use of the Convention Center as a venue for adult-oriented events, subject to specific conditions and approval; the approval granted by the Resolution, by it's terms, expired two years later on January 14, 2006; and

WHEREAS, extension of the approval of the location would allow the Miami Beach Convention Center to hold adult-oriented events, subject to the recommended booking and operating requirements; the Administration would hereby recommend that the requested extension of the aforestated approval be further subject to the sunsetting of such approval on January 14, 2008; and

WHEREAS, as required by State Statute, a first reading public hearing to hear public comment regarding the proposed extension was duly noticed and held on October 19, 2005.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that following a first reading public hearing duly noticed and held on October 19, 2005, the Mayor and City Commission hereby approve an extension of the City's approval of the Miami Beach

AGENDA ITEM _____

DATE _____

Convention Center as a venue which would allow for conventions, expositions or events involving adult materials, pursuant to the provisions of F.S. 847.0134; and further set forth a second reading public hearing to be held on the above request before the City Commission, on December 7, 2005.

PASSED AND ADOPTED this 19th day of October, 2005.

Attest: _____ MAYOR

_____
CITY CLERK

T:\AGENDA\2005\Oct1905\Regular\Comm Item Adult Event Waiver 101905 Reso.doc

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 10/14/05 Date

CITY OF MIAMI BEACH NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY given that a Public Hearing 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 19, 2005, at 10:20 a.m.,** to consider extending the approval of the Miami Beach Convention Center as a venue for conventions, expositions or events involving adult materials, pursuant to the provisions of Section 847.0134, Florida Statutes.

Inquiries may be directed to the Tourism and Cultural Development (305) 673-7577.

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. 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 #332)

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving and officially adopting the Basis of Design Report (BODR) for the Collins Park Cultural Campus Project (Project).

Issue:

Shall the City Commission approve and adopt the Collins Park Cultural Campus Project BODR?

Item Summary/Recommendation:

On September 23, 1998, the Mayor and City Commission approved an agreement with the firm of Robert A. M. Stern Architects (Stern) for the Architectural and Engineering Design of a Regional Library, and a Master Plan for Collins Park and the Cultural Campus Streetscape. When the Collins Park phase was ready to begin, the City and Stern could not reach an agreement on a fair market price for the implementation of the master plan design and all further negotiations with Stern were subsequently terminated. A Request for Qualifications (RFQ) was issued on October 29, 2003 which included renovations to Collins Park, the Parking Lot to the East of the park, adjacent streetscape improvements, and renovation of the Rotunda. As a result of that RFQ, on July 28, 2004, the Mayor and City Commission approved an agreement with M. C. Harry & Associates, Inc. (Consultant) for Architectural and Engineering Services for the Project. The Consultant's Notice to Proceed was issued on November 17, 2004. The scope of the Project is sub-divided into Collins Park West, Collins Park East, Right-of-Way Improvements and Rotunda restoration. The Project planning process has followed the standard park improvement project sequence. The Project Kickoff meeting was held on November 5, 2004. A Community Design Workshop was held on April 21, 2005. There was strong support for the Project as presented by the Consultant, and consensus was reached for the design concept. The Project is to be funded by General Obligation Bond funds, City Center Redevelopment Agency Tax Increment Financing Funds and City of Miami Beach Parking Department funds.

Advisory Board Recommendation:

This item was recommended for approval by the General Obligation Bond Oversight Committee at their September 12, 2005 meeting.

Financial Information:

Source of Funds:		Amount	Account	Approved
	1			
	2			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Keith Mizell, CIP Capital Project Coordinator

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JECh	TH	JMG

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AGENDA ITEM R7B

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND OFFICIALLY ADOPTING THE BASIS OF DESIGN REPORT (BODR) FOR THE COLLINS PARK CULTURAL CAMPUS PROJECT (PROJECT).**

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

BACKGROUND:

On September 23, 1998, the Mayor and City Commission approved an agreement with the firm of Robert A. M. Stern Architects (Stern) for the Architectural and Engineering Design of a Regional Library, and a Master Plan for Collins Park and the Cultural Campus Streetscape. When the Collins Park phase was ready to begin, the City and Stern could not reach an agreement on a fair market price for the implementation of the master plan design and further negotiations with Stern were subsequently terminated.

A Request for Qualifications (RFQ) was issued on October 29, 2003 which included renovations to Collins Park, the Parking Lot to the East of the park, adjacent streetscape improvements and renovation of the Rotunda. As a result of that RFQ, on July 28, 2004, the Mayor and City Commission approved an agreement with M. C. Harry & Associates, Inc. (Consultant) for Architectural and Engineering (A/E) Services for the Project.

The Consultant's Notice to Proceed was issued on November 17, 2004. The Project planning process has followed the standard park improvement project sequence. The Project Kickoff meeting was held on November 5, 2004. A Community Design Workshop (CDW) was held on April 21, 2005. There was strong support for the Project as presented by the Consultant, and consensus was reached for the design concept. The Consultant estimates the construction cost to be approximately $4,800,000. The Collins Park Oversight Committee (CPOC) and the Art in Public Places Committee (AiPP) have been kept advised of the Project's progress. The General Obligation Bond Oversight Committee recommended approval of the BODR at their September 12, 2005 meeting.

ANALYSIS:

Neighborhood

Collins Park is located within the City Center neighborhood, which is also scheduled for improvements to be managed by the CIP Office. The park is bordered by multi-family, medium to high density developments to the South and the Miami City Ballet and Miami Beach Regional Library to the North. The Bass Museum is located within Collins Park.

Project Description

The Project is sub-divided into Collins Park West, Collins Park East, Right-of-Way Improvements and Rotunda Restoration.

- Collins Park West

The improvements will include installation and/or revitalization of landscape design, new and/or modified irrigation system, sidewalks and plaza areas, site furnishings, and site lighting. Provisions for a bike path as part of the City's Bikeways Program is intended to be incorporated. Signage for the Bass Museum will also be considered.

- Collins Park East

The existing parking lot area will be improved and modified to mesh with the new Collins Park West design. Paving, striping, drainage system, landscaping, internal walkways, site furniture and site lighting will be part of the scope. Special care will be given to the coordination of sidewalks and drive resurfaces where this portion of the project interfaces with beach access points and other ongoing City projects. There is the possibility of including an interactive children's play area at the East end of the park.

- Right-of-Way Improvements

Existing roadways will be milled and resurfaced; sidewalks, site furnishings and lighting will be replaced to be consistent with the Stern Master Plan.

- Rotunda Restoration

The exterior of the Rotunda will be renovated and restored; the interior of the building will receive minor modifications to ensure its continued structural integrity. The previously existing reflecting pool surrounding the structure will be restored.

CONCLUSION:

The Administration recommends approval of the Collins Park Cultural Campus Basis of Design Report (BODR) as submitted. By approving the BODR, the City will officially end the planning process for this project and adopt the design concept. The Administration will be able to proceed with the design development, construction documents, bidding and award, and construction phases of the Project with this approval.

Attachment
T:\AGENDA\2005\Oct1905\Regular\Collins Park Cultural Campus-10192005-BODRMemo.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND OFFICIALLY ADOPTING THE BASIS OF DESIGN REPORT (BODR) FOR THE COLLINS PARK CULTURAL CAMPUS PROJECT (PROJECT), AND AUTHORIZING THE ADMINISTRATION TO PROCEED WITH THE DESIGN AND CONSTRUCTION OF THE PROJECT.

WHEREAS, on September 23, 1998, the Mayor and City Commission approved an agreement with the firm of Robert A. M. Stern Architects (Stern) for the Architectural and Engineering Design of a Regional Library, and a Master Plan for Collins Park and the Cultural Campus Streetscape; and

WHEREAS, when the Collins Park phase was ready to begin, the City and Stern could not reach an agreement on a fair market price for the implementation of the master plan design and further negotiations with Stern were subsequently terminated; and

WHEREAS, a Request for Qualifications (RFQ) was issued on October 29, 2003 which included renovations to Collins Park, the Parking Lot to the east of the Park, adjacent streetscape improvements and renovation of the Rotunda; and

WHEREAS, as a result of that RFQ, on July 28, 2004, the Mayor and City Commission approved an agreement with M. C. Harry & Associates, Inc. (Consultant) for architectural and engineering (A/E) services for the Project; and

WHEREAS, the Consultant's Notice to Proceed was issued on November 17, 2004; and

WHEREAS, the Project planning process has followed the standard City park improvement project sequence; and

WHEREAS, the Project kick off meeting was held on November 5, 2004; a Community Design Workshop (CDW) was held on April 21, 2005, and there was strong support for the Project, as presented by the Consultant; and consensus was reached for the design concept; and

WHEREAS, the Consultant estimates the Project construction cost to be approximately $4,800,000; and

WHEREAS, the Collins Park Oversight Committee (CPOC) and the Art in Public Places Committee (AiPP) have been kept advised of the Project's progress; and

WHEREAS, the General Obligation Bond Oversight Committee recommended approval of the Basis of Design Report (BODR) at its September 12, 2005 meeting; and

WHEREAS, by approving the BODR, the Administration will be able to proceed with the design development, construction documents, bidding and award, and construction phases of the Project.

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 approve and officially adopt the Basis of Design Report for the Collins Park Cultural Campus Project, and authorizing the Administration to proceed with the design and construction of the Project.

PASSED and **ADOPTED** this ____ day of _____, 2005.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

T:\AGENDA\2005\Oct1905\Regular\Collins Park Cultural Center-10192005-BODRreso.doc

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 10-12-05
Date

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, approving and officially adopting the Basis of Design Report (BODR) for the City Center Neighborhood Improvement Project.

Issue:

Shall the City Commission adopt the Basis of Design Report for the City Center Neighborhood?

Item Summary/Recommendation:

On September 10, 2003, the City Commission authorized the issuance of a Request for Qualifications (RFQ) for architecture and engineering services for the design of Right-of-Way (ROW) Infrastructure Improvements for the City Center Right-of-Way Neighborhood Improvement (Project). Responses to the RFQ were received on October 24, 2003. On April 14, 2004, the City authorized the execution of an Agreement with the top ranked firm of Chen & Associates, for the planning, design, bid and award, and construction administration phases of the Project. The Notice to Proceed was issued on December 9, 2004.

CDW No. 1 and 2 were held on May 24, 2005, and June 30, 2005, respectively. Residents and business owner feedback showed support for the Recommended Plan presented by Chen & Associates. Based on the consensus achieved at the aforementioned meetings and additional input from City staff, a draft BODR was prepared and circulated to City Departments for review in September 2005.

Although the Project has no General Obligation (GO) Bond Funding, the Administration presented the Project Draft Basis of Design Report (BODR) as an informational item during the September 12, 2005 GOBOC meeting. The BODR will also be presented to the Historic Preservation Board (HPB) on November 8, 2005.

By approving the BODR, the City will officially end the planning process for the Project, accept the design concept contained therein, and the Administration will be able to proceed with the design development, bidding and award, and construction phases of the Project.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1			
2			
3			
4			
Total			

City Clerk's Office Legislative Tracking:

Carla Dixon, Ext 6264.

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JECh	TH	JMG

SCCRDAROW-02-10102005 BODR Summary.doc

AGENDA ITEM R7C

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND OFFICIALLY ADOPTING THE DRAFT BASIS OF DESIGN REPORT (BODR) FOR THE CITY CENTER RIGHT-OF-WAY NEIGHBORHOOD IMPROVEMENT PROJECT.**

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

BACKGROUND:

The Scope of the project is limited to within the City owned right-of-way, and includes improvements to the stormwater collection and disposal system, water distribution system, roadway resurfacing, and streetscape enhancements such as additional landscaping, traffic calming installations, additional pedestrian lighting, and enhanced pedestrian linkages.

The Project limits are bounded by 16th Street to the South and Dade Boulevard to the North; from Alton Road on the west to Collins Avenue on the East. Due to the overall size of the project and the extensive work to be constructed, City Center improvements are divided into Bid Package 9A and Bid Package 9B which are separated by Washington Avenue with Bid Package 9A (BP9A) to the East and Bid Package 9B (BP9B) to the West. Bid Package A includes most of the stormwater drainage improvements and therefore is more extensive. Within the boundaries described, there are no improvements planned for 21st Street between Liberty and Park Avenues as this area is covered under the Cultural Campus Project. Within BP9B, there are no improvements planned for Washington Avenue between Lincoln Lane and South Lincoln Road as these are included in the Washington Avenue Project; and no improvements are planned for the Palm View neighborhood located west of Meridian Avenue and North of 17th Street.

The Project Budget is as follows:

Improvement Type	Allocated Funds	Estimated Costs
Streetscape Improvements	$10,900,000	$11,910,141
Water Improvements	$ 1,565,000	$ 2,325,220
Stormwater Improvements	$ 7,000,000	$ 5,356,890
Total Funded Improvements	**$19,465,000**	**$19,592,251**

On September 10, 2003, as part of the City's Right of Way (ROW) Infrastructure Improvement Program, the City Commission authorized the issuance of a Request for Qualifications (RFQ) No. 68-02/03 for professional urban design, architecture, engineering and construction administration services for the City Center Right-of-Way Neighborhood Improvement (Project).

On October 24, 2003, responses to the RFQ were received, and the Selection Committee met on February 9, 2004, to rank the responding firms. On April 14, 2004, the City Commission approved Resolution No. 2004-25551, authorizing negotiation with the top-ranked firm, Chen & Associates (C&A) resulting in three negotiation sessions wherein an agreement was reached on the required scope of services and C&A's fee to perform same. On September 8, 2004, the City Commission authorized the execution of an Agreement between the City of Miami Beach and C&A for the planning, design, bid and award, and construction administration phases of the City Center Right-of-Way Neighborhood Improvement Project for the agreed upon fee and scope. The Notice to Proceed was issued on December 9, 2004.

The project planning process has followed the standard Neighborhood Right-of-Way (ROW) Infrastructure Improvement Project sequence, from Project Kick-off meeting to Community Design Workshops (CDW). The Kick-off Meeting with other City Departments was held on November 17, 2004, and the Site Reconnaissance was held on November 18, 2004. A Visioning Session followed with all relevant City Departments on April 6, 2005. CDW No. 1 was held on May 24, 2005. Input from CDW No. 1 was analyzed and plans were modified as appropriate for presentation at a second CDW on June 30, 2005. Resident and business owner feedback showed support for the Recommended Plan presented by C&A.

The City Center RDA Right-of-Way Neighborhood Improvements Project is completely funded by City Center Redevelopment Agency (RDA) Tax Increment Financing (TIF) Funds, and has no General Obligation (GO) Bond Funding components. However, as part of the Administration's commitment to keeping the GO Bond Oversight Committee informed on the projects outside the Committee's purview, the Administration presented the Draft BODR for the Project as an informational item during the September 12, 2005 meeting. The BODR will be presented to the Historic Preservation Board (HPB) on November 8, 2005.

Based on the consensus achieved at the aforementioned meetings and additional feedback from City staff, a draft BODR was prepared and submitted for circulation to City Departments for review. Since staff from the various City Departments has been involved in the Planning Process from its inception, no changes to the Recommended Plan in the BODR are anticipated. The finalized BODR with Departmental input will be the basis for the improvements. The current schedule calls for completion of the Design Phase in 2006.

CONCLUSION:

The Administration recommends approval of the City Center RDA Right-of-Way Neighborhood Improvement Project Basis of Design Report (BODR) as submitted. By approving the BODR, the City will officially end the planning phase for this project and accept the design concept contained therein. The Administration will be able to proceed with the design development, construction documents, bidding and award, and construction phases of the project.

SCCRDAROW-02-10192005 BODR Memo.doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND OFFICIALLY ADOPTING THE BASIS OF DESIGN REPORT (BODR) FOR THE CITY CENTER RIGHT-OF-WAY NEIGHBORHOOD IMPROVEMENT PROJECT.

WHEREAS, the City Center Right-of-Way Neighborhood Improvement Project (the Project) includes improvements to the stormwater system, water system, roadways, streetscape, landscape, traffic calming, pedestrian lighting and linkages within the City owned right-of-way; and

WHEREAS, the Project limits are bounded by 16th Street to the South and Dade Boulevard to the North; from Alton Road on the west to Collins Avenue on the east; and

WHEREAS, within the boundaries described, there are no improvements planned for 21st Street between Liberty and Park Avenues, Washington Avenue between Lincoln Lane and South Lincoln Road, and the Palm View neighborhood located west of Meridian Avenue and north of 17th Street; and

WHEREAS, the Project budget is currently estimated at $10.9 Million, for streetscape improvements, $1.6 Million for water improvements, and $7 Million for stormwater improvements, for a total of $19.5 Million; and

WHEREAS, on September 10, 2003, the City Commission authorized the issuance of Request for Qualifications (RFQ) No. 68-02/03 for professional urban design, architecture, engineering and construction administration services for the Project; and

WHEREAS, on October 24, 2003, responses to the RFQ were received, and a Selection Committee was convened on February 9, 2004 to rank the responding firms; Chen & Associates (C&A) was deemed the top ranked firm; and

WHEREAS, on April 14, 2004, the City Commission approved Resolution No. 2004-25551, authorizing negotiations with C&A; and

WHEREAS, on September 8, 2004, the City Commission authorized the execution of an Agreement with C&A for the planning, design, bid and award, and construction administration phases of the Project; and

WHEREAS, on December 9, 2004, the Notice to Proceed was issued, and the Project kick-off meeting with various City Departments was held on November 17, 2004; and

WHEREAS, on November 18, 2004, the site reconnaissance visit was held, and on April 6, 2005, a visioning session was held with all the relevant City Departments; and

WHEREAS, on May 24, 2005, Community Design Workshop (CDW) No. 1 was held, input analyzed and plans modified as appropriate for presentation at CDW No. 2; and

WHEREAS, on June 30, 2005, during the second CDW, residents and business owners supported the recommended plan presented by C&A; and

WHEREAS, the Administration presented the Draft Basis of Design Report (BODR) for the Project as an informational item during the September 12, 2005 General Obligation Bond Oversight Committee (GO); and

WHEREAS, consensus was achieved at the aforementioned meetings, including additional feedback from City staff, and

WHEREAS, staff from the various City Departments has been involved in the planning process from the Project inception, and no changes to the recommended plan in the BODR are anticipated; and

WHEREAS, the finalized BODR with Departmental input will be the basis for the improvements; and

WHEREAS, the current schedule calls for completion of the design phase in 2006; and

WHEREAS, the Administration recommends approval of the City Center Right-of-Way Neighborhood Improvement Project Basis of Design Report (BODR), as submitted; and

WHEREAS, by approving this BODR, the City will officially end the planning phase and proceed to the design phase of the Project.

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 approve and officially adopt the Basis of Design Report (BODR) for the City Center Right-of-Way Neighborhood Improvement Project.

PASSED and **ADOPTED** this ____ day of _____, 2005.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

SCCRDAROW-02-10192005 BODR Reso.doc

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 10-12-05 Date

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution of the Mayor and City Commission of the City of Miami Beach, Florida, authorizing the Mayor and City Clerk to execute Amendment No. 1 to the Agreement with Hargreaves Associates Inc. in the amount of $1,322,373 for additional professional services for the South Pointe Park Improvement Project.

Issue:

Shall the City Commission adopt the Resolution awarding additional services to Hargreaves Associates, Inc. for the South Pointe Park Improvement Project?

Item Summary/Recommendation:

In 1996, the City adopted a Parks Bond Master Plan that included improvements to South Pointe Park. In 1997, the City entered into an Agreement with Bermello and Ajamil (B&A) for the design improvements to South Pointe Park (the Project). In 2002, B&A and the City mutually agreed to remove this scope of work from the agreement with B&A. On January 12, 2005, the City Commission authorized the execution of an Agreement between the City and Hargreaves Associates Inc. (Hargreaves). Hargreaves' Scope of Services was limited to the Planning Phase of the project.

On July 27, 2005, the Basis of Design Report (BODR) was presented to the City Commission for approval. The proposed improvements include: redesigned park entrance, pavilion building with a small concession area, restroom facility, pedestrian walkways, playground, dog integrated park area without a fenced enclosure, extensive landscaping, irrigation, and site lighting. The Mayor and City Commission approved the Basis of Design Report (BODR) as presented, approved the exercise of the option in the Alaska Parcel Settlement Agreement to have the developer complete the design and construction of the Project, at cost, and approved the appropriation of $14,130,000 from the Redevelopment Agency to completely fund the Project, $5,000,000 of which would be refunded when Miami-Dade County General Obligation Bond Funds become available (Resolution No. 2005-25978 and Resolution No. 512-2005). On July 27, 2005, the Administration further presented to the Mayor and City Commission the Administration's intent to enter into negotiations that would retain involvement by Hargreaves in the continuing development of the park design, and the City Commission was in favor of this approach.

In approving the BODR and the appropriation, the City could now proceed with the remaining phases of the project; however, since Hargreaves' Agreement was limited to the planning phase, the City and the Consultant negotiated additional professional services required for the completion of the Project (Detailed Design, Bidding and Award, and Construction Administration services) in the amount of $1,322,373. This amount represents a fee of eleven percent (11%) of the construction costs of the Project which are currently estimated at $11,200,000 plus an additional allowance of $500,000 for Art in Public Places. If the additional Planning services of the original Agreement are included the percentage will be thirteen percent (13%). Both percentages are within the industry standards for a project of this size and complexity and take into consideration the commissioning of a world class consultant such as Hargreaves. The City, The Related Group, and Hargreaves have agreed to continue participating in the design, permitting and construction of the park project as a team and to address issues and to establish the schedule with the contribution of all three parties. The Agreement with Hargreaves takes into consideration the un-traditional approach to the construction of the project due to Related's involvement.

Advisory Board Recommendation:

The GO Bond Oversight Committee will consider this item at their October 10, 2005 meeting.

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1	$1,322,373.00	South Pointe RDA	
2			
Total	$1,322,373.00	South Pointe RDA	

City Clerk's Office Legislative Tracking:

Nury Menicucci, CIP Construction Manager

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JECH	TH	JMG

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AGENDA ITEM R7D

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT WITH HARGREAVES ASSOCIATES INC. IN THE AMOUNT OF $1,322,373.00 FOR ADDITIONAL PROFESSIONAL SERVICES FOR THE SOUTH POINTE PARK IMPROVEMENTS PROJECT.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

Although originally funded in part by City General Obligation Bond funds, the South Pointe Park Improvements project is currently budgeted to be funded from South Pointe RDA Tax Increment Financing (TIF) Funds and Miami-Dade County General Obligation Bond Funds when made available.

ANALYSIS

On June 19, 1996, the City adopted a Parks Bond Master Plan that included major improvements to South Pointe Park. On July 16, 1997, the Mayor and City Commission approved a Resolution authorizing the City to enter into an Agreement with Bermello and Ajamil (B&A) for the design of improvements to South Pointe Park. Because a minimal degree of planning of the park improvements was completed by 2002, B&A and the City agreed to remove this scope of work from the agreement with B&A and the City Commission authorized the issuance of a new Request for Qualifications (RFQ) for architecture and engineering services for the design of the park improvements.

Responses to the RFQ were received in 2003, and an Evaluation Committee was appointed to short-list the top ranked firms. At approximately the same time, the City's options for settling the long standing land use litigation related to the Alaska Parcel expanded to include the addition of approximately two acres of land to the South Pointe Park. Exercising this option, the City substantially affected the scope of services for the project outlined in the RFQ. Therefore, the RFQ for architect and engineering services for the park was terminated by the City Commission on February 25, 2004.

On September 8, 2004, the City Commission authorized the issuance of RFQ No. 39-03/04 which included a revised scope of architect and engineering services for the park improvements. Six responses were received. An Evaluation Committee was appointed by the City Manager to short-list the top ranked firms. Hargreaves Associates, Inc.

(Hargreaves) was the top ranked firm.

On January 12, 2005, the City Commission authorized the execution of an Agreement between the City of Miami Beach and Hargreaves for the planning of South Pointe Park Improvements (the Project). Hargreaves' Scope of Services was limited to the Planning Phase of the project.

The Consultant's Notice to Proceed was issued on January 18, 2005. The Project planning process has followed the standard park improvement project sequence, from Project Kickoff Meeting to Community Design Workshops (CDW).

On July 27, 2005, the Basis of Design Report (BODR) for the South Pointe Park was presented to the City Commission for approval. The Mayor and City Commission approved the Basis of Design Report (BODR) as presented, approved the exercise of the option in the Alaska Parcel Settlement Agreement to have the developer complete the design and construction of the Project, at cost, as stated in the Alaska Parcel Settlement Agreement, and approved the appropriation of $14,130,000 from the Redevelopment Agency to completely fund the Project, $5,000,000 of which would be refunded when Miami-Dade County General Obligation Bond Funds become available (Resolution No. 2005-25978 and Resolution No. 512-2005).

In approving the BODR and the appropriation, the City can now proceed with the remaining phases of the project. However, the original Agreement with Hargreaves' was limited to the planning phase. On July 27, 2005, the Administration further presented to the Mayor and City Commission the Administration's intent to enter into negotiations that would retain involvement by Hargreaves in the continuing development of the park design, and the City Commission was in favor of this approach.

The City and the Consultant negotiated additional professional services required for the completion of the Project (Task 2 - Detailed Design, Task 3 - Bidding and Award, and Task 4 - Construction Administration services) in the amount of $1,322,373. This amount represents a fee of eleven percent (11%) of the construction costs of the Project which are currently estimated at $11,200,000 plus an additional allowance of $500,000 for Art in Public Places. If the additional Planning services of the original Agreement are included the percentage will be thirteen percent (13%). Both percentages are within the industry standards for a project of this size and complexity and take into consideration the commissioning of a world class consultant such as Hargreaves.

As part of detailed design services, Hargreaves will prepare 100% construction documents, perform constructability review, provide the City with cost opinions, attend and participate in Community Design Meetings, as applicable, and will procure all requisite permits from all governmental authorities that have jurisdiction over the Project. As part of bidding and award services, Hargreaves will provide assistance to the developer, as applicable, in the pricing and bidding of the project, will review the contractor's cost proposal, and will assist the City in the award of the construction contract. As part of construction administration services, Hargreaves will attend and participate in the project's

pre-construction meeting, attend and participate in regular progress meetings, prepare field observations, respond to RFIs (Request for Information) and CDCs (Contract Document Clarification), review shop drawings, review requests for changes to construction cost and/or schedule, and provide Project Closeout services.

The Administration also intends to enter into an Agreement with the Related Group (Related) for the construction of the project as part of the Settlement Agreement on the Alaska Parcel. The intent is for Related to construct the park in conjunction with the construction of their Apogee Project. The City, Related, and Hargreaves have agreed to continue participating in the design, permitting and construction of the park project as a team and to address issues and to establish the schedule with the contribution of all three parties. The Agreement with Hargreaves takes into consideration the un-traditional approach to the construction of the project due to Related's involvement.

ADMINISTRATION RECOMMENDATION

The Administration recommends that the Mayor and City Commission adopt the Resolution approving and authorizing the Mayor and City Clerk to execute Amendment No. 1 to the Agreement with Hargreaves Associates, in the amount of $1,322,373, for additional professional services for the South Pointe Park Improvements project.

Attachments
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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 1 TO THE AGREEMENT WITH HARGREAVES ASSOCIATES, INC., DATED JANUARY 12, 2005; SAID AMENDMENT, IN THE AMOUNT OF $1,322,373, FOR THE REMAINING PROFESSIONAL SERVICES, INCLUDING DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTS, BID AND AWARD, AND CONSTRUCTION ADMINISTRATION FOR THE SOUTH POINTE PARK IMPROVEMENTS PROJECT, AS CONTEMPLATED AND PROVIDED BY RFQ NO. 39-03/04.

WHEREAS, in 1996, the City adopted a Parks Bond Master Plan that included major improvements to South Pointe Park (the Park); and

WHEREAS, in 1997, the Mayor and City Commission approved a Resolution authorizing the City to enter into an agreement with Bermello and Ajamil (B&A) for the design of improvements to the Park (the B&A Agreement); and

WHEREAS, a minimal degree of planning of the Park improvements was completed by 2002, and B&A and the City mutually agreed to terminate the B&A Agreement; and

WHEREAS, the City Commission authorized the issuance of (a new) RFQ No. 16-02/03 for architecture and engineering services for the design of Park improvements; and

WHEREAS, at approximately the same time, the City's options for settling the long standing land use litigation related to the Alaska Parcel expanded to include the possible addition of approximately two acres to the Park; and

WHEREAS, due to the negotiations on the Settlement of the Alaska Parcel and modifications to the project scope, RFQ No. 16-02/03 was cancelled by the City Commission on February 25, 2004; and

WHEREAS, on July 28, 2004, the City reached a settlement on the long standing Alaska Parcel land use litigation and as part of the settlement agreement, the developer, the Related Group (TRG), is obligated to perform the improvements to the Park, at cost, without overhead, if the City notifies TRG of its concept plan by July 28, 2005; and

WHEREAS, if the notification timeline was not met, the City would need to bid and build the Park according to its standard procedures; and

WHEREAS, construction by TRG at its cost represents a projected substantial cost and time savings to the City; and

WHEREAS, on September 8, 2004, the City Commission authorized the issuance of RFQ No. 39-03/04 for the South Pointe Park Improvements (the Project), which included a revised scope of services that addressed the land being added as part of the Alaska Parcel Settlement Agreement and related issues; and

WHEREAS, on January 12, 2005, the City Commission authorized the execution of a professional services agreement with Hargreaves Associates, Inc. (Hargreaves), as the successful proposer pursuant to RFQ No 39-03/04; however, the agreement was initially limited to the planning phase of the Project; and

WHEREAS, the Notice to Proceed was issued to Hargreaves on January 18, 2005, and the Project planning process has followed the standard park improvement project sequence, from project kickoff meeting to Community Design Workshops (CDW); and

WHEREAS, on July 27, 2005, the Basis of Design Report (BODR) for the Park was presented to the City Commission for approval; and

WHEREAS, the Mayor and City Commission approved Resolution No. 2005-25978, which approved the BODR as presented; approved the exercise of the option in the Alaska Parcel Settlement Agreement to have TRG complete the design and construction of the Project, at cost, as stated in the Alaska Parcel Settlement Agreement; and approved the appropriation of $14,130,000 from Miami Beach Redevelopment Agency funds to completely fund the Project, $5,000,000 of which would be refunded when Miami-Dade County General Obligation Bond Funds become available; and

WHEREAS, by approving the BODR and the appropriation, the Administration will be able to proceed with the design development, construction documents, bidding and award, and construction administration phases of the Project; and

WHEREAS, on July 27, 2005, the Administration presented to the Mayor and City Commission the Administration's intent to enter into negotiations with Hargreaves for the remaining services including design development, construction documents, bid and award, and construction administration phases of the Project; all as contemplated by and as provided in RFQ No. 39-03/04 and;

WHEREAS, accordingly, as Hargreaves' Agreement was initially limited to the planning phase, the City and the Consultant have negotiated Amendment No. 1 to the Agreement, for the aforestated remaining professional services required for the completion of the Project; and

WHEREAS, the Administration recommends approval of Amendment No. 1, in the amount of $1,322,373.

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 to the Agreement with Hargreaves Associates, Inc., dated January 12, 2005; said Amendment, in the amount of $1,322,373, for the remaining professional services, including design development, construction documents, bid and award, and construction administration for the South Pointe Park Improvements Project, as contemplated in and provided by RFQ No. 39-03/04.

PASSED and **ADOPTED** this ____ day of _____, 2005.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 10/19/05 Date

AMENDMENT NO. 1
TO THE
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF MIAMI BEACH, FLORIDA
AND
HARGREAVES ASSOCIATES, INC., DATED JANUARY 12, 2005
(THE AGREEMENT);
FOR ADDITIONAL PROFESSIONAL ARCHITECTURE AND ENGINEERING (A/E) SERVICES ASSOCIATED WITH THE COMPLETION OF THE DESIGN PHASE, PERMIT PROCESS, BID AND AWARD (AS APPLICABLE), PROJECT COST REVIEW, AND CONSTRUCTION ADMINISTRACTION SERVICES PURSUANT TO REQUEST FOR QUALIFICATIONS NO. 39-03/04 FOR THE SOUTH POINTE PARK IMPROVEMENT PROJECT.

This Amendment No. 1, dated as of _____, 2005, to that certain Agreement by and between the CITY OF MIAMI BEACH, a municipal corporation existing under the laws of the State of Florida (hereinafter referred to as City), having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and Hargreaves Associates, Inc., a California corporation, having its principal office at 398 Kansas St., San Francisco, California, 94103 (hereinafter referred to as Consultant).

RECITALS

WHEREAS, pursuant to Request for Qualifications (RFQ) No. 39-03/04, the Mayor and City Commission adopted Resolution No. 2005-25789, on January 12, 2005, approving and authorizing the Mayor and City Clerk to execute an Agreement with the Consultant, in the amount of $328,505, limited to the planning of the South Pointe Park Improvement Project (the Project); and

WHEREAS, the planning phase has been completed by the Consultant; and

WHEREAS, on July 27, 2005, the Mayor and City Commission approved the Basis of Design Report (BODR) for the Project, pursuant to Resolution No. 2005-25978, and further approved the option to negotiate with the Related Group (TRG) relative to the completion of design, construction documents, and construction of the Project, at cost, without overhead fees, as stated in the Alaska Parcel Settlement Agreement; and

WHEREAS, an appropriation of funds, in the amount of $14,130,000, was approved by the Mayor and City Commission and the Chairman and Members of the Miami Beach Redevelopment Agency, pursuant to Resolution No. 2005-25978 and Resolution No. 512-2005, respectively, for the completion of the design and construction of the Project; and

WHEREAS, in approving the BODR and the appropriation, the City can now proceed with the design development, construction documents, bidding and award (as applicable), and construction phases of the Project; and

WHEREAS, as the Agreement was limited to the planning phase if the Project, the City and the Consultant hereby agree to execute the foregoing Amendment No. 1 to the Agreement, to include additional professional services required for the completion of the Project's design phase, permit process, bidding and award phase (as applicable), cost review, and construction administration; and

WHEREAS, RFQ No. 39-03/04 contemplated and allows for the parties entering into and executing the foregoing Amendment No. 1; and

WHEREAS, Amendment No. 1 increases the total Agreement fee by $1,322,373.00, for a total fee of $1,650,878.00.

NOW, THEREFORE, the parties hereto, and in consideration of the mutual promises, covenants, agreements, terms, and conditions herein contained, and other good and valuable consideration, the respect and adequacy are hereby acknowledged, do agree as follows:

1. **ABOVE RECITALS**
The above recitals are true and correct and are incorporated as part of this Amendment No. 1.

2. **MODIFICATIONS**
The Agreement is hereby amended to add Additional Professional Services, as described in Schedule "A-1", entitled "Scope of Services / Compensation for Additional Services" attached hereto.

3. **OTHER PROVISIONS**
All other provisions of the Agreement are unchanged.

4. **RATIFICATION**
The City and Consultant ratify the terms of the Agreement, as modified by this Amendment No. 1.

IN WITNES WHEREOF, the parties hereto have caused this Amendment No. 1 to be executed in their names by duly authorized officials as of the date first set forth above.

ATTEST:

CITY OF MIAMI BEACH

_____
CITY CLERK

By_____
MAYOR

CONSULTANT

ATTEST:

HARGREAVES ASSOCIATES, INC.

_____
Secretary

By_____
President

_____
Print Name

_____
Print Name

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 10/7/05 Date

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SCHEDULE "A-1"
TO AMENDMENT NO. 1
SCOPE OF SERVICES / COMPENSATION FOR ADDITIONAL SERVICES
SOUTH POINTE PARK IMPROVEMENT PROJECT

1. **SCHEDULE "A" ENTITLED, "SCOPE OF SERVICES", IS AMENDED TO INCLUDE THE FOLLOWING SERVICES (NOT INCLUDED AS PART OF THE ORIGINAL AGREEMENT, DATED JANUARY 12, 2005, BY AND BETWEEN THE CITY OF MIAMI BEACH, FLORIDA, AND HARGREAVES ASSOCIATES, INC.):**

   - Detailed design services (Task 2). Refer to detailed description below and Schedule "B-1" attached.
   - Bidding and Award services (Task 3), as applicable. Refer to detailed description below and Schedule "B-1" attached.
   - Construction Administration services (Task 4). Refer to detailed description below and Schedule "B-1" attached.

SCOPE OF SERVICES

TASK 2 - DESIGN SERVICES

The purpose of this Task is to establish requirements for the preparation of contract documents for the Project.

TASK 2 is amended to include the following sub-tasks:

Task 2.2 – Detailed Design: The CONSULTANT shall prepare all contract documents in compliance with City's design standards and specifications.

Technical specifications shall be prepared in conformance with Construction Specifications Institute (CSI) formats. The CONSULTANT shall refrain from amending FDOT, or other reference standard specifications, for inclusion in the detail design documents. The CONSULTANT shall provide additional sections that the CONSULTANT may require, not already provided through the CITY standards, subject to review and comment by the CITY. Any supplier listings required by specifications shall include a minimum of two named supplier's and shall meet all applicable CITY and State of Florida procurement codes. Specifications shall be provided to the CONSULTANT in "Microsoft MS-Word" format. In addition, the CONSULTANT shall use the same software in all Project related work. In addition, the CONSULTANT shall utilize base front-end documents provided by the CITY.

The CONSULTANT shall edit accordingly to result in a Project specific document. Any requirements for Supplementary General Conditions shall be subject to review and acceptance by the CITY.

The CONSULTANT shall attend monthly Design Progress Meetings with CITY and/or any other applicable staff.

The CONSULTANT shall submit monthly invoice requests for its services, accompanied by a design progress schedule update form as requested by the CITY. Invoices shall be prepared in a format as provided by the CITY.

Should the CITY determine that the CONSULTANT has fallen behind schedule; the CONSULTANT shall provide a recovery schedule that shall accelerate work to get back on schedule.

For purposes of this Scope of Services, the following will be considered the minimum effort to be provided by the CONSULTANT for establishing detail design milestone submittals. Note that CITY review procedures, and CONSULTANT responsibilities associated with such, are discussed under Task 2.3:

The DEP Permit Package stage milestone shall consist of the completed survey / base map work as identified in Task 2.1 with all proposed improvements identified in approved BODR illustrated in plan view at a scale of 1-inch equals 30 feet. A Key map shall also be provided on all sheets that illustrates the relationship between the drawings and their respective location within the project area. This set of documents will be used to permit the project through the Department of Environmental Protection Agency (DEP) to initiate the necessary permitting process and adhere with the project's schedule. The 100 % (Construction Document Package) document submittal package, however, will be used to finalize the permit process through all other applicable governmental authorities (refer to Task-2.7).

The Pricing Package Stage milestone shall also consist of plan and profile views of all proposed improvements, with all applicable sections and construction details. Note that the respective profile for each plan shall be included on the same sheet. In addition, a reduced scale key map shall be provided on each sheet to allow the reviewer a simple means to locate the applicable work. Prior to the preparation of the Pricing Package stage drawings, the CONSULTANT shall incorporate changes to its

design based upon its underground utility verification efforts and review comments received, as noted in Task 2.3 below. In addition, the CONSULTANT shall include draft technical specifications and a draft schedule of prices bid (bid form) identifying the items to be bid by the prospective contractors with the submittal. Also, this submittal shall include the CONSULTANT's "Budget" level opinion of probable cost as defined by the American Association of Cost Engineers.

It is important to note that as a part of the Pricing Package stage effort, the CONSULTANT shall prepare detailed tabulation of all encroachments within the public right-of-way in the project area (if applicable). The tabulation shall be presented in a format that identifies those encroachments that exist within the right-of-way and do not require removal in order to construct the project and those encroachments required to be removed in order to implement the project components. This tabulation shall include, at a minimum, description of the encroachment, location (block / lot number or physical address), a description identifying the encroachment, and a justification / reason why the encroachment must be removed (to be provided only for those encroachments required to be removed to implement the project components). The PROJECT COORDINATOR will provide the CONSULTANT with an "Excel" spreadsheet template for mandatory use in preparation of the listing. Please note that the CONSULTANT shall be required to submit a "Draft" listing for review and comment, and make subsequent revisions as noted by the CITY, prior to submitting a Final Encroachment listing. The CONSULTANT shall demonstrate compliance with this requirement at the 100% design completion stage (Construction Document Package) submittal noted below.

The 100% completion stage (Construction Document Package) milestone shall consist of the DEP Permit and Pricing Packages updated to include all constructability and design review comments as may be provided by the CITY and/or jurisdictional review agency. This submittal shall include front end documents (general and supplemental conditions), technical specifications, and construction drawings for all work proposed to be completed. This set of documents will be used by the CONSULTANT to implement City of Miami Beach Building Department Permitting Reviews. In addition, The CONSULTANT shall include detailed construction sequencing restrictions with this submittal and "Definite" level opinion of probable cost as defined by the American Association of Cost Engineers for CITY review.

Deliverables:

- Furnish fifteen (15) sets each of the DEP Permit, Pricing, and 100 percent design completion stage documents to PROJECT COORDINATOR, as applicable (ten full size and five half size for each submittal).
- Prepare and update project invoices and schedule tracking spreadsheets, on a monthly basis.
- Attend monthly design progress meetings with CITY and/or any other applicable staff.

Schedule:

- Complete DEP Permit Package submittal within 58 working days after the Task 2 – Design Phase Notice to Proceed.
- Complete Pricing Package submittal within 101 working days after Task 2 - Design Phase Notice to Proceed.
- Complete 100% Construction Document Package submittal within 162 working days after Task 2 - Design Phase Notice to Proceed.

Task 2.3 – Design / Constructability Review: To verify that the CONSULTANT is in compliance with required BODR and City's requirements, the CITY will conduct a series of design submittal reviews on all design project documents, inclusive of cost estimates at the Pricing and 100% design completion stage submittals.

The purpose of these reviews shall be to verify that the documents are consistent with the design intent. These documents shall be furnished as bound 8-1/2-inch by 11-inch technical specifications and full-size (22-inch by 34-inch) and half size (11-inch by 17-inch) drawings as noted in the Task 2.2 deliverables. In order to adhere to the Project's schedule, however, these reviews will be limited. Only the pertinent / applicable CITY Department(s) shall perform reviews on these documents and shall provide written comments (in "Excel" spreadsheet format) back to the CONSULTANT.

Following receipt of comments by the CONSULTANT, a meeting may be scheduled between the CITY, the CONSULTANT and/or any other applicable staff, to discuss the intent and review of the comments. Subsequently, the CONSULTANT shall address how

each comment was resolved, to the PROJECT COORDINATOR, in a timely manner to meet Project schedule. The responses shall be in the spreadsheet format provided to the CONSULTANT. In addition, the CONSULTANT shall revise its documents to address all review comments accordingly, to the satisfaction of the CITY.

In addition, the CITY and CONSULTANT will coordinate constructability reviews of the design documents relative to value and construction sequencing with the Related Group (TRG) and/or any other applicable staff. These reviews shall be based upon the DEP Permit and Pricing submittals received from the CONSULTANT and shall be conducted concurrently but separately from the DEP Permit and Pricing design reviews noted above. These constructability review meetings shall be held with the CONSULTANT and the CITY representatives to discuss the CONSULTANT's proposed construction sequencing restrictions.

The CONSULTANT shall note that the CITY's review of the contract documents does not relieve the CONSULTANT from its responsibility to the CITY with regard to the quality and completeness of its contract documents.

Deliverables:

- Attend meetings with the CITY and/or any other applicable staff to review and discuss design constructability and value comments. Meetings to be coordinated concurrently with monthly meetings referred to in Task 2.2 – as applicable.
- Prepare written responses to comments made during reviews.

Schedule:

- Complete concurrently with the Design Phase schedule.

Task 2.4 – Cost Opinions: The CONSULTANT shall prepare opinions of probable construction costs for the Pricing and the final (100 percent) Construction Document design completion stage submittal. The accuracy of the cost estimate associated with the 100 percent completion stage submittal shall be a +15% to –5% "Definitive" Level Estimates as defined by the American Association of Cost Engineers. All estimates shall be submitted in Microsoft "Excel" format in accordance with the template supplied by the CITY, or pre-approved alternate. All estimates shall be furnished bound in 8-1/2-inch by 11-inch size. Based upon the CONSULTANT's cost estimate, the CITY will advise the CONSULTANT if portions of the project need to be deleted, phased and/or bid as alternate bid items to satisfy

existing fiscal constraints. In this effort, the CONSULTANT may be required to attend a series of meetings and develop alternative cost savings options for CITY consideration, if the estimates show that the projected Project cost will exceed the target budget. The CONSULTANT shall revise the contract documents to reflect necessary revisions to meet budget parameters at no additional cost accordingly.

Deliverables:

- Furnish fifteen (15) sets of pricing and 100 percent completion stage cost estimates to PROJECT COORDINATOR concurrently with the design submittals noted in Task 2.2.
- Attend meetings with the CITY and/or any other applicable staff to review and discuss cost estimates. This Task includes development of any required cost savings alternatives, and implementation / revision of documents to address such items, as necessary to meet established budget parameters.
- Meetings to be coordinated concurrently with monthly meetings referred to in Task 2.2 – as applicable.

Schedule:

- Complete concurrently the Design Phase schedule.

Task 2.5 – Community Design Review Meetings

The CONSULTANT shall attend and participate in Community Design Review Meetings (CDRMs) to update and inform the community on the design progress and concept at different progress levels during the design. In order to adhere to the Project's schedule, however, these meetings will be limited, if at all necessary. The CITY will schedule, find locations for, and notify residents of all such meetings. The CONSULTANT shall prepare draft meeting minutes and forward them to the CITY, who shall review, provide comments and distribute, accordingly. The CONSULTANT shall prepare for, attend and present its documents at up to two (2) CDRMs. Note that presentation format shall consist of a brief Power Point presentation to review Project status, plus review of actual full size plans. The CONSULTANT shall provide sufficient staff at the meeting to address concerns by residents at multiple plan stations. It is anticipated that the CONSULTANT will attend one Pre-CDRM meeting with CITY to review the proposed format of the presentation for each planned CDRM.

Task 2.6 - Document Revisions: Based upon the input provided by the residents at the CDRM, the CONSULTANT shall incorporate necessary contract document revisions, as approved by the CITY.

Task 2.7 – Permitting Reviews: The CONSULTANT shall prepare applications and such documents and design data as may be required to procure approvals from all such governmental authorities that have jurisdiction over the Project(s). The CITY will pay all permit fees. The CONSULTANT shall participate in meetings, submissions, resubmissions and negotiations with such authorities. The CONSULTANT shall respond to comments by such authorities in a timely manner to adhere to Project schedule. It is the intent of this scope of services that the CONSULTANT be the responsible party for formally transmitting and receiving permits to and from the respective jurisdictional authorities. However, the CONSULTANT shall copy the PROJECT COORDINATOR on all permit related correspondence. This includes CONSULTANT generated minutes from meetings held with related parties. It is recognized by CITY that the time period required for obtaining permits is beyond the control of the CONSULTANT, except with regard to issues concerning the permittability of the proposed design and the CONSULTANT's ability to respond to permitting agency requests for information in a timely manner. At the time of scope preparation, the following governmental authorities that have or may have jurisdiction over Project have been identified:

- United States Environmental Protection Agency
- U.S. Army Corps of Engineers
- Florida Department of Transportation
- Florida Department of Environmental Protection
- South Florida Water Management District
- Miami-Dade Water and Sewer Authority
- Miami-Dade Department of Public Works
- Miami-Dade Department of Health and Rehabilitative Services
- Miami-Dade Department of Environmental Resource Management

- The City of Miami Beach Building Department
- The City of Miami Beach Planning Department
- The City of Miami Beach Historic Preservation Board
- The City of Miami Beach Public Works Department
- United States Department of the Interior
- The City of Miami Beach Design Review Board
- The City of Miami Beach Planning Board
- The City of Miami Beach Marine Authority

Note that the CITY's failure to identify governmental authorities that have jurisdiction over Project at this time does not relieve the CONSULTANT from the responsibility to procure all requisite permits. However, an equitable adjustment to the CONSULTANT's compensation may be negotiated if deemed appropriate by the CITY.

Deliverables:

- Correspond with noted jurisdictional authorities to establish permitting requirements.
- Revise documents and respond to permitting inquiries as required.
- Attend meetings with the CITY and/or permitting agency staff as required to review, discuss and finalize permit procurement

Schedule:

- Complete concurrently with the Design Phase schedule.

Task 2.8 – The CONSULTANT's QA/QC of Design Documents: The CONSULTANT shall establish and maintain an in-house Quality Assurance / Quality Control (QA/QC) program designed to verify and ensure the quality, clarity, completeness, constructability and bid ability of its contract documents. To this end, the CONSULTANT shall provide the CITY with a written narrative detailing its QA/QC program tasks and how it is to be implemented over the course of this Project. The CITY, at its discretion, may require that the CONSULTANT attend meetings to review the status and present results of its QA/QC efforts. Items to be

addressed may include, but shall not be limited to, review of specifications by respective technical experts and a "Redline-check" type review of the documents to identify conflicts and inconsistencies between the various Project disciplines.

TASK 3 –BIDDING AND AWARD SERVICES

The level of services to be performed by the CONSULTANT shall be determined by the CITY, as applicable, for each task noted below. In order to adhere to the Project's schedule, Task 3 may be performed within Task 2 – Design Services.

The CONSULTANT shall perform the following:

- Review of Contractor's cost proposal(s).
- Participation in negotiation meetings with the Contractor.

Should this Project follow a traditional Advertise / Bid / Award process or the City's Job Order Contract (JOC) system, it is understood that the Agreement would be amended to reflect said change.

Task 3.1 - Construction Contract Document Review: The CONSULTANT shall assist the CITY in the award of the construction contract. The CITY shall transmit contract documents prepared by the CONSULTANT to the CITY's Risk Management, Legal and Procurement Departments for verification of appropriate insurance, form and bonding requirements. The CONSULTANT shall assist in this effort by providing three copies of each Construction Contract Document and participating in meetings, submissions, resubmissions and discussions with these departments, as necessary. The CONSULTANT shall address and re-submit corrections to any CITY comments within ten calendar days of receipt of comments unless a different time schedule is agreed to by the CITY. The CONSULTANT's compensation has been based upon one meeting with these departments.

Task 3.2 - Bid Document Delivery:

Not applicable

Task 3.3 - Pre-Bid Conference and Bid Opening:

Not applicable

Task 3.4 - Addenda Issuance:

Not applicable

Task 3.5 - Bid Evaluation:

Not applicable

Task 3.6 - Contract Award: The CONSULTANT shall provide eight (8) sets of Construction Contract Documents, inclusive of Addenda, for execution by the CITY and the selected Contractor within five (5) calendar days of request by the CITY.

Task 3.7 – As- Bid Contract Documents: After contract award and prior to the preconstruction conference, the CONSULTANT shall prepare As-Bid construction contract documents, which incorporate the following items into the construction contract documents:

Contractor's bid submittals, including but not limited to, bid proposal, insurance, licenses, etc.

Amend / modify front-end documents and / or technical specifications to incorporate changes made via contract addenda.

Revise construction contract drawings to include modifications / revisions incorporated via contract addenda as well as the previously incorporated permit review comments.

The CONSULTANT shall prepare As-Bid construction contract documents and reproduce fifteen (15) sets for distribution within ten (10) calendar days after City Commission approval / contract execution unless a different time is agreed to by the CITY.

The following apply to Task 3.1 through 3.7:

Deliverables-

- Provide eight (8) sets of contract documents for contract execution
- Prepare As-Bid contract documents and reproduce fifteen (15) sets.

Schedule:

- Upon Notice to Proceed.

TASK 4 –CONSTRUCTION ADMINISTRATION SERVICES

The CONSULTANT shall perform the following tasks related to the construction administration of the Project. These tasks shall be performed during the duration of all Project construction.

The CONSULTANT shall follow uniform procedures and guidelines for managing the interface between the CITY, Contractor, and CONSULTANT staffs. The CITY shall provide the CONSULTANT with sample manuals, as required.

Task 4.1 – Pre-Construction Conferences: The CONSULTANT shall attend one pre-construction conference for each project phase (as applicable). The CONSULTANT shall prepare and distribute meeting minutes to all attendees and other appropriate parties. At this meeting, it is anticipated that the CITY will issue a Limited Notice to Proceed. A final Notice to Proceed shall be issued upon receipt of a final schedule and procurement of all applicable construction permits from the Contractor.

Deliverables: - Attend and participate in one pre-construction conference for each project phase (as applicable).

Schedule: - As scheduled by the CITY after receipt of Task 4 Notice to Proceed.

Task 4.2 – Bi-Monthly Construction Meetings: The CONSULTANT shall attend Bi-Monthly construction meetings with the Contractor and applicable CITY representatives, as required. The purpose of these meetings shall be to review the status of construction progress, shop drawing submittals and contract document clarifications and interpretations. In addition, the Contractor shall furnish a three-week look ahead work schedule to allow for proper coordination of necessary work efforts. These meetings shall also serve as a forum for discussion of construction issues, potential changes / conflicts and any other applicable matters. The meetings may include site visits to visually observe / address construction related concerns. The site visits shall be separate and distinct from the "Specialty Site Visits" discussed under Task 4.6. The CONSULTANT shall prepare and distribute meeting minutes to all attendees and other appropriate parties.

Deliverables: - Attend and participate in construction progress meetings.

Schedule: - Bi-Monthly throughout the project duration, or as deemed necessary.

Task 4.3 – Requests for Information / Contract Document Clarification (RFIs / CDCs): The CONSULTANT shall receive, log and process all RFIs / CDCs. The CONSULTANT shall prepare a written response in a timely matter. The CONSULTANT shall copy the PROJECT COORDINATOR on all RFIs / CDCs related correspondence. This includes CONSULTANT generated logs.

Deliverables: - Respond to those RFI's that involve design interpretations. Issue CDCs, as required.

Schedule: - Ongoing throughout project construction duration.

Task 4.4 – Requests for Changes to Construction Cost and/or Schedule: The CONSULTANT shall receive, log and evaluate all requests for project cost and/or schedule changes from the Contractor. Such requests may be the result of unforeseen conditions, interferences identified by the Contractor during the routine progress of work, inadvertent omissions (betterment) issues in the contract documents, permitting requirements that arise after the contract award, and/or additional improvements requested by the CITY. Regardless of the source, the CONSULTANT shall evaluate the merit of the request, as well as a cursory review of the potential impact of the change in terms of project cost and schedule. The CONSULTANT shall provide a written opinion as to the merit / value, upon request.

Deliverables:

- Perform independent review of request for cost increase and/or time extension.
- Coordinate and participate in meetings, as required, with the CITY and Contractor to resolve and/or negotiate the equitable resolution of request. Provide written opinion and / or recommendation upon request.
- Prepare change order documentation in CITY directed format.

Schedule: - Ongoing throughout Project construction duration.

Task 4.5 – Processing of Shop Drawings: The CONSULTANT shall receive, log and distribute shop drawings for review. The CONSULTANT shall have fourteen (14) calendar days from the time of receipt in its office, to review and return shop drawings.

Deliverables: - Review and return Shop Drawings.

Schedule: - Ongoing throughout Project construction duration.

Task 4.6 – Field Observation Services: The CONSULTANT shall provide specialty site visits by various design disciplines (civil, mechanical, landscaping, etc.) on an as requested basis. For the purposes of this scope of services, it is assumed that monthly specialty site visits are included. Specialty site visits are assumed to include one or more of the CONSULTANT's Team attendance, as may be requested by the CITY, to review, discuss, resolve field conditions and issues at the job site. Attendance shall be as requested, although a minimum of 24 hour notice will be provided when possible. In cases where conditions require immediate action, the CONSULTANT shall make itself available in the field, as soon as possible, to review / respond to necessary issues.

Deliverables: - Provide monthly specialty site visits, or as deemed necessary.

Schedule: - Ongoing throughout Project construction duration.

Task 4.7 – Project Closeout: Upon receiving notice from the CONSULTANT advising that the Project is substantially complete, the CONSULTANT, in conjunction with the appropriate CITY and/or any other applicable staff, shall conduct an overview of the Project. The overview shall include development of a "punch list" of items needing completion or correction prior to consideration of final acceptance. The CONSULTANT shall develop the list with assistance from the CITY. The list shall be forwarded to the Contractor. For the purposes of this Task, please note that substantial completion shall be deemed to be the stage in construction of the Project where the Project can be utilized for the purposes for which it was intended, and where minor items may not be fully completed, but all items that affect the operational integrity and function of the Project are capable of continuous use.

Upon notification from the Contractor that all remaining "punch list" items have been resolved, the CONSULTANT, in conjunction with the appropriate CITY and/or any other applicable staff, shall perform a final review of the finished Project. Based on successful completion of all outstanding work items by the Contractor, the CONSULTANT shall assist in closing out the construction contract. This shall include a final punch list walk through for verification of completion

Deliverables: - Attend field meetings to review substantial and final completion and assist in development of "punch lists".

Schedule: - At the Substantial and Final completion of each project.

2. SCHEDULE "A", SUB-TASK 6.1 AND SUB-TASK 6.9, ARE AMENDED AS FOLLOWS:

Task 6.1 – Reproduction Services:

CONSULTANT shall be reimbursed at the usual and customary rate for reproduction of reports, contract documents and miscellaneous items, as may be requested by CITY. An additional allowance of $25,000 has been allocated to this Project, increasing the total Project reimbursable allowance to $31,150. Unused amounts in this allowance shall be credited back to the CITY at the completion of the Project.

Task 6.9 – Design Sub Consultants:

CONSULTANT shall arrange for and coordinate the efforts of design sub consultant expertise as such expertise is needed and determined by the evolution of the Project program requirements and/or site conditions. A not-to-exceed fee amount of all such design sub consultant costs is included in Schedule B-1 to be drawn upon as needed. CONSULTANT's compensation shall be a reimbursement of actual costs for design sub consultants.

3. THE AGREEMENT IS AMENDED TO REFLECT THE FOLLOWING ADDITIONAL PROFESSIONAL SERVICES:

ARTICLE 1. DEFINITIONS is amended to include the following additional definitions:

1.10.1 **CONTRACTOR / CONTRACTORS:** "Contractor" or "Contractors" shall mean those persons or entities responsible for performing the Work or providing the materials,

supplies and equipment identified in the bid and Construction Documents for the Project.

1.11.1 **CONTRACT FOR CONSTRUCTION:** "Contract for Construction" shall mean a legally binding agreement with Contractors.

1.11.2 **CONSTRUCTION DOCUMENTS:** "Construction Documents" shall mean the final plans, specifications, drawings, documents and diagrams submitted by the Consultant pursuant to Article 2.6 and approved by the City.

1.13.1 **WORK:** "Work" shall mean the work to be performed on the Project by the Contractor, pursuant to the applicable Documents, whether completed or partially completed, and includes labor and materials, equipment, and services provided, or to be provided, by the Contractor to fulfill its obligations.

1.13.2 **SERVICES:** "Services" shall mean the services to be performed on the Project by the Consultant pursuant to this Agreement, whether completed or partially completed, and includes other labor and materials, equipment and services provided, or to be provided, by Consultant to fulfill its obligations herein.

1.13.3 **BASE BID:** "Base Bid" shall mean the elements contained in the Construction Documents recommended by the Consultant and approved by the City as being within the Construction Cost Budget pursuant to the Statement of Probable Construction Cost provided by Consultant. "Base Bid" shall not include "Additive Alternates" or "Deductive Alternates".

ARTICLE 2. BASIC SERVICES is amended to include the following:

2.1.1 **DESIGN SERVICES:**

Based on the approved Planning documents developed under Article 2.4, Consultant shall prepare Design Documents, as noted in the attached Schedule "A-1" entitled "Scope of Services".

2.1.2 **BIDDING AND AWARD SERVICES:**

Consultant shall provide bidding and award services as noted in the attached Schedule "A-1" entitled "Scope of Services".

2.1.3 **CONSTRUCTION ADMINISTRATION SERVICES:**

Consultant shall furnish construction administration services as noted in the attached Schedule "A-1" entitled "Scope of Services".

4. PROJECT COST BUDGET FOR THE PROJECT

$14,130,000

5. CONSTRUCTION COST BUDGET FOR THE PROJECT

$11,200,000 (excluding AiPP, pier, and Apogee seawall, and including a $500,000 allowance for Fountain replacement).

6. PAYMENT AND COMPENSATION

Refer to attached schedule "B-1" entitled, "Consultant Compensation".

Refer to attached schedule "C-1" entitled, "Hourly Billing Rate Schedule".

Compensation:

- Original Agreement amount: $ 328,505.00
  Includes:
  $6,150 in reimbursable allowance
  $60,000 in Topo Survey allowance
  $5,000 in Soft Dig Allowance

- Amendment No. 1 (Additional Professional Services) amount: $1,322,373.00
  Includes:
  $25,000 in reimbursable allowance

- Revised Agreement amount: $1,650,878.00

7. TIME OF COMPLETION

Refer to attached schedule "D-1" entitled, "Project Schedule".

(F:\CAPI\$all\NURY\South Pointe Park\S-SPTPK\S-SPTPK-03\S-SPTPK-03b\admendment 1\S-SPTPK-03b-Amendment1-ScheduleA.final.doc)

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	DESIGN DIRECTOR	PRINCIPAL IN CHARGE	PROJECT MANAGER	SENIOR LANDSCAPE ARCH.	DESIGN STAFF 1	DESIGN STAFF 11	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]										
2	**DESIGN SERVICES**										
	PERMITTING STRATEGY	5	40	40	20			10	115	$15,950	
	DEP PERMIT APPLICATION PACKAGE	20	60	160	300	320	320	10	1,190	$110,350	
	PRICING DOCUMENT PACKAGE	30	120	220	420	320	320	20	1,450	$143,300	
	PROJECT REVIEW #1	5	25	40	80		120	10	280	$26,825	
	CONSTRUCTION DOCUMENT PACKAGE	20	160	300	480	418	480	30	1,888	$181,300	
	PROJECT REVIEW #2	5	30	40	80		120	20	295	$28,250	**$505,975**
	SUBTOTAL	*65*	*435*	*800*	*1,380*	*1,058*	*1,360*	*100*	*5,218*		
3	**BIDDING AND AWARD SERVICES**										
	NOT IN PROJECT SCOPE										
4	**CONSTRUCTION OBSERVATION SERVICES**										
	CONSTRUCTION MEETINGS	12	30	50	100			10	202	$25,150	
	REQUESTS FOR INFORMATION (RFI)	0	1	40	160		160	10	371	$31,325	
	PROCESSING SHOP DRAWINGS	0	0	10	40		80	20	150	$11,350	
	FIELD OBSERVATION SERVICES (30 person trips)	24	40	150	300			10	524	$62,000	
	PROJECT CLOSEOUT	0	8	20	40		80		148	$12,900	**$142,725**
	SUBTOTAL	*36*	*79*	*270*	*640*	*0*	*320*	*50*	*1,395*		
	SUB-TOTAL HOURS	121	514	1,070	2,020	1,058	1,680	150	**11831**		
	SUB-TOTAL FEE ESTIMATE	$36,300	$89,950	$133,750	$191,900	$79,350	$109,200	$8,250	$648,700		
6.0	OTHER DIRECT COSTS										
	SUBCONSULTANT ALLOWANCE- Savino & Miller, local landscape architect									$206,221	
	SUBCONSULTANT ALLOWANCE- William Lane Architects, local architect									$87,745	
	SUBCONSULTANT ALLOWANCE- Coastal Systems Int'l- civil, marine ecological eng.									$167,171	
	SUBCONSULTANT ALLOWANCE- Gopman Consulting- structural engineering									$35,000	
	SUBCONSULTANT ALLOWANCE- JARLW Engineering- MEP engineering									$32,640	
	SUBCONSULTANT ALLOWANCE- LAM Partners- Lighting designers									$72,546	
	SUBCONSULTANT ALLOWANCE- Ken Didonato Inc- Irrigation designers									$9,250	
	SUBCONSULTANT ALLOWANCE- Dan Euser Watertecture- water feature design									$32,230	
	SUBCONSULTANT ALLOWANCE- Ardaman& Associates- geotechnical design									$5,870	**$648,673**
	TOTAL										**$1,297,373**
	HOURLY RATES (FY 2005)	$300.00	$175.00	$125.00	$95.00	$75.00	$65.00	$55.00			
6.1	**REPRODUCTION SERVICES- NOT TO EXCEED**										**$25,000**

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]											
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY		16		40		20	40	4	120	$9,696	
	PERMIT APPLICATION PACKAGE		40		180		77	150	10	457	$36,505	
	PRICING DOCUMENT PACKAGE		24		40				8	72	$7,160	
	PROJECT REVIEW #1		16		40		20	40	4	120	$9,696	
	CONSTRUCTION DOCUMENT PACKAGE		80		280		180	300	10	850	$67,090	
	PROJECT REVIEW #2		16		40		20	40	4	120	$9,696	**$139,843**
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**										$0	
	CONSTRUCTION MEETINGS (30 meetings over 12 months)		30		90				90	210	$16,110	
	REQUESTS FOR INFORMATION (RFI)		40		80				15	135	$13,245	
	PROCESSING SHOP DRAWINGS		24		35				10	69	$6,781	
	FIELD OBSERVATION SERVICES		80		160				20	260	$26,060	
	PROJECT CLOSEOUT		14		20				12	46	$4,182	**$66,378**
	SUB-TOTAL HOURS	0	380	0	1,005	0	317	570	187	**2459**		
	SUB-TOTAL FEE ESTIMATE	$0	$49,020	$0	$93,465	$0	$23,775	$31,920	$8,041	$206,221		
	TOTAL											**$206,221**
	HOURLY RATES (FY 2005)	$155.00	$129.00	$110.00	$93.00	$75.00	$75.00	$56.00	$43.00			

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SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	DRAFTER	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
	SOUTH POINTE PARK - LABOR FEE TASK 2 3 4 WILLIAM LANE						
2	**DESIGN SERVICES**						
	PERMITTING STRATEGY	10	20	10	40	$4,250	
	PERMIT APPLICATION PACKAGE	20	60	40	120	$11,600	
	PRICING DOCUMENT PACKAGE	30	80	40	150	$15,250	
	PROJECT REVIEW #1	9	20	10	39	$4,075	
	CONSTRUCTION DOCUMENT PACKAGE	50	140	80	270	$26,850	
	PROJECT REVIEW #2	12	30	18	60	$6,030	**$68,055**
3	**BIDDING AND AWARD SERVICES**						
	NOT IN PROJECT SCOPE						
4	**CONSTRUCTION OBSERVATION SERVICES**						
	CONSTRUCTION MEETINGS	12	12	0	24	$3,240	
	REQUESTS FOR INFORMATION (RFI)	8	10	4	22	$2,590	
	PROCESSING SHOP DRAWINGS	10	20	4	34	$3,890	
	FIELD OBSERVATION SERVICES	25	35	0	60	$7,700	
	PROJECT CLOSEOUT	6	10	5	21	$2,270	**$19,690**
	SUB-TOTAL HOURS	192	437	211	840		
	SUB-TOTAL FEE ESTIMATE	$33,600	$41,515	$12,630	$87,745		
	TOTAL						**$87,745**
	HOURLY RATES (FY 2005)	$175.00	$95.00	$60.00			

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	MARINE SCIENTIST	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]											
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY	8	15		10	20			3	56	$5,690	
	PERMIT APPLICATION PACKAGE	40	100	16	100	300		50	60	666	$59,248	
	PRICING DOCUMENT PACKAGE	5	10	12	40	90	50	70	8	285	$22,081	
	PROJECT REVIEW #1									0	$0	
	CONSTRUCTION DOCUMENT PACKAGE	10	30	60	160		130	216	12	618	$46,352	
	PROJECT REVIEW #2									0	$0	**$133,371**
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**									0	$0	
	CONSTRUCTION MEETINGS									0	$0	
	REQUESTS FOR INFORMATION (RFI)	1	4	8	30		15	16	2	76	$6,066	
	PROCESSING SHOP DRAWINGS	2	4	6	20		32	40	3	107	$7,664	
	FIELD OBSERVATION SERVICES		8	40	170				5	223	$20,070	
	PROJECT CLOSEOUT									0	$0	**$33,800**
	SUB-TOTAL HOURS	66	171	142	530	410	227	392	93	**2031**		
	SUB-TOTAL FEE ESTIMATE	$9,570	$20,520	$14,626	$46,110	$35,670	$16,571	$20,384	$3,720	$167,171		
	TOTAL											**$167,171**
	HOURLY RATES (FY 2005)	$145.00	$120.00	$103.00	$87.00	$87.00	$73.00	$52.00	$40.00			

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SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH POINTE PARK												
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY		8			12					$1,700	
	PERMIT APPLICATION PACKAGE		33			90					$10,050	
	PRICING DOCUMENT PACKAGE		22			40					$5,200	
	PROJECT REVIEW #1		6			11					$1,425	
	CONSTRUCTION DOCUMENT PACKAGE		20			70					$7,250	
	PROJECT REVIEW #2		6			10					$1,350	**$26,975**
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**											
	CONSTRUCTION MEETINGS		6			25					$2,475	
	REQUESTS FOR INFORMATION (RFI)		8			12					$1,700	
	PROCESSING SHOP DRAWINGS										$0	
	FIELD OBSERVATION SERVICES		16			30					$3,850	
	PROJECT CLOSEOUT										$0	**$8,025**
	SUB-TOTAL HOURS	0	125	0	0	300	0	0	0	0		
	SUB-TOTAL FEE ESTIMATE	$0	$12,500	$0	$0	$22,500	$0	$0	$0	$35,000		
	TOTAL											**$35,000**
	HOURLY RATES (FY 2005)	$0.00	$100.00	$0.00	$0.00	$75.00	$0.00	$0.00	$0.00			

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]											
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY	1	0	9				0	1	11	$1,080	
	PERMIT APPLICATION PACKAGE	2	2	60				50	4	118	$9,940	
	PRICING DOCUMENT PACKAGE	3	2	40				30	3	78	$6,730	
	PROJECT REVIEW #1	1	1	8				2	1	13	$1,230	
	CONSTRUCTION DOCUMENT PACKAGE	3	2	45				30	3	83	$7,230	
	PROJECT REVIEW #2	1	1	8				2	1	13	$1,230	**$27,440**
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**											
	CONSTRUCTION MEETINGS	2	1	10					1	14	$1,435	
	REQUESTS FOR INFORMATION (RFI)	1	0	4				5	1	11	$905	
	PROCESSING SHOP DRAWINGS	1	0	8					1	10	$980	
	FIELD OBSERVATION SERVICES	1	0	10					2	13	$1,225	
	PROJECT CLOSEOUT	1	1	4						6	$655	**$5,200**
	SUB-TOTAL HOURS	17	10	206	0	0	0	119	18	**370**		
	SUB-TOTAL FEE ESTIMATE	$2,295	$1,200	$20,600	$0	$0	$0	$7,735	$810	$32,640		
	TOTAL											**$32,640**
	HOURLY RATES (FY 2005)	$135.00	$120.00	$100.00	$0.00	$0.00	$0.00	$65.00	$45.00			

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]											
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY	5	5							10	$1,350	
	PERMIT APPLICATION PACKAGE	30	60				40			130	$14,990	
	PRICING DOCUMENT PACKAGE	18	70				60			148	$16,000	
	PROJECT REVIEW #1		4							4	$460	
	CONSTRUCTION DOCUMENT PACKAGE	15	50				90			155	$15,815	
	PROJECT REVIEW #2		4							4	$460	**$49,075**
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**									0	$0	
	CONSTRUCTION MEETINGS		20							20	$2,300	
	REQUESTS FOR INFORMATION (RFI)		20				12			32	$3,332	
	PROCESSING SHOP DRAWINGS	5	20				4			29	$3,419	
	FIELD OBSERVATION SERVICES	35	44							79	$10,485	
	PROJECT CLOSEOUT	5	20				10			35	$3,935	**$23,471**
	SUB-TOTAL HOURS	113	317	0	0	0	216	0	0	**646**		
	SUB-TOTAL FEE ESTIMATE	$17,515	$36,455	$0	$0	$0	$18,576	$0	$0	$72,546		
	TOTAL											**$72,546**
	HOURLY RATES (FY 2005)	$155.00	$115.00	$0.00	$0.00	$0.00	$86.00	$0.00	$0.00			

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]											
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY		1							1	$125	
	PERMIT APPLICATION PACKAGE		12							12	$1,500	
	PRICING DOCUMENT PACKAGE		12							12	$1,500	
	PROJECT REVIEW #1		1							1	$125	
	CONSTRUCTION DOCUMENT PACKAGE		15							15	$1,875	
	PROJECT REVIEW #2		1							1	$125	$5,250
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**											
	CONSTRUCTION MEETINGS		1							1	$125	
	REQUESTS FOR INFORMATION (RFI)		12							12	$1,500	
	PROCESSING SHOP DRAWINGS		0							0	$0	
	FIELD OBSERVATION SERVICES		15							15	$1,875	
	PROJECT CLOSEOUT		4							4	$500	$4,000
	SUB-TOTAL HOURS	0	74	0	0	0	0	0	0	74		
	SUB-TOTAL FEE ESTIMATE	$0	$9,250	$0	$0	$0	$0	$0	$0	$9,250		
	TOTAL											$9,250
	HOURLY RATES (FY 2005)	$0.00	$125.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00			

498

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH	[redacted]											
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY		4							4	$440	
	PERMIT APPLICATION PACKAGE		10							10	$1,100	
	PRICING DOCUMENT PACKAGE		50							50	$5,500	
	PROJECT REVIEW #1		10							10	$1,100	
	CONSTRUCTION DOCUMENT PACKAGE		88							88	$9,680	
	PROJECT REVIEW #2		5							5	$550	**$16,370**
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**											
	CONSTRUCTION MEETINGS		8							8	$880	
	REQUESTS FOR INFORMATION (RFI)		20							20	$2,200	
	PROCESSING SHOP DRAWINGS		0							0	$0	
	MOCK UPS		50							50	$5,500	
	FIELD OBSERVATION SERVICES		40							40	$4,400	
	PROJECT CLOSEOUT		8							8	$880	**$13,860**
	SUB-TOTAL HOURS	0	293	0	0	0	0	0	0	293		
	SUB-TOTAL FEE ESTIMATE	$0	$32,230	$0	$0	$0	$0	$0	$0	$32,230		
	TOTAL											**$32,230**
	HOURLY RATES (FY 2005)	$0.00	$110.00	$0.00	$0.00	$0.00	$0.00	$0.00	$0.00			

SCHEDULE B-1
CITY OF MIAMI BEACH
SOUTH POINTE PARK
CONSULTANT'S COMPENSATION FEE SCHEDULE

TASK NO.	TASK DESCRIPTION	PROJ DIRECTOR/PRINCIPAL	PROJECT MANAGER	SR. ENGINEER / ARCHITECT	ENGINEER / ARCHITECT	STAFF ENGINEER	DESIGNER	DRAFTER	CLERICAL	TOTAL HOURS 1	TOTAL COST	TOTALS PER PHASE
SOUTH POINT PARK												
2	**DESIGN SERVICES**											
	PERMITTING STRATEGY										$0	
	PERMIT APPLICATION PACKAGE		4	4		13			2		$2,010	
	PRICING DOCUMENT PACKAGE		4	4		13			2		$2,010	
	PROJECT REVIEW #1		2	2							$500	
	CONSTRUCTION DOCUMENT PACKAGE		2	3		10			1		$1,350	
	PROJECT REVIEW #2										$0	$5,870
3	**BIDDING AND AWARD SERVICES**											
	NOT IN PROJECT SCOPE											
4	**CONSTRUCTION OBSERVATION SERVICES**											
	CONSTRUCTION MEETINGS										$0	
	REQUESTS FOR INFORMATION (RFI)										$0	
	PROCESSING SHOP DRAWINGS										$0	
	MOCK UPS										$0	
	FIELD OBSERVATION SERVICES										$0	
	PROJECT CLOSEOUT										$0	$0
	SUB-TOTAL HOURS	0	12	13	0	36	0	0	5	0		
	SUB-TOTAL FEE ESTIMATE	$0	$1,800	$1,300	$0	$2,520	$0	$0	$250	$5,870		
	TOTAL											$5,870
	HOURLY RATES (FY 2005)	$0.00	$150.00	$100.00	$0.00	$70.00	$0.00	$0.00	$50.00			

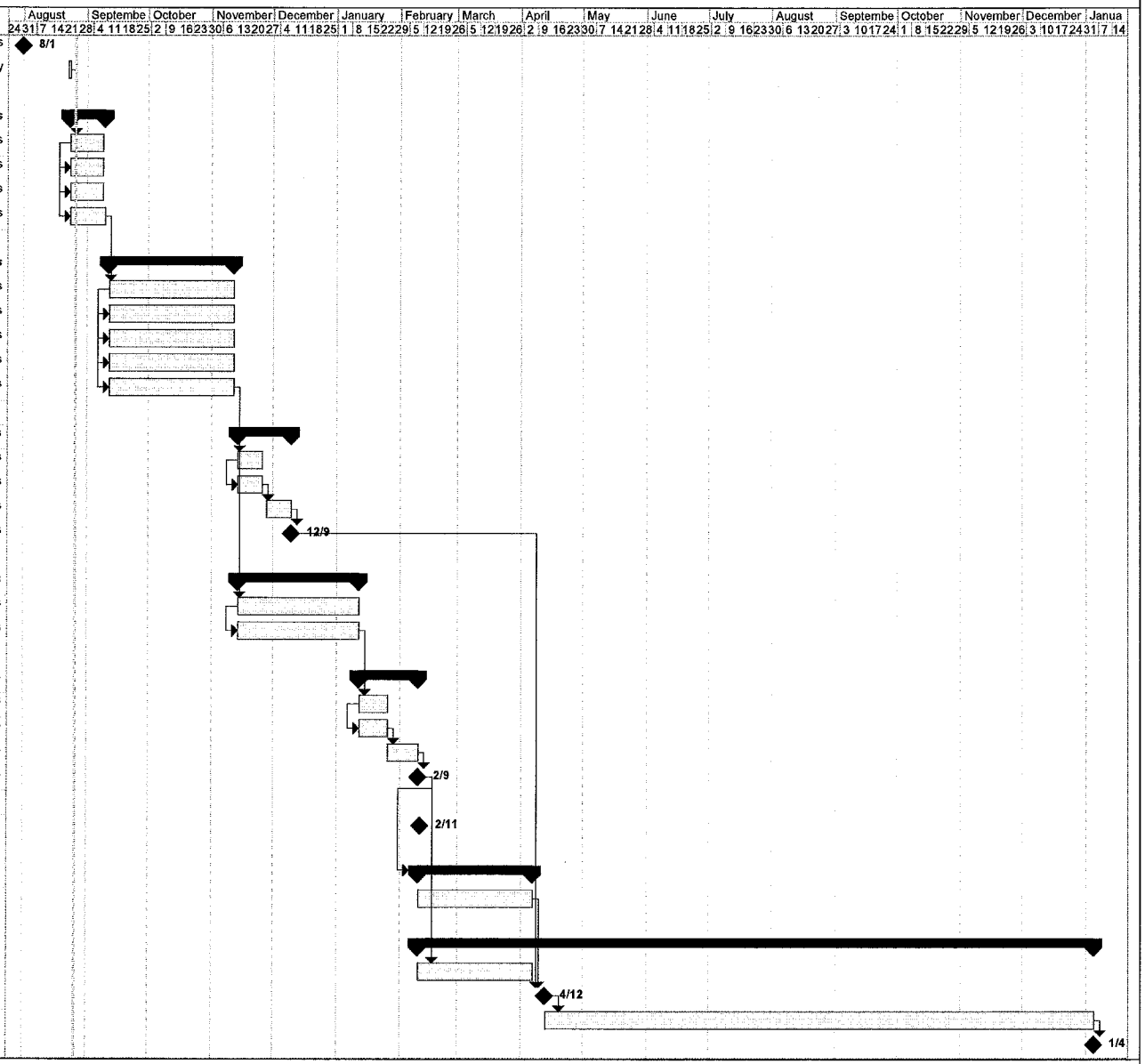
500

SCHEDULE C-1
CITY OF MIAMI BEACH, FLORIDA
SOUTH POINTE PARK IMPROVEMENT PROJECT
HOURLY BILLING RATE SCHEDULE 2005

Classification	Hourly Billing Rate	
Design Director	$300.00	per hour
Principal in Charge	$175.00	per hour
Project Manager	$125.00	per hour
Senior Landscape Architect	$95.00	per hour
Design Staff I	$75.00	per hour
Design Staff II	$65.00	per hour
Clerical	$55.00	per hour

Schedule D-1
City of Miami Beach, FL
South Pointe Park Improvement Project
Project Schedule

ID	Task Name	Duration
1	**South Pointe Park Improvements Implementation**	0 days
2	**design contract/letter of authorization**	1 day
3		
4	**Permitting & consent strategy**	**13 days**
5	federal DOI consent & USCOE easements	12 days
6	state, county & city permits	12 days
7	geotech boreholes & testing	12 days
8	update plan to survey	13 days
9		
10	**Permit Application Package**	**45 days**
11	state coastal construction permit	45 days
12	state environmnetal resource permit	45 days
13	county DEM storm drainage permit	45 days
14	city demolition permit ??	45 days
15	city building permit	45 days
16		
17	**Project review #1**	**20 days**
18	City review	10 days
19	TRG review	10 days
20	revisions (if any)	10 days
21	submit permit applications	0 days
22		
23	**Pricing Package**	**43 days**
24	early works construction (if necessary)	43 days
25	pricing package	43 days
26		
27	**Project review #2**	**21 days**
28	City review	10 days
29	TRG review	10 days
30	revisions (if any)	11 days
31	TRG & city agree price	0 days
32		
33	**City Commission approval ????**	0 days
34		
35	**Construction Documents Package**	**40 days**
36	later works construction documents	40 days
37		
38	**Construction**	**235 days**
39	early works construction (if necessary)	40 days
40	permit approvals subject to agencies	0 days
41	construction subject to permit approvals	191 days
42	completion	0 days



CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution of the Mayor and City Commission Approving an Amendment to the Agreement with the firm of Wolfberg Alvarez for additional services on Phase II of the South Pointe Right of Way Improvement Project in the amount of $272,673, to be funded from previous appropriations.

Issue:

Should the City Commission award additional services to Wolfberg Alvarez on Phase II of the South Pointe Right of Way Improvement Project?

Item Summary/Recommendation:

On September 25, 2002, the City Commission approved an Agreement with Wolfberg Alvarez (WA) for services in the amount of $469,634. WA was given a Notice to Proceed on November 5, 2002, and the Project Kick-off Meeting was held on the same date. The design scope included roadway, drainage, landscaping, streetscape, irrigation, water and sewer, electrical, and street lighting improvements with an estimated construction cost of +/- $7.8 million. The Basis of Design Report (BODR) for RDA funded improvements to the South Pointe Phase II Neighborhood ROW Improvement was approved by the City Commission on February 4, 2004. After the Agreement was executed by the City and the Consultant it was found that more documents would have to be prepared than originally envisioned and the Consultant has requested additional services in the amount of $197, 493. The Consultant has also requested additional services for other miscellaneous tasks. These tasks include additional meetings, coordination of designs with private development in the area, adjustments to the design due to the development of the Cosmopolitan, additional storm water design and coordination, lighting design and photometrics for lights within the alleys, and coordination with sub-consultants and regulatory agencies due to the additional scope and tasks. The Consultant originally submitted a total fee request in the amount of $457,563 for this amendment which has been reduced through negotiation and evaluation by staff to fees in the amount of $272,673. The City considers the request appropriate to the amount of scope and additional tasks to be performed by the Consultant. The City recommends approval of the request for funds, in the amount of $272,673, from previously appropriation funding, which will allow the team to continue effective performance on the project. The Administration therefore recommends adoption of the Resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	$272,673	Previous Appropriations	
	2			
Finance Dept.	Total	$272,673		

City Clerk's Office Legislative Tracking:

Graciela Escalante R.A., Senior Capital Projects Coordinator

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JECh	TH	

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AGENDA ITEM R7E

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

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 AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE FIRM OF WOLFBERG ALVAREZ, DATED SEPTEMBER 25, 2002; SAID AGREEMENT TO PROVIDE ADDITIONAL ARCHITECTURAL AND ENGINEERING SERVICES REQUIRED TO COMPLETE PHASE II OF THE SOUTH POINTE RIGHT OF WAY IMPROVEMENT PROJECT, IN THE AMOUNT OF $272,673, COMPRISED OF $197,493 FOR ADDITIONAL DESIGN SERVICES, AND $75,180 FOR ADJUSTMENTS TO OTHER SERVICES, AND FUNDING THE AMENDMENT FROM PREVIOUSLY APPROPRIATED FUNDS FOR THE PROJECT.**

ADMINISTRATION RECOMMENDATION:

Adopt the Resolution.

FUNDING

Funds for this project are available from previously appropriated funds for the Project.

ANALYSIS:

In September 2001, the City Commission and Miami Beach Redevelopment Agency adopted, respectively, Resolutions # 2001-24569 and #393-2001 authorizing the issuance of Request for Qualifications Number 57-00/01 for professional planning, urban design, landscape architecture, and engineering services for the planning, design, bid award, and construction administration services necessary to implement Phase II of the South Pointe Streetscape Master Plan which included the following portions of the South Pointe Redevelopment Area:

- Lenox Avenue between Fifth Street and Fourth Street.
- Michigan, Jefferson and Meridian Avenues between Fifth Street and Second Street, excluding their corresponding Third Street intersections.
- Euclid Avenue between Fifth Street and Third Street, excluding the Third Street intersection.
- Fourth Street between Alton Road and Washington Avenue.
- The north side of Second Street between Alton Road and Washington Avenue.

A selection committee was appointed to rank the firms which responded to the RFQ and on March 20, 2002, the City Commission authorized the Administration to enter into negotiations with top-ranked respondent Wolfberg Alvarez (WA). On September 25, 2002, the City Commission approved an Agreement with WA for the services not to exceed amount of $469,634. WA was given a Notice to Proceed on November 5, 2002, and the Project Kick-off Meeting was held on the same date.

In accordance with the recommended improvements schedule presented in the Master Plan, Phase II improvements were initiated. The design scope included roadway, drainage, landscaping, streetscape, irrigation, water and sewer, electrical, and street lighting improvements with a currently estimated construction cost of ± $7.8 million.

The Basis of Design Report (BODR) for RDA funded streetscape, water, and storm water improvements to be implemented through Phase II of the South Pointe Neighborhood ROW Improvement was completed and submitted by WA, and was approved by the City Commission on February 4, 2004. This BODR was the culmination of a comprehensive planning effort that included input from and review by residents, all City Departments, the Design Review Board, the Historic Preservation Board, and a joint meeting of the Neighborhoods, and Finance and Citywide Projects Committees.

After the Agreement was executed by the City and the Consultant, and the design work began, it was found that more documents would have to be prepared than originally envisioned in order to convey the necessary information required for the defined scope on the documents that would be needed for construction. These additional drawings, which have been determined by the City to be justified, caused additional work and effort to the Consultant and the City has agreed that they are entitled to compensation. WA initially requested $327,887 for this effort, but after careful evaluation and review by the City, and negotiations with the Consultant, the amount has been reduced to $197,493 which is the amount requested in this Resolution.

During the Planning effort and the preparation of the BODR, there were numerous additional meetings beyond those originally contemplated in the Agreement. These meetings were necessary to address frequent comments and objections raised by the community on different aspects of the Project, especially those related to parking and traffic matters. Community meetings have been a fundamental aspect of the Right of Way Program and until consensus at a high level is achieved, the City continues to meet with interested residents in order to satisfy their needs. In this Project this effort was more extensive than in others and, therefore, necessitated the additional meetings. WA has requested $12,080 for this effort, and after careful evaluation and review, the City has agreed to this amount which is requested in this Resolution.

Additional design services were requested and required by the City to coordinate the Project scope with private properties in the area which needed to be made consistent with the overall Project intent. This request was not part of the original Agreement and resulted in out-of-sequence work which the City has deemed entitles the Consultant to additional compensation. This resolution requests additional services, in the amount of $10,000, for this effort.

The development of the Cosmopolitan Project was constructed to a fifty foot right of way (ROW) in Meridian Avenue, while the rest of the street has a seventy foot ROW, which is the same as other streets in the neighborhood. This ROW difference required additional work by the Consultant in order to provide proper alignment of the intersection and adjustments to installations in the area which were not anticipated in the original Agreement. This additional work entitles the Consultant to additional compensation in the amount of $8,500 to which the City has agreed.

Due to a relocation of storm water piping required by the Portofino development, the Consultant was asked to coordinate the design on the Phase II storm drainage with the relocated pipe within Alton Road. This was not contemplated in the original Agreement and resulted in additional work by the Consultant outside of the Project's boundaries. The activities included additional design documents, meetings, an additional maintenance of traffic plan for the area, coordination with sub-consultants, and added permitting. The request by the Consultant in the amount of $26,200 has been evaluated and deemed appropriate.

Additional coordination is required with Florida Power and Light (FPL) regarding the existing lighting locations and levels within the alleys in the neighborhood. The Consultant completed a survey of existing installations and a photometric study to determine whether the lighting levels were in accordance with the requests of the residents, and also to coordinate implementation of additional lights by FPL in the area. The Consultant initially requested additional services in the amount of $13,900, but after review and evaluation by staff and further negotiations, the amount has been reduced to $7,500 which the City recommends.

The added scope of work in the areas described above has generated additional coordination with the sub-consultants on the project, as well as with permit and regulatory agencies. The scope involved includes additional storm water pump stations, meetings with utility companies, additional communications with the City and between sub-consultants. The additional services requested are for the project management and engineering efforts required for these activities. The Consultant originally requested $21,800 for these services, but during negotiations and review by staff, the fees have been reduced to $10,900 which the City recommends.

The total additional services amount for the adjustment to other miscellaneous services is $75,180. This amount, when added to the additional services for increased scope and additional project documents in the amount of $197,493, results in a total request of

$272,673. The Consultant originally submitted a total fee request in the amount of $457,563 which has been reduced through negotiation and evaluation by staff. The total amount recommended in this Resolution is appropriate to the amount of scope and additional tasks performed by the Consultant and the City recommends approval of the request, in the amount of $272,673, which will allow the team to continue effective performance on the Project. The Administration therefore recommends adoption of the Resolution.

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WOLFBERG ALVAREZ

August 22, 2005
Revised September 28, 2005

Via Fax: 305-534-8887

Hazen and Sawyer
975 Arthur Godfrey Road
The Giller Building, Suite 211
Miami Beach, Florida 33140

RECEIVED
HAZEN AND SAWYER, P.C.
Miami Beach, Florida
SEP 29 2005
COC/RD
JOB No. 4012C 11.4 8.2

ATTN: Mr. Charles Carreño, P.E.
Project Manager

RE: City of Miami Beach
Right-of-Way Infrastructure Improvement Program
South Pointe Streetscape Improvements – Phase II
WA Project No.: 2203700
SUBJ: Revised Request for Additional Services

Dear Charlie:

Referencing our original letter of June 20, 2005 and as a follow up to the meeting with both Mr. Jorge Chartrand of the CIP office and yourself on August 10, 2005, we have revised our Request for Additional Services. We need to reiterate that the South Pointe Phase II project's scope of services has dramatically increased since our A/E Fee was negotiated approximately three years ago.

Similar to the original request, we have structured this letter in the same original format which identifies the various scope changes and the related monetary impact of these changes.

1. **Added Scope Increases to Task 2 – Design Services:** Exhibit A establishes the Additional Scope of Services for Design that was not contemplated when Pappas & Associates made their recommendation in June 2002. Currently, we have recently submitted the 60% Construction Documents, and now have a better understanding on the required effort to finish the project.

   Task 2 for Design Services also includes the following Sub Tasks: Schedule Updates; Progress Meetings; Design/Constructability Reviews at each phase (60%, 90%, 100%);

1500 San Remo Avenue, Suite 300 Coral Gables, Florida 33146 Telephone (305) 666-5474 Fax (305) 665-0800
AA 0002416
EB 000 2354

Cost Opinions at each phase; and Permitting Reviews. Additionally, the number of Design Progress Meetings has already exceeded the 6 Progress Meetings that were budgeted in Schedule B of the Agreement, and we anticipate having to attend a total of 15 Progress Meetings by the completion of Design.

As a direct result of the Added Scope Increases to Task 2, as described in the attached documentation (Exhibit A), we are requesting **"Additional Services" of $197,493.00** to cover the aforementioned extra work.

2. **Additional meetings and extra effort during the Planning Phase**: During the development of the BODR there were a series of unanticipated issues mostly related to parking requirements which resulted in an increase in the number of meetings and effort to finalize the BODR. We are requesting the amount of **$12,080.00** for the extra effort based on the estimate of an additional 60 hours of Project Management and 40 hours of Senior Engineering.

3. **Prolonged Period of Construction Administration Services**: The Project Schedule shown under Schedule D of the Agreement shows a construction period of one year for the Construction Administration Services. Due to the uncertainties of the extensive construction activities experienced in the South Florida area with sporadic shortages of some materials and subcontractors, it is apparent that the construction period will be greater than one year. At this time, we will defer the request for additional services of this particular item until a better definition of the duration of the construction period is established by the Program Manager and the City.

The following project elements are listed under the category of Unforeseen Conditions and not anticipated during negotiations:

4. **Early-Designs**: Not mentioned at all in the Agreement and completely unforeseen, the Consultant was asked to produce early-designs in the streets surrounding the Thyssen Building and the Absolut Condominium. This particular directive from the City created an additional scope, out of sequence and not part of the original Agreement. The added scope increase resulting from the production of Early Design documents represents an additional cost of **$ 10,000.**

5. **Development of Cosmopolitan Project**: During the final completion of the Cosmopolitan project by the Developer, in the vicinity of Meridian Avenue and 2nd Street, it was discovered by the Consultant that Meridian Avenue, between 1St and 2nd

Street was built by the developer with a 50-foot right-of-way, while the remaining of Meridian Avenue north of 2nd Street, has a 70-foot right-of-way, similar to the remaining avenues on South Pointe. The resulting misalignment has created a burden on the Consultant, with the requirement to verify the design with Miami Dade County Traffic Department, etc.
The added scope increase resulting from the re-alignment of this particular intersection including related adjustments to a stormwater pump station, lighting, curb cuts, etc. represents an added cost of **$ 8,500.**

6. **Stormwater Design on Alton Road**: The project boundaries made part of the Agreement clearly indicate that all work on Alton Road were to be part of the future Phases III, IV, and V of the South Pointe project. The Consultant has been requested to include certain stormwater improvements on Alton Road, including a connection to the existing 72-inch stormwater main currently existing on Alton Road. The added scope increase includes the creation of additional design drawings, meetings, MOT, and coordination issues with a different contractor, added permitting and construction administration issues, etc.
The added scope increase resulting from the addition of stormwater items in an area out of the boundaries of the project represents an added cost of **$ 26,200.**

7. **Unforeseen Conditions Dealing with Alley Lighting**: This item deals with issues regarding the lighting of the existing alleys, which apparently belongs to FPL, for compliance with the City's Lighting Footcandle Level Standards. In full coordination with FPL, the Consultant has completed an extensive survey of the existing alley lighting and performed photometric calculations. It is now known that additional poles and light fixtures will be needed in the alleys in order to satisfy the requests made by the residents, with concurrence from the City, enhance the security of the neighborhood. The Consultant will prepare a package of information and survey data to be utilized by Public Works in future negotiations with FPL for the implementation of the required additional alley lighting. The added scope increase resulting from the issues related to the alley lighting and unanticipated survey requirements requested by FPL represents an added cost of **$ 7,500.00.**

8. **Coordination with Subconsultants and other Agencies**: The added scope of work has created the need to manage and coordinate additional work not previously contemplated during the negotiation phase. It needs to be mentioned that the project's scope and the project's construction cost has dramatically changed by approximately 6.5 million dollars thus necessitating extra coordination efforts amongst all disciplines as well as other agencies.

As mentioned during the meeting, this particular coordination is not included as part of the other items made part of this Request for Additional Services. The added scope increases has and will continue to impact the Project Manager and various Project Engineers as we deal with added scope items such as stormwater pumps, meeting with FPL regarding those pumps, additional RFI's, additional shop drawings, meetings regarding alley lighting, etc.

This additional scope increase has resulted in the need to request **$ 10,900** to cover the Project Management and Engineering efforts in dealing with these unanticipated scope items. This figure is based on an estimate of 40 hours of Project Management and 50 hours of Engineering.

9. **Encroachments**: During the Planning Phase, the issue of whether or not to reclaim the existing encroachments on the South Pointe Neighborhood was discussed at length on various occasions. This item continues to be an area of discussion between the Administration and the residents. At this time, we have identified both the "hard encroachments" as shown in the Survey and the "soft encroachments" as delineated by our Subconsultant, Curtis + Rogers. This item will be discussed under a separate forum, once all the required information is known and a direction is established.

The following Summary of added scope increases itemizes our Request for Additional Services:

1. **Added Scope Increases to Task 2 – Design Services.....$ 197,493**
2. **Additional meetings and extra effort during the Planning Phase.....$ 12,080**
3. **Project Schedule–Prolonged Construction Administration Services .. Deferred**
4. **Early-Designs .....$ 10,000**
5. **Development of Cosmopolitan Project .....$ 8,500**
6. **Stormwater Design on Alton Road .....$ 26,200**
7. **Unforeseen Conditions Dealing with Alley Lighting.....$ 7,500**
8. **Coordination with Subconsultants and other Agencies .....$ 10,900**
9. **Encroachments ..... Deferred**

TOTAL REQUEST FOR ADDITIONAL SERVICES.....$ 272,673

We believe that this revised Request for Additional Services addresses the issues and concerns expressed by both the Program Manager and the CIP Office during the meeting of August 10, 2005. As previously stated, the acceptance of this Request for Additional Services is needed in order for the Project Team to continue to provide the quality of services expected and required for this important project to the City of Miami Beach and its residents.

Should you have any questions, please feel free to contact me.

Sincerely,

Mario H. Gutierrez, P.E.
Project Manager

Attachment

cc: J. Chartrand – CMB CIP
J. Alvarez, P.E. – WA
D. Wolfberg, AIA – WA
J. Maldonado, P.E. – WA
I. Gonzalez, P.E. – WA

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EXHIBIT "A"

Task No.	Task Description	Basis for Additional Services	WA - Project Management / Coordination of Disciplines	WA - Paving/ Grading/ Drainage	WA - Electrical	HNTB - Water	Curtis & Rogers - Landscaping / Irrigation	Sheet Sub-totals	Adjusted Fee Amount
2.2	Detailed Design (Plans and Specs)			Current Sheet Count (See Exhibit "B")					
	Additional Sheets *(not Originally Contemplated)*	Additonal Scope as defined in letter of August 22, 2005							
	Subtotal for Plans (Additional Sheets)							30	$ 120,000.00
	Schedule Updates *(by Program Manager)*								
	Progress Meetings	Project Design Team requested to attend 15 Mtgs.							$ 33,552.00
	Subtotal for Detailed Design								$ 153,552.00
2.3	Design / Constructability Review (30%, 60%, 90%)	(16 hrs for PM & 60hrs for Sr. Engrs.)							$ 8,372.56
2.4	Cost Opinions (30%, 60%, 90%)	(24 hrs for PM & 140 hrs for Sr. Engrs.)							$ 12,568.04
2.5	Permitting Reviews	Permitting Allowance							$ 25,000.00
	TOTAL for Task 2 DESIGN SERVICES								$ 197,492.60

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. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH THE FIRM OF WOLFBERG ALVAREZ, DATED SPTEMBER 25, 2002; SAID AGREEMENT TO PROVIDE ADDITIONAL ARCHITECTURAL AND ENGINEERING SERVICES REQUIRED TO COMPLETE PHASE II OF THE SOUTH POINTE RIGHT OF WAY IMPROVEMENT PROJECT, IN THE AMOUNT OF $272,673, COMPRISED OF $197,493 FOR ADDITIONAL DESIGN SERVICES, AND $75,180 FOR ADJUSTMENTS TO OTHER SERVICES, AND PROVIDING FUNDING FOR THE AMENDMENT FROM THE PREVIOULSY APPROPRIATED FUNDS FOR THE PROJECT.

WHEREAS, on September 25, 2002, the City Commission approved an Agreement with the firm of Wolfberg Alvarez (WA) for architectural and engineering services, in the not to exceed amount of $469,634, for the Phase II South Pointe Right of Way (ROW) Improvements Project (the Project) and WA was given a Notice to Proceed on November 5, 2002 (the Agreement); and

WHEREAS, the design scope included roadway, drainage, landscaping, streetscape, irrigation, water and sewer, electrical, and street lighting improvements with an estimated construction cost of +/- $7.8 million; and

WHEREAS, the Basis of Design Report (BODR) for the Miami Beach Redevelopment Agency funded streetscape, water, and storm water improvements to be implemented through the Project was completed and submitted by WA and was approved by the City Commission on February 4, 2004; and

WHEREAS, after the Agreement was executed by the City and WA it was found that more documents would have to be prepared than originally envisioned in order to convey the necessary information required for the defined scope in the construction documents; WA requested fees, in the amount of $327,887, but the Administration has negotiated a reduced fee of $272,673 for this effort; and

WHEREAS, WA has also requested additional services, in the amount of $92,480, but reduced to $75,180 through negotiation, for other miscellaneous tasks which include additional meetings, coordination of designs with private development in the area, adjustments to the design due to the development of the Cosmopolitan Project, located at Michigan Avenue and 1st Street, additional storm water design and coordination, lighting design and photometric for lights within the alleys, and coordination with sub-consultants and regulatory agencies due to the additional scope and tasks; and

WHEREAS, the City recommends approval of WA's request which is appropriate to the amount of scope and additional tasks to be performed by WA.

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 approve and authorize the Mayor and City Clerk to execute Amendment No. 2 to the Professional Services Agreement with the firm of Wolfberg Alvarez, dated September 25, 2002; said Agreement to provide additional architectural and engineering services required to complete Phase II of the South Pointe Right of Way Improvement Project, in the amount of $272,673, comprised of $197,493 for additional design services, and $75,180 for adjustments to other services; and providing funding for the Amendment from the previously appropriated funds for the Project.

PASSED and **ADOPTED** this ____ day of _____, 2005.

ATTEST:

_____ _____

CITY CLERK **MAYOR**

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 10-12-05 Date

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution appropriating $53,270 Gulf Breeze Loan Pool Interest for the construction of an air conditioned garbage enclosure for the Miami Beach Golf Course Clubhouse Project.

Issue:

Should the City Commission fund $53,270 from Gulf Breeze Loan Pool Interest to provide for the construction of an air conditioned garbage enclosure for the Miami Beach Golf Course Clubhouse Project?

Item Summary/Recommendation:

On September 11, 2002 the Mayor and City Commission approved the award of a contract to TRAN Construction Inc., (TRAN) in the amount of $2,669,000 for the construction of the Miami Beach Golf Course Clubhouse, Maintenance Yard Building, and Restroom Shelters, (The Project).

Substantial Completion for the new Clubhouse Building was achieved on May 26, 2005 and a Temporary Certificate of Occupancy (TCO) was approved by the City of Miami Beach Building Department on May 25, 2005. As part of the permit close-out process it was discovered that the Project requires, unless waived, an enclosed, sprinklered, and air conditioned garbage room per City Code, 90-98(g):"Location of Garbage Facilities and Garbage Storage Rooms." The Clubhouse was built per the originally approved and permitted plans with a non-air conditioned garbage storage facility. According to the City Code the definition of a garbage storage facility is "a structure enclosed on the bottom and all sides except the top, which may be open or closed, constructed of solid material and having sufficient capacity to hold all garbage facilities required for a particular establishment." The Clubhouse building contains a garbage storage facility which is enclosed with 5-foot high concrete masonry unit walls on three sides with a poured concrete bottom, opened on the top, and contains a floor drain. It holds a 6 yard garbage container.

Section 90-98(g) of the Miami Beach City Code states:" All new restaurants and all restaurants undergoing substantial rehabilitation or construction of an addition or additions shall have air conditioned garbage rooms approved by the planning, design and historic preservation division and building services department...." A Final Certificate of Occupancy without an air conditioned garbage enclosure cannot be obtained unless the requirement is waived. The City Code does contain other Sections which allow for facilities not to have air conditioned enclosures depending on the City's interpretation of the occupancy of the building. If the occupancy is interpreted as Commercial use rather than as Restaurant use the enclosure would not be needed. The City Code also contains a provision granting authority to the City Manager to promulgate regulations to enforce and administer Article III Section 90 of the Code provided the administration of regulations is approved by the City Commission. Under Paragraph 90-71 therefore, the City Commission has the authority to allow the City Manager to manage this matter administratively and to direct the City Manager to allow the enclosure as constructed and to not require that an air conditioned enclosure be now provided. The Administration recommends that the Commission appropriate $53,270 from Gulf Breeze Loan Pool Interest for the construction of an air conditioned garbage enclosure for the Miami Beach Golf Course Clubhouse Building or alternatively, the City Commission could direct the City Manager to deal with this matter administratively under the provisions of Section 90-71 which would permit retaining the facility as constructed. This amount includes a 15% contingency ($6,630) and a 4.8% CIP ($2,440) fee.

Advisory Board Recommendation:

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1	$53,270	Gulf Breeze Loan Pool Interest	
2			
Total	$53,270		

City Clerk's Office Legislative Tracking:

Graciela Escalante R.A., Senior Capital Projects Coordinator

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JEch	TH	

AGENDA ITEM R7F

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROPRIATING $53,270 FROM GULF BREEZE LOAN POOL INTEREST, FOR THE CONSTRUCTION OF AN AIR CONDITIONED GARBAGE ENCLOSURE FOR THE MIAMI BEACH GOLF COURSE CLUBHOUSE PROJECT.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

Funding is available from Gulf Breeze Loan Pool Interest, in the amount of $53,270.

BACKGROUND

On September 11, 2002 the Mayor and City Commission approved the award of a contract to TRAN Construction Inc., (TRAN) in the amount of $2,669,000 for the construction of the Miami Beach Golf Course Clubhouse, Maintenance Yard Building, and Restroom Shelters, (The Project).

The contractual duration of the project was separated into two independent timelines: one for the clubhouse and restrooms, and another for the maintenance yard building. The City issued a notice to proceed to TRAN for the clubhouse building on January 11, 2003, which established a substantial completion date of October 7, 2003, with a contractual duration of 269 calendar days to achieve substantial completion. A notice to proceed was issued for the maintenance yard building on April 3, 2003, which established a substantial completion date of August 31, 2003, with a contractual duration of 150 calendar days to achieve substantial completion.

During the process of construction several events occurred which caused delays to the completion of the Project. The most significant event was due to the discovery of unsuitable soil for the foundations which was not detected during the geo-technical investigations performed prior to the structural design. The end result of the discovery was that more extensive removal of existing soils and installation of suitable material was necessary in order to complete the structure of the building. Because of this discovery there was a dispute between the City and the contractor which was eventually resolved

through mediation. Other delays were due to Owner requested changes, weather events, normal construction issues, etc.

Substantial Completion for the new Clubhouse Building was achieved on May 26, 2005 and a Temporary Certificate of Occupancy (TCO) was approved by the City of Miami Beach Building Department on May 25, 2005. As part of the permit close-out process it was discovered that the Project requires, unless waived, an enclosed, sprinklered, and air conditioned garbage room per City Code, 90-98(g):"Location of Garbage Facilities and Garbage Storage Rooms."

The Clubhouse was built per the originally approved and permitted plans with a non-air conditioned garbage storage facility. According to the City Code the definition of a garbage storage facility is "a structure enclosed on the bottom and all sides except the top, which may be open or closed, constructed of solid material and having sufficient capacity to hold all garbage facilities required for a particular establishment." The Clubhouse building contains a garbage storage facility which is enclosed with 5-foot high concrete masonry unit walls on three sides with a poured concrete bottom, opened on the top, and contains a floor drain. It holds a 6 yard garbage container.

Section 90-98(g) of the Miami Beach City Code states: "All new restaurants and all restaurants undergoing substantial rehabilitation or construction of an addition or additions shall have air conditioned garbage rooms approved by the planning, design and historic preservation division and building services department as to the location, size and other criteria as required by law or city ordinance." A Final Certificate of Occupancy without an air conditioned garbage enclosure cannot be obtained. The City Code does contain other Sections which allow for facilities not to have air conditioned enclosures depending on the interpretation of the occupancy of the building. If the occupancy is interpreted as Commercial use rather than as Restaurant use, the enclosure would not be needed. The facility's Occupational License includes multiple uses such as retail, restaurant, clubhouse and commercial.

In order to assure that the garbage generated by the Clubhouse facility does not impose a nuisance to the neighboring community, the Parks and Recreation Department has arranged for refuse to be collected every day. The City Code requires a minimum of twice a week to comply.

The City Code also contains a provision granting authority to the City Manager to promulgate regulations to enforce and administer Article III Section 90 of the Code provided the administration of regulations is approved by the City Commission. Under Paragraph 90-71 therefore, the City Commission has the authority to direct the City Manager to allow the enclosure as constructed and to not require that an air conditioned enclosure be now provided. However the recommendation is to build the enclosure required by the Code.

Conclusion

Based on the aforementioned, the Administration requests appropriation of $53,270 from Gulf Breeze Loan Pool Interest. This amount includes a 15% contingency ($6,630) and a 4.8% CIP ($2,440) fee.

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b. Following, per occurrence by same contractor during same fiscal year 200.00

(7) Contractors not reporting timely a stopped service in writing to the city manager or his designee (temporary or permanent) 50.00

(8) Contractor's truck breaking sidewalks, curb and gutters; contractor's truck driving over sidewalks, curbs, and blocking pedestrian traffic or breaking water meter, electric meter or other types or lids on city property, cost of replacement by city plus:

a. First occurrence 100.00

b. Following, per occurrence..... 200.00

(9) Contractors leaving trucks, not servicing accounts, parked within city limits, per day 100.00

(10) Dumpsters not in service and generating a health hazard and dumped on city limits prior to removal, per occurrence 500.00

	Fine for failure to correct in specified time after notice
(11) Dumpsters not returned by contractor to the approved location, per occurrence	50.00
Dumpsters providing shared service to properties with different ownership, per occurrence	200.00

(d) *Violations of section 90-228:*

Failure to remove all garbage, rubbish and trash in contractor's container and placed within immediate area of owner's property line where container is located and, at a minimum, within a radius of ten feet around the container

	Fine for failure to correct in specified time after notice
a. First occurrence	warning
b. Following, per occurrence by same contractor during same fiscal year	50.00

(e) *Payment of city's costs.* In addition to the above-stated fines, violators must also pay any costs incurred by the city in the event the city corrects the violations pursuant to sections 90-36 and 90-37.
(Code 1964, § 14A-33; Ord. No. 98-3137, § 1, 9-23-98)

Secs. 90-41—90-70. Reserved.

ARTICLE III. COLLECTION AND DISPOSAL

DIVISION 1. GENERALLY

Sec. 90-71. City manager rules and regulations.

The city manager is hereby delegated and shall have the full authority of the city commission to promulgate regulations to enforce and administer the provisions of this article provided such regulations are not inconsistent with this article, are in writing, and are approved by the city commission.
(Code 1964, § 14A-21)

Secs. 90-72—90-95. Reserved.

(e) All new commercial buildings and all new multifamily residences exceeding eight units shall provide a garbage storage facility approved by the planning, design and historic preservation division, public works department, and/or building services department as to location, size, and other criteria deemed necessary by law or ordinance.

(f) All buildings that are undergoing substantial rehabilitation, construction of an addition or additions, or are under new construction or undergoing a change of use must provide a garbage storage facility approved by the planning, design and historic preservation division and building services department as to location, size and other criteria as required by law or city ordinance.

(g) All new restaurants and all restaurants undergoing substantial rehabilitation or construction of an addition or additions shall have air conditioned garbage rooms approved by the planning, design and historic preservation division and building services department as to location, size and other criteria as required by law or city ordinance.
(Code 1964, §§ 14A-2, 14A-4)

Sec. 90-99. Condition and inspection of garbage facilities.

All garbage cans and trash containers shall be maintained in good condition and repair. All such receptacles shall be provided with a cover sufficiently tight to deter flies or other insects from having access to the contents of the receptacles. Containers in which wet garbage or trash matter are placed shall be leakproof. All garbage cans and trash containers shall be subject to inspection and approval or condemnation by inspectors appointed by the city manager, and an appeal from such condemnation shall be to the city manager or his appointed designee.
(Code 1964, § 14A-6)

Sec. 90-100. Minimum capacity requirements for various types of uses and occupancies.

(a) It shall be the responsibility of the owner, agent, manager or operator of every premises, structure or building in the city to provide sufficient temporary garbage and trash storage through the use of approved cans, containers or dumpsters.

(b) The garbage containers per site shall not be limited provided each individual property has its own approved number of garbage containers and provided that all garbage is picked up a minimum of twice a week. The city manager has the authority and power to approve the capacity of the containers and the frequency of collection services for each individual property pursuant to the guidelines as set forth below.

(c) The city divides and classifies waste and its handling requirements as follows:

(1) *Residential refuse* is all the garbage, rubbish or trash, or waste generated in any existing dwelling used for a single-family residence, duplex, townhouse, apartment, condominium or multifamily building. The city manager will determine the necessary capacity of containers and frequency of collection service based on the standard of two 30-gallon cans or containers per family in a residence, duplex or townhouse and one 30-gallon can or container per apartment, condominium unit, or cooperative unit.

If an owner uses containers the volume of which is measured in cubic feet or yards, the foregoing requirements shall be computed by assuming that one gallon equals 0.133 cubic foot.

(2) *Commercial refuse* is all solid waste generated by businesses such as stores, restaurants, bars, hotels, motels, markets, schools, churches, hospitals and other institutional buildings. Minimum requirements for capacity of cans or containers and frequency of collection are as follows:

a. Restaurants, stores, office buildings, churches, schools, cafeterias, bars, markets, hotels and motels will have container capacities and frequency of service as approved by the city manager or his designee on an individual basis.

b. The minimum capacity required above may be supplied by providing

RESOLUTION NO._____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROPRIATING FUNDS, IN THE AMOUNT OF $53,270, FROM GULF BREEZE LOAN POOL INTEREST, FOR THE CONSTRUCTION OF AN AIR CONDITIONED GARBAGE ENCLOSURE FOR THE MIAMI BEACH GOLF COURSE CLUBHOUSE PROJECT.

WHEREAS, on September 11, 2002, the Mayor and City Commission approved the award of a contract to TRAN Construction Inc. (TRAN), in the amount of $2,669,000, for the construction of the Miami Beach Golf Course clubhouse, maintenance yard building, and restroom shelters (the Project); and

WHEREAS, the contractual duration of the Project was separated in two independent time lines: one for the clubhouse and restrooms, and another for the maintenance yard building; and

WHEREAS, substantial completion for the new clubhouse building was achieved on May 26, 2005, and a Temporary Certificate of Occupancy (TCO) was approved by the City's Building Department on May 25, 2005; and

WHEREAS, TRAN, is currently working on the punch list items generated by the inspections of various disciplines for the TCO; and

WHEREAS, on July 11, 2005, the requirement of an enclosed, sprinklered, and air conditioned garbage room, per City Code, Section 90-98(g), "Location of Garbage Facilities and Garbage Storage Rooms," was required by the City's Building Department to the TCO punch list, making it a requirement of the Final Certificate of Occupancy; and

WHEREAS, Section 90-98(g) requires that "All new restaurants and all restaurants undergoing substantial rehabilitation or construction of an addition or additions shall have air conditioned garbage rooms approved by the planning, design and historic preservation division and building services department as to the location, size and other criteria as required by law or city ordinance"; and

WHEREAS, the enclosed, air conditioned enclosure must be built in order to obtain a Final Certificate of Occupancy for the Project; and

WHEREAS, TRAN has estimated that this additional work would cost the City an additional amount not to exceed $44,200; and

WHEREAS, a construction contingency of 15% ($6,630) and a 4.8% CIP ($2,440) fee are also required to be allocated for this additional work, for a grand total of $53,270; and

WHEREAS, funding for this additional work is available from Gulf Breeze Loan Pool Interest.

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 appropriate funds, in the amount of $53,270, from Gulf Breeze Loan Pool Interest, for the construction of an air conditioned garbage enclosure for the Miami Beach Golf Course Clubhouse Project.

PASSED and ADOPTED this 19th day of October, 2005.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

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City Attorney 10/14/05 Date

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OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

MURRAY H. DUBBIN
City Attorney

Telephone: (305) 673-7470
Telecopy: (305) 673-7002

COMMISSION MEMORANDUM

TO: **Mayor David Dermer**
Members of the City Commission

DATE: **October 19, 2005**

FROM: **Murray H. Dubbin** MD
City Attorney

SUBJECT: **Appointment of Commissioner Richard Steinberg to the Metropolitan Planning Organization ("MPO")**

Pursuant to the request of Mayor David Dermer, the attached resolution provides for the appointment of Commissioner Richard Steinberg to serve as the City's representative on the Governing Board of the Metropolitan Planning Organization ("MPO"). This appointment is being made as a result of Commissioner's Jose Smith imminent fulfillment of his 8 year term limit on the City Commission.

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Agenda Item R7G
Date 10-19-05

1700 Convention Center Drive -- Fourth Floor -- Miami Bea

c: Lilia
Tim

CITY OF MIAMI BEACH

OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: **JORGE M. GONZALEZ**
CITY MANAGER

FROM: **DAVID DERMER**
MAYOR

DATE: **October 3, 2005**

RE: **October 19, 2005 COMMISSION AGENDA REQUEST**

Please place an item on the October 19, 2005 City Commission Agenda to discuss the appointment of Commissioner Richard Steinberg to the Metropolitan Planning Organization (MPO), as a replacement to Commissioner Jose Smith in light of his term limits on the Commission.

Thank you.

DD/jb

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPOINTING COMMISSIONER RICHARD STEINBERG TO SERVE AS THE CITY REPRESENTATIVE ON THE GOVERNING BOARD OF THE METROPOLITAN PLANNING ORGANIZATION ("MPO").

WHEREAS, Miami Beach City Commissioner Jose Smith, the City Commission appointee/representative on the Governing Board of the Metropolitan Planning Organization ("MPO"), will be fulfilling his 8 year term limit on the City Commission as of November, 2005; and

WHEREAS, it is therefore necessary for the City Commission to appoint a replacement City of Miami Beach elected official to serve on the MPO; and

WHEREAS, Commissioner Richard Steinberg has shown interest in, and has been involved with transportation issues, and would admirably represent the City on the MPO; and

WHEREAS, MPO rules require a Resolution of the governing body of any municipality that wishes to appoint an elected official, other than its Mayor, to the MPO Governing Board.

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 appoint Commissioner Richard Steinberg to serve as the City representative on the Governing Board of the Metropolitan Planning Organization.

PASSED and **ADOPTED** this 19th day of October, 2005.

ATTEST:

_____
MAYOR

_____
CITY CLERK

(Requested by Mayor David Dermer)
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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney Date 10/4/05

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

City Manager authority during the period of October 19, 2005 through December 7, 2005.

Issue:

Shall the City Commission authorize the City Manager, or his designee, with authority to select, negotiate, renew, award and reject all bids, contracts, agreements, purchase orders, change orders and grant applications during the period of October 19, 2005 through December 7, 2005?

Item Summary/Recommendation:

Between the last meeting on October 19, 2005, and the first regularly scheduled meeting on December 7, 2005, the City Commission will not be in session. During this period there may be bids or contracts in excess of the $25,000, which may need to be rejected, awarded or terminated.

Based on the above, it is requested, that the City Manager, or his designee, be authorized to sign all contracts, agreements, purchase orders, change orders, and grant applications; renew any existing contracts, for an appropriate period of time; terminate existing contracts, as needed, from the last Commission meeting on October 19, 2005, until the first regularly scheduled Commission meeting on December 7, 2005, subject to ratification by the City Commission at its first regularly scheduled meeting on December 7, 2005, it is recommended that the Commission adopt this Resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:

Finance Dept.

	Amount	Account	Approved
1			
2			
3			
4			
Total			

City Clerk's Office Legislative Tracking:

Gus Lopez, ext. 6641

Sign-Offs:

Department Director	Assistant City Manager	City Manager
GL	PDW	JMG

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AGENDA ITEM R7H

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SELECT, NEGOTIATE, AWARD AND REJECT ALL BIDS, CONTRACTS, AGREEMENTS, PURCHASE ORDERS, CHANGE ORDERS AND GRANT APPLICATIONS; RENEW EXISTING CONTRACTS WHICH MAY EXPIRE; AND TERMINATE EXISTING CONTRACTS, AS NEEDED, FROM THE LAST COMMISSION MEETING ON OCTOBER 19, 2005, UNTIL THE FIRST REGULARLY SCHEDULED COMMISSION MEETING ON DECEMBER 7, 2005, SUBJECT TO RATIFICATION BY THE CITY COMMISSION AT ITS FIRST REGULARLY SCHEDULED MEETING ON DECEMBER 7, 2005.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

BACKGROUND

Between the last meeting on October 19, 2005, and the first regularly scheduled meeting on December 7, 2005, the City Commission will not be in session. During this period there may be bids or contracts in excess of the $25,000, which may need to be rejected, awarded or terminated.

Based on the above, it is requested, that the City Manager, or his designee, be authorized to sign all contracts, agreements, purchase orders, change orders, and grant applications; renew any existing contracts, for an appropriate period of time; terminate existing contracts, as needed, from the last Commission meeting on October 19, 2005, until the first regularly scheduled Commission meeting on December 7, 2005, subject to ratification by the City Commission at its first regularly scheduled meeting on December 7, 2005.

Since this authorization is necessary to ensure that essential services and projects continue during the period between the last Commission meeting on October 19, 2005, until the first regularly scheduled Commission meeting on December 7, 2005, it is recommended that the City Commission adopt this Resolution.

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RESOLUTION TO BE SUBMITTED

CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

A Resolution appropriating $80,696 from the FY 2005/06 General Fund Operating Contingency to fund the design and construction of an HVAC system for the exterior restroom building at the Scott Rakow Youth Center.

Issue:

Shall the City Commission fund $80,696 from the General Fund Operations Contingency to provide for the design and construction of an HVAC system at the restroom building at the Scott Rakow Youth Center ?

Item Summary/Recommendation:

The Scott Rakow Youth Center Improvements Project was initiated by the Mayor and City Commission in 1994 and was a part of the original $15 million Parks Bond issue. The original scope called for the expansion and renovation of the ice rink and other improvements to the center. On June 19, 1996, the Mayor and City Commission approved the Master Plan for the improvements to the City's Parks and Recreation facilities of which the Scott Rakow Youth Center (Project) was a component. An Agreement with the firm of Carr Smith Corradino (Corradino) was executed on July 16, 1996 for design, bidding and construction administration for the Project.

Notice to proceed was given to International Builders of Latin America (IBLA) on April 9, 2001, construction began on April 24, 2001 and IBLA was certified in default of the contract in July 21, 2003. On October 10, 2003, the permit was changed to F&L Construction who was tasked to complete Phase I and achieve a TCO for the project. On January 9, 2004 a TCO was achieved on the project. CIP is working on achieving a Certificate of Occupancy for Phase I.

The addition of air conditioning and a new water heater to the existing exterior restrooms was not contemplated in the initial Ice Rink project. Currently, the funding for the Project has been exhausted and it is estimated that a budget of $80,696 is required to be allocated in order to fund the additional scope which includes the design and construction of an HVAC system and a gas tank-less water heater for the restroom building. It is estimated that the design and construction will cost $70,000. A construction contingency of $7,000 and CIP fee of $3,696 are required to be allocated to the project.

The Administration recommends that the City Commission fund $80,696 from the General Fund Operations Contingency to provide for the design and construction of an HVAC system at the restroom building at the Scott Rakow Youth Center.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:

	Amount	Account	Approved
1	$80,696	FY 2005/06 General Fund Operating Contingency	
2			
3			
4			
Total	$80,696		

Finance Dept.

City Clerk's Office Legislative Tracking:

Graciela Escalante R.A, Senior Capital Projects Coordinator

Sign-Offs:

Department Director	Assistant City Manager	City Manager
JECh	TH	

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AGENDA ITEM R7I

DATE 10-19-05

CITY OF MIAMI BEACH
CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROPRIATING FUNDING, IN THE AMOUNT OF $80,696, FROM THE FY 2005/06 GENERAL FUND OPERATING CONTINGENCY, FOR THE SCOTT RAKOW YOUTH CENTER PROJECT, FOR AN HVAC SYSTEM AND GAS WATER HEATER FOR THE EXTERIOR RESTROOM BUILDING.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution.

FUNDING

Funding is available from FY 2005/06 General Fund Operating Contingency.

ANALYSIS

The Scott Rakow Youth Center Improvement Project was initiated by the Mayor and City Commission in 1994 and was a part of the original $15 million Parks Bond issue. The original scope called for the expansion and renovation of the ice rink and other improvements to the Center. On June 19, 1996, the Mayor and City Commission approved the Master Plan for the improvements to the City's Parks and Recreation facilities of which the Scott Rakow Youth Center (Project) was a component. An Agreement with the firm of Carr Smith Corradino (Corradino) was executed on July 16, 1996 for design, bidding and construction administration for the Project.

Notice to proceed was given to International Builders of Latin America (IBLA) on April 9, 2001, construction began on April 24, 2001 and IBLA was certified in default of the contract in July 21, 2003. On October 10, 2003, the permit was changed to F&L Construction, who was tasked to complete Phase I and achieve a Temporary Certificate of Occupancy (TCO) for the project. On January 9, 2004 a TCO was achieved on the project. CIP is working on achieving a Certificate of Occupancy for Phase I.

The new exterior restroom building was designed and constructed without an HVAC system. In addition, the existing water heater does not have the capacity to heat the volume of hot water necessitated by the users. The Parks and Recreation Department requested that these issues be addressed as quickly as possible for the convenience of the

users. CIP has requested that F&L Construction, a Job Order Contractor (JOC), design and construct a new HVAC system and a tank-less gas water heater for the restroom building. F&L Construction has estimated that this would cost the City $70,000 to complete.

The addition of air conditioning and a new water heater to the existing exterior restrooms was not contemplated in the initial Ice Rink project. Currently, the funding has been exhausted and it is estimated that a budget of $80,696 is required to be allocated in order to fund the additional scope which includes the design and construction of an HVAC system and provide a gas tank-less water heater for the restroom building. It is estimated that the design and construction will cost $70,000. A construction contingency of $7,000 and CIP fee of $3,696 are required to be allocated to the project.

CONCLUSION

Based on the aforementioned, the Administration recommends appropriating $80,696 from the FY 2005/06 General Fund Operating Contingency to install an HVAC and gas water heater at the Scott Rakow Youth Center exterior restrooms.

JMG/TH/JCH/gme
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RESOLUTION TO BE SUBMITTED

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

Accept the City Manager's Recommendation Relative to the Ranking of Firms for the Historic Preservation, Restoration and/or Rehabilitation of the Little Stage Theater, Carl Fisher Clubhouse, and Demolition of the 21st Street Bandshell.

Issue:

Shall the City Commission approve the City Manager's recommendation?

Item Summary/Recommendation:

On May 24, 2005 the Finance and Citywide Projects Committee recommended in favor of reprogramming funding that would otherwise be needed to retrofit the Rotunda into a public space to restore and renovate the Little Stage Theater Complex and proceed with issuance of an RFQ for an Architect/Engineer to begin project planning. RFQ No. 26-04/05 was issued on June 28, 2005 with an opening date of August 12, 2005. A pre-proposal conference to provide information to firms considering submitting a response was held on July 20, 2005. BidNet issued bid notices to 105 prospective proposers, resulting in 33 proposers requesting RFQ packages, which resulted in the receipt of the following five (5) proposals from the following firms:

- Glavovic Studio Inc.
- Gurri Matute, PA Architecture Interiors
- Indigo Service Corporation
- Heisenbottle Architects
- TSAO Design Group

On On October 3, 2005, the Evaluation Committee convened. All five (5) firms who provided response to this RFQ provided presentations to the Evaluation Committee. After the each of the firms' presentations, the Committee members discussed at length their individual perceptions of the proposal qualifications, experience, and competence of the firms and then ranked the firms accordingly:

- First: R.J. Heisenbottle Architects
- Second: Glavovic Studio Inc.
- Third: Gurri Matute, P.A.

The City Manager was briefed on the Committee's recommendation, and exercised his due diligence by reviewing the proposals submitted by R.J. Heisenbottle Architects and Glavovic Studio Inc., as well as copies of their respective presentations, reference checks conducted by the Procurement Division, and feedback from the CIP office relative to City projects. The selection of the most qualified Architectural and Engineering firm is governed by the Consultants' Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes, and the City Manager must also consider the volume of work previously awarded by the City, to ensure an equitable distribution of City projects. Inasmuch as Glavovic Studios, Inc. has previously been awarded only a small value City contract, as part of the City's rotating consultants program, for the planning of a Skate Park in the vicinity of the project subject to RFQ No. 26-04/05, it would be more consistent and efficient to select them as the firm for the Little Stage Theater, Carl Fisher Clubhouse, and Demolition of the 21st Street Bandshell Project. Previously R.J. Heinsenbottle Architects was awarded a contract of $5.8 million in construction value with $406,000 in service fees for the Colony Theater Project. The City has had performance concerns with the firm of Heisenbottle on the Colony Project regarding document quality and completion, compliance with building codes, and timeliness. Considering these concerns and with consistency and equitable distribution of project loads in mind, the City Manager is recommending Glavovic Studios, Inc. as the top ranked firm and R.J. Heinsenbottle Architects the second ranked firm.

Advisory Board Recommendation:

Financial Information:

Source of Funds:		Amount	Account	Approved
	1			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Gus Lopez

Sign-Offs:

Department Director	Assistant City Manager	For City Manager
GL_____ JC_____	TH_____	JMG_____

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AGENDA ITEM R7J

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF QUALIFICATIONS RECEIVED PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 26-04/05, FOR ARCHITECTURAL, ENGINEERING, URBAN DESIGN, AND LANDSCAPE ARCHITECTURE SERVICES FOR THE PLANNING, DESIGN, BID AND AWARD, AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE HISTORIC PRESERVATION, RESTORATION AND/OR REHABILITATION OF THE LITTLE STAGE THEATER, CARL FISHER CLUBHOUSE, AND DEMOLITION OF THE 21ST STREET BANDSHELL PROJECT (LITTLE STAGE THEATER COMPLEX), AND POTENTIAL RECREATION IMPROVEMENTS ADJACENT TO AND/OR PART OF THE SITE; AND AUTHORIZE THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE FIRM OF GLAVOVIC STUDIO, INC.; AND SHOULD THE ADMINISTRATION NOT BE ABLE TO NEGOTIATE AN AGREEMENT WITH GLAVOVIC STUDIO, INC., AUTHORIZE THE ADMINISTRATION TO NEGOTIATE WITH THE FIRM OF R.J. HEISENBOTTLE ARCHITECTS; AND SHOULD THE ADMINISTRATION NOT BE ABLE TO NEGOTIATE AN AGREEMENT WITH R.J. HEISENBOTTLE ARCHITECTS, AUTHORIZE THE ADMINISTRATION TO NEGOTIATE WITH THE FIRM OF GURRI MATUTE, P.A.**

ADMINISTRATIVE RECOMMENDATION

Adopt the Resolution.

ANALYSIS

On July 28, 2004, the City Commission approved Resolution No. 2004-25652 awarding a professional service agreement to a Consultant for planning, design, bid/award and construction administration for the Collins Park Cultural Center Project. This project includes renovation of the existing park, the Rotunda, 21st Street Parking Lot, and Streetscape improvements.

On October 15, 2004 and November 12, 2004, the Collins Park Cultural Center Oversight Committee (CPCCOC) discussed the City's capital improvement of the Rotunda and the Little Stage Theater Complex, inclusive of the Little Stage Theater, the Carl Fisher

Clubhouse, and the 21st Street Bandshell. As the area around the Rotunda already consists of three major cultural facilities (Collins Park) which contain ample performance spaces, the discussion focused on investing the funds set aside for the Rotunda renovation into another public space in that area; more specifically the Little Stage Theater and the restoration of the Carl Fisher Clubhouse to better serve its current and future users. Furthermore, the CPCCOC adopted a resolution recommending that the Administration look at the Rotunda as an art piece and not develop it into an arts performance space, in exchange for developing the Little Stage Theater Complex.

During the April 21, 2005 Community Design Workshop for the Collins Park Project, consensus was reached on a design concept that calls for exterior restoration of the Rotunda only, and the project is now moving forward with a Basis of Design Report.

On May 24, 2005 the Finance and Citywide Projects Committee recommended in favor of reprogramming funding that would otherwise be needed to retrofit the Rotunda into a public space to restore and renovate the Little Stage Theater Complex and proceed with issuance of an RFQ for an Architect/Engineer to begin project planning. It is also recommended that the RFQ be broad enough to include potential future recreation improvements, such as a skate plaza, should it be decided to incorporate such a facility, or other recreational facility, at a future date.

The project includes restoration and upgrades to the Little Stage Theater and Carl Fisher Clubhouse including; HVAC, fire sprinkler system, ADA, windows and doors, flooring, electrical service, lighting, furniture, fixtures and equipment (FF&E), the demolition of the bandshell and a portion of the outdoor plaza (mandala), reconfiguration of the walkways, areas adjacent to the bandshell, and restoration of the site to accommodate vehicular and pedestrian circulation routes.

The Project site has been designated a Historic Site pursuant to Ordinance 90-2698. As such, restoration of the work being planned should be sensitive to its historic uses, location and context. Both vehicular and pedestrian circulation should be incorporated into the restoration of the site, to provide the much needed parking for the facilities. The planning phase should also be cognizant of the reconfiguration planned for Washington Avenue as part of the City Center Redevelopment Area Right of Way Improvements Project, as it relates to the historic location of the entrance and parking area.

RFQ No. 26-04/05 was issued on June 28, 2005 with an opening date of August 12, 2005. A pre-proposal conference to provide information to firms considering submitting a response was held on July 20, 2005. BidNet issued notices to 105 prospective proposers, resulting in 33 proposers requesting RFQ packages, which resulted in the receipt of five (5) proposals from the following firms:

- Glavovic Studio Inc.
- Gurri Matute, PA Architecture Interiors
- Indigo Service Corporation

- R.J. Heisenbottle Architects
- TSAO Design Group

The City Manager via Letter to Commission (LTC) No. 224-2005, appointed an Evaluation Committee ("the Committee") consisting of the following individuals:

- Carla Dixon, City of Miami Beach, Capital Projects Coordinator (Committee Chair)
- Ada Llerandi, Cultural Arts Council Chairperson; Resident
- Ray Breslin, President, Collins Park Neighborhood Association; Resident
- Max Sklar, City of Miami Beach, Tourism and Cultural Development Director
- Eric Fliss, City of Miami Beach, Cultural Facilities Manager
- Keith Mizell, City of Miami Beach, Capital Projects Coordinator
- William Cary, City of Miami Beach, Assistant Director, Planning Department

On October 3, 2005, the Committee convened. The Committee was provided with information in reference to the project by Carla Dixon, City of Miami Beach, Capital Projects Coordinator (Committee Chair), and a representative from the Procurement staff. Additionally, the Committee reviewed references secured by the Procurement staff, and discussed the following RFQ evaluation criteria as per the State of Florida CCNA, which was used to evaluate and rank the respondents:

1. The experience, qualifications and (portfolio) of the Principal Firm; (15 points).
2. The experience, qualifications and (portfolio) of the Project Manager; (20 points)
3. The experience and qualifications of the professional personnel assigned to the Project Team; (10 points).
4. Willingness to meet time and budget requirements as demonstrated by past performance; (5 points)
5. Certified minority business enterprise participation; (5 points).
6. Location; (5 points).
7. Recent, current, and projected workloads of the firms; (5 points).
8. The volume of work previously awarded to each firm by the City; (5 points).
9. Demonstrated successful similar projects; (15 points).
10. Demonstrated success in leading active collaborative stakeholder processes to achieve consensus on program and design in similar size and scope projects based on budget and size (15 points).\

All five (5) firms who provided response to this RFQ also provided presentations to the Evaluation Committee. After each of the firms' presentations, the Committee members discussed at length their individual perceptions of the firms' qualifications, experience, and competence, and ranked the firms accordingly:

Company Name	Carla Dixon (Chair)	Ada Llerandi	Ray Breslin	Max Sklar	Eric Fliss	Keith Mizell	William Cary
Glavovic Studio Inc. (2)	86 (2)	80 (2)	72 (3)	81 (2)	92 (1)	74 (2)	97 (1)
Gurri Matute, PA (3)	82 (3)	85 (1)	87 (2)	76 (3)	83 (3)	65 (3)	93 (3)
Indigo Service Corporation (4)	68 (4)	72 (3)	65 (4)	60 (5)	68 (5)	60 (4)	61 (5)
R.J. Heisenbottle Architects (1)	91 (1)	80 (2)	88 (1)	83 (1)	90 (2)	75 (1)	96 (2)
TSAO Design Group (5)	66 (5)	69 (4)	43 (5)	66 (4)	72 (4)	56 (5)	66 (4)

LEGEND:

R.J. Heisenbottle Architects - 4-1st place votes = 4x1=4
3-2nd place vote = 3x2=6
TOTAL = 10 = Ranked 1st

Glavovic Studio Inc. - 2-1st place vote = 2x1=2
4-2nd place votes = 4x2=8
1-3rd place vote = 1x3=3
TOTAL = 13 = Ranked 2nd

Gurri Matute, P.A. - 1-1st place vote = 1x1=1
1-2nd place votes = 1x2=2
5-3rd place vote = 5x3=15
TOTAL = 18 =Ranked 3rd

The City Manager was briefed on the Committee's recommendation, and exercised his due diligence by reviewing the proposals submitted by R.J. Heisenbottle Architects and Glavovic Studio Inc., as well as copies of their respective presentations, reference checks conducted by the Procurement Division, and feedback from the CIP office relative to City projects, and determined that Glavovic Studios, Inc. should be recommended as the top-ranked firm, and R.J. Heinsenbottle Architects the second ranked firm.

Since the selection of the most qualified Architectural and Engineering firm is governed by the Consultants' Competitive Negotiation Act (CCNA), Section 287.055, Florida Statutes, the City Manager must also consider the volume of work previously awarded by the City, to ensure an equitable distribution of City projects. Inasmuch as Glavovic Studios, Inc. has previously been awarded only a small value City contract, as part of the City's rotating consultants program, for the planning of a Skate Park in the vicinity of the project subject to RFQ No. 26-04/05, it would be more consistent and efficient to select them as the firm for the Little Stage Theater, Carl Fisher Clubhouse, and Demolition of the 21st Street

Bandshell Project. Previously R.J. Heinsenbottle Architects was awarded a contract of $5.8 million in construction value with $406,000 in service fees for the Colony Theater Project. The City has had performance concerns with the firm of Heisenbottle on the Colony Project regarding document quality and completion, compliance with building codes, and timeliness. Considering these concerns and with consistency and equitable distribution of project loads in mind, the City Manager is recommending Glavovic Studios, Inc. as the top ranked firm.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the attached resolution which requests to accept the City Manager's recommendation of the ranking of firms pursuant Request for Qualifications (RFQ) No. 26-04/05 for Architectural, Engineering, Urban Design, and Landscape Architecture Services for the Planning, Design, Bid and Award, and Construction Administration Services for the Historic Preservation, Restoration and/or Rehabilitation of the Little Stage Theater, Carl Fisher Clubhouse, and Demolition of the 21st Street Bandshell Project (Little Stage Theater Complex), and Potential Recreation Improvements Adjacent to and/or part of the site; and authorize the Administration to enter into negotiations with the top-ranked firm of Glavovic Studio Inc.; and should the Administration not be able to negotiate an agreement with the top ranked firm, authorizing the Administration to negotiate with second-ranked firm of R.J. Heisenbottle Architects; and should the Administration not be able to negotiate an agreement with the second ranked firm, authorizing the Administration to negotiate with third-ranked firm of Gurri Matute, P.A.

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE CITY MANAGER PERTAINING TO THE RANKING OF QUALIFICATIONS RECEIVED PURSUANT TO REQUEST FOR QUALIFICATIONS (RFQ) NO. 26-04/05, FOR ARCHITECTURAL, ENGINEERING, URBAN DESIGN, AND LANDSCAPE ARCHITECTURE SERVICES FOR THE PLANNING, DESIGN, BID AND AWARD, AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE HISTORIC PRESERVATION, RESTORATION AND/OR REHABILITATION OF THE LITTLE STAGE THEATER, CARL FISHER CLUBHOUSE, AND DEMOLITION OF THE 21ST STREET BANDSHELL PROJECT (LITTLE STAGE THEATER COMPLEX), AND POTENTIAL RECREATION IMPROVEMENTS ADJACENT TO AND/OR PART OF THE SITE; AND AUTHORIZE THE ADMINISTRATION TO ENTER INTO NEGOTIATIONS WITH THE FIRM OF GLAVOVIC STUDIO, INC.; AND SHOULD THE ADMINISTRATION NOT BE ABLE TO NEGOTIATE AN AGREEMENT WITH GLAVOVIC STUDIO, INC., AUTHORIZE THE ADMINISTRATION TO NEGOTIATE WITH THE FIRM OF R.J. HEISENBOTTLE ARCHITECTS; AND SHOULD THE ADMINISTRATION NOT BE ABLE TO NEGOTIATE AN AGREEMENT WITH R.J. HEISENBOTTLE ARCHITECTS, AUTHORIZE THE ADMINISTRATION TO NEGOTIATE WITH THE FIRM OF GURRI MATUTE, P.A.

WHEREAS, on July 28, 2004, the City Commission approved Resolution No. 2004-25652, awarding a professional service agreement to MC Harry Associates for planning, design, bid/award and construction administration for the Collins Park Cultural Center Project, pursuant to Request for Qualifications (RFQ) No. 02-03/04; and

WHEREAS, the work for RFQ No. 02-03/04 entailed renovation of Collins Park, the Rotunda, 21st Street Parking Lot, and streetscape improvements; and

WHEREAS, on October 15, 2004 and November 12, 2004, the Collins Park Cultural Center Oversight Committee (CPCCOC) discussed the City's capital

improvement of the Rotunda and the Little Stage Theater Complex (inclusive of the Little Stage Theater), the Carl Fisher Clubhouse, and the 21st Street Bandshell; and

WHEREAS, as the area around the Rotunda already consists of three major cultural facilities (Collins Park Cultural Campus) which contain ample performance spaces, the discussion focused on investing the funds set aside for the Rotunda renovation into another public space in that area; more specifically, the Little Stage Theater and the restoration of the Carl Fisher Clubhouse; and

WHEREAS, RFQ No. 26-04/05 for the Historic Preservation, Restoration and/or Rehabilitation of the Little Stage Theater, Carl Fisher Clubhouse, and Demolition of the 21st Street Bandshell was issued on June 28, 2005 with an opening date of August 12, 2005; and

WHEREAS, five (5) proposals were received in response to the RFQ, by the following firms:

- Glavovic Studio Inc.
- Gurri Matute, PA Architecture Interiors
- Indigo Service Corporation
- R.J. Heisenbottle Architects
- TSAO Design Group; and

WHEREAS, an Evaluation Committee (the Committee) was appointed by the City Manager via Letter to Commission No. 224-2005, consisting of the following individuals:

- Carla Dixon, City of Miami Beach, Capital Projects Coordinator (Committee Chair)
- Ada Llerandi, Cultural Arts Council Chairperson; Resident
- Ray Breslin, President, Collins Park Neighborhood Association; Resident
- Max Sklar, City of Miami Beach, Tourism and Cultural Development Director
- Eric Fliss, City of Miami Beach, Cultural Facilities Manager
- Keith Mizell, City of Miami Beach, Capital Projects Coordinator
- William Cary, City of Miami Beach, Assistant Director, Planning Department; and

WHEREAS, on October 3, 2005, the Committee convened, discussed the qualifications and credentials of, and heard oral presentations from, the five (5) responsive firms; and

WHEREAS, the Committee ranked the firms as follows:

- R.J. Heinsebottle Architects received four first-place votes and was ranked first;
- Glavovic Studio Inc. received two first-place votes and was ranked second;
- Gurri Matute, P.A. received one-first-place vote and was ranked third; and

WHEREAS, the City Manager was briefed on the Committee's recommendation, and exercised his due diligence by reviewing the proposals submitted by R.J. Heisenbottle Architects and Glavovic Studio Inc., as well as copies of their respective presentations, reference checks conducted by the Procurement Division, and feedback from the CIP Office; and

WHEREAS, the City has had performance concerns with the firm of R. J. Heisenbottle Architects on the Colony Theater Project regarding document quality and completion, compliance with building codes, and timeliness; and

WHEREAS, considering these concerns, the City Manager is recommending Glavovic Studios, Inc. as the top ranked firm, and R. J. Heisenbottle Architects as the second ranked firm, pursuant RFQ. No. 26-04/05.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of the City Manager pertaining to the ranking of qualifications received pursuant to Request for Qualifications (RFQ) No. 26-04/05, for Architectural, Engineering, Urban Design, and Landscape Architecture Services for the Planning, Design, Bid and Award, and Construction Administration Services for the Historic Preservation, Restoration and/or Rehabilitation of the Little Stage Theater, Carl Fisher Clubhouse, and Demolition of the 21st Street Bandshell Project (Little Stage Theater Complex), and Potential Recreation Improvements Adjacent to and/or part of the site; and authorize the Administration to enter into negotiations with the firm of Glavovic Studio, Inc.; and should the Administration not be able to negotiate an agreement with Glavovic Studio, Inc., authorize the Administration to negotiate with the firm of R.J. Heisenbottle Architects; and should the

Administration not be able to negotiate an agreement with R.J. Heisenbottle Architects, authorize the Administration to negotiate with the firm of Gurri Matute, P.A.

PASSED AND ADOPTED this the _____ day of _____, 2005.

_____
MAYOR

ATTEST:

_____
CITY CLERK

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 10-14-05
Date

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CITY OF MIAMI BEACH
COMMISSION ITEM SUMMARY

Condensed Title:

Resolution Approving and Authorizing the Mayor and City Clerk to Execute a Concession Agreement by and between the City and Brother's Vending, Inc. for the operation of Vending Machine Concessions at various locations on City-owned Properties, for a term of Two (2) Years, with Three (3) One-Year Renewal Options, each at the City's Sole Discretion, and Subject to a Thirty (30) Day Termination for Convenience Provision, at the City's Sole Discretion.

Issue:

Shall the Commission Adopt the Resolution?

Item Summary/Recommendation:

On February 23, 2005, the Mayor and City Commission authorized the Administration to issue Request for Proposals No. 09/04-05 to solicit proposals for the operation of vending machine concessions at various locations on City-owned properties and facilities (the RFP).

On February 23, 2005, said RFP was issued, responses were received and evaluated, and recommendations were forwarded to the Mayor and City Commission.

On July 27, 2005, the Mayor and City Commission adopted Resolution No. 2005-25966, authorizing the Administration to enter into negotiations with Brother's Vending, Inc. (Concessionaire), as the successful proposer, for the operation of said vending machine concessions.

The Administration has successfully negotiated the foregoing Concession Agreement with Brother's Vending, Inc., for an initial two (2) year term, said Agreement commencing on November 1, 2005, and expiring on October 31, 2007, with three (3) additional one year renewal options, each at the City's sole discretion, and subject to a thirty (30) day termination for convenience provision, at the City's sole discretion.

The current vending machine contract generates annual revenues to the City of approximately $20,000. The proposed Agreement provides a minimum annual guarantee of $38,400, or 20% of gross receipts, whichever is greater, representing an approximate 100% increase in annual revenue to the City, over and above the current contract.

The Administration recommends adoption of the Resolution.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account	Approved
	1	$0.00	No charge to the City. Vendor will pay fees to the City.	
	2			
Finance Dept.	Total			

City Clerk's Office Legislative Tracking:

Joe Damien, ext. 6727

Sign-Offs:

Department Director	Assistant City Manager/CFO	City Manager
JD	RCM	JMG

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AGENDA ITEM R7K

DATE 10-19-05

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

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 A CONCESSION AGREEMENT BY AND BETWEEN THE CITY AND BROTHER'S VENDING, INC. FOR THE OPERATION OF VENDING MACHINE CONCESSIONS AT VARIOUS LOCATIONS ON CITY-OWNED PROPERTIES, FOR A TERM OF TWO (2) YEARS, WITH THREE (3) ONE-YEAR RENEWAL OPTIONS, EACH AT THE CITY'S SOLE DISCRETION, AND SUBJECT TO A THIRTY (30) DAY TERMINATION FOR CONVENIENCE PROVISION, AT THE CITY'S SOLE DISCRETION**

ADMINISTRATIVE RECOMMENDATION
Adopt the Resolution.

ANALYSIS
On February 23, 2005, the Mayor and City Commission authorized the Administration to issue Request for Proposals No. 09/04-05 to solicit proposals for the operation of vending machine concessions at various locations on City-owned properties and facilities (the RFP). On February 23, 2005, said RFP was issued, responses were received and evaluated, and recommendations were forwarded to the Mayor and City Commission. On July 27, 2005, the Mayor and City Commission adopted Resolution No. 2005-25966, authorizing the Administration to enter into negotiations with Brother's Vending, Inc. (Concessionaire), as the successful proposer, for the operation of said vending machine concessions.

The Administration has successfully negotiated a Concession Agreement with Brother's Vending, Inc., a brief summary of the salient provisions of which are outlined below:

Term:

Initial Term: two (2) years, commencing November 1, 2005, and expiring on October 31, 2007, and three (3) additional one (1) year renewal options, each at the City's sole discretion.

Termination for Convenience: The Agreement further provides the City with a thirty (30) day termination for convenience provision that may be exercised, at its sole discretion, during any term.

Financial Remuneration:

Minimum Guarantee: Upon execution of the Agreement, and on November 1st of any subsequent contract year, Concessionaire shall pay to the City an annual minimum guaranteed amount of thirty eight thousand four hundred dollars ($38,400), plus applicable sales and use taxes.

Annual Increases: Commencing with the second contract year, said Minimum Guarantee shall be automatically increased annually, by a percentage equivalent to the annual increase in the Consumer Price Index.

Percentage of Gross: In the event that the amount equal to twenty percent (20%) of Concessionaire's annual Gross Receipts (Percentage of Gross) exceeds the Minimum Guarantee, then Concessionaire shall also pay to the City the difference between the amount of the Percentage of Gross and the Minimum Guaranteed amount.

Initial Contract Year Bonus: Concessionaire shall pay to the City a one-time "Bonus" in the amount of Three Thousand ($3,000) Dollars upon execution of this agreement.

Non-Cash Remuneration: In additional to the aforementioned remuneration, Concessionaire shall also provide the City with products, and/or services (which may include, but not be limited to use of food trailers and vehicles, truck-back advertising, etc.), with a verifiable cumulative retail value of no less that sixty-eight thousand dollars ($68,000.00). Determination of type of products and/or services to be included will be at the sole discretion of the City.

Comparison to Current Vending Machine Contract: Finance Department records indicate that, on average, the currently existing vending machine contract generates annual revenues to the City of approximately $20,000. The proposed Concession Agreement provides for a minimum annual guaranteed amount of $38,400, or 20% of gross receipts, whichever is greater, representing an approximate 100% increase in annual revenue to the City, over and above the current contract.

Utilities:

City shall provide and maintain electrical service and outlets at all locations where currently existing. Any costs for new electrical service and outlets requested by Concessionaire will be borne by Concessionaire.

Proposed Vending Machine Locations:

Initially proposed vending machine locations were based on the location of existing vending machines (as provided in the existing vending machine contract). Additional locations were considered based on discussions with Brother's Vending, and from information provided by applicable City Department's (e.g. Parks and Recreation, Parking, Property Management, etc.) that have demonstrated a need or desire for vending machines to serve either client and/or employee demand. Based on the current contract, there are approximately sixty (60) vending machines located City-wide. The proposed Concession Agreement would allow for up to 102 vending machines (see Exhibit 2.0 of attached Agreement), subject to City approval.

The Agreement further provides for a greater variety of products to be offered, including healthier alternatives (both in beverage and snack products), that the City may select at its discretion.

The Administration recommends that the Mayor and City Commission approve the attached resolution hereby authorizing the Mayor and City Clerk to execute a Concession Agreement by and between the City and Brother's Vending, Inc. for the operation of vending machine concessions at various locations on City-owned properties, for an initial two (2) year term, and three (3) one-year renewal options, each at the City's sole discretion, with all terms (including the initial term), subject to a thirty (30) day termination for convenience provision at the City's sole discretion.

JMG:RCM:JD:rd

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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 A CONCESSION AGREEMENT BY AND BETWEEN THE CITY AND BROTHER'S VENDING, INC. FOR THE OPERATION OF VENDING MACHINE CONCESSIONS AT VARIOUS LOCATIONS ON CITY-OWNED PROPERTIES, FOR A TERM OF TWO (2) YEARS, WITH THREE (3) ONE-YEAR RENEWAL OPTIONS, EACH AT THE CITY'S SOLE DISCRETION, AND SUBJECT TO A THIRTY (30) DAY TERMINATION FOR CONVENIENCE PROVISION, AT THE CITY'S SOLE DISCRETION

WHEREAS, on February 23, 2005, the Mayor and City Commission authorized the Administration to issue Request for Proposals No. 09/04-05 to solicit proposals for the operation of vending machine concessions at various locations on City-owned properties and facilities (the RFP); and

WHEREAS, on February 23, 2005, said RFP was issued, responses were received and evaluated, and recommendations were forwarded to the Mayor and City Commission; and

WHEREAS, on July 27, 2005, the Mayor and City Commission adopted Resolution No. 2005-25966, authorizing the Administration to enter into negotiations with Brother's Vending, Inc. (Concessionaire), as the successful proposer, for the operation of said vending machine concessions; and

WHEREAS, the Administration has successfully negotiated the foregoing Concession Agreement with Brother's Vending, Inc., for an initial two (2) year term, said Agreement commencing on November 1, 2005, and expiring on October 31, 2007, with three (3) additional one year renewal options, each at the City's sole discretion.

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 authorize the Mayor and City Clerk to execute a Concession Agreement by and between the City and Brother's Vending, Inc. for the operation of vending machine concessions at various locations on City-owned properties, for a term of two (2) years, with three (3) one-year renewal options, each at the City's sole discretion, and subject to a thirty (30) day termination for convenience provision, at the City's sole discretion.

PASSED and ADOPTED this 19th day of October, 2005.

ATTEST:

_____ **CITY CLERK**

_____ **MAYOR**

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 10/5/05 Date

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Concession Agreement for Operation of Vending Machines

by

Brother's Vending, Inc.

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CONCESSION AGREEMENT BY AND BETWEEN CITY OF MIAMI BEACH, FLORIDA AND BROTHER'S VENDING, INC. FOR OPERATION OF VENDING MACHINE CONCESSIONS AT VARIOUS LOCATIONS ON CITY OF MIAMI BEACH PROPERTIES PURSUANT TO REQUEST FOR PROPOSALS NO. 09/04-05

THIS AGREEMENT made the 19th day of October, 2005, between the **CITY OF MIAMI BEACH**, a municipal corporation of the State of Florida (hereinafter called "City"), having its principal address at 1700 Convention Center Drive, Miami Beach, Florida, 33139, and **BROTHER'S VENDING, INC.**, a corporation established pursuant to the laws of the State of Florida, with offices at 1722 NW 2nd Court, Miami, Florida 33169 (hereinafter called "Concessionaire").

WITNESSETH

WHEREAS, on February 23, 2005, the Mayor and City Commission authorized the Administration to issue Request for Proposals No. 09/04-05 to solicit proposals for the operation of vending machine concessions at various locations on City-owned properties and facilities (the RFP); and

WHEREAS, on February 23, 2005, said RFP was issued, responses were received and evaluated, and recommendations were forwarded to the Mayor and City Commission; and

WHEREAS, on July 27, 2005, the Mayor and City Commission adopted Resolution No. 2005-25966, authorizing the Administration to enter into negotiations with Brother's Vending, Inc. (Concessionaire), as the successful proposer, for the operation of said vending machine concessions; and

WHEREAS, the Administration has successfully negotiated the foregoing Concession Agreement with Brother's Vending, Inc., for an initial two (2) year term, said Agreement commencing on November 1, 2005, and expiring on October 31, 2007, with three (3) additional one year renewal options, each at the City's sole discretion.

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, it is agreed by the parties hereto as follows:

The City hereby grants to the Concessionaire, and the Concessionaire hereby accepts from the City, the exclusive right to operate the following described concession within the Concession Locations, as defined herein, in conformance with the purposes and for the period stated herein, and subject to all the terms and conditions herein contained and fairly implied by the terms hereinafter set forth.

SECTION 1. TERM.

1.1 This Agreement shall be for an initial term of two (2) years, commencing on **November 1, 2005** (the "Commencement Date"), and ending on **October 31, 2007**.

1.2 Provided that the Concessionaire is not in default under Section 13 hereof, and at the City's sole discretion, commencing upon written notice from Concessionaire to the City, which notice shall be given no later than ninety (90) days prior to the expiration of the initial term of this Agreement, or prior to the expiration of a renewal term, as the case may be, the City may extend the term of this Agreement upon the same terms and conditions as set forth herein for three (3) additional one year terms, each at the City's sole discretion.

SECTION 2. CONCESSION LOCATIONS.

The City hereby grants to the Concessionaire the exclusive right, during the Term of this Agreement, to operate vending machine concessions, as described herein, in the following locations (hereinafter referred to collectively as the "Concession Locations"), as more specifically delineated in Exhibit 2.0 herein.

SECTION 3. USE(S).

The Concessionaire is hereby authorized to conduct the following kind(s) of business(es) in the Concession Locations, as provided below, all at its sole cost and expense:

3.1 Concessionaire shall install, operate, manage, service and maintain Vending Machines (as defined in Subsection 3.2.1.1) and Change Machines (as defined in Subsection 3.2.2.1), at the aforementioned Concession Locations, which shall provide vending services for patrons, employees, and the general public at City owned properties and facilities throughout the Term of this Agreement, in accordance with the scope of services delineated in Section 3.2.

The City herein approves the use of the Concession Locations, for the placement of the specific Vending Machines, as reflected in Exhibit 2.0, which shall offer for sale the specific products at the specific prices reflected in Exhibit 3.2.5.1.

Any amendment to any Exhibit attached hereto must be approved in writing by the City Manager or his designee prior to implementation of same, and, if approved, a new Exhibit shall be attached and incorporated herein.

3.2 Scope of Services.

3.2.1 Vending Machines.

3.2.1.1 Definition.
Vending Machine shall be defined as any and all equipment that is used to hold and dispense products to be offered for sale as provided pursuant to this Concession Agreement, which shall accept United States paper currency in one dollar ($1.00), two dollar ($2.00) and five dollar ($5.00) denominations and will provide change in United States coins in one dollar ($1.00), quarters ($0.25), dimes ($0.10) and nickels ($0.05).

3.2.1.2 Controls.
Each Vending Machine must be equipped with a non-resetting transaction counter, or other control acceptable to the City, and must be licensed as provided in Subsection 3.2.9, and additionally licensed as may be required by other applicable law as provided in Section 20.1, and shall be equipped with Vend Max software and also include DEX resident capabilities.

3.2.1.3 Condition.
As of the Commencement Date of this Agreement, no less than ninety percent (90%) of all Vending Machines installed and operated pursuant to this Concession Agreement shall be new (i.e. previously unused except for standard industry testing required to ensure proper operation at conclusion of manufacturing process) and the balance (no greater than 10% of all Vending Machines installed or operated) shall be no more than two (2) years old prior to installation. The City, at its sole discretion, may also request vandal proof and weatherproof Vending Machines be provided at certain outdoor City parks and other venues that may be subjected to the natural elements (i.e. wind, rain, sand, salt-air, etc.).Concessionaire shall provide to the City, prior to installation of any Vending Machine, verification in the form of an invoice, or other City approved alternative document, that includes the type of vending machine (i.e. type of product, holding capacity, size of product, if multiple product), serial number (or method acceptable to the City, at its sole discretion, of identifying the individual Vending Machine), and date of manufacture.

3.2.1.4 Design.

The design, type, material, and color and exterior facades of any and all Vending Machines, as defined in Subsection 3.2.1.1, shall be approved in writing by the City prior to the Commencement Date of this Agreement. A photo or photo(s) of City-approved Vending Machines are incorporated herein as Exhibit 3.2.1.4. Thereafter, Concessionaire shall not change, alter, or modify said City-approved design, type, material and color of any Vending Machine without the prior written consent of the City Manager or his designee, and, if so approved, an updated Exhibit 3.2.1.4 will be made a part of and incorporated into this Agreement.

3.2.1.5 Placement.

Placement of Vending Machines shall be in accordance with and shall not exceed the maximum numbers and types, as set forth at the Concession Locations referenced in Exhibit 2.0, attached hereto and incorporated herein.

3.2.1.5.1 Concessionaire shall obtain written approval from the City Manager, or the City Manager's designee, prior to the installation, transfer or removal of any Vending Machine.

3.2.1.5.2 Notwithstanding Subsection 3.2.1.5, City and Concessionaire may, from time to time, meet to review and, subject to the City Manager's prior written consent, revise the maximum numbers set forth in Exhibit 2.0.

3.2.1.6 Quality of Products.

Quality of products offered in Vending Machines will be first-rate and comparable to that available in other world class cities on par with the City of Miami Beach or, at a minimum, to the quality and pricing of goods provided by privately owned businesses selling like goods and services within the City of Miami Beach. No product shall be offered for sale with a "Sale by Date" that has expired.

3.2.1.7 Cleanliness.

In addition to Concessionaire's general maintenance obligations for the Vending Machines and Change Machines, as set forth in Section 3.2.3, and the Concession Locations, as set forth in Section 10 hereof, all portions of the Vending Machines, Change Machines, and Concession Locations, retrospectively, shall at all times be maintained in a clean and sanitary manner.

3.2.1.8 Operation Schedule.
Vending Machines and Change Machines shall be operable during the days and hours of operation set forth in Section 9 herein.

3.2.2 Change Machines.

3.2.2.1 Definition.
Change Machine shall be defined as any and all equipment that is required pursuant to this Concession Agreement that is capable of providing change, primarily for the purposes of use in a Vending Machine, which will accept United States paper currency in one dollar ($1.00), two dollar ($2.00), five dollar ($5.00), and ten dollar ($10.00) denominations and will provide change in United State coins in one dollar ($1.00), quarters ($0.25), dimes ($0.10) and nickels ($0.05).

For purposes of this Subsection, and this Agreement, Vending Machines, as defined herein, that are equipped and capable of providing change (without the requirement that a purchase be made) shall also be considered Change Machines.

3.2.2.2 Placement.
Change Machines shall be provided by Concessionaire at each interior (not subject to the natural elements) Concession Location where two or more Vending Machines are situated.

Concessionaire shall obtain written approval from the City Manager, or the City Manager's designee, prior to the installation, transfer or removal of any Change Machine.

3.2.3 Maintenance of Vending Machine and Change Machines.

3.2.3.1 The condition and quality of Concessionaire's Vending Machines shall at all times be maintained in a manner that is consistent with the condition and quality of similar vending machines in first class Concession Locations located in other world class cities. Accordingly, Concessionaire shall not only, at a minimum, ensure that all Vending Machines placed in the Concession Locations are well maintained and in usable condition, but shall adhere, as indicated in this subsection, to high ongoing maintenance standards for same consistent with the aforementioned condition and quality, as more specifically outlined below.

3.2.3.2 The Concessionaire shall be responsible for all maintenance and repair of Vending machines, including but not limited to:

3.2.3.2.1 Cleaning and polishing of Vending Machines and Change Machines and removal of litter within and surrounding the vending area of the Concession Location(s) created by filling, servicing, and/or maintaining of Vending Machines. The Concessionaire shall insure that each route driver's schedule allows for time to thoroughly and appropriately clean each Vending Machine as it is replenished, maintained and/or serviced. This includes cleaning with a sanitizing solution, the interior and exterior of each machine, each time that machines are re-stocked, serviced, or maintained.

3.2.3.2.2 All Vending Machines and Change Machines shall be checked weekly and accurate records of service calls (including time and date, location, machine type and serial number) are to be maintained, and forwarded to the City, along with the monthly report (see Section 5) that shall be provided to the City within thirty (30) days of the end of each month.

3.2.3.2.3 The Concessionaire shall maintain all Vending Machines and Change Machines in good working order and shall repair or replace any equipment that is not immediately repairable, within two (2) business days, if found to be inoperable.

3.2.3.2.4 Concessionaire shall post and maintain Concessionaire's information, including a contact name and Toll Free Customer Service telephone number, immediately adjacent to the coin slot, of a size no less than 4" x 6", on each Vending Machine and Change Machine, to facilitate responding to refunding, re-stocking, maintenance and repair related problems that may arise.

3.2.4 <u>Refund Procedure.</u>

3.2.4.1 In addition to any other remuneration provided herein, Concessionaire shall provide a "Bank" of one hundred dollars ($100.00) in cash to the City, which shall be held by the City Finance Department's City Hall Cashier, who will distribute refunds due to any malfunction of the Vending Machines. An

itemized refund list, including the amounts and names of the persons the funds were refunded to, will be maintained by the City Hall Cashier and will be submitted to the Concessionaire upon requested replenishment of the "Bank" funds by the City.

3.2.4.2 Malfunctions of Vending Machines that are reported to the Concessionaire shall be forwarded to the City, in writing, including the amounts and names of the persons the funds were refunded to, on a monthly basis along with, and at the same time, that all other reporting documents required as provided in this Concession Agreement.

3.2.5 Pricing and Availability of Services.

3.2.5.1 Initial prices for Vending Machine products shall be in accordance with the attached schedule in Exhibit 3.2.5.1. Any subsequent changes proposed by Concessionaire to said prices must be submitted in writing to the City Manager or his designee, and prior written approval must be secured from the City before implementing any changes to same.

3.2.5.1.1 The City Manager or his designee may request services at additional locations and/or request additional products for Vending Machines at any time. The Concessionaire may, at its sole cost and expense, test market these additional locations and/or products for a sixty day (60) period. If the Concessionaire demonstrates to the City Manager or his designee's satisfaction that the commercial demand does not exist for the additional locations and/or products, the Concessionaire will not be obligated to continue the additional locations and/or products.

3.2.5.2 **In the event that the City Manager or his designee determines, at his sole option and discretion, that all or a portion of Concessionaire's proposed uses/services, pursuant to Subsection 3.1 and as delineated in Subsection 3.2, are no longer desired, then the City may revoke Concessionaire's right to provide all or a portion of said uses/services, and terminate all or a portion of the Agreement, without cause, and without liability to the City, upon thirty (30) days written notice to Concessionaire.**

3.2.6 Concessionaire's Supervisory/Management Employee.
No later than the Commencement Date of this Agreement Concessionaire shall designate (and provide notice of same in writing

to the City), a supervisory/management employee who shall be authorized and responsible to act on behalf of Concessionaire with respect to directing, coordinating, and administering all aspects of Concessionaire's operations pursuant to this Agreement.

Concessionaire's supervisory/management employee shall be available via telephone, at all times during which the Vending Machines at all Concession Locations are operating, as provided in Section 9 herein.

3.2.7 Removal of Vending Machines and/or Change Machines.
Concessionaire acknowledges that there may be circumstances under which the City shall require the removal of any or all of the Vending Machines and/or Change Machines. As such, Concessionaire agrees that all its Vending Machines and Change Machines used in the concession operations will be removed from the Concession Locations upon fifteen (15) days written notice to Concessionaire and said removal shall be done in compliance with the applicable section(s) as set forth herein; and without liability to the City.

3.2.8 Hurricane Evacuation Plan.
Concessionaire agrees that upon the issuance of a Hurricane Warning by the Miami-Dade County Office of Emergency Management, it shall ensure that all exterior Vending Machines and any and all other items used in the concession operations shall be secured. Additionally, and notwithstanding the foregoing, Concessionaire agrees that upon receipt of notification from the City, whether in writing or verbally, which may be communicated to Concessionaire via telephone, fax and/or email, all exterior Vending Machines and any and all other items used in the concession operations shall be removed from the Concession Locations and stored at a private, off-site location, within 24 hours of said notification.

Concessionaire's failure to remove Vending Machines and any and all other items used in the concession operations upon notice from the City within the time period provided in this Subsection may, at the City's sole discretion, constitute an automatic default of the Agreement under which the City may, upon written notice to Concessionaire, immediately terminate this Agreement.

3.2.9 City Occupational Licenses.
Concessionaire shall obtain, and maintain current and in good standing throughout the Term of this Agreement, at its sole cost and expense, any occupational licenses required by City law, as amended

from time to time, for its proposed uses, as contemplated in Section 3 of this Agreement. For purposes of this Agreement, Concessionaire shall obtain the applicable "Coin Distributor" and/or "25 Cent and Over Machine" category City occupational licenses.

SECTION 4. CONCESSION FEES.

4.1 Security Deposit.
Intentionally Omitted.

4.2 Minimum Guarantee (MG).
In consideration of the City executing this Agreement and granting the rights provided in this Agreement, commencing on November 1, 2005, and thereafter on November 1st of each year during the Term of the Agreement, the Concessionaire shall pay to the City a Minimum Guaranteed (MG) Annual Concession Fee of Thirty Eight Thousand Four Hundred ($38,400) Dollars, plus applicable Sales and Use Taxes (as provided in Section 4.6 herein); said MG subject to the annual increases in Subsection 4.2.1.

4.2.1 Commencing with the second contract year, said MG shall be automatically increased annually, on the anniversary of the Commencement Date of the Agreement (or November 1st), by the Consumer Price Index (CPI). CPI shall mean that consumer price index established by the Bureau of Labor Statistics of the United States Department of Labor which is entitled "Consumer Price Index, All Urban Consumers, South Region All Items, (1982-84 = 100, CUUR0300SA0)" or in the event said index is no longer provided by said Bureau of Labor Statistics, the index furnished by said Bureau or other agency which is most accurate, completely replaces, and/or is the equivalent of the above referenced index, whichever is greater.

The basis for calculating the CPI increase shall be the Index for the calendar month of August immediately prior to the Commencement Date (Base Month). The Base Month Index shall be compared with the Index for the same calendar month (August) for each subsequent year (comparison month) during the Term hereof, and any increase shall be due and payable to the City on November 1st of each year during the Term of this Agreement.

In the event that there is no increase, or there is a decrease in the CPI, then the MG shall remain as is.

4.2.2 Initial Contract Year Bonus.
Concessionaire agrees, as per Concessionaire's response to the RFP, to pay to the City, an "Initial Year Bonus", in the amount of Three Thousand ($3,000) Dollars, due upon execution of this

Agreement.

4.3 Percentage of Gross Metered Receipts (PGMR) vs. MG.
During the Term of the Agreement, in the event that the amount equal to twenty percent (20%) of Concessionaire's annual Gross Metered Receipts (PGMR) exceeds the Minimum Guarantee (MG) amount provided in Section 4.2 above (as increased annually pursuant to Subsection 4.2.1, then the Concessionaire shall also pay to the City the difference between the amount of the PGMR and the MG amount, no later than December 31, of each year during the Term of this Agreement, including renewal terms.

The term "gross metered receipts" is understood to mean all income registered at each and every Vending Machine, whether collected or accrued, derived by the Concessionaire under the privileges granted by this Agreement. Any amounts that may be due for any Federal, State, or City sales tax, or other tax, governmental imposition, assessment, charge or expense of any kind and required by law to be remitted to the taxing authority, or other governmental authority, shall be the sole responsibility of Concessionaire.

4.4 Non-Cash Remuneration.
During each contract year, in additional to all remuneration due, or which shall be due to the City by Concessionaire in accordance with Subsections 4.1, 4.2, 4.2.1, 4.2.2 and 4.3 and any other applicable section(s) or subsection(s) contained in the Agreement, Concessionaire shall also provide the City with products, and/or services which may include, but not be limited to use of food trailers and vehicles, with a verifiable (based on actual current market value at the time requested) cumulative retail value of no less that Sixty-eight Thousand ($68,000.00) Dollars as more specifically described in part in Exhibit 4.4. Determination of type of products and/or services to be included will be at the sole discretion of the City, and shall be made available to the City on an annual basis effective upon Commencement Date.

4.5 Late Payment.
Any payment which Concessionaire is required to make to City which is not paid on or before the respective date provided for in this Agreement shall be subject to be a penalty of $50.00 per day assessed for late or delinquent payments, along with simple interest accruing to the City at the rate of ten (10%) percent per annum, from the due date of payment until such time as payment is actually received by the City. Payments shall be considered late when paid five (5) days after the due date. Interest shall accrue beginning with the tenth (10th) day following due date.

4.6 Sales and Use Tax.
It is also understood that, if applicable, the required Florida State Sales and Use Tax shall be added to Concessionaire's payments and forwarded to the

City as part of said payments. It is the City's intent that it is to receive all payments due from Concessionaire as net of such Florida State Sales and Use Tax.

SECTION 5. MAINTENANCE AND EXAMINATION OF RECORDS.

Concessionaire shall maintain current, accurate, and complete financial records on an accrual basis of accounting related to its operations pursuant to this Agreement. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit, but not photocopying, by the City Manager or his designee upon reasonable prior request and during normal business hours. Such records and accounts shall include a breakdown of gross receipts, expenses, and profit and loss statements, and such records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross receipts and profit and loss statement pursuant to generally accepted accounting principles.

A monthly report of gross metered receipts, Vend Max data and DEX resident information, in a format consistent with Exhibit 5.0, must be submitted to the City, through the Finance Department's Revenue Manager, to be received no later than thirty (30) days after the close of each month.

SECTION 6. INSPECTION AND AUDIT.

Concessionaire shall maintain its financial records pertaining to its operations for a period of three (3) years after the conclusion of the initial term, or (if approved) the last renewal term, and such records shall be open and available to the City Manager or his designee, as deemed necessary by the City Manager or his designee. Concessionaire shall maintain all such records at its principal office, currently located at 17200 NW 2nd Court, Miami, Florida, 33169 or, if moved to another location, all such records shall be relocated, at Concessionaire's expense, to a location within the City of Miami Beach, within ten (10) days' written notice from the City Manager or his designee that the City desires to review said records.

The City Manager or his designee shall be entitled to audit Concessionaire's records pertaining to its operation as often as it deems reasonably necessary throughout the Term of this Agreement, and three (3) times within the three (3) year period following termination of the Agreement, regardless of whether such termination results from the natural expiration of the Term or for any other reason. The City shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five percent (5%) or more in Concessionaire's statement of gross receipts for any year or years audited, in which case the firm shall pay to the City, within thirty (30) days of the audit being deemed final (as specified below), the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest; provided, however, the audit shall not be deemed final until Concessionaire has received the audit and has had a reasonable opportunity to review the audit and discuss the audit with the City. Nothing contained within this Section shall preclude the City's audit rights for resort tax collection purposes.

Concessionaire shall submit at the end of the initial term (and, if approved, any renewal term), a certified audited annual statement of gross receipts, in a form consistent with generally accepted accounting principles.

It is Concessionaire's intent to stay informed of comments and suggestions by the City regarding Concessionaire's performance under the Agreement. Within thirty (30) days after the end of the initial term (and, if approved, each renewal term), Concessionaire and City may meet to review Concessionaire's performance under the Agreement. At the meeting, Concessionaire and City may discuss quality, operational, maintenance and any other issues regarding Concessionaire's performance under the Agreement.

SECTION 7. TAXES, ASSESSMENTS, AND UTILITIES.

7.1 Concessionaire agrees to and shall pay before delinquency all taxes (including but not limited to resort taxes) and assessments of any kind assessed or levied upon Concessionaire by reason of this Agreement or by reason of the business or other activities and operations of Concessionaire upon or in connection with the Vending Machines and/or the Concession Locations. Concessionaire will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax and/or assessment by appropriate proceedings diligently conducted in good faith. Concessionaire may refrain from paying a tax or assessment to the extent it is contesting the assessment or imposition of same in a manner that is in accordance with law; provided, however, if, as a result of such contest, additional delinquency charges become due, Concessionaire shall be responsible for such delinquency charges, in addition to payment of the contested tax and/or assessment if so ordered.

Concessionaire shall also pay for any fees imposed by law for licenses or permits for any business, activities, or operations of Concessionaire upon the Concession Locations.

7.2 Utilities.
Electrical service, including maintenance of outlets, shall be provided by the City at the Concession Locations at no cost to the Concessionaire. No water service will be provided by the City in connection with the operation of Vending Machines under this Concession Agreement.

If not currently existing, requests for installation of new and/or additional outlets shall be submitted in writing to the City Manager or his designee. Installation of new and/or additionally outlets will be performed by the City and/or an electrical contractor approved by the City, in writing, to perform said work on the City's behalf, at Concessionaire's sole cost and expense.

7.3 Procedure If Ad Valorem Taxes Assessed.
Notwithstanding Subsection 7.1 herein, the parties agree that the concession

operations contemplated herein are for public purposes and, therefore, no ad valorem taxes should be assessed by the Miami-Dade County Tax Appraiser. If, however, said taxes are assessed, Concessionaire shall be solely responsible for payment of same, in the same manner as taxes due pursuant to Subsection 7.1 herein.

SECTION 8. EMPLOYEES AND INDEPENDENT CONTRACTORS.

8.1 In connection with the performance of its responsibilities hereunder, Concessionaire may hire its own employees who will be employees of Concessionaire and not employees or agents of the City. Additionally, Concessionaire's vendors (i.e. entities who provide products and/or Vending and Change Machines to Concessionaire) shall not be considered agents or employees of the City. Concessionaire shall select the number, function, qualifications, compensation, including benefits (if any), and may, at its discretion and at any time, adjust or revise the terms and conditions relating to its employees and/or independent contractors.

8.2 Concessionaire shall ensure that all its employees and vendors while working at or within the Concession Locations observe all the graces of personal grooming. The Concessionaire shall hire people to work in its concession operation who are neat, clean, well groomed and shall comport themselves in a professional and courteous manner, and ensure that its vendors comply with same. The Concessionaire and any persons hired by same, shall never have been convicted of a felony. If Concessionaire materially fails to comply with this provision the City may default Concessionaire pursuant to Section 13 herein.

SECTION 9. SCHEDULE OF OPERATION.

Vending Machines and Change Machines shall be made available to patrons twenty four (24) hours a day, seven days a week, based on the particular hours of operation of each individual Concession Location, events of force majeure permitting. Any change in the days or hours of operation shall require the prior written consent of the City Manager.

SECTION 10. MAINTENANCE OF CONCESSION LOCATIONS.

10.1 The Concessionaire accepts the use of the Concession Locations provided for in this Agreement in their "**as is**" condition. Concessionaire assumes sole responsibility and expense for maintenance of the immediate confines surrounding the Concession Locations. This shall include removal of litter, garbage and debris, said removal to be the sole responsibility and expense of Concessionaire. Daily maintenance shall be accomplished on all days and hours Concessionaire operates. Concessionaire agrees, also at its sole cost and expense, to pay for all garbage disposal generated by its operations.

10.2 Garbage Receptacles.
Intentionally Omitted.

10.3 Pressure Cleaning.
Intentionally Omitted.

10.4 Facilities.
Intentionally Omitted.

10.5 Orderly Operation.
The Concessionaire shall have a neat and orderly operation at all times and shall be solely responsible for the necessary housekeeping services to properly maintain the Vending Machines and Concession Locations. The Concessionaire shall make available all Vending Machines and Change Machines within the Concession Locations for examination during days and hours of operation by the City Manager or his authorized representative.

10.6 No Dangerous Materials.

10.6.1 The Concessionaire agrees not to use or permit in the Concession Locations and/or Vending Machines the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electricity producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida. Any such substances or materials found being used within or in the vicinity of the Concession Locations shall be immediately removed and shall be considered cause for default and/or termination.

10.6.2 Notwithstanding any contrary provisions of this Agreement, Concessionaire, after the Commencement Date, shall indemnify and hold City harmless from any loss, damage, cost, or expense of the City, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by Concessionaire, and/or its employees, vendors, agents and/or subcontractors, after the Commencement Date, but during the term of this Agreement, of any hazardous substance or petroleum products on, under, in, upon, or in the vicinity of the Concession Locations as those terms are defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder; provided, however, Concessionaire shall have no liability in the event of the willful misconduct or gross negligence of the City, its agents, servants or employees.

10.6.3 The provisions of this Subsection 10.6 shall survive the termination or earlier expiration of this Agreement.

10.7 Security.
The Concessionaire shall be responsible for and provide reasonable security measures which may be required to protect the Vending Machines and Change Machines at all Concession Locations. Under no circumstances shall the City be responsible for any stolen or damaged goods, facilities, materials and/or other equipment, including but not limited to the Vending Machines and Change Machines, nor shall City be responsible for any stolen or damaged personal property of Concessionaire's employees, vendors, patrons, guests, invitees, and/or other third parties.

10.8 Maintenance Vehicles.
Concessionaire shall not permit the use of any vehicle, in any way that violates any Municipal, County, State or Federal Laws. Vehicles may only be driven and/or parked in areas designated for such purposes and as provided for by applicable law.

10.9 Inspection.
The Concessionaire agrees that the Vending Machines, Change Machines and Concession Locations may be inspected at any time during days and hours of operation by the City Manager or his designee, or by any other Municipal, County, State officer, or agency having responsibilities for inspections of such operations. The Concessionaire hereby waives all claims against the City for compensation for loss or damage sustained by reason of any interference (which interference, if by the City, must be reasonable) with the concession operation by any public agency or official in enforcing their duties or any laws or ordinances. Any such interference (which interference, if by the City, must be reasonable) shall not relieve the Concessionaire from any obligation hereunder.

SECTION 11. INSURANCE.
Concessionaire shall maintain, at its sole cost and expense, the following types of insurance coverage at all times throughout the term of this Agreement.

a. Comprehensive General Liability in the minimum amount of One Million Dollars ($1,000,000) per occurrence for bodily injury and property damage. This policy must also contain coverage for premises operations, products and contractual liability.

b. Workers Compensation Insurance shall be provided as required under the Laws of the State of Florida.

c. Automobile Insurance for any vehicles used for, or associated with concessionaire's operations shall be provided covering all owned, leased,

and hired vehicles and non-ownership liability for not less than the following limits:

Bodily Injury	$1,000,000 per person
Bodily Injury	$1,000,000 per accident
Property Damage	$1,000,000 per accident

Failure to procure or maintain the required insurance program shall, at the City's discretion, either (i) constitute an automatic default of the Concession Agreement under which the City may, upon written notice to Concessionaire, immediately terminate the Agreement; or (ii) the City, in its sole discretion, may obtain the insurance itself, in which case said insurance shall be charged back to the Concessionaire as provided in the following paragraph.

The policies of insurance referred to above shall not be subject to cancellation or changing coverage except upon at least thirty (30) days prior written notice to the City, and then only subject to the prior written approval of the City Manager or his designee. Prior to the Commencement Date of this Agreement, Concessionaire shall provide City with a Certificate of Insurance for each such policy. ALL POLICIES SHALL NAME THE CITY OF MIAMI BEACH FLORIDA AS AN ADDITIONAL NAMED INSURED. All such policies shall be obtained from companies authorized to do business in the State of Florida with an A.M. Best's Insurance Guide (latest edition) rating acceptable to the City's Risk Manager, and any replacement or substitute company shall also be subject to the approval of the City's Risk Manager. Should Concessionaire fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the City may, at its sole discretion, automatically terminate this Agreement or, in the alternative, deem to obtain such insurance, and any sums expended by City in obtaining said insurance, shall be repaid by Concessionaire to City, plus ten percent (10%) of the amount of premiums paid to compensate City for its administrative costs. If Concessionaire fails to repay City's expenditures within fifteen (15) days of demand, the total sum owed shall accrue interest at the rate of twelve percent (12%) until paid, or, at its option, the City may declare the Agreement in default pursuant to Section 13 herein.

SECTION 12. INDEMNITY.

12.1 In consideration of a separate and specific consideration of $10.00 and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Concessionaire shall indemnify, hold harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of error, omission, or negligent act of Concessionaire, and/or its vendors, agents, servants, employees and/or subcontractors and/or subconcessionaires in the performance of services under this Agreement.

12.2 In addition, in consideration of a separate and specific consideration of $10.00 and other good and valuable consideration the receipt and sufficiency

of which are hereby acknowledged, Concessionaire shall indemnify, hold harmless and defend the City, its agents, servants or employees, from and against any claim, demand or cause of action of whatever kind or nature arising out of any misconduct of Concessionaire, and/or its vendors, agents, servants, employees and/or subcontractors and/or subconcessionaires, not included in the paragraph in the Subsection above and for which the City, its agents, servants or employees are alleged to be liable.

12.3 Subsections 12.1 and 12.2 shall survive the termination or expiration of this Agreement.

12.4 Subrogation.
The terms of insurance policies referred to in Section 11 shall preclude subrogation claims against Concessionaire, the City and their respective officers, employees and agents.

12.5 Force Majeure.
Neither party shall be obligated to perform hereunder and neither party shall be deemed to be in default if performance is prevented by:

a. earthquake; hurricane; flood; act of God; civil commotion occurring on the Concession Locations during or in connection with any event or other matter or condition of like nature; or

b. any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, or war.

12.6 Labor Dispute.
Intentionally Omitted.

12.7 Waiver of Loss from Hazards.
The Concessionaire hereby expressly waives all claims against the City for loss or damage sustained by the Concessionaire resulting from fire, water, natural disasters/acts of God (e.g. hurricane, tornado, etc.), civil commotion, riot, or any other Force Majeure contemplated in Subsection 12.5 above, and the Concessionaire hereby expressly waives all rights, claims, and demands against the City and forever releases and discharges the City of Miami Beach, Florida, from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

SECTION 13. DEFAULT AND TERMINATION.
Subsections 13.1 through 13.3 shall constitute events of default under this Agreement. An event of default by Concessionaire shall entitle City to exercise any and all remedies described as City's remedies under this Agreement, including but not limited to those set forth in Subsection 13.4. An event of default by City shall entitle Concessionaire to exercise

any and all remedies described as Concessionaire's remedies under this Agreement, including but not limited to those set forth in Subsection 13.5 herein.

13.1 Bankruptcy.

If either the City or Concessionaire shall be adjudged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of either party shall be appointed, or if any receiver of all or any part of the business property shall be appointed and shall not be discharged within sixty (60) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors, or shall file a voluntary petition in bankruptcy, or insolvency, or shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State, or otherwise, or if such petitions shall be filed against either party and shall not be dismissed within sixty (60) days after such filing, then the other party may immediately, or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

13.2 Default in Payment.

In the event Concessionaire fails to submit any payment within five (5) days of its due date, there shall be a late charge of $50.00 per day for such late payment, in addition to interest at the highest rate allowable by law (currently ten (10%) percent per annum). If any payment and accumulated penalties are not received within fifteen (15) days after the payment due date, and such failure continues three (3) days after written notice thereof, then the City may, without further demand or notice, terminate this Concession Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

13.3 Non-Monetary Default.

In the event that Concessionaire or the City fails to perform or observe any of the covenants, terms or provisions under this Agreement, and such failure continues thirty (30) days after written notice thereof from the other party hereto, such non-defaulting party may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract. In the event that a default is not reasonably susceptible to being cured within such period, the defaulting party shall not be considered in default if it shall, within such period, commence with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default, but in no event shall such extended cure period exceed ninety (90) days from the date of written notice thereof. In the event Concessionaire cures any default pursuant to this Subsection, it shall promptly provide City with written notice of same.

13.4 City's Remedies for Concessionaire's Default.

If any of the events of default, as set forth in this Section 13, shall occur, the City may, after notice (if required) and the expiration of cure periods (as provided above), at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate City for damages resulting from such defaults, including but not limited to the right to give to Concessionaire a notice of termination of this Agreement. If such notice is given, the term of this Agreement shall terminate upon the date specified in such notice from City to Concessionaire. On the date so specified, Concessionaire shall then quit and surrender the Concession Locations to City pursuant to the provisions of Subsection 13.7. Upon the termination of this Agreement, all rights and interest of Concessionaire in and to the Concession Locations and to this Agreement, and every part thereof, shall cease and terminate and City may, in addition to any other rights and remedies it may have, retain all sums paid to it by Concessionaire under this Agreement. In addition to the rights set forth above, City shall have the rights to pursue any and all of the following:

a. the right to injunction or other similar relief available to it under Florida law against Concessionaire; and or

b. the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Concessionaire's default.

13.5 If an event of default by the City, as set forth in this Section 13, shall occur, the Concessionaire may, after notice (if required) and the expiration of the cure periods (as provided above), at its sole option and discretion, terminate this Agreement upon written notice to the City and/or sue for damages. Said termination shall become effective upon receipt of a written notice of termination by the City, but in no event shall Concessionaire specify a termination date that is less than sixty (60) days from the date of the written termination notice. On the date specified in the notice, Concessionaire shall quit and surrender the Concession Locations to City pursuant to the provisions of Subsection 13.7.

13.6 Termination for Convenience/Partial Termination.

13.6.1 Notwithstanding the provisions of this Section 13, this Agreement may be terminated, in whole or in part, by the City, for convenience and without cause, upon the furnishing of thirty (30) days prior written notice to Concessionaire.

13.6.2 Concessionaire acknowledges that the City may develop a schedule of capital improvements, including all or a portion of the Concession Locations, which may entail a closure of all or a portion of the

Concession Locations, at the City's sole discretion. In the event that the City closes down any Concession Location, or a portion thereof, for the purpose of undertaking a capital improvement thereon, then the parties agree that the portion of the Agreement referencing said individual Concession Locations shall be partially terminated for convenience, without cause and without penalty to either party, and only as to the Concession Location, or portion thereof, which have been closed. Such a termination shall become effective upon thirty (30) days prior written notice to Concessionaire.

13.6.3 Notwithstanding Subsections 13.6.1 and 13.6.2 above, the City and Concessionaire acknowledge that the City also has certain rights in Subsections 3.2.5.2 and 3.2.7, which, if exercised by the City may necessitate a termination of a portion or all of the Agreement. In that event, the City shall also have no liability to Concessionaire, in the same manner as provided in Subsection 13.6.4 below.

13.6.4 In the event of termination or partial termination by City of the Agreement pursuant to this Subsection 13.6, Concessionaire herein acknowledges and agrees that it shall not have any claim, demand, or cause of action of whatsoever kind or nature, against the City, its agents, servants and employees (including, but not limited to, claims for interference in business or damages for interruption of services or interference in its concession operations by Concessionaire or its vendors).

13.7 Surrender of Concession Locations.

At the expiration of this Agreement, or in the event of termination or partial termination of the Agreement, Concessionaire shall surrender the Concession Locations in the same condition as the Concession Locations were prior to the Commencement Date of this Agreement, reasonable wear and tear excepted. Concessionaire shall remove all its Vending Machines, Change Machines, and any and all other equipment, fixtures, personal property, etc. upon thirty (30) days written notice from the City Manager or his designee unless a longer time period is agreed to by the City. Concessionaire's obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement. Continued occupancy of the Concession Locations (or portions thereof) after termination (or partial termination) of the Agreement shall constitute trespass by the Concessionaire, and may be prosecuted as such. In addition, the Concessionaire shall pay to the City one thousand dollars ($1,000) per day as liquidated damages for such trespass and holding over.

SECTION 14. PERFORMANCE BOND OR ALTERNATE SECURITY.

Intentionally Omitted.

SECTION 15. ASSIGNMENT.
Concessionaire shall not assign, sublease, grant any concession or license, permit the use of by any other person other than Concessionaire, or otherwise transfer all or any portion of this Agreement and/or of the Concession Locations without the prior written consent of the City Commission.

SECTION 16. SPECIAL EVENTS.
Intentionally Omitted.

SECTION 17. NO IMPROPER USE.
The Concessionaire will not use, nor suffer or permit any person to use in any manner whatsoever, the Concession Locations, operations, or facilities for any improper, immoral or offensive purpose, or for any purpose in violation of any Federal, State, County, or Municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. The Concessionaire will protect, indemnify, and forever save and keep harmless the City, its agents, employees and contractors from and against damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation, or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of the Concessionaire, its vendors, employees, agents, and/or subcontractors regarding the Concession. In the event of any violation by the Concessionaire, or if the City or its authorized representative shall deem any conduct on the part of the Concessionaire, its vendors, agents, employees and/or subcontractors, to be objectionable or improper, the City shall have the option, at its sole discretion, to either (i) automatically terminate the Agreement, upon prior written notice to Concessionaire, or to (ii) suspend the concession operations should the Concessionaire fail to correct any such violation, conduct, or practice to the satisfaction of the City within twenty-four (24) hours after receiving written notice of the nature and extent of such violation, conduct, or practice, and such suspension shall continue until the violation is cured. The Concessionaire further agrees not to commence operations during the suspension until the violation has been corrected to the satisfaction of the City.

SECTION 18. PRICE SCHEDULES.
Concessionaire agrees that prices charged for goods/products in the Vending Machines shall be consistent with the price schedule(s) herein submitted by the Concessionaire and approved by the City and incorporated herein as Exhibit 3.2.5.1 to this Agreement. All subsequent price increases and amendments to Exhibit 3.2.5.1 must be approved in writing by the City Manager, or his designee, and prior to such changes being implemented within the Concession Locations a new updated Exhibit 3.2.5.1 will be incorporated into this Agreement.

The City shall have the final right of approval for all such prices and changes, but said right shall not be arbitrarily or unreasonably exercised. The Concessionaire agrees to refrain from the sale of any item identified as prohibited by City law and/or other applicable law and to sell only those items approved by the City.

SECTION 19. NOTICES.

All notices from the City to the Concessionaire shall be deemed duly served upon receipt, if mailed by registered or certified mail with a return receipt to the Concessionaire at the following address:

Mr. Manny Diaz, Jr.
Brothers Vending, Inc.
17200 NW 2nd Court
Miami, Florida 33169

All notices from the Concessionaire to the City shall be deemed duly served upon receipt, if mailed by registered or certified mail, return receipt requested, to the City of Miami Beach at the following addresses:

City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

With copies to:

Asset Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, FL 33139

The Concessionaire and the City may change the above mailing address at any time upon giving the other party written notification. All notices under this Concession Agreement must be in writing.

SECTION 20. LAWS.

20.1 Compliance.
Concessionaire shall comply with all applicable City, Miami-Dade County, State, and Federal ordinances, statutes, rules and regulations, including but not limited to all applicable environmental City, County, State, and Federal ordinances, statutes, rules and regulations.

20.2 Governing Law.
This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. In case of any inconsistency between the terms of this Agreement, and any applicable general or special law, said general or special law shall govern, unless otherwise provided herein.

20.3 Equal Employment Opportunity.
Neither Concessionaire nor any affiliate of Concessionaire performing services hereunder, or pursuant hereto, will discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, sexual orientation, and disability, as defined in Title I of ADA. Concessionaire will take affirmative steps to utilize minorities and females in the work force and in correlative business enterprises.

20.4 No Discrimination.
The Concessionaire agrees that there shall be no discrimination as to race, sex, sexual orientation, color, creed, national origin, familial status, religion or handicap, in its employment practice or in the operations referred to by this Concession Agreement; and further, there shall be no discrimination regarding any use, service, maintenance, or operation within the Concession Locations. All concession operations and services offered shall be made available to the public, subject to the right of the Concessionaire and the City to establish and enforce rules and regulations to provide for the safety, orderly operation and security of the operations and the facilities.

20.4.1 Pursuant to Sections 62-90 and 62-91, of Chapter 62, of the Miami Beach City Code entitled "Human Relations", Concessionaire, by executing this Agreement, certifies that it does not discriminate in its membership or policies based on race, color, national origin, religion, sex, sexual orientation, familial status or handicap.

20.5 Compliance with American with Disabilities Act (ADA) and any other applicable accessibility standards.
Concessionaire agrees and acknowledges that, if applicable, it shall comply with ADA standards, Florida Accessibility Code standards, and any other applicable accessibility standards required by law.

SECTION 21. MISCELLANEOUS.

21.1 No Partnership.
Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the City and Concessionaire.

21.2 Modifications.
This Agreement shall not be changed or modified except by agreement in writing executed by all parties hereto. Concessionaire acknowledges that no modification to this Agreement may be agreed to by the City unless approved by the Mayor and City Commission except where such authority has been expressly provided herein to the City Manager or his designee.

21.3 Complete Agreement.
This Agreement, together with all exhibits incorporated hereto, constitutes all

the understandings and agreements of whatsoever nature or kind existing between the parties with respect to Concessionaire's operations, as contemplated herein.

21.4 Headings.
The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

21.5 Binding Effect.
This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21.6 Clauses.
The illegality or invalidity of any term or any clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein unless the elimination of such provision detrimentally reduces the consideration that either party is to receive under this Agreement or materially affects the continuing operation of this Agreement.

21.7 Severability.
If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement, such provisions and the application thereof to other persons or circumstances, shall not be affected thereby and this Agreement as so modified remains in full force and effect.

21.8 Right of Entry.
The City, at the direction of the City Manager or his designee, shall at all times during days and hours of operation, have the right to enter into and upon any and all parts of the Concession Locations for the purposes of examining the same for any reason relating to the obligations of parties to this Agreement.

21.9 Not a Lease.
It is expressly understood and agreed that no part, parcel, building, facility, equipment or space is leased to the Concessionaire, that it is a concessionaire and not a lessee; that the Concessionaire's right to operate the concession shall continue only so long as this Agreement remains in effect.

21.10 Signage.

Concessionaire shall provide, at its sole cost and expense, any required signs at its concessions. All advertising, signage and postings shall be approved, in writing, by the City in its proprietary capacity, and shall be in accordance with all applicable Municipal, County, State and Federal laws and regulations. Any signage posted by Concessionaire within each Concession Location, and/or on its Vending Machines and Change Machines shall be subject to the prior approval of the City as to size, shape and placement of same.

21.11 Use of the Right-of-Way.

Intentionally Omitted.

21.12 Conflict of Interest.

Concessionaire shall perform its services under this Agreement and conduct the concession operations contemplated herein, in a manner so as to show no preference for other concession operations/facilities owned, operated, managed, or otherwise controlled by Concessionaire with regard to its responsibilities pursuant to this Concession Agreement.

21.13 Reasonableness.

Intentionally Omitted.

21.14 Procedure for Approvals and/or Consents.

Intentionally Omitted.

21.15 No Waiver.

No waiver of any covenant or condition of this Agreement by either party shall be deemed to imply or constitute a waiver in the future of the same covenant or condition or of any other covenant or condition of this Agreement.

21.16 No Third Party Beneficiary.

Nothing in this Agreement shall confer upon any person or entity, including, but not limited to subconcessionaires, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

21.17 Attorneys' Fees.

If it becomes necessary for City or Concessionaire to enforce their respective rights under this Agreement or any part hereof through litigation, Concessionaire and City agree that the prevailing party shall be entitled to recover from the other party all costs and expenses of such litigation, including a reasonable attorneys' fee and costs, for all trial and appellate proceedings.

SECTION 22. LIMITATION OF LIABILITY.

The City desires to enter into this Agreement only if in so doing the City can place a limit on its liability for any cause of action for breach of this Agreement, so that its liability for any such breach never exceeds the sum of $10,000.00. Concessionaire hereby expresses its willingness to enter into this Agreement with a $10,000.00 limitation on recovery for any action for breach of contract. Accordingly, and in consideration of the separate consideration of $10.00, the receipt of which is hereby acknowledged, the City shall not be liable to Concessionaire for damages to Concessionaire in an amount in excess of $10,000.00, for any action for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of limitation placed upon the City's liability as set forth in Florida Statutes, Section 68.28.

SECTION 23. VENUE.

This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. **CITY AND CONCESSIONAIRE HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT CITY AND CONCESSIONAIRE MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONCESSION LOCATIONS.**

[The remainder of this page has been left intentionally blank]

IN WITNESS WHEREOF, the parties hereto have caused their names to be signed and their seals to be affixed, all as of the day and year first above written, indicating their agreement.

Attest: **CITY OF MIAMI BEACH, FLORIDA**

CITY CLERK MAYOR

Attest: **BROTHERS VENDING, INC.**

Signature / Secretary Signature / President

Print Name Print Name

JMG/RCM/JD/rlr

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APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

City Attorney 10-14-05 Date

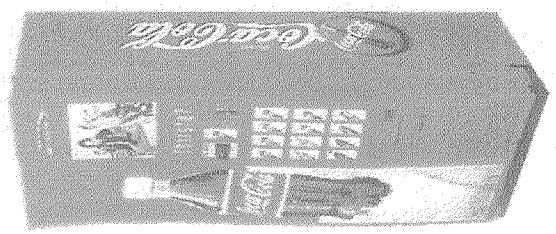
EXHIBIT 2.0
(page 1 of 2)

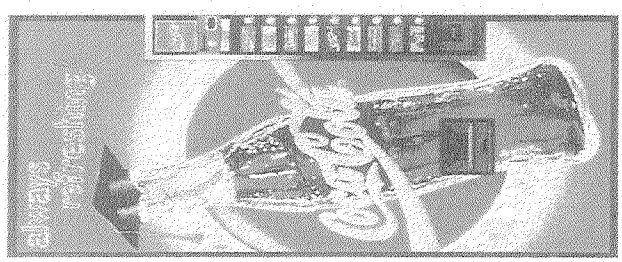
CITY APPROVED VENDING MACHINE LOCATIONS

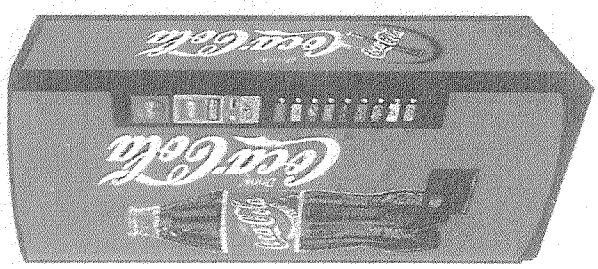
Facility / Concession Location	Facility Address	Sub-Facility (SF) Name/Designation	Type of Machine	# of Machines
7th St. Garage			Soda	1
13th St. Garage		Elevator Lobby	Soda	1
17th St. Garage			Soda	1
42nd St. Garage			Soda	1
777-17th Street	777-17th Street	Lobby?	Soda	1
777-17th Street	777-17th Street	Lobby?	Snack	1
Beachview Park	Collins Ave. & 53rd St.		Soda	1
Byron Carlyle Theater	500 71st Street	Back of House	Soda	1
Byron Carlyle Theater	500 71st Street	Back of House	Snack	1
City Hall	1700 Convention Ctr. Dr.	Employee Lounge	Soda	4
City Hall	1700 Convention Ctr. Dr.	Employee Lounge	Snack	1
City Hall	1700 Convention Ctr. Dr.	Employee Lounge	Ice Cream	1
City Hall	1700 Convention Ctr. Dr.	3rd Floor Breezeway	Soda	1
Collins Park	Collins Ave. & 22nd St.	Parking Lot	Soda	2
Convention Center	1901 Convention Ctr. Dr.	North Loading Dock	Soda	2
Convention Center	1901 Convention Ctr. Dr.	North Loading Dock	Snack	1
Convention Center	1901 Convention Ctr. Dr.	South Loading Dock	Soda	2
Convention Center	1901 Convention Ctr. Dr.	South Loading Dock	Snack	1
Convention Center	1901 Convention Ctr. Dr.	Employee Lounge	Soda	1
Convention Center	1901 Convention Ctr. Dr.	Employee Lounge	Snack	1
Fairway Park	200 Fairway Park		Soda	1
Fairway Park	200 Fairway Park		Snack	1
Fire Station 1	1100 Jefferson Ave.		Soda	1
Fire Station 2	2300 Pinetree Drive		Soda	1
Fire Station 3	5303 Collins Ave.		Soda	1
Fire Station 4	7940 Collins Ave.		Soda	1
Flamingo Park		Basketball Courts	Soda	1
Flamingo Park		Football Field	Soda	1
Flamingo Park		Pool	Soda	1
Flamingo Park		Pool	Snack	1
Flamingo Park		Pool	Ice Cream	1
Flamingo Park		Tennis Center	Soda	1
Flamingo Park		Tennis Center	Snack	1
Flamingo Park		Tennis Center	Ice Cream	1
Flamingo Park		Tennis Center	Sport Drink	1
Fleet Management	140 MacArthur Causeway		Soda	1
Fleet Management	140 MacArthur Causeway		Snack	1
Greenspace Management Yard	2100 Meridian Ave.		Soda	2

Historic City Hall	1130 Washington Ave.	West Aux. Exit	Soda	1
Historic City Hall	1130 Washington Ave.	West Aux. Exit	Snack	1
Log Cabin	8128 Collins Ave.			
Marine Patrol	18th St. & Purdy Ave.		Soda	1
Marjorie Stoneman Douglas Park	Ocen Drive & 3rd St.	Restroom Facility	Soda	1
Marjorie Stoneman Douglas Park	Ocen Drive & 3rd St.	Restroom Facility	PowerAde	1
Muss Park	4400 Chase Ave.		Soda	1
Muss Park	4400 Chase Ave.		Snack	1
Normandy Shores Park	2401 Biarritz Drive		Soda	1
Normandy Shores Park	2401 Biarritz Drive		Snack	1
Normandy Shores Park	2401 Biarritz Drive		Ice Cream	1
North Shore Youth Center	501 72nd Street		Soda	2
North Shore Youth Center	501 72nd Street		Snack	2
North Shore Youth Center	501 72nd Street	Tennis Center	Soda	1
North Shore Youth Center	501 72nd Street	Tennis Center	Snack	1
North Shore Youth Center	501 72nd Street	Tennis Center	PowerAde	1
Ocean Rescue Headquarters	1001 Ocean Drive		Soda	1
Ocean Terrace ???				
Pinetree Park	45th St. & Pinetree Dr.		Soda	1
Police Station	1100 Washington Ave.	Employee Lounge	Soda	4
Police Station	1100 Washington Ave.	Employee Lounge	Snack	1
Police Station	1100 Washington Ave.	Employee Lounge	Ice Cream	1
Police Station	1100 Washington Ave.	Employee Lounge	Sport Drink	1
Police Station	1100 Washington Ave.	Lobby?	Soda	1
Police Station Parking Garage		Entrance	Soda	1
Police Sub-station	North Beach		Soda	1
Property Management	Flamingo Park		Soda	1
Property Management	Flamingo Park		Snack	1
Public Works Operation Center	451 Dade Boulevard		Soda	1
Public Works Operation Center	451 Dade Boulevard		Snack	1
Scott Rakow Youth Center	2700 Sheridan Ave.		Soda	2
Scott Rakow Youth Center	2700 Sheridan Ave.		Snack	1
Scott Rakow Youth Center	2700 Sheridan Ave.		Ice Cream	1
Scott Rakow Youth Center	2700 Sheridan Ave.	Ice Rink	Soda	1
Scott Rakow Youth Center	2700 Sheridan Ave.	Ice Rink	Snack	1
South Pointe Park	1 Washington Ave.	Bandshell Storage Facility	Soda	2
South Pointe Park	1 Washington Ave.	Bandshell Storage Facility	Hershey	1
South Pointe Park	1 Washington Ave.	Bandshell Storage Facility	Ice Cream	1
South Pointe Park	1 Washington Ave.	Pavilion Restrooms	Soda	2
South Shore Comm. Center	833 6th Street		Soda	1
South Shore Comm. Center	833 6th Street		PowerAde	1
Stillwater Park	8440 Hawthorne Ave.		Soda	1
Stillwater Park	8440 Hawthorne Ave.		Snack	1
T.O.P.A.	1700 Washington Ave.		Soda	1
Washington Park	Washington Ave. & 2nd St.		Soda	1
Washington Park	Washington Ave. & 2nd St.		Snack	1
TOTALS				102

EXHIBIT 3.2.1.4
(page 1 of 8)







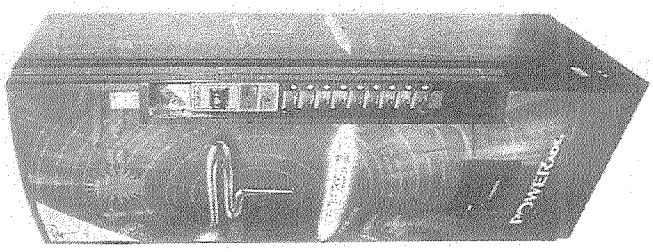
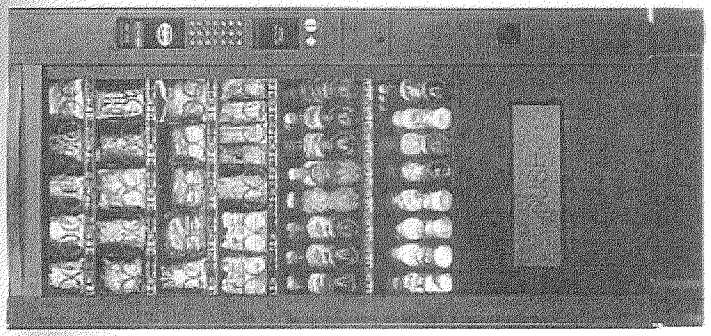


EXHIBIT 3.2.1.4
(page 2 of 8)

Proposed Vending Machines

BVI offers new, state-of-the-art vending machines



Refreshment Center 1 with cold bottled drinks

Brother's Vending, Inc.

• SODAS • SNACKS • COFFEE

5

EXHIBIT 3.2.1.4
(page 3 of 8)

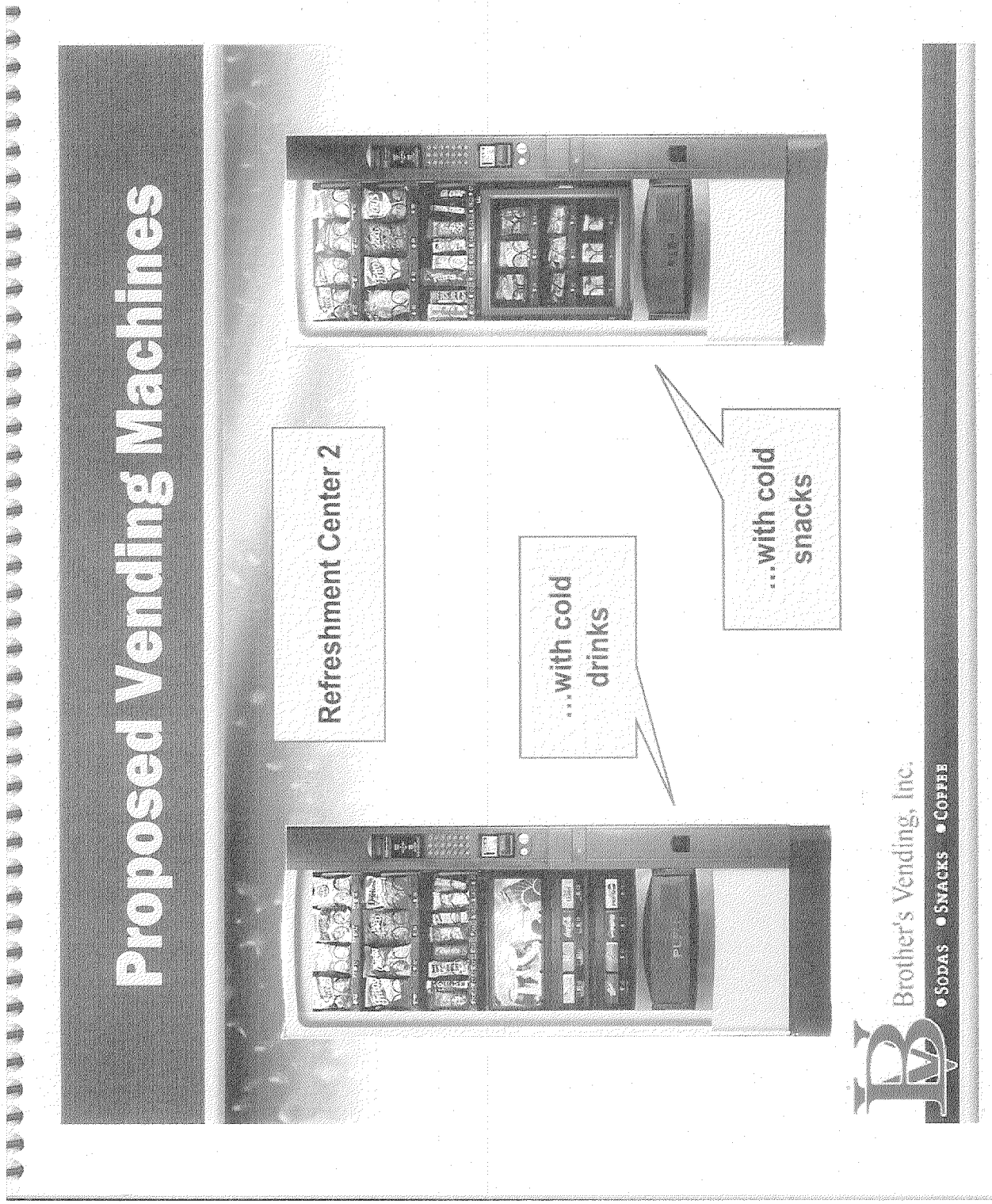


EXHIBIT 3.2.1.4
(page 4 of 8)

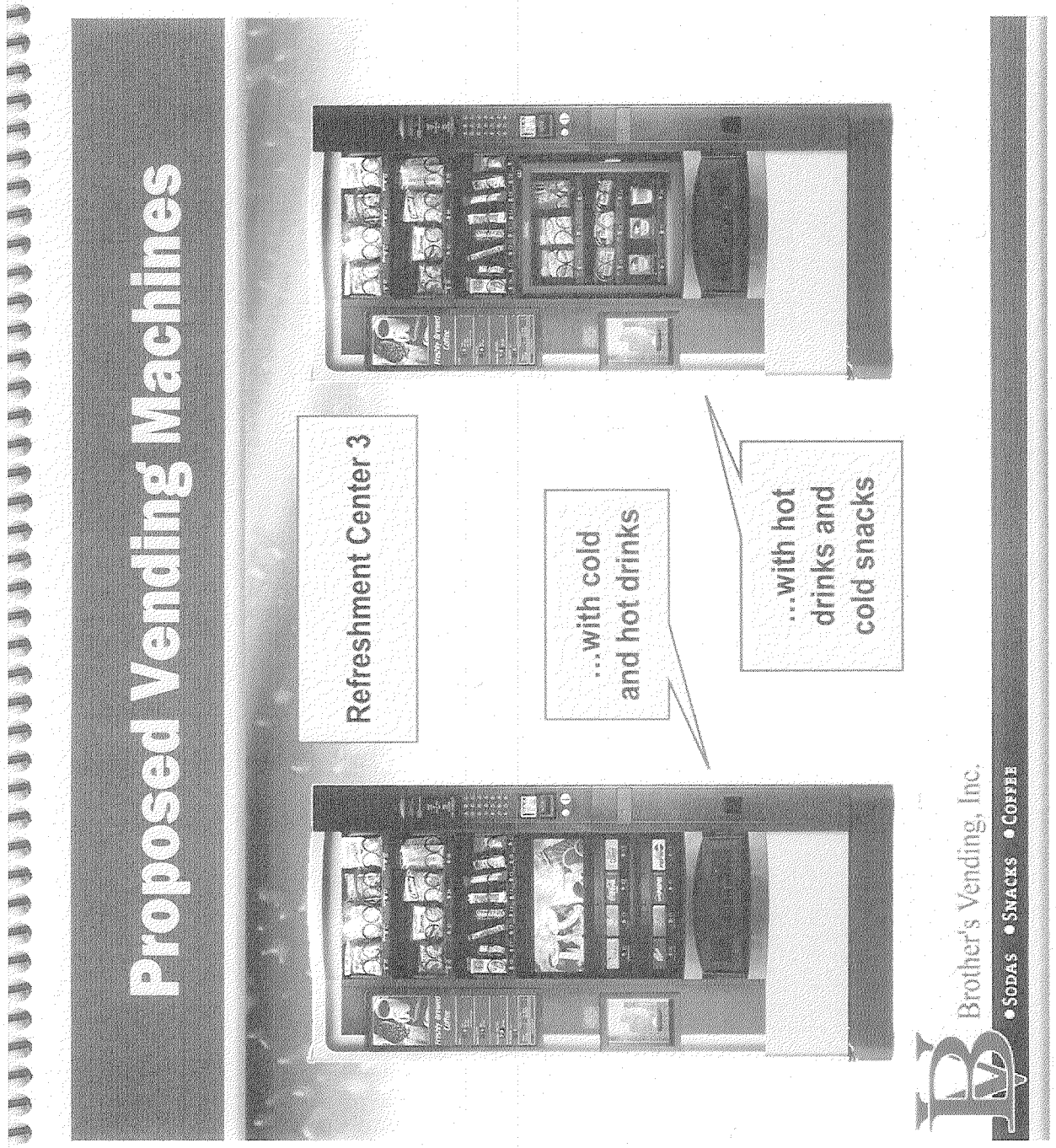


EXHIBIT 3.2.1.4
(page 5 of 8)

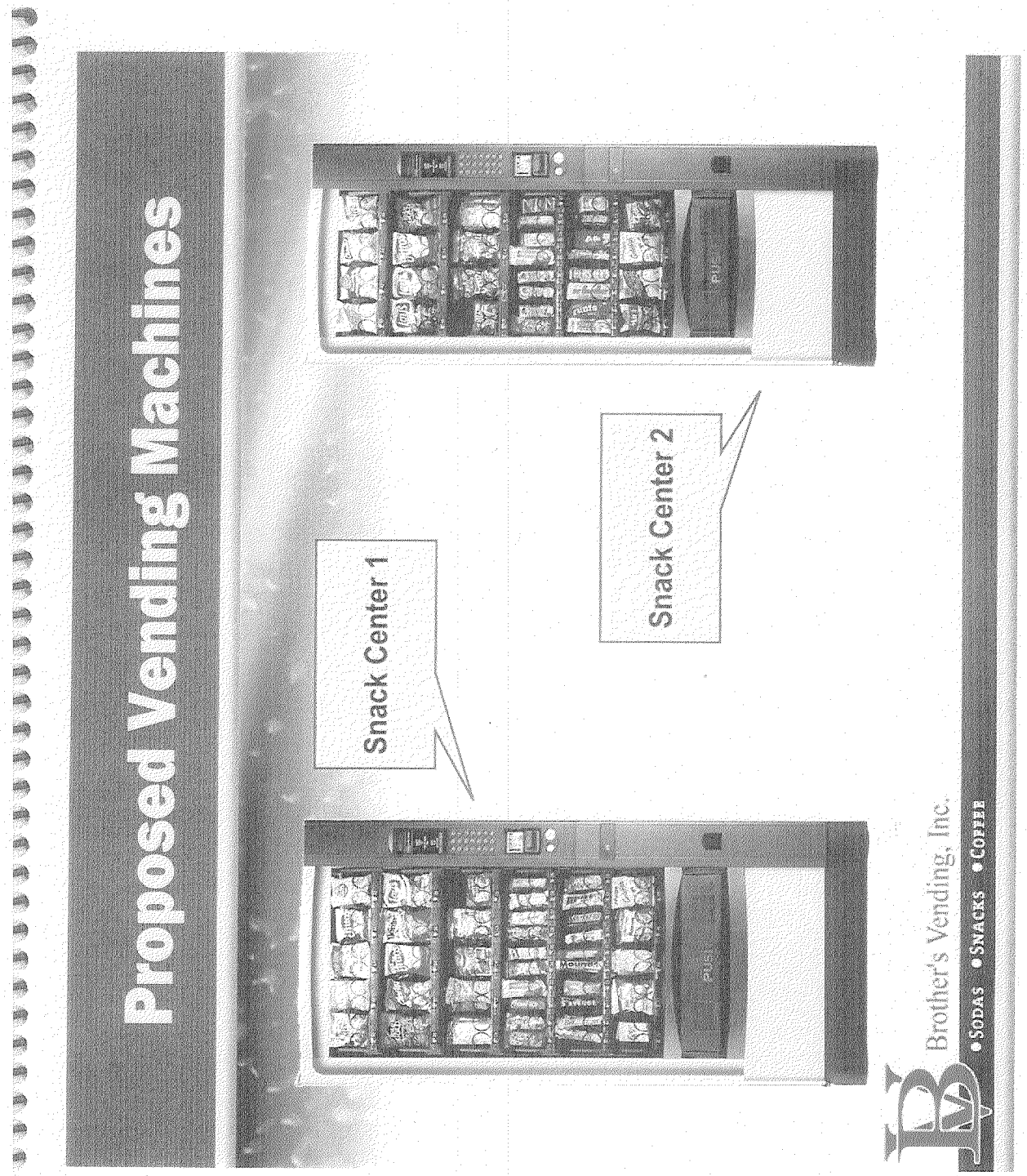


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EXHIBIT 3.2.1.4
(page 6 of 8)

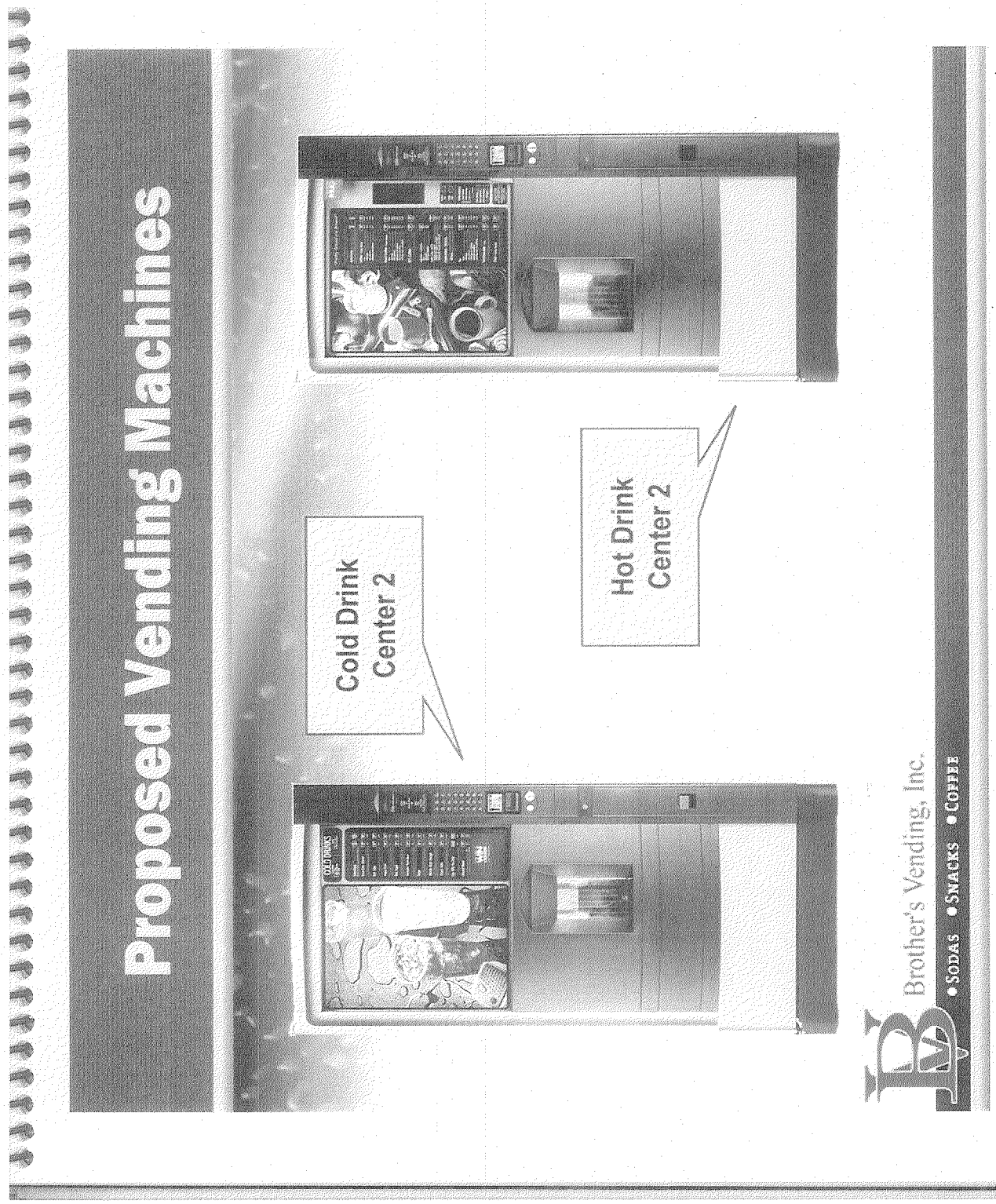

EXHIBIT 3.2.1.4
(page 7 of 8)

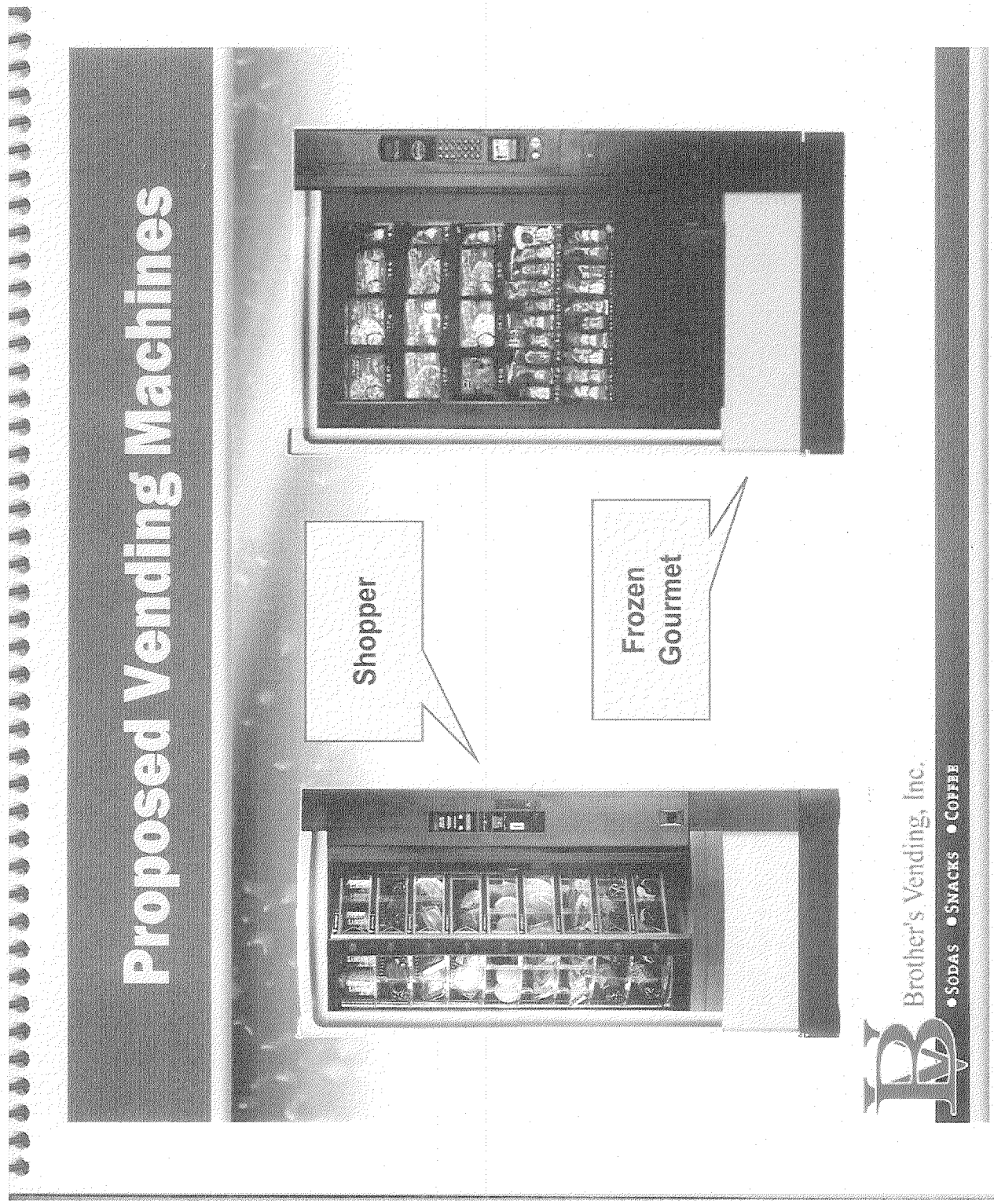

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EXHIBIT 3.2.1.4
(page 8 of 8)

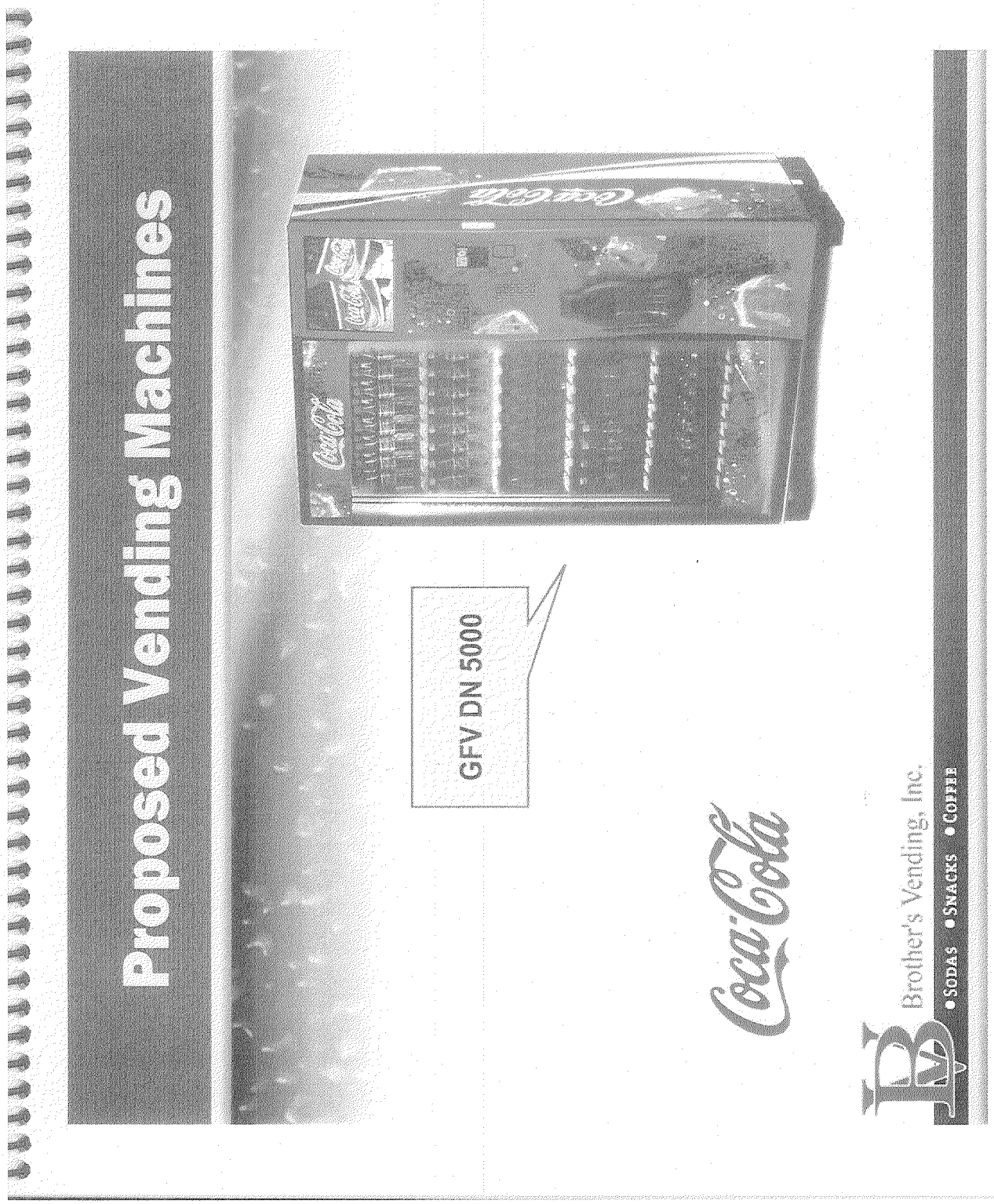

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EXHIBIT 3.2.5.1
(page 1 of 4)

Reduced Fat or Low Calorie		Price	
		Employee Areas & Youth Centers	General Public
Zero	1.85 oz.	$1.00	$1.00
Hershey Smart Zone Peanut Butter	1.76 oz.	$1.00	$1.00
Hershey Smart Zone Peanut Butter	1.76 oz.	$1.00	$1.00
Low Fat: Strawberry Nutri-Grain Yogurt Bar	1.30 oz.	$1.00	$1.00
Low Fat: Vanilla Nutri-Grain Yogurt Bar	1.30 oz.	$1.00	$1.00
Low Fat: Apple Cinnamon Bar	1.30 oz.	$1.00	$1.00
Low Fat: Strawberry Nutri-Grain Bar	1.30 oz.	$1.00	$1.00
Lays Light Regular Potato Chips	1.00 oz.	$1.00	$1.00
Lays Light Doritos Nacho Tortilla Chips	1.38 oz.	$1.00	$1.00
Gardetto's Reduced Fat Snack-ens Flavor Pretzel	1.65 oz.	$1.00	$1.00
Gardetto's Low Fat Mustard Flavor Pretzel Mix	1.65 oz.	$1.00	$1.00
Famous Amos Low Fat Gingers Snaps Bag	1.75 oz.	$1.00	$1.00
Reduced Fat Toastchee	1.38 oz.	$1.00	$1.00
Reduced Fat Cream Cheese. & Chives on Wafer	1.37 oz.	$1.00	$1.00
Reduced Fat Nekot	1.75 oz.	$1.00	$1.00
Kraft 100 Calorie: Cheese Nips	0.74 oz.	$1.00	$1.00
Kraft 100 Calorie: Chips Ahoy Cookies	0.81 oz.	$1.00	$1.00
Kraft 100 Calorie: Oreo Cookies	0.81 oz.	$1.00	$1.00
Kraft 100 Calorie: Wheat Thins	0.74 oz.	$1.00	$1.00

Low Carb		Price	
		Employee Areas & Youth Centers	General Public
Low Carb Mint Patty	1.00 oz.	$1.00	$1.00
Low Carb Toffee Squares	1.00 oz.	$1.00	$1.00
Low Carb Pecan Delite	1.00 oz.	$1.00	$1.00
Low Carb Milk Chocolate	0.80 oz.	$0.85	$0.85
Low Carb Chocolate with Almonds	0.80 oz.	$0.85	$0.85
Low Carb Chocolate Wafer	1.00 oz.	$1.00	$1.00
Low Carb Chocolate Mousse	1.25 oz.	$1.00	$1.00
Low Carb Dark Chocolate	0.80 oz.	$0.85	$0.85
Low Carb Peanut Butter Bar	1.00 oz.	$1.00	$1.00
Low Carb Peanut Butter Cups	1.20 oz.	$1.00	$1.00
Carb Fix Pretzel Nibbler	2.25 oz.	$1.00	$1.00

Fat Free		Price	
		Employee Areas & Youth Centers	General Public
Rold Gold Fat Pretzel Twist	2.25 oz.	$1.00	$1.00
Fat Free Pretzel Thins	1.00 oz.	$1.00	$1.00
Fat Free Mini Pretzels	1.50 oz.	$1.00	$1.00
Fat Free Butter Sourdough Pretzels	1.50 oz.	$1.00	$1.00
Fat Free Sourdough Nibbler Pretzels	2.25 oz.	$1.00	$1.00
Nabisco Fat Free Fig Newtons	2.10 oz.	$1.00	$1.00
99% Fat Free Lemon Cake	3.00 oz.	$1.00	$1.00
Fat Free Strawberry Fruit Snack	2.25 oz.	$1.00	$1.00
Fat Free Cherry Fruit Snack	2.50 oz.	$1.00	$1.00
Fat Free Mixed Berries Fruit Snack	2.50 oz.	$1.00	$1.00

EXHIBIT 3.2.5.1
(page 2 of 4)

Sugar Free		Price	
		Employee Areas & Youth Centers	General Public
Sugar Free Pecan Cluster	1.00 oz.	$0.85	$0.85
Golden Batch Sugar Free: Chocolate Cream Wafers	1.75 oz.	$0.85	$0.85
Golden Batch Sugar Free: Vanilla Cream Wafers	1.75 oz.	$0.85	$0.85
Golden Batch Sugar Free: Peanut Butter Cream Wafers	1.75 oz.	$0.85	$0.85
Golden Batch Sugar Free: Strawberry Cream Wafers	1.75 oz.	$0.85	$0.85
Golden Batch Sugar Free: Reduced Fat Vanilla Cream Wafers	1.75 oz.	$0.85	$0.85
Golden Batch Sugar Free: Reduced Fat Chocolate Cream Wafers	1.75 oz.	$0.85	$0.85
Sugar Free Spearmint Rolls	0.65 oz.	$0.85	$0.85
Sugar Free Peppermint Rolls	0.65 oz.	$0.85	$0.85
Carefree Sugarless Spearmint Gum	6 sticks	$0.85	$0.85
Carefree Sugarless Bubble Gum	6 sticks	$0.85	$0.85
Breath Savers Sugar Free Peppermint Roll Candy		$0.85	$0.85
Breath Savers Sugar Free Wintergreen Roll Candy		$0.85	$0.85

Snacks		Price	
		Employee Areas & Youth Centers	General Public
Donita Pork Skins Regular	1.20 oz.	$0.75	$0.75
Tropical Cassava Chips	1.00 oz.	$0.60	$0.60
Tropical Plaintains	1.20 oz.	$0.60	$0.60
Tuna Salad Kit	1.52 oz.	$1.75	$1.75
Cheetos Crunchy	1.00 oz.	$0.60	$0.60
Cheetos Puffs	1.00 oz.	$0.50	$0.60
Doritos Cool Ranch	1.00 oz.	$0.50	$0.60
Doritos Nacho Cheese	1.00 oz.	$0.50	$0.60
Funyons	1.00 oz.	$0.50	$0.60
Lays KC Masterpiece	1.00 oz.	$0.50	$0.60
Lays Regular	1.00 oz.	$0.50	$0.60
Lays Salt & Vinegar	1.00 oz.	$0.50	$0.60
Lays Munchies	1.00 oz.	$0.50	$0.60
Rold/Gold Tiny Twist Pretzels	1.00 oz.	$0.50	$0.60
Ruffles Regular	1.00 oz.	$0.50	$0.60
Ruffles, Ched/SR/CR	1.00 oz.	$0.50	$0.60
Smart Cheddar Popcorn	1.00 oz.	$0.50	$0.60
Popcorn, Act II Microwave	1.20 oz.	$0.50	$0.60
Hot Fries, Andy Capp	1.00 oz.	$0.50	$0.60
Nutri Grain Bar, Apple	2.13 oz.	$0.60	$0.60
Cream Cheese on Capt Wafer	1.38 oz.	$0.60	$0.60
Nekot, Peanut Butter	1.50 oz.	$0.60	$0.60
Toastchee	1.25 oz.	$0.65	$0.65
Van-O-Lunch, Vanilla	1.50 oz.	$0.65	$0.65
Combos, Nacho Cheese	1.32 oz.	$0.65	$0.65
Combos, Pizzeria	1.32 oz.	$0.65	$0.65
Mix N' Yogurt, Unsalted	2.00 oz.	$0.65	$0.65
Trail Mix, Small	2.00 oz.	$0.65	$0.65
Mini Oreo Cookies	1.05 oz.	$0.65	$0.65
Planter Salted Peanuts	1.05 oz.	$0.65	$0.65
Ruger Chocolate Wafer	2.10 oz.	$0.65	$0.65
Ruger Vanilla Wafer	2.10 oz.	$0.65	$0.65

EXHIBIT 3.2.5.1
(page 3 of 4)

Candies		Price	
		Employee Areas & Youth Centers	General Public
Skittles, Original	2.17 oz.	$0.75	$0.75
Skittles, Tropical	2.17 oz.	$0.75	$0.75
Skittles, Wildberry	2.17 oz.	$0.75	$0.75
Skittles, California	2.17 oz.	$0.75	$0.75
Skittles, Original	2.07 oz.	$0.75	$0.75
Lifesaver, 5-Flavor	0.72 oz.	$0.50	$0.50
Runts Chewy	0.72 oz.	$0.50	$0.50
Doublemint Gum Vend 80 oz.	0.80 oz.	$0.50	$0.50
Juicyfruit Gum Vend	0.80 oz.	$0.50	$0.50
Spearmint Gum Vend	0.80 oz.	$0.50	$0.50

Chocolates		Price	
		Employee Areas & Youth Centers	General Public
Almond Joy		$0.75	$0.75
Hershey's Milk Chocolate	1.55 oz.	$0.75	$0.75
Kit Kat	1.55 oz.	$0.75	$0.75
Mr. Goodbar	1.55 oz.	$0.75	$0.75
Reese's Peanut Butter Cup	1.53 oz.	$0.75	$0.75
Reese's Pieces	1.53 oz.	$0.75	$0.75
York Mints	1.55 oz.	$0.75	$0.75
M&M Peanut	1.74 oz.	$0.75	$0.75
M&M Plain	1.69 oz.	$0.75	$0.75
Snickers	2.07 oz.	$0.75	$0.75
Twix Caramel Crunch	2.00 oz.	$0.75	$0.75
Baby Ruth	2.00 oz.	$0.75	$0.75
Butter Finger	2.10 oz.	$0.75	$0.75
Nestle's Caramel Crunch	1.52 oz.	$0.75	$0.75
Nestle's Crunch	1.55 oz.	$0.75	$0.75

Cookies and Pastries		Price	
		Employee Areas & Youth Centers	General Public
Big Cookie Chocolate Chip	2.80 oz.	$0.65	$0.65
Rich & Chewy Chocolate Chip Cookie	1.00 oz.	$0.65	$0.65
Big Apple Claw	13.86 oz.	$0.75	$0.75
Honey Bun, Glazed Jumbo	11.00 oz.	$0.75	$0.75
FOA, Powdered Gem Donut	1.02 oz.	$0.75	$0.75

EXHIBIT 3.2.5.1
(page 4 of 4)

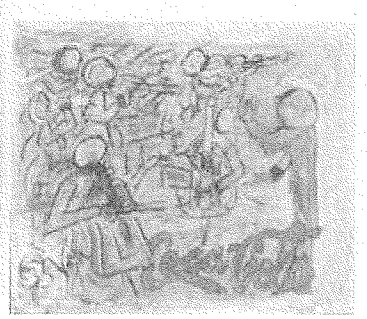
Drinks		Price	
		Employee Areas & Youth Centers	General Public
Coke Classic	12 oz.	$0.65	$0.75
Coke Classic	20 oz.	$1.00	$1.25
Coke C2	12 oz.	$0.65	$0.75
Coke C2	20 oz.	$1.00	$1.25
Diet Coke	12 oz.	$0.65	$0.75
Diet Coke	20 oz.	$1.00	$1.25
Vanilla Coke	12 oz.	$0.65	$0.75
Vanilla Coke	20 oz.	$1.00	$1.25
Sprite	12 oz.	$0.65	$0.75
Sprite	20 oz.	$1.00	$1.25
Diet Sprite	12 oz.	$0.65	$0.75
Diet Sprite	20 oz.	$1.00	$1.25
A&W Root Beer	12 oz.	$0.65	$0.75
A&W Root Beer	20 oz.	$1.00	$1.25
Fanta Grape	12 oz.	$0.65	$0.75
Fanta Grape	20 oz.	$1.00	$1.25
Fanta Orange	12 oz.	$0.65	$0.75
Fanta Orange	20 oz.	$1.00	$1.25
Fanta Strawberry	12 oz.	$0.65	$0.75
Fanta Strawberry	20 oz.	$1.00	$1.25
Ginger Ale	12 oz.	$0.65	$0.75
Ginger Ale	20 oz.	$1.00	$1.25
MM Light Lemonade	12 oz.	$0.65	$0.75
MM Light Lemonade	20 oz.	$1.00	$1.25
MM Pink Lemonade	12 oz.	$0.65	$0.75
MM Pink Lemonade	20 oz.	$1.00	$1.25
MM Orange Juice	15.2 oz.	$1.00	$1.25
MM Raspberry Pass, Light	12 oz.	$0.65	$0.75
MM Raspberry Pass, Light	20 oz.	$1.00	$1.25
Nestea Cool Strawberry & Lemonade	12 oz.	$0.65	$0.75
Nestea Cool Strawberry & Lemonade	20 oz.	$1.00	$1.25
Nestea Cool Strawberry & Lemonade, Diet	12 oz.	$0.65	$0.75
Nestea Cool Strawberry & Lemonade, Diet	20 oz.	$1.00	$1.25
Powerade Fruit Punch	20 oz.	$1.00	$1.25
Powerade Lemon Lime	20 oz.	$1.00	$1.25
Powerade Mtn Blast	20 oz.	$1.00	$1.25
Powerade Orange	20 oz.	$1.00	$1.25

EXHIBIT 4.4
(page 1 of 7)

Art of Harmony

Miami-Dade locations will showcase the winners of Coca-Cola Art of Harmony contest

- Leverage in program to show community involvement
- 1 week artwork showcase
- Communicate showcase to all high schools involved



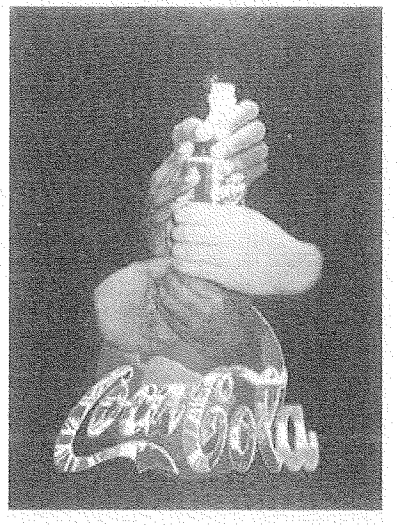
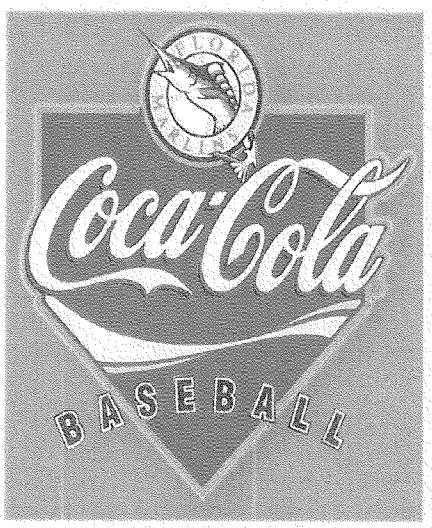
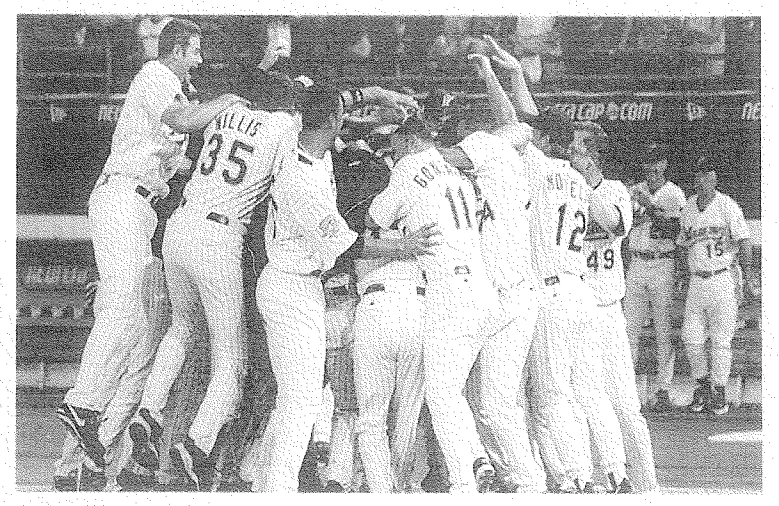


EXHIBIT 4.4
(page 2 of 7)

Coca-Cola Brings the Baseball World Champs to Miami-Dade County Parks





- The Coca-Cola will provide one youth baseball clinic with players from the 2004 World Series Champion, The Florida Marlins
- 2 Marlins players and 1 coach will teach boys and girls the fundamentals of baseball.
- Location will be at Miami-Dade park
- Complimentary Marlin tickets will be given to all the kids (60 kids).

EXHIBIT 4.4
(page 3 of 7)

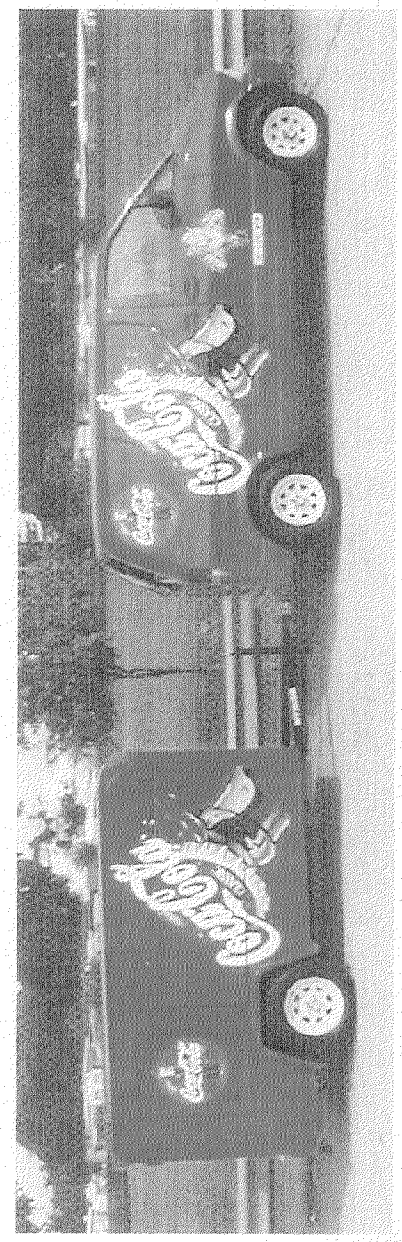
Coca-Cola Brings Excitement to Miami-Dade County Parks

Road Jam

Fiesta Vehicle

- The Coca-Cola Road Jam is an Interactive Program that is centered around a modified SUV and a trailer with video games and Karaoke
- The Coca-Cola Fiesta vehicle is a retrofitted Coca-Cola truck with a DJ display and cool graphics
- The Crew plays cool music, games (including free-styling contests and Karaoke). They hand out coupons, prizes and premiums, and occasionally sample Coca-Cola classic
- The event is highly interactive featuring various contests and fun activities.
- Coca-Cola will provide 1 visit per month to a Miami-Dade location (mutually agreed)

Special Events Trailers



- Coca-Cola van with video game trailer.
- Special events trailer to sell Coca-Cola beverages and food
- Coca-Cola will provide trailers at Miami-Dade special events

EXHIBIT 4.4
(page 5 of 7)

Teen Club Night

- Vend Cling placed on Coca-Cola vending machines in Dade County to promote Teen Club Night as well as other county events

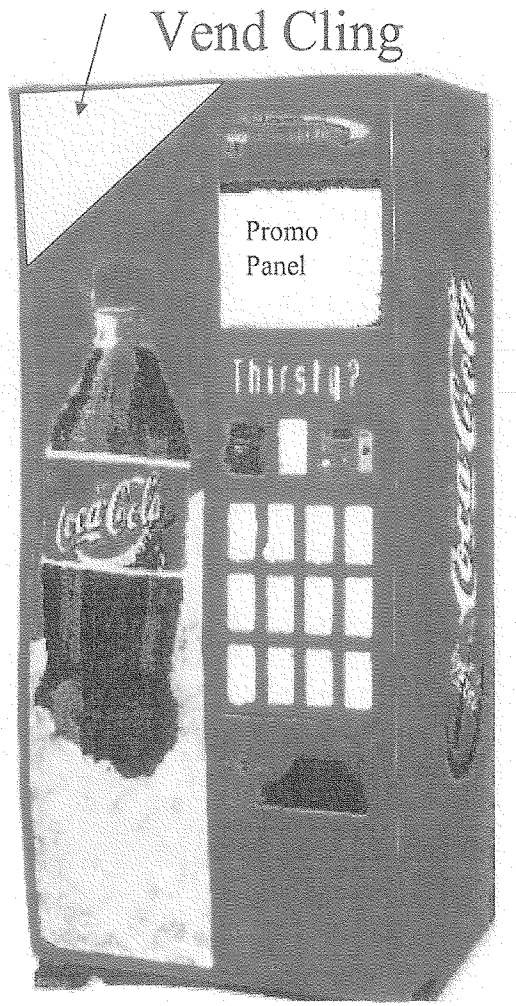


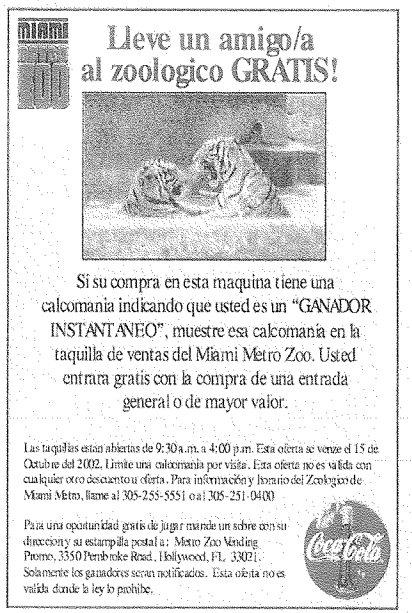
EXHIBIT 4.4
(page 6 of 7)

Truckbacks

- Truckbacks (30) promoting Metro Zoo
  - Visuals of kids
  - Dade, Broward and Palm Beach Counties
  - 6 weeks +

Vend & Win Promotion

- Coca-Cola vend and win promotion at Parks and Recreation
  - 500 winning stickers
  - Can include a Spanish message



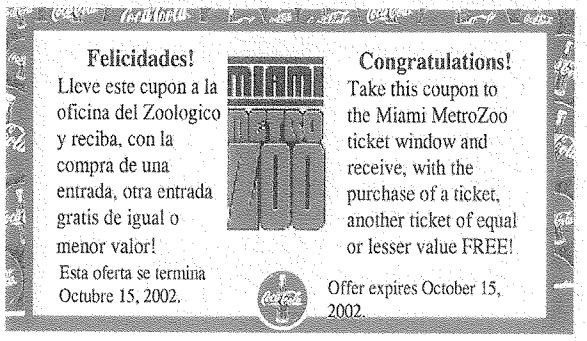


EXHIBIT 4.4
(page 7 of 7)

EXHIBIT 5.0

MONTHLY VENDING MACHINE GROSS METERED RECEIPT REVENUE REPORT

Month	Year
November	**2005**

Vending/Cash Machine Location Designation	Type of Machine	Serial No. on Machine	Begin Meter Reading	End Meter Reading	Total Sales Registered	Fee Due to CMB
A.1.1	Snack	12345	0.00	125	$125.00	$25.00
A.1.2	Ice Cream	23456	0.00	150	$150.00	$30.00
A.1.3	Gatorade	34567	0.00	75	$75.00	$15.00
A.2.1	Coca-Cola	45678	0.00	88	$88.00	$17.60
A.2.1	Hot Drinks	56789	0.00	144	$144.00	$28.80
B.1.1	Snack/Soda	67890	0.00	221	$221.00	$44.20
B.2.1	Ice Cream	78901	0.00	120	$120.00	$24.00
B.2.2	Hot Drinks	89012	0.00	55	$55.00	$11.00
TOTALS					$978.00	$195.60

SAMPLE

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R9
New Business
And
Comm. Requests

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH FLORIDA 33139

OFFICE OF THE CITY CLERK

CITY HALL
1700 CONVENTION CENTER DRIVE
TELEPHONE: 673-7411

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **BOARD AND COMMITTEES**

BACKGROUND:

Attached are the applicants that have filed with the City Clerk's Office for Board and Committee appointments.

ADMINISTRATION RECOMMENDATION:

That appointments be made as indicated.

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC.	PAGE
Barrier Free Environment Committee	13	Commissioner Matti H. Bower	1	Page 2
		Commissioner Richard L. Steinberg	1	
Beach Preservation Board	10	Commissioner Richard L. Steinberg	1	Page 3
		Commissioner Saul Gross	1	
Budget Advisory Committee	9	Commissioner Richard L. Steinberg	1	Page 6
Committee on the Homeless	9	Commissioner Simon Cruz	1	Page 9
Community Development Advisory Committee	14	Commissioner Jose Smith	2	Page 10
		Commissioner Matti H. Bower	1	
		Mayor David Dermer	1	

AGENDA ITEM R9A
DATE 10-19-05

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC.	PAGE
Golf Advisory Committee	12	Commissioner Matti H. Bower	1	Page 16
Health Advisory Committee	11	City Commission	1	Page 17
Health Facilities Authority Board	6	City Commission	2	Page 19
Hispanic Affairs Committee	7	Commissioner Luis R. Garcia, Jr.	1	Page 20
		Commissioner Matti H. Bower	1	
Historic Preservation Board	7	City Commission	1	Page 21
Housing Authority	5	Mayor David Dermer	1	Page 22
Marine Authority	7	Commissioner Simon Cruz	1	Page 24
Miami Beach Commission on Status of Women	21	Commissioner Jose Smith	2	Page 25
		Commissioner Luis R. Garcia, Jr.	1	
		Commissioner Matti H. Bower	1	
		Commissioner Saul Gross	1	
Miami Beach Cultural Arts Council	9	City Commission	1	Page 26
Police Citizens Relations Committee	17	Commissioner Jose Smith	1	Page 35
Public Safety Advisory Committee	7	Commissioner Jose Smith	1	Page 38

AGENDA ITEM _____

DATE _____

VACANCIES

BOARD OR COMMITTEE:	TOTAL MBRS.	APPOINTED BY:	TOTAL VAC.	PAGE
Safety Committee	14	Commissioner Luis R. Garcia, Jr.	2	Page 39
		Commissioner Simon Cruz	1	
		Mayor David Dermer	1	

Attached is breakdown by Commissioner or City Commission:

REP

JMG:REP/lg

City Commission Committees

Committee	Position	First Name	Appointed by	Appointed
Finance & Citywide Projects Committee				
	Liaison	Patricia Walker	Mayor Dermer	11/25/03
	Alternate	Commissioner Simon Cruz	Mayor Dermer	11/25/03
	Vice-Chair	Commissioner Richard L. Steinberg	Mayor Dermer	11/25/03
	Chairperson	Commissioner Jose Smith	Mayor Dermer	11/25/03
	Member	Commissioner Matti Herrera Bower	Mayor Dermer	11/25/03
Land Use & Development Committee				
	Liaison	Jorge Gomez	Mayor Dermer	11/25/03
	Alternate	Commissioner Jose Smith	Mayor Dermer	11/25/03
	Member	Commissioner Saul Gross	Mayor Dermer	11/25/03
	Chairperson	Commissioner Luis R. Garcia	Mayor Dermer	11/25/03
	Member	Commissioner Matti Herrera Bower	Mayor Dermer	11/25/03
Neighborhood/Community Affairs Committee				
	Liaison	Vivian Guzman	Mayor Dermer	11/25/03
	Alternate	Commissioner Luis R. Garcia	Mayor Dermer	11/25/03
	Member	Commissioner Richard L. Steinberg	Mayor Dermer	11/25/03
	Chairperson	Commissioner Matti Herrera Bower	Mayor Dermer	11/25/03
	Member	Commissioner Saul Gross	Mayor Dermer	11/25/03

NON-CITY COMMISSION COMMITTEES

Commissioner Matti Herrera Bower

- Miami Beach Transportation Management Association (TMA)
- Dade Cultural Alliance
- Tourist Development Council
- Performing Arts Center Trust (PACT)

Commissioner Luis R. Garcia, Jr.

- Unclassified Employees and Elected Officials Retirement System
- Greater Miami Convention and Visitors Bureau

Commissioner Jose Smith

- Metropolitan Planning Organization

Commissioner Richard L. Steinberg

- Miami-Dade County Homeless Trust Board - Appointed by Miami-Dade League of Cities
- Miami-Dade League of Cities

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R9 - New Business and Commission Requests

R9B(1)	Dr. Stanley Sutnick Citizen's Forum.	(1:30 p.m.)
R9B(2)	Dr. Stanley Sutnick Citizen's Forum.	(5:30 p.m.)

AGENDA ITEM R9B 1-2
DATE 10-19-05

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C: Tim
Max
Lilia

CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: **JORGE GONZALEZ**
CITY MANAGER

FROM: **RICHARD STEINBERG** RLS/DM
COMMISSIONER

DATE: **June 27, 2005**

RE: **July 27th Commission Meeting Item – Report by Peter Dolara, Senior Vice President, Miami, Caribbean and Latin America, American Airlines**

Please place an item for discussion on the July 27th Commission Agenda regarding the on-going efforts by American Airlines to enhance the volume of visitors to Miami Beach and the rest of the destination.

My office will be requesting a time certain for 10:45 am. If you have any questions, please feel free to contact my Aide, Ms. Dolores Mejia, at extension 6834.

RLS/dm

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Agenda Item R9C
Date 10-19-05

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c: Tim
Lilia

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CITY MANAGER'S OFFICE
BY

CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: JORGE GONZALEZ
CITY MANAGER

JORGE GOMEZ
PLANNING DIRECTOR

CC: MURRAY DUBBIN
CITY ATTORNEY

FROM: RICHARD STEINBERG RLS/sm
COMMISSIONER

DATE: September 15, 2005

RE: Agenda Item for the October 19th Commission Agenda-Amendment to the Ordinance regarding the Removal of Historic Signs as passed on the September 8th Commission Meeting

---

I would like to request that the Commission consider an ordinance change that would protect new business owners from being required to keep the name of an old business outside of their new business. I would like the Planning Department to develop language that will balance the interests of preservation and that of a new business that may be harmed by confusion or extortion if they are required to keep a prior businesses name. Please place this amendment on the October 19th Commission Agenda.

The situation could arise that a restaurant (or other business) opens where another restaurant (or business) was and the new restaurant (or business) is required to keep the name of the old leading to confusion and potentially leading to the new owner having to pay the prior tenant or owner for the rights to use the old name. For example: What confusion would exist if Jerry's Deli opened where Wolfie's was and the City required them to keep the Wolfie's name? Or, what if another deli went into the old Wolfie's location and the City required the Woofie's sign be retained and the new owner wanted to

Agenda Item R9D
Date 10-19-05

call themselves Woofie's to avoid confusion, but the old owner required payment for the usage of same or refused to give permission?

Of course, my intention is this modification in no way deteriorates the protections afforded to names of historic buildings.

If you have any questions, please feel free to contact my Aide, Ms. Dolores Mejia, at extension 6834.

RLS/dm

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

MURRAY H. DUBBIN
City Attorney

Telephone: (305) 673-7470
Telecopy: (305) 673-7002

COMMISSION MEMORANDUM

DATE: OCTOBER 19, 2005

TO: **MAYOR DAVID DERMER and MEMBERS OF THE CITY COMMISSION**

FROM: **MURRAY H. DUBBIN**
CITY ATTORNEY

SUBJECT: **DESIGNATION OF CITY OF MIAMI BEACH CANVASSING BOARD FOR NOVEMBER 1, 2005 GENERAL ELECTION**

In connection with the upcoming November 1, 2005 General Election, the Mayor and City Commissioners are required to appoint official representatives to serve as the Miami Beach Canvassing Board. Canvassing Board members may not be candidates with opposition in the City's General Election, or active participants in the campaign or candidacy of any candidate with opposition in said General Election; the City Attorney thus recommends that the Canvassing Board be composed of the City Manager or his designee, and two members of the City Commission who so qualify for Canvassing Board membership.

JKO\ed
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Agenda Item R9E
Date 10-19-05

1700 Convention Center Drive -- Fourth Floor -- Miami Bea

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **DISCUSSION REGARDING A RESOLUTION ELECTING THE NEXT VICE-MAYOR FOR A TERM COMMENCING ON NOVEMBER 1, 2005, AND TERMINATING ON FEBRUARY 28, 2006.**

The City Commission has established a policy of rotating the position of Vice-Mayor every four (4) months. Since 1994, the rotation has been by Commission Group number. The next Vice-Mayor Group is Group I. The term for the next Vice-Mayor is November 1, 2005 through February 28, 2006. Since the Group I Commissioner is not yet elected, the Commission needs to determine how to handle the selection of the next Vice-Mayor.

JMG/HF/REP

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Agenda Item R9F
Date 10-19-05

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R9 - New Business and Commission Requests

R9G A Recommendation Of The City Manager To The Mayor And Commission Of The City Of Miami Beach To Resolve The Impasse Between The City And The Communications Workers Of America (CWA) And Recommend To The CWA Membership For A Ratification Vote A Three Year Labor Agreement For The Period From October 1, 2003 Through September 30, 2006 And In The Event That The Agreement Is Not Ratified, Then The Items In The First Year Of The Proposed Package Shall Be Imposed.

(City Manager's Office)

(Memorandum to be Submitted in Supplemental)

AGENDA ITEM R9G
DATE 10-19-05

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INFORMATION ITEMS

OFFICE OF THE CITY ATTORNEY

City of Miami Beach

F L O R I D A

MURRAY H. DUBBIN
City Attorney

Telephone: **(305) 673-7470**
Telecopy: **(305) 673-7002**

COMMISSION MEMORANDUM

DATE: October 19, 2005

TO: Mayor David Dermer
Members of the City Commission
City Manager Jorge M. Gonzalez

FROM: Murray H. Dubbin DRfor
City Attorney

SUBJECT: **City Attorney's Status Report**

I. LAWSUITS FILED BY OR AGAINST THE CITY OF MIAMI BEACH SINCE THE LAST REPORT

1. Micky Biss vs. David Dermer, Saul Gross, Richard Steinberg, Jose Smith, Matti Herrera Bower, Luis R. Garcia, Jr. and Simon Cruz. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-10178 CA23

   This action seeks temporary and permanent relief via Court order enjoining the named Defendants from discussing "any Biss property matters" at a private, unnoticed meeting. Defendants' Motion to Dismiss was granted, and Plaintiff was offered leave to amend the Complaint. The Amended Complaint has been served and the Defendants' response is due by October 28, 2005. Discovery is being drafted by the City Attorney's office.

2. Frank Otero vs. City of Miami Beach, Florida, a political subdivision of the State of Florida, La Gorce Contry Club, Inc., and DM Fence Corporation. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-17754 CA04

   This case attempts to assert a class action lawsuit against the City of Miami Beach and La Gorce Country Club, Inc. concerning the construction of the fence around the La Gorce Golf Course. The

Agenda Item A
Date 10-19-05

purported plaintiff class consists of the homeowners surrounding the Golf Course. The verified complaint alleges seven counts, four of which are against the City, including Count III: violations of due process for alleged taking of property and police involvement in activities of the Club; Count IV: a taxpayer suit, and Counts VI and VII: declaratory and injunctive relief to prevent the fence from being constructed and to restore the surrounding property owners' properties to the previously existing condition (Counts VI and VII are also alleged against La Gorce). The Counts alleged solely against La Gorce (and its contractor) include Count I: prescriptive easement; Count II: promissory estoppel; Count V, trespass.

3. Zedek Associates, a Florida general partnership vs. The City of Miami Beach, a Florida municipal corporation. Eleventh Judicial Circuit, General Jurisdiction Division. Case No. 05-19628 CA 31

This case seeks declaratory and injunctive relief against the City based on the adoption of the RPS-4 ordinance in 2002 setting a height limit of 75 feet to some properties on the east side of Ocean Drive south of 5th Street, and an agreement combining two properties whose owners seek to avoid a provision requiring that lots of 50 feet or less aggregated after the effective date of the ordinance have a height limit of 35 feet. Count I alleges the ordinance was adopted and advertised improperly. Count II alleges the ordinance improperly distinguishes between the height limits attributable to affected properties based on when they were aggregated. Count III alleges the ordinance is unconstitutional as vague because it doesn't define "aggregate." Count IV seek injunctive relief based on the alleged foregoing defects.

CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **STATUS REPORT ON THE REHABILITATION OF THE EXISTING BUILDING AND CONSTRUCTION OF THE NEW FIRE STATION NO. 2.**

The improvements to Fire Station No. 2 include full historic renovation of the existing building (Building A), construction of a new facility which will include three apparatus bays and living quarters for the station's fire crews and an Emergency Operations Center (Building B).

Jasco Construction Company (Jasco) is the Construction Manager at Risk and STA Architectural Group (STA) is the architect/engineer (A/E). The Guaranteed Maximum Price (GMP) for the project is $8,096,580. The first Notice to Proceed for construction was issued on November 22, 2004. Construction and move in of fire personnel into Building B is expected to require 15 months. Following this, renovation of Building A, and its conversion into administrative offices, will require an estimated 13 months to be substantially complete.

Vertical construction of Building B is well underway. All rough work for utilities under the building footprint have been completed. All structural and grade work within the building footprint and the concrete slab and first floor walls have been completed. The slab for the second floor was poured on September 29, 2005. Jasco began setting block for the third floor walls during the week of October 3, 2005. The third floor slab is expected to be poured on November 28, 2005.

There was a delay in pouring the second floor slab due to the recent storms and storm related materials delays. A possible time-only extension to the contract is currently being negotiated with the contractor.

JMG/RCM/TH/JEC/JCC/KLM/HKM

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Agenda Item B
Date 10-19-05

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **STATUS REPORT ON THE CONSTRUCTION OF FIRE STATION NO. 4**

On August 4, 2004, the CIP Office issued a Notice-to-Proceed to Carivon (JOC Program Contractor) to initiate the seawall construction. Carivon mobilized to the site on September 23, 2004. The sidewalk along the seawall was removed; all piles were replaced; concrete was placed at the deadmen (concrete stabilization structures); the wooden docks were installed and secured; all debris identified in the DERM permit was removed, including three sunken boats; the seawall cap was poured; the rip rap installed; and the grading on the surrounding ground completed. On August 24, 2005, all documentation, including the final elevation survey and as-built survey, was submitted, the A/E has accepted the documents and is preparing a final acceptance walk-through for November 2005.

The Notice to Proceed was issued on November 15, 2004. Carivon began the site and foundation work activities. Concrete has been poured at the grade beams and stem walls. Installation of the electrical, water and drainage systems underground were completed. Carivon also completed the concrete floor slab on May 25, 2005. Vertical construction is well underway, with the architectural wall, the erection of concrete block walls, and the pouring of concrete on beams and columns completed. The retaining wall along the west side has also been completed. The roof decks have been poured at the kitchen area, the dorms and above the offices and truck bays. Installation of storefront, windows and doors is next. This will allow the building to be sealed from the elements. In addition, civil work, including the water, irrigation and fire line connections, has been completed. The rough installation of the sanitary sewer and drainage systems is complete, including the grease trap and grease separator boxes, the drainage well box and roof drains. The Project is estimated to be at 50% completion.

On March 28, 2005, Carivon submitted a partial recovery plan and corresponding schedule in an attempt to regain lost time, approximately 40 days, for review by the City and its consultants, and is already working extended hours and on Saturdays. An updated schedule for the month of April was submitted; however, there was no appreciable gain on the time lost in the previous month. Other schedules have been received but do not show appreciable gains in time. In addition, due to recent weather events and other site conditions, the timetable and scope of work have been affected, which will probably extend the contract time. The City, its Consultants, and Carivon are working on evaluating a time extension requesting and issuing Change Order for time in the near future.

JMG/RCM/TH/JCH/JC/KM:ar
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Agenda Item C
Date 10-19-05

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.miamibeachfl.gov

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **INFORMATIONAL REPORT TO THE MAYOR AND CITY COMMISSION, ON FEDERAL, STATE, MIAMI-DADE COUNTY, U.S. COMMUNITIES, AND ALL EXISTING CITY CONTRACTS FOR RENEWAL OR EXTENSIONS IN THE NEXT 180 DAYS.**

The City Commission adopted Resolution No. 2000-24141, which provided that all existing city contracts for renewal or extensions, which by their terms or pursuant to change orders exceed $10,000, and all extensions or renewals of such contracts, shall be presented as an informational report to the Mayor and City Commission, at least 180 days prior to the contract extension or renewal date. Subsequent thereto, the City Commission adopted Resolution No. 2001-24332, changing the reporting requirement from $10,000 to $25,000.

The administration in addition to reporting on all existing City contracts, will now report information relative to Miami-Dade County, State of Florida, U.S. Communities and Federal GSA contracts that are approved for utilization by the City Manager. Pursuant to information contained in Miami-Dade County, State of Florida, U.S. Communities and Federal General Services Administration (GSA) bid list, the following are contracts that will expire within the next 180 days:

	DESCRIPTION	VENDOR	EXPIRATION DATE	RENEWAL TERMS
1.	Audits of Resort Taxes & Internal Audits of Non-Profit	Urbach Kahn & Werlin, LLP	3/15/2006	One year option remaining
2.	Internal Audits of Non-Profit	Sanson, Kline, Jacomino & Company, LLP	3/15/2006	One year option remaining
3.	Audits of Resort Taxes	Beverly Young	3/15/2006	One year option remaining

AGENDA ITEM D
DATE 10-19-05

4.	Bodywork Repair (Collision Damage)	CubanShine Frame & Body	2/27/2006	(2) One year option to renew
5.	Bodywork Repair (Collision Damage)	Gus Paint & Body Shop, Inc.	2/27/2006	(2) One year option to renew
6.	Bodywork Repair (Collision Damage)	Caffi Brothers Shop	2/27/2006	(2) One year option to renew
7.	Bodywork Repair (Collision Damage)	Crony Body Works, Inc.	2/27/2006	(2) One year option to renew
8.	Bodywork Repair (Collision Damage)	Palmetto Ford Trucks Sales, Inc.	2/27/2006	(2) One year option to renew
9.	Bodywork Repair (Collision Damage)	US Body Shop, Inc.	2/27/2006	(2) One year option to renew
10.	Bodywork Repair (Collision Damage)	Auto Body Concepts, Inc.	2/27/2006	(2) One year option to renew
11.	Concession Agreement for the Management and Operation of Beachfront Concessions	Boucher Brothers	11/5/2006	Five-year renewal option. Negotiations to commence no later than May 2006.

JMG:PDW:GL

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CITY OF MIAMI BEACH
OFFICE OF THE MAYOR & COMMISSION
MEMORANDUM

TO: MAYOR & COMMISSIONERS

CC: JORGE GONZALEZ
CITY MANAGER

FROM: MATTI H. BOWER
VICE MAYOR

DATE: September 22, 2005

RE: For Your Information- Miami Dade League of Cities
September 1, 2005 Agenda and August 4, 2005 Minutes

Attached please find the agenda for the September 1, 2005 Miami Dade League of Cities Board Meeting, including minutes for the August 4, 2005 meeting for your information and review.

MHB/lw

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CITY MANAGER'S OFFICE
BY

Agenda Item E1
Date 10-19-05

OFFICERS

President
HON. JAY R. CHERNOFF
Mayor, North Miami Beach
Vice President
ISAAC SALVER
Councilman, Bay Harbor Islands
Second Vice President
HON. EDUARDO GONZALEZ
Councilman, Hialeah
Third Vice President
HON. RICHARD STEINBERG
Commissioner, Miami Beach
Secretary
HON. SHIRLEY GIBSON
Mayor, Miami Gardens
Treasurer
HON. MANUEL MAROÑO
Mayor, Sweetwater

BOARD OF DIRECTORS

HON. BOB DIAMOND
Commissioner, Aventura
HON. SY ROTH
Mayor, Bal Harbour
HON. PETER LYNCH
Mayor, Bay Harbor Islands
HON. TED WALKER
Mayor, Biscayne Park
HON. DON SLESNICK, III
Mayor, Coral Gables
HON. JUAN C. BERMUDEZ
Mayor, Doral
HON. AUDREY EDMONSON
Mayor, El Portal
HON. JUANITA SMITH
Commissioner, Florida City
HON. AL PARUAS
Vice Mayor, Golden Beach
TBD
Vacant, Hialeah
HON. YIOSET DE LA CRUZ
Mayor, Hialeah Gardens
HON. JEFF PORTER
Councilman, Homestead
HON. ANNE McDOUGAL
Mayor, Indian Creek
HON. PATRICIA WEINMAN
Councilperson, Key Biscayne
HON. RAMON RODRIGUEZ
Mayor, Medley
HON. MANUEL A. DIAZ
Mayor, Miami
TBD
Vacant, MDC
HON. DR. MARTIN KARP
Board Member
Miami-Dade County School Board
HON. MATTI HERRERA BOWER
Commissioner, Miami Beach
Mayor, Melvin L. Bratton
Miami Gardens
HON. WAYNE SLATON
Mayor, Miami Lakes
HON. AL DAVIS
Mayor, Miami Shores
HON. BILLY BAIN
Mayor, Miami Springs
HON. DR. PAUL VOGEL
Commissioner, North Bay Village
HON. MICHAEL BLYNN
Councilman, North Miami
HON. MYRON ROSNER
Councilman, North Miami Beach
HON. JOSEPH KELLEY
Mayor, Opa-Locka
HON. EUGENE FLINN
Mayor, Palmetto Bay
HON. GAIL SEROTA
Councilwoman, Pinecrest
HON. MARIE BIRTS-COOPER
Commissioner, South Miami
HON. NORMAN EDELCUP
Mayor, Sunny Isles Beach
HON. TIM WILL
Mayor, Surfside
Commissioner, Prisca Barreto
Vacant, Sweetwater
HON. SPENCER DENO IV
Mayor, Virginia Gardens
HON. VELIA YEDRA CHRUSZCZ
Mayor, West Miami

PAST PRESIDENTS

HON. RAUL L. MARTINEZ
Mayor, Hialeah
HON. JEFFREY A. MISHCON
Mayor, North Miami Beach
HON. JULIO ROBAINA
Council President, Hialeah
HON. MARY SCOTT RUSSELL
Mayor, South Miami
HON. R. S. SHIVER
Vice Mayor, Florida City
HON. DR. PAUL VOGEL
Commissioner, North Bay Village

EXECUTIVE DIRECTOR EMERITUS

Miami Dade League of Cities

.226 E. Flagler Street, Suite 200, Miami, FL 33131
TELEPHONE: 305-416-4155 FAX: 305-416-4157
E-MAIL: mdclc@bellsouth.net

RICHARD KUPER, ESQ.
EXECUTIVE DIRECTOR
HOWARD B. LENARD
GENERAL COUNSEL

Board of Directors Meeting Agenda

Thursday - September 1, 2005

The Miami Shores Country Club

10000 Biscayne Boulevard, Miami Shores, 33138
6:00 p.m. Reception and 7:00 p.m. Dinner

WELCOMING REMARKS: President **Jay R. Chernoff**, Councilman, City of North Miami Beach

1. INVOCATION: **Isaac Salver**, First Vice President, Councilman, Town of Bay Harbor Islands

2. PLEDGE OF ALLIGIANCE: **Herta Holly,** Chairperson, Village of Miami Shores Council

3. SELF-INTRODUCTIONS:

4. HOST CITY PRESENTATION: **Herta Holly,** Chairperson, Village of Miami Shores Council

5. GUEST SPEAKER:

   A. **Jose "Pepe" Diaz,** Commissioner, Miami-Dade County

6. DISCUSSION ITEMS:

   A. New Executive Board Member Appointment

   B. Florida League of Cities Annual Conference Report

   C. Approval of 05-06 Budget

7. EXECUTIVE DIRECTOR REPORT:

Richard Kuper, Esq.

A. Annual Installation Board of Director's Meeting

8. CONSENT AGENDA:

A. Approval of August 4, 2005, Board of Director's Minutes (Attached)

9. GOOD OF THE ORDER:

REMINDER:

A. October Installation Dinner - For Sponsorships, Ads or table reservations Please contact:

Ms. Chris Weinberg
Ph. 305- 244-6603
E-mail CWeinberg@eastcoasteventsmiami.com

OR
Ms. Alexis Cooper
Ph. 305-439-5715
E-mail. alexiscooper@atlanticbb.net

MDCLC

226 East Flagler Street, Suite 200, Miami, FL 33131
Tel. 305-416-4155 Fax: 305-416-4157
E-mail: mdclc@bellsouth.net

EXECUTIVE DIRECTOR
Richard Kuper, Esq.

Draft Minutes

Thursday, August 4, 2005

President **Jay R. Chernoff**, Vice Mayor, City of North Miami Beach, called the meeting to order at 7:10 p.m. and welcomed guests. President **Chernoff** also asked for a moment of Silence for the late Arthur E. Teele. Mayor, **Shirley Gibson** from the City of Miami Gardens, gave the Invocation. Councilman, **Isaac Salver** from the Town of Bay Harbour Islands led us in the Pledge of Allegiance.

The **municipalities represented** at the board meeting: City of Aventura, Town of Bay Harbour Islands, Village of Bal Harbor, Village of Biscayne Park, City of Coral Gables, Town of Golden Beach, City of Hialeah, City of Miami Beach, City of Miami Gardens, Town of Miami Lakes, City of North Bay Village, City of North Miami, City of North Miami Beach, City of Opa-Locka, Village of Palmetto Bay, Village of Pinecrest, City of South Miami, City of Sweetwater, Village of Virginia Gardens and Miami Dade County. **Associate Members** and guests present: LINC, Weiss Serota P.A., BFI, East Coast Events, Strategic Campaign Consultants, FPL, Bellsouth, Woolpert Inc, City Engineers, CITT, Lennar Homes, Miami Dade College, Florida League of Cities, Miami Dade School Board, MCO construction, Rachlin Cohen & Holtz, HDR and City of Miami, Chairman Joe Sanchez.

President **Jay R. Chernoff** moved to approve the minutes August 4, 2005. The motion was unanimously approved.

Councilman **Michael Blynn,** City of North Miami introduced and welcomed **Barry Kutun** New City Attorney of North Miami.

The **Joe Sanchez**, City of Miami, Chairman hosted the meeting. The Chairman emphasized on how choosing the right officials can affect certain critical issues within local communities and their residents. Because these issues have been severely economically destroyed, they have been identified to prevent further deprivation. Many of these concerns involve beautification projects, Creation of Arts, Cultural Aspects and most importantly the quality of life.

Commissioner, **Richard Steinberg**, City of Miami Beach then introduced guest speaker **John Thomas** of the Florida League of Cities Legislative and Public Affairs Director.

John Thomas aggressively addressed the importance of providing Social Security Numbers as the preferred choice for customers of Legitimate Businesses. Many of **John Thomas** concerns are pertained to high crime rate and distribution of such personal information. Because there was such an overwhelming demand on actively using Social Security Numbers, it will be an effort re-approached once again in the following years.

Mr. **John Thomas** also spoke on the Senate Bill-360 that will provide support and funds for the Infrastructure committee in certain areas. The local government must adopt their local evaluation and appraisal reports. Along with those changes, a fifteen member study commission group was put together to review and recommend the statutory changes on impact fees.

Executive Director, **Richard Kuper** then thanked all the members and guests for attending the August 4, 2005 Board of Directors Meeting. **Mr. Kuper** reminded all the guests present about our 52nd Annual Installation Dinner on October 6, 2005 in honor of First Vice President Isaac Salver.

Mr. Kuper then introduced Ms. **Chris Weinberg** of East Coast Events to give a little more detail on how to RSVP, sponsor or support the October Installation Dinner.

President **Jay R. Chernoff** moved to approve the monthly disbursements of August 4, 2005. The motion was unanimously approved.

President **Jay R. Chernoff** also reminded everyone to look at the CITT Surtax Funds Distribution Sheet.

The meeting was adjourned at 9:10 p.m.

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CITY OF MIAMI BEACH

CITY HALL 1700 CONVENTION CENTER DRIVE MIAMI BEACH, FLORIDA 33139
www.ci.miami-beach.fl.us

COMMISSION MEMORANDUM

To: Mayor David Dermer and Members of the City Commission

Date: October 19, 2005

From: Jorge M. Gonzalez
City Manager

Subject: **PARKING STATUS REPORT – JULY 2005**

The following comments serve to preface attended parking facilities (garages and lots) performance for the month of July 2005. In July 2005, gross revenues at attended facilities (garage and lots) increased by 13.02% as compared to the prior year's period.

During the month of July 2005, the Parking Department's attended locations earned a net profit of $585,393.49. This is an increase in net profit of $49,202.10 or 9.18% as compared to the same period in the prior year. The year to date net profit is $5,388,097.25. This is a decrease in net profit of $225,141.44 or 4.01%.

A) 17th Street Municipal Parking Garage: July 2005

During the month of July 2005, the 17th Street Garage had net revenues of $198,861.92. Net revenues are total revenues collected, minus sales tax, and are comprised of facility-specific access-card revenues of $61,020.00, transient parking revenues of $131,541.92, and valet rental fees of $6,300.00. Net revenues increased from $173,128.42 in 2004, to $198,861.92 in 2005; a 14.86% increase in net revenues. After subtracting operating expenses of $93,114.49 the facility had a net profit for the month in the amount of $105,747.43. This represents an increase in net profit for the facility in the amount of $2,117.91 or 2.04% when compared to the same period in the previous year. This increase is primarily attributable to an increase in transient parking revenue of $22,733.50, and an increase in access-card revenue of $3,000.00; off-set by an increase in security personnel expense of $5,917.67, an increase in attendant/cashier labor expense of $11,518.58 and an increase in garage cleaning/maintenance expense of $5,224.92. The 17th Street Garage served a total of 76,072 parkers in the month of July, 2005.

B) 7th Street Municipal Parking Garage: July 2005

During the month of July 2005, the 7th Street Municipal Parking Garage had net revenues of $210,835.25. Net revenues are total revenues collected, minus sales tax, and are comprised of facility-specific access-card revenues of $16,050.00 and transient parking revenues of $194,785.25. When compared to the same month in the prior year (July 2004), net revenues increased from $186,676.64 in 2004, to $210,835.25 in 2005; a 12.94% increase in net revenues. After subtracting operating expenses of $67,181.78 and debt service of $59,500 the facility had a net profit for the month in the amount of $84,153.47. This is an increase in net profit of $23,625.84 or 39.03% from July 2004. This increase is primarily attributable to an increase in transient parking revenue of $21,908.61,

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Date 10-19-05

an increase in access-card revenue of $2,250.00; off-set by an increase in Security personnel of $4,194.96, an increase in attendant/cashier labor expense of $5,844.72, an increase in revenue control equipment maintenance expense of $950.00, and an increase in garage cleaning and maintenance expense of $4,130.50, off-set by a decrease in landscape maintenance of $13,368.00 by a decrease in elevator maintenance expense of $1,295.00. The 7th Street Garage served a total of 42,090 parkers in the month of July, 2005.

C) 5-A Municipal Surface Parking Lots (Washington Avenue to Pennsylvania and 17th Street): July 2005

During the month of July 2005, the 5-A Surface Lots had net revenues of $172,420.57. Net revenues are comprised of facility-specific access-card revenues of $17,460.00 and transient parking revenues of $154,960.57. When compared to the same period in the prior year, (July 2004), net revenues increased from $144,301.32 in 2004, to $172,420.57 in 2005; a 19.49% increase in net revenues. After subtracting operating expenses of $31,814.00, the facility had a net profit for the month in the amount of $140,606.57. This is an increase in net profit of $17,953.07 or 14.64% from July 2004. This increase is primarily attributable to an increase in transient parking revenues of $28,479.25; off-set by an increase in security personnel of $249.07, an increase in attendant/cashier labor expense of $9,450.45 and an increase in revenue control equipment maintenance expense of $466.66. The 5-A Municipal Surface Parking Lot served a total of 47,563 parkers in the month of July, 2005.

D) 12th Street Municipal Parking Garage: July 2005

During the month of July 2005, the 12th Street Garage had net revenues of $41,682.81. Net revenues are comprised of facility-specific monthly parking revenues of $3,780.00 and transient parking revenues of $37.902.81. When compared to the same month in the prior year (July 2004), net revenues increased from $34,727.65 in 2004, to $41,682.81 in 2005; a 20.03% increase in net revenues. After subtracting operating expenses of $22,053.10 the facility had a net profit for the month in the amount of $19,629.71. This is an increase in net profit of $1,778.38 or 9.96% from July 2004. This increase is primarily attributable to an increase in transient parking revenues of $8,155.16 off-set by a decrease in facility-specific monthly parking revenues of $1,200; an increase in security personnel of $1,200.41 and an increase in attendant/cashier labor expense of $3,304.62. The 12th Street Garage served a total of 6,097 parkers in the month of July 2005.

E) 13th Street Municipal Parking Garage: July 2005

During the month of July 2005, the 13th Street Garage had net revenues of $77,227.42. Net revenues are comprised of facility-specific monthly parking permit revenues of $7,620.00 and transient parking revenues of $69,607.42. Compared to the same month in the prior year (July 2004), net revenues increased from $63,592.86 in 2004, to $77,227.42 in 2005; representing a 21.44% increase in net revenues. After subtracting operating

expenses of $28,949.20, the facility had a net profit for the month in the amount of $48,278.22. This is an increase in net profit of $14,255.09 or 41.90% from July 2004. This increase is primarily attributable to an increase in transient parking revenues of $15,134.56 off-set by a decrease in monthly parking permits of $1,500; a decrease in attendant/ cashier labor expense of $3,990.93 (this decrease is due to a new automated pay on foot machine) off-set by an increase in security personnel of $2,161.63 and an increase revenue control equipment maintenance expense of $900.00. The 13th Street Garage served a total of 14,447 parkers in the month of July 2005.

F) <u>16th Street-Anchor Parking Garage: July 2005</u>

During the month of July, 2005, the 16th Street Garage had net revenues of $171,476.37. Net revenues are comprised of facility-specific monthly parking revenues of $30,100.00, transient parking revenues of $106,953.01, and valet rental fees of $34,423.36. Compared to the same month in the prior year (July 2004), net revenues increased from $156,881.77 in 2004, to $171,476.37 in 2005; representing a 9.30% increase in net revenues. After subtracting operating expenses of $52,752.92 the facility had a net profit for the month in the amount of $118,723.45. This is a increase in net profit of $3,489.75 or 3.03% from July 2004. This increase is primarily attributable to an increase in transient parking revenue of $6,328.72 and an increase in valet rental fee revenue of $6,415.88; off-set by an increase in security personnel of $1,748.31, an increase in attendant/cashier labor expense of $5,462.52 and an increase in garage cleaning/maintenance expense of $4,378.00. The 16th Street Garage served a total of 25,962 parkers in the month of July, 2005.

G) <u>42nd Street Municipal Parking Garage: July 2005</u>

During the month of July, 2005, the 42nd Street Garage had net revenues of $28,786.75. Net revenues are comprised of facility-specific monthly parking revenues of $25,740.00 and transient parking revenues of $3,046.75. Compared to the same month in the prior year of July (2004), net revenues decreased from $38,119.65 in 2004, to $28,786.75 in 2005; representing a 24.48% decrease in net revenues. After subtracting operating expenses of $20,032.11 the facility had a net profit for the month in the amount of $8,754.64. This is a decrease in net profit of $14,017.97 or 61.56% from July 2004. This decrease is primarily attributable to a decrease in facility-specific parking revenues of $8,760.00, a decrease in transient parking revenue of $572.90; an increase in security personnel of $1,809.36, an increase in attendant/cashier labor expenses of $1,160.42 and an increase in garage cleaning/maintenance expenses of $1,554.25. The 42nd Street Garage served a total of 20,932 parkers in the month of July, 2005.

H) <u>Electronic Parking Meter Revenue Comparison: July 2005</u>

This statement compares parking meter revenue collected in July 2005, with revenue collected in July 2004. When comparing revenues for July 2005 in the amount of $854,746.79 to revenues for July 2004 in the amount of $911,542.50, the report reflects a decrease of $57,990.49 or 6.36% in revenues collected. Meter revenue collected does not

reflect the change in monthly decal parkers (both commercial and residential), valet rental or construction rental of meters, or metered surface lots either taken out of service, or managed differently than the previous year. In the month of July 2005 decal and permit revenue received was $87,614.59 and meter rental revenue (valet, construction, and special events) was $100,485.92 versus $103,362.80 and $76,093.85 respectively in July 2004. The combined total revenue produced at meters for the month of July 2005 was $1,042,847.30. This reflects a decrease from the previous year in the amount of $64,143.85 or 5.79%.

I) Parking and Transportation Smart Card Sales: July 2005

In the month of July 2005, the Parking Department sold 1,110 Parking Meter Cards to merchants, vendors, hoteliers, and the public, for revenues in the amount of $28,440.00.

J) Hotel Hangtag Sales: July 2005

In the month of July 2005, the Parking Department sold 1,400 hotel hangtags to hoteliers in the amount of $8,400.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
FINANCIAL REPORT SUMMARY
July 2005

LOCATION	REVENUE 2004 July	REVENUE 2005 July	REVENUE Increase/ (Decrease)	REVENUE Percent of Increase/ (Decrease)	EXPENSES 2004 July	EXPENSES 2005 July	EXPENSES Increase/ (Decrease)	EXPENSES Percent of Increase/ (Decrease)	PROFIT/(LOSS) 2004 July	PROFIT/(LOSS) 2005 July	PROFIT/(LOSS) Increase/ (Decrease)	PROFIT/(LOSS) Percent o Increase/ (Decrease
17 St. Garage	173,128.42	198,861.92	25,733.50	14.86%	69,498.90	93,114.49	23,615.59	33.98%	103,629.52	105,747.43	2,117.91	2.04%
7th St. Garage	186,676.64	210,835.25	24,158.61	12.94%	66,649.01	67,181.78	532.77	0.80%	120,027.63	143,653.47	23,625.84	19.68%
17th St. Lots	144,301.32	172,420.57	28,119.25	19.49%	21,647.82	31,814.00	10,166.18	46.96%	122,653.50	140,606.57	17,953.07	14.64%
12th St. Garage	34,727.65	41,682.81	6,955.16	20.03%	16,876.32	22,053.10	5,176.78	30.67%	17,851.33	19,629.71	1,778.38	9.96%
13th St. Garage	63,592.86	77,227.42	13,634.56	21.44%	29,569.73	28,949.20	(620.53)	-2.10%	34,023.13	48,278.22	14,255.09	41.90%
42nd St. Garage	38,119.65	28,786.75	(9,332.90)	-24.48%	15,347.04	20,032.11	4,685.07	30.53%	22,772.61	8,754.64	(14,017.97)	-61.56%
16th St. - Anchor	156,881.77	171,476.37	14,594.60	9.30%	41,648.10	52,752.92	11,104.82	26.66%	115,233.67	118,723.45	3,489.78	3.03%
Totals	797,428.31	901,291.09	103,862.78	13.02%	261,236.92	315,897.60	54,660.68	20.92%	536,191.39	585,393.49	49,202.10	9.18%

	Revenue Per Space	Expenses Per Space	Profit/(Loss) Per Space	
17 St. Garage	136.21	63.78	72.43	The 17th Street Garage has 1,460 spaces.
7th St. Garage	326.37	104.00	222.37	The 7th Street Garage has 646 spaces.
17th St. Lots	340.75	62.87	277.88	The 17th Street Lots have 506 spaces.
12th St. Garage	311.07	164.58	146.49	The 12th Street Garage has 134 spaces.
13th St. Garage	270.03	101.22	168.80	The 13th Street Garage has 286 spaces.
42nd St. Garage	46.43	32.31	14.12	The 42nd Street Garage has 620 spaces.
16th St. - Anchor	213.54	65.69	147.85	The 16th Street - Anchor Garage has 803 spaces.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
FINANCIAL REPORT SUMMARY - YEAR TO DATE
October 2004 -July 2005

LOCATION	REVENUE 2004 July YTD	REVENUE 2005 July YTD	REVENUE Increase/ (Decrease)	REVENUE Percent of Increase/ (Decrease)	EXPENSES 2004 July YTD	EXPENSES 2005 July YTD	EXPENSES Increase/ (Decrease)	EXPENSES Percent of Increase/ (Decrease)	PROFIT/(LOSS) 2004 July YTD	PROFIT/(LOSS) 2005 July YTD	PROFIT/(LOSS) Increase/ (Decrease)	PROFIT/(LOSS) Percent of Increase/ (Decrease
17 St. Garage	2,081,564.48	2,268,122.94	186,558.46	8.96%	779,828.10	996,944.84	217,116.74	27.84%	1,301,736.38	1,271,178.10	(30,558.28)	-2.35%
7th St. Garage	1,749,841.97	1,760,662.57	10,820.60	0.62%	542,278.02	631,172.92	88,894.90	16.39%	1,207,563.95	1,129,489.65	(78,074.30)	-6.47%
17th St. Lots	1,581,671.36	1,659,739.58	78,068.22	4.94%	251,196.38	344,897.84	93,701.46	37.30%	1,330,474.98	1,314,841.74	(15,633.24)	-1.18%
12th St. Garage	342,484.26	371,321.59	28,837.33	8.42%	177,882.03	202,305.09	24,423.06	13.73%	164,602.23	169,016.50	4,414.27	2.68%
13th St. Garage	602,666.31	598,107.89	(4,558.42)	-0.76%	299,500.35	316,374.69	16,874.34	5.63%	303,165.96	281,733.20	(21,432.76)	-7.07%
42nd St. Garage	390,396.61	329,818.91	(60,577.70)	-15.52%	162,613.13	190,162.35	27,549.22	16.94%	227,783.48	139,656.56	(88,126.92)	-38.69%
16th St. - Anchor	1,497,145.75	1,592,255.44	95,109.69	6.35%	419,234.04	510,073.94	90,839.90	21.67%	1,077,911.71	1,082,181.50	4,269.79	0.40%
Totals	8,245,770.74	8,580,028.92	334,258.18	4.05%	2,632,532.05	3,191,931.67	559,399.62	21.25%	5,613,238.69	5,388,097.25	(225,141.44)	-4.01%

	Revenue Per Space	Expenses Per Space	Profit/(Loss) Per Space	
17 St. Garage	1,553.50	682.83	870.67	The 17th Street Garage has 1,460 spaces.
7th St. Garage	2,725.48	977.04	1,748.44	The 7th Street Garage has 646 spaces.
17th St. Lots	3,280.11	681.61	2,598.50	The 17th Street Lots have 506 spaces.
12th St. Garage	2,771.05	1,509.73	1,261.32	The 12th Street Garage has 134 spaces.
13th St. Garage	2,091.28	1,106.20	985.08	The 13th Street Garage has 286 spaces.
42nd St. Garage	531.96	306.71	225.25	The 42nd Street Garage has 620 spaces.
16th St. - Anchor	1,982.88	635.21	1,347.67	The 16th Street - Anchor Garage has 803 spaces.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
17th Street Garage - 2G
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
17th Street Garage - 2G						
Revenue						
Revenue-Ticket	480-8000-344583	108,808.42	131,541.92	22,733.50		
Revenue - Valet	480-8000-344583	6,300.00	6,300.00	0.00		
Revenue-Monthly Permits	480-8000-344514	58,020.00	61,020.00	3,000.00		
	17th Street - 2G REVENUE (Sales Tax Excluded)	**173,128.42**	**198,861.92**	**25,733.50**	**14.86%**	**$136.21**
Expenses						
Security Personnel		16,095.17	22,012.84	5,917.67 (1).		
Attendant/Cashier Labor		37,865.26	49,383.58	11,518.32 (2).		
FP&L		6,473.39	6,579.41	106.02 (3).		
Revenue Control Equipment Maintenance		2,516.67	2,133.33	(383.34)		
Armed Guard Revenue Pickup		420.00	433.00	13.00		
Elevator Maintenance		425.00	833.00	408.00 (4)-		
Landscape Maintenance		108.33	919.33	811.00 (5)-		
Garage Cleaning/Maintenance		5,595.08	10,820.00	5,224.92 (6).		
	17th St. Garage - 2G EXPENSES	**69,498.90**	**93,114.49**	**23,615.59**	**33.98%**	**$63.78**
	17th St. Garage PROFIT/(LOSS)	**103,629.52**	**105,747.43**	**2,117.91**	**2.04%**	**$72.43**
					Number of Spaces	**1460**

Notes:
The 17th Street Garage has 1460 spaces. Approximately 40% of the annual revenue is from monthly parkers including valet rentals. The remainder of income is derived from Lincoln Road, Conventions, TOPA, and the New World Symphony.

(1). July 2004 Security Personnel figure consists of 1,295.25 total hours. While, July 2005 Security Personnel figure consists of 1,839 total hours.

(2). July 2004 Attendant/Cashier Labor figure consists of $37,865.26 total labor cost. While, July 2005 Attendant/Cashier Labor figure consists of $49,383.58 total labor cost. The increase is due to new "Living Wage" requirements.

(3). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an estimate based on the average of the FP&L charges from October 2002 through July 2003.

(4)-July 2005 reflects elevator regular maintenace of $425.00 plus $408.00 additional labor repair.

(5)-July charges consists of regular maintenance $ 108.33 plus $811.00 to replace stolen flowers.

(6). July 2005 Garage Cleaning/Maintenance charge of $10,820 reflects the new regular monthly service charge from Best Maintenance. The increase is due to new "Living Wage" requirements.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
7th Street Garage - 1G
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
7th Street Garage - 1G						
Revenue						
Revenue-Ticket	142-8000-344404	172,876.64	194,785.25	21,908.61		
Revenue-Monthly Permits	142-8000-344404	13,800.00	16,050.00	2,250.00		
	7th Street - 1G REVENUE (Sales Tax Excluded)	**186,676.64**	**210,835.25**	**24,158.61**	**12.94%**	**$326.37**
Expenses						
Security Personnel		22,052.26	26,247.22	4,194.96 (1).		
Attendant/Cashier Labor		17,998.44	23,843.16	5,844.72 (2).		
Landscape Maintenance		14,404.67	1,036.67	(13,368.00) (3)-		
FP&L		3,067.37	3,053.15	(14.22) (4).		
Revenue Control Equipment Maintenance		700.00	1,650.00	950.00		
Garage Cleaning/Maintenance		5,111.50	9,242.00	4,130.50 (5).		
Armed Guard Revenue Pickup		420.00	433.00	13.00 (6).		
Elevator Maintenance		2,360.17	1,065.17	(1,295.00) (7).		
Surveillance System Maintenance		534.60	611.41	76.81 (8).		
	7th Street - 1G EXPENSES	**66,649.01**	**67,181.78**	**532.77**	**0.80%**	**$104.00**
	7th St. Estimated Debt Service	**59,500.00**	**59,500.00**	**0.00**	**0.00%**	**$92.11**
	7th St. PROFIT/(LOSS)	**60,527.63**	**84,153.47**	**23,625.84**	**39.03%**	**$130.27**
					Number of Spaces	**646**

Notes:
Generators for this garage are local workers, restaurants, hotels, construction, visitors to SOBE, local beach goers, restaurant patrons, and nightclub patrons.

(1). July 2004 Security Personnel figure consists of only 1,802.75 total labor hours. While, July 2005 Security Personnel figure consists of only 2192.75 total labor hours.

(2). July 2004 Attendant/Cashier Labor figure consists of 1619.50 total labor hours at the average rate of $11.11 per hour. While, July2005 Attendant/Cashier Labor figure consists of 1596.75 total labor hours at the average rate of $14.93 per hour.

(3)-July 2005 landscape maintenance reflects the regular monthly service charge of $918.67 plus an additional charge of $118.00 for clean leaky pipe filters and alley behind the garage.

(4). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an estimate based on the average of the FP&L charges from October 2002 through July2003.

(5). July 2005 Garage Cleaning/Maintenance charge of $9,242 reflects the new regular monthly service charge from Best Maintenance. The increase is due to new "Living Wage" requirements.

(6). Montly charge increase from $420.00 to $433.00

(7). July 2005 Elevator Maintenance charge reflects the regular monthly service charge of $1,065.17.

CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
17th Street Lots - 5A - East and West
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
17th Street Lots - 5A East & West						
Revenue						
Revenue-Ticket	480-8000-344515	126,481.32	154,960.57	28,479.25		
Revenue-Monthly Permits	480-8000-344596	17,820.00	17,460.00	(360.00)		
	17th Street Lots - 5A REVENUE (Sales Tax Excluded)	**144,301.32**	**172,420.57**	**28,119.25**	**19.49%**	**$340.75**
Expenses						
Security Personnel		828.23	1,077.30	249.07 (1).		
Attendant/Cashier Labor		18,258.77	27,709.22	9,450.45 (2).		
Revenue Control Equipment Maintenance		1,666.67	2,133.33	466.66		
Landscape Maintenance		502.67	502.67	0.00		
FP&L		391.48	391.48	0.00 (3).		
	17th St. Lots - 5A EXPENSES	**21,647.82**	**31,814.00**	**10,166.18**	**46.96%**	**$62.87**
	17th St. Lots - 5A PROFIT/(LOSS)	**122,653.50**	**140,606.57**	**17,953.07**	**14.64%**	**$277.88**
					Number of Spaces	**506**

Notes:

(1). July 2004 Security Personnel figure consists of only 75.50 total labor hours. While, July 2005 Security Personnel figure consists of only 90.00 total labor hours.

(2). July 2004 Attendant/Cashier Labor figure consists of only 1747.25 total labor hours at the average rate of $ 10.45 per hour. While, July 2005 Attendant/Cashier Labor figure consists of 1920.25 total labor hours at the average rate of $14.43 per hour.

(3). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an estimate based on the average of the FP&L charges from October 2002 through July 2003. Additionally, July 2005 FP&L invoice was unable to be obtained. Therefore, the figure used is the previously established estimate.

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10/14/2005

CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
12th Street Garage - 2A
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
12th Street Garage - 2A						
Revenue						
Revenue-Ticket	480-8000-344504	29,747.65	37,902.81	8,155.16		
Revenue-Monthly Permits	480-8000-344593	4,980.00	3,780.00	(1,200.00)		
	12th Street - 2A REVENUE (Sales Tax Excluded)	**34,727.65**	**41,682.81**	**6,955.16**	**20.03%**	**$311.07**
Expenses						
Security Personnel		7,938.69	9,139.10	1,200.41 (1).		
Attendant/Cashier Labor		7,113.84	10,418.46	3,304.62 (2).		
FP&L		108.54	108.54	0.00 (3).		
Elevator Maintenance		125.00	866.00	741.00 (4)-		
Garage Cleaning/Maintenance		1,590.25	1,521.00	(69.25) (5).		
	12th Street - 2A EXPENSES	**16,876.32**	**22,053.10**	**5,176.78**	**30.67%**	**$164.58**
	12th Street - 2A PROFIT/(LOSS)	**17,851.33**	**19,629.71**	**1,778.38**	**9.96%**	**$146.49**
					Number of Spaces	**134**

Notes:
The 12th Street Garage achieves 16% of it revenue from permits, the balance is from transients arriving for court appearances, local workers, beachgoers, and nightclub patrons.

(1). July 2004 Security Personnel figure consists of 647.00 total labor hours. While, July 2005 Security Personnel figure consists of only 763.50 total labor hours.

(2). July 2004 Attendant/Cashier Labor figure consists of 680.75 total labor hours at the average rate of $10.45 per hour. While, July 2005 Attendant/Cashier Labor figure consists of 722.00 total labor hours at the average rate of $14.43 per hour.

(3). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an estimate based on the average of the FP&L charges from October 2002 through July 2003. Additionally, July 2005 FP&L invoice was unable to be obtained. Therefore, the figue used is the previously established estimate.

(4)-July 2004 Atlantic Elevator maintenance figures consistes of $125 monthly charge. July 2005 regular maintenance stays the same $ 125.00 plus $741.00 service for elevator repair.

(5). July 2004 Garage Cleaning/Maintenance reflects the regular monthly service charge of $1,285 and a charge of $305.25 for 37 additional hours of cleaning services. July 2005 Garage Cleaning/Maintenance charge of $1,521 reflects the new regular monthly service charge from Chi-Ada Corp. The increase is due to new "Living Wage" requirements.

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10/14/2005

CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
13th Street Garage - 17A
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
13th Street Garage - 17A						
Revenue						
Revenue-Ticket	480-8000-344566	54,472.86	69,607.42	15,134.56		
Revenue-Monthly Permits	480-8000-344527	9,120.00	7,620.00	(1,500.00)		
	13th Street - 17A REVENUE (Sales Tax Excluded)	**63,592.86**	**77,227.42**	**13,634.56**	**21.44%**	**$270.03**
Expenses						
Security Personnel		9,993.91	12,155.54	2,161.63 **(1).**		
Attendant/Cashier Labor		15,186.57	11,195.64	(3,990.93) **(2).**		
Landscape Maintenance		216.67	216.67	0.00		
FP&L		1,404.98	1,607.35	202.37 **(3).**		
Revenue Control Equipment Maintenance		750.00	1,650.00	900.00		
Elevator Maintenance		279.60	170.00	(109.60) **(4).**		
Armed Guard Revenue Pickup		420.00	433.00	13.00 **(5).**		
Garage Cleaning/Maintenance		1,318.00	1,521.00	203.00 **(6).**		
	13th Street - 17A EXPENSES	**29,569.73**	**28,949.20**	**(620.53)**	**-2.10%**	**$101.22**
	13th Street - 17A PROFIT/(LOSS)	**34,023.13**	**48,278.22**	**14,255.09**	**41.90%**	**$168.80**
					Number of Spaces	**286**

Notes:

The 13th Street Garage achieves 15% of its revenue from permits, the balance is transient revenue. The generators are residents, local workers, construction workers, visitors to SOBE, beachgoers, and restaurant patrons.

(1). July 2004 Security Personnel figure consists of 814.50 total labor hours. While, July 2005 Security Personnel figure consists of only 1,016.00 total labor hours.

(2). July 2004 Attendant/Cashier Labor figure consists of 1,352.75 total labor hours at the average rate of $11.23 per hour. While, July 2005 Attendant/Cashier Labor figure consists of 716.75 total labor hours at the average rate of $15.62 per hour. The Decrease is due to the new automated pay on foot machine.

(3). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an previously established estimate.

(4). July 2004 Elevator Maintenance reflects the regular monthly service charge of $170 and a charge of $ 109.60 for an additional service call.. July 2005 Elevator Maintenance charge of $170 reflects the regular monthly service charge from Kone.

(5). July 2005 Armed Guard Revenue Pickup montly charge increase from 420.00 to 433.00.

(6). July 2004 Garage Cleaning/Maintenance reflects the regular monthly service charge of $1,318, a charge of $132 for 16 hours of pressure cleaning, and a charge of $66 for 8 hours of additional cleaning services. July 2005 Garage Cleaning/Maintenance charge of $1,521 reflects the new regular monthly service charge from Chi-Ada Corp. The increase is due to new "Living Wage" requirements.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
16th Street - Anchor Garage
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
16th Street - Anchor Garage						
Revenue						
Revenue-Ticket	463-8000-344911	100,624.29	106,953.01	6,328.72		
Revenue -Valet-Loew's	463-8000-344587	26,958.88	34,227.10	7,268.22		
Revenue-Valet-Royal Palm	463-8000-344587	1,048.60	196.26	(852.34)		
Revenue-Monthly Permits	463-8000-344903	28,250.00	30,100.00	1,850.00		
	16th St. - Anchor Garage REVENUE (Sales Tax Excluded)	**156,881.77**	**171,476.37**	**14,594.60**	**9.30%**	**$213.54**
Expenses						
Security Personnel		13,312.95	15,061.26	1,748.31 **(1).**		
Attendant/Cashier Labor		16,122.14	21,584.66	5,462.52 **(2).**		
FP&L		3,800.00	3,844.35	44.35 **(3).**		
Revenue Control Equipment Maintenance		1,450.00	825.00	(625.00) **(4).**		
Armed Guard Revenue Pickup		420.00	433.00	13.00 **(5).**		
Elevator Maintenance		1,097.97	1,180.64	82.67 **(6).**		
Landscape Maintenance		152.00	153.00	1.00 **(7).**		
Garage Cleaning/Maintenance		4,864.00	9,242.00	4,378.00 **(8).**		
Sanitation (Waste Removal)		179.01	179.01	0.00		
Fire Alarm Service		250.00	250.00	0.00		
	16th St. - Anchor Garage EXPENSES	**41,648.07**	**52,752.92**	**11,104.85**	**26.66%**	**$65.69**
	16th St. Garage PROFIT/(LOSS)	**115,233.70**	**118,723.45**	**3,489.75**	**3.03%**	**$147.85**
					Number of Spaces	**803**

Notes:
Garage contract awarded effective June 9, 2003.

(1)- July 2004 Security Personnel figure consists of only 1,085.00 total labor hours. While, July 2005 Security Personnel figure consists of 1,258.25 total labor hours.

(2). July 2005 Attendant/Cashier Labor figure consists of $21,584.66. The increase is due to new "Living Wage" requirements.

(3). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an estimate based on the average of the FP&L charges from October 2002 through July 2003.

(4). July 2004 Revenue Control Equipment Maintenance figure reflects the monthly service charge of $775 and an additional charge of $675 for the purchase of 100 control cards. While, July 2005 Revenue Control Equipment Maintenance figure reflects the monthly service of $825.00.

(5)- July 2005 monthly charge increase from $ 420.00 to $ 433.00

(6). July 2005 Elevator Maintenance charge reflects the regular monthly service charge of $1,180.64

(7). July 2005 Landscape Maintenance charge reflects the regular monthly service charge of $153.00

(8). July 2005 Garage Cleaning/Maintenance charge of $9,242 reflects the new regular monthly service charge from Best Maintenance. The increase is due to new "Living Wage" requirements.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
42nd Street Garage - 8A
July 2005

LOCATION	ACCOUNTING CODE	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)	Revenue/ Expense Per Space
42nd St. Garage - 8A						
Revenue						
Revenue-Ticket	480-8000-344531	3,619.65	3,046.75	(572.90)		
Revenue-Monthly Permits	480-8000-344595	34,500.00	25,740.00	(8,760.00)		
	42nd Street Garage- 8A REVENUE (Sales Tax Excluded)	**38,119.65**	**28,786.75**	**(9,332.90)**	**-24.48%**	**$46.43**
Expenses						
Security Personnel		8,245.44	10,054.80	1,809.36 (1).		
Attendant/Cashier Labor		3,027.89	4,188.31	1,160.42 (2).		
FP&L		1,805.96	1,967.00	161.04 (3).		
Revenue Control Equipment Maintenance		0.00	0.00	0.00		
Elevator Maintenance		430.00	430.00	0.00		
Landscape Maintenance		0.00	0.00	0.00		
Garage Cleaning/Maintenance		1,837.75	3,392.00	1,554.25 (4).		
	42nd St. Garage - 8A EXPENSES	**15,347.04**	**20,032.11**	**4,685.07**	**30.53%**	**$32.31**
	42nd St. Garage PROFIT/(LOSS)	**22,772.61**	**8,754.64**	**(14,017.97)**	**-61.56%**	**$14.12**
					Number of Spaces	**620**

Notes:
The primary users of this facility are monthly parkers engaged in local business.

(1). July 2004 Security Personnel figure consist of only 672.00 total hours . While, July 2005 Security Personnel figure consist of only 840.0 total hours.

(2). July 2004 Attendant/Cashier Labor figure consists of 289.75 total labor hours at the average rate of $10.45 per hour. While, July 2005 Attendant/Cashier Labor figure consists of 290.25 total labor hours at the average rate of $14.43 per hour.

(3). July 2004 FP&L invoice was unable to be obtained. Therefore, the figure used is an estimate based on the average of the FP&L charges from October 2002 through July 2003.

(4). July 2004 Garage Cleaning/Maintenance reflects the regular monthly service charge of $ 1,285.00 and a charge of $ 552.75 for 67 additional hours of cleaning services. July 2005 Garage Cleaning/Maintenance charge of $3,392 reflects the new regular monthly service charge from Best Maintenance. The increase is due to new "Living Wage" requirements.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
ELECTRONIC METER REVENUE COMPARISON
July 2005

LOCATION	ACCOUNTING CODE	2005 July # of Spaces	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)
1X - (Washington - 4th & Lincoln) - On Street	480-8000-344501	291	49,596.43	$30,344.35	(19,252.08)	-38.82%
1A - (1st Street & Ocean Dr.) - Off Street	480-8000-344502	57	8,353.62	6,069.63		
1A - (1st Street & Ocean Dr.) - Attended	480-8000-344502	0	7,266.36	11,219.62		
Total		57	15,619.98	17,289.25	1,669.27	10.69%
1B - (78 Washington Avenue) - Off Street	480-8000-344617	12	496.91	432.77	(64.14)	-12.91%
2X - (Washington - 5th & Lincoln) - On Street	480-8000-344503	370	49,596.43	36,593.90	(13,002.53)	-26.22%
2B - (6/7 & Meridian) - Off Street	480-8000-344505	22	176.46	300.00	123.54	70.01%
3X - (Collins & Euclid Ave.) On Street	480-8000-344507	68	8,008.78	6,953.13	(1,055.65)	-13.18%
4X - (Alton 7th St.- Dade Blvd.) - On Street	480-8000-344509	491	69,487.35	91,290.17	21,802.82	31.38%
4B - (Alton & 20th St.-Purdy-Dade Blvd.) - On Street	480-8000-344511	213	15,742.21	13,579.28	(2,162.93)	-13.74%
4C - (West Ave & 17th St.) - Off Street	480-8000-344512	66	11,583.05	10,546.21	(1,036.84)	-8.95%
4D - (West Ave & Lincoln Rd.) - Off Street	480-8000-344513	30	3,845.90	3,438.03	(407.87)	-10.61%
5C - (Convention Ctr. Dr. & 17th Street) - Off Street	480-8000-344517	85	2,463.49	2,116.81		
5C - (Convention Ctr. Dr. & 17th Street) - Attended	480-8000-344517	0	0.00	0.00		
Total		85	2,463.49	2,116.81	(346.68)	-14.07%
5F - (Meridian Ave & 18th Street) - Off Street	480-8000-344519	97	263.98	284.78		
5F - (Meridian Ave & 18th Street) - Attended	480-8000-344519	0	0.00	0.00		
Total		97	263.98	284.78	20.80	7.88%
5H - (19th Street & Meridian Ave) - Off Street	480-8000-344521	27	1,033.74	690.94	(342.80)	-
5M - (17th & Meridian Ave) - Off Street	480-8000-344506	27	1,970.76	2,507.19	536.43	27.22%
6X - (Collins - 20th to 24th St) - On Street	480-8000-344522	236	33,385.05	25,572.92	(7,812.13)	-23.40%
6A - (22nd Street & Park) - Off Street	480-8000-344523	14	1,093.31	582.81	(510.50)	-46.69%
6B - (Collins Ave & 21st Street) - Off Street	480-8000-344524	190	23,402.43	21,325.62		
6B - (Collins Ave & 21st Street) - Attended	480-8000-344524	0	0.00	0.00		
Total		190	23,402.43	21,325.62	(2,076.81)	-8.87%
7X - (Ocean - Biscayne - 15th St) - On Street	480-8000-344525	442	79,002.30	66,782.76	(12,219.54)	-15.47%
7A - (Collins Ave, 4th to 15th St) - On Street	480-8000-344526	591	141,291.18	143,863.51	2,572.33	1.82%
7C - (Collins Ave & 6th St) - Off Street	480-8000-344528	14	465.47	334.39		
7C - (Collins Ave & 6th St) - Attended	480-8000-344528	0	0.00	0.00		
Total		14	465.47	334.39	(131.08)	-28.16%
8X - (Pinetree-Alton - 40th to 42nd St) - On Street	480-8000-344530	386	13,763.01	13,808.17	45.16	0.33%
8A - (42nd Street Garage) - Off Street Meters	480-8000-344531	11	268.30	185.28	(83.02)	-30.94%
8B - (42nd Street & Royal Palm) - Off Street	480-8000-344532	173	2,289.61	2,010.70		
8B - (42nd Street & Royal Palm) - Attended	480-8000-344532	0	0.00	0.00		
Total		173	2,289.61	2,010.70	(278.91)	-12.18%
8C - (40/41 Street & Chase) - Off Street	480-8000-344533	88	778.94	840.11	61.17	7.85%
8D - (47th Street & Pinetree) - Off Street	480-8000-344534	16	44.33	101.60	57.27	129.19%
8E - (41st Street & Alton) - Off Street	480-8000-344535	40	1,398.59	1,714.19	315.60	22.57%
8F - (41st Street & Jefferson) - Off Street	480-8000-344536	30	224.88	271.88	47.00	20.90%
9X - (Collins - 64th to 79th St) - On Street	480-8000-344537	527	36,500.57	28,735.79	(7,764.78)	-21.27%
9A - (Harding & 71st St) - Off Street	480-8000-344538	48	858.50	1,150.35	291.85	34.00%
9B - (72nd St. & Collins) - Off Street	480-8000-344539	0	11,928.95	6,826.77		
9B - (72nd St. & Collins) - Attended	480-8000-344539	0	0.00	2,341.12		
Total		0	11,928.95	9,167.89	(2,761.06)	-23.15%
9C (Carlyle & 71st St) - Off Street	480-8000-344540	14	33.69	37.41	3.72	11.04%

CITY OF MIAMI BEACH
PARKING DEPARTMENT
ELECTRONIC METER REVENUE COMPARISON
July 2005

LOCATION	ACCOUNTING CODE	2005 July # of Spaces	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)
9D - (Collins & 76th St) - Off Street	480-8000-344541	33	1,030.25	1,079.01	48.76	4.73%
9E - (71st St. & Harding) - Off Street	480-8000-344542	31	317.16	217.78	(99.38)	-31.33%
9F - (75th & Collins) - Off Street	480-8000-344543	106	4,153.90	4,525.54	371.64	8.95%
10A - (Lincoln Lane & Lenox) - Off Street	480-8000-344544	70	12,944.58	511.74	(12,432.84)	-96.05%
10B - (Lincoln Lane & Michigan) - Lease	480-8000-344545	0	14,583.33	14,583.33		
10B - (Lincoln Lane & Michigan) - Attended	480-8000-344545	0	0.00	0.00		
Total		0	14,583.33	14,583.33	0.00	0.00%
10C - (Lincoln Lane & Meridian) - Off Street	480-8000-344546	141	27,944.98	39,362.12	11,417.14	40.86%
10D - (Lincoln Lane & Jefferson - W) - Off Street	480-8000-344547	62	10,506.39	11,450.01	943.62	8.98%
10E - (Lincoln Lane & Jefferson - E) - Off Street	480-8000-344548	19	3,122.16	8,783.34	5,661.18	181.32%
10F - (Lincoln Lane & Euclid) - Off Street	480-8000-344549	36	7,104.72	8,693.84	1,589.12	22.37%
10G - (Lincoln Lane & Michigan) - Off Street	480-8000-344550	21	2,926.88	4,986.84	2,059.96	70.38%
11X - (Collins & 11th Street) - Off Street	480-8000-344551	0	0.00	0.00		
11X - (Collins & 11th Street) - Attended	480-8000-344551	0	0.00	0.00		
Total		0	0.00	0.00	0.00	-
12X - (Washington & 9th Street) - Off Street	480-8000-344552	23	3,312.25	3,288.13		
12X - (Washington & 9th Street) - Attended	480-8000-344552	0	0.00	0.00		
Total		23	3,312.25	3,288.13	(24.12)	-0.73%
13X - (Washington & 10th Street) - Off Street	480-8000-344553	33	5,649.98	5,891.01		
13X - (Washington & 10th Street) - Attended	480-8000-344553	0	0.00	0.00		
Total		33	5,649.98	5,891.01	241.03	4.27%
15X - (16th to 18th East of Collins) - On Street	480-8000-344556	43	12,727.70	15,075.53	2,347.83	18.45%
15A - (Washington, 17th to 20th) - On Street	480-8000-344557	91	14,013.64	11,147.82	(2,865.82)	-20.45%
15B - (Convention Center Drive) - On Street	480-8000-344558	46	1,626.23	2,305.22	678.99	41.75%
16X - (25th to 32nd, E of Collins) - On Street	480-8000-344559	78	8,109.81	7,160.28	(949.53)	-11.71%
16A - (35th to 43rd, E of Collins) - On Street	480-8000-344560	117	14,598.48	6,958.24	(7,640.24)	-52.34%
16B - (Indian Crk Dr, 27th to 32nd) - On Street	480-8000-344561	219	6,571.19	4,342.15	(2,229.04)	-33.92%
16C - (Indian Crk - 33rd to 43rd) - On Street	480-8000-344562	230	13,231.72	8,165.12	(5,066.60)	-38.29%
16D - (Collins Ave & 34th St) - Off Street	480-8000-344563	64	2,796.15	3,841.62		
16D - (Collins Ave & 34th St) - Attended	480-8000-344563	0	0.00	0.00		
Total		64	2,796.15	3,841.62	1,045.47	37.39%
16E - (Collins Ave & 35th St) - Off Street	480-8000-344564	72	3,049.80	4,904.78		
16E - (Collins Ave & 35th St) - Attended	480-8000-344564	0	0.00	0.00		
Total		72	3,049.80	4,904.78	1,854.98	60.82%
17X - (Collins & 13th Street) - Off Street	480-8000-344565	54	5,313.98	6,279.87		
17X - (Collins & 13th Street) - Attended	480-8000-344565	0	11,446.72	13,977.56		
Total		54	16,760.70	20,257.43	3,496.73	20.86%
18X - (Indian Crk & 65th St) - Off Street	480-8000-344567	53	423.27	207.60	(215.67)	-50.95%
18A - (Collins & 64th St) - Off Street	480-8000-344568	67	6,490.77	3,655.71		
18A - (Collins & 64th St) - Attended	480-8000-344568	0	0.00	0.00		
Total		67	6,490.77	3,655.71	(2,835.06)	-43.68%
19X - (Collins & 46th Street) - Off Street	*480-8000-344569*	*449*	*14,567.90*	*17,207.18*		
19X - (Collins & 46th Street) - Attended	*480-8000-344569*	*0*	*20,014.02*	*18,616.81*		
Total		*449*	*34,581.92*	*35,823.99*	*1,242.07*	*3.59%*
19A - (Collins & 46th Street) - On Street	480-8000-344570	19	1,206.99	813.69	(393.30)	-32.59%

CITY OF MIAMI BEACH
PARKING DEPARTMENT
ELECTRONIC METER REVENUE COMPARISON
July 2005

LOCATION	ACCOUNTING CODE	2005 July # of Spaces	2004 July	2005 July	Increase/ (Decrease)	Percent of Increase/ (Decrease)
19B - (Collins & 53rd Street) - Off Street	480-8000-344571	158	3,677.21	1,808.26		
19B - (Collins & 53rd Street) - Attended	480-8000-344571	0	9,210.27	7,551.39		
Total		158	12,887.48	9,359.65	(3,527.83)	-27.37%
20X - (Collins Ave & 27th St) - Off Street	480-8000-344572	121	7,105.11	2,837.72		
20X - (Collins Ave & 27th St) - Attended	480-8000-344572	0	0.00	0.00		
Total		121	7,105.11	2,837.72	(4,267.39)	-60.06%
22X - (Carlyle & 72nd St) - Off Street	480-8000-344574	45	238.97	237.10	(1.87)	-
23X - (83rd & Abbott) - Off Street	480-8000-344575	25	28.28	93.42	65.14	230.34%
24X - (Normandy Isle & Bay Dr) - On Street	480-8000-344576	102	5,647.98	4,054.65	(1,593.33)	-28.21%
24A - (Normandy Isle & Bay Dr) - Off Street	480-8000-344577	26	389.43	514.21	124.78	32.04%
24B - (Normandy Isle & Vendome) - Off Street	480-8000-344578	22	321.70	0.00	(321.70)	-100.00%
24C - (Normandy Isle & Bay Rd S/S) - Off Street	480-8000-344579	33	584.88	596.35	11.47	1.96%
25X - (Bonita Drive & 71st St) - Off Street	480-8000-344580	15	323.71	367.46	43.75	13.52%
26X - (Collins, 79th to 87th Terr) - On Street	480-8000-344581	283	5,227.86	3,372.45	(1,855.41)	-35.49%
26Z - (Collins & 87th Street) - Off Street	480-8000-344616	15	595.41	105.47	(489.94)	-
10X - (Lincoln Lane & Lenox) - Off Street	480-8000-344582	99	18,286.90	17,550.33		
10X - (Lincoln Lane & Lenox - Attended	480-8000-344582	0	0.00	0.00		
Total		99	18,286.90	17,550.33	(736.57)	-4.03%
26A - (Collins & 80th Street) - Off Street	480-8000-344584	62	1,395.22	1,167.44	(227.78)	-16.33%
26B - (Collins & 84th Street) - Off Street	480-8000-344585	62	699.54	611.62	(87.92)	-12.57%
4E (Purdy & 18th Street) - Off Street	480-8000-344586	39	4,360.00	4,325.21		
4E (Purdy & 18th Street) - Attended	480-8000-344586	0	3,961.69	2,952.34		
Total		39	8,321.69	7,277.55	(1,044.14)	-12.55%
8G - (40th Street & Royal Palm) - Off Street	480-8000-344592	43	1,929.60	1,657.32	(272.28)	-14.11%
8H - (40th Street & Prairie) - Off Street	480-8000-344594	71	2,610.64	2,894.22	283.58	10.86%
26C - (Collins & 79th Street) - Off Street	480-8000-344600	34	408.01	374.29	(33.72)	-8.26%
26D - (Collins & 83rd Street) - Off Street	480-8000-344601	95	467.82	298.97	(168.85)	-36.09%
SLSP00 - (South Point Lot) - Off Street	480-8000-344602	108	8,125.41	7,335.60		
SLSP00 - (South Point Lot) - Attended	480-8000-344602	0	10,328.05	10,560.73		
Total		108	18,453.46	17,896.33	(557.13)	-3.02%
4th & Alton Lot - Off Street	480-8000-344604	21	1,135.95	980.35	(155.60)	-13.70%
4A - 1833 Bay Road - Off Street	480-8000-344608	0	0.00	0.00	0.00	-
7D - 10-11th & Collins (Lease)	480-8000-344529	0	3,500.00	3,500.00	0.00	0.00%
10H - (Lincoln Rd. So. & Lenox) - Off Street	480-8000-344611	0	0.00	0.00	0.00	-
14A - 16th Street & Washington (Lease)	480-8000-344555	0	14,583.33	14,583.33	0.00	0.00%
P50 - (24th Street & Flamingo Drive) - Off Street	480-8000-344619	0	0.00	0.00	0.00	-
P51 - (23rd Street & Liberty Avenue East) - Off Street	480-8000-344620	0	0.00	1,478.67	1,478.67	-
P51 - (23rd Street & Liberty Avenue East) - Attended	480-8000-344620	0	0.00	0.00	0.00	-
			0.00	1,478.67		
P52 - (23rd Street & Liberty Avenue West) - Off-Street	480-8000-344621	0	0.00	597.39	597.39	-
P52 - (23rd Street & Liberty Avenue West) - Attended	480-8000-344621	0	0.00	0.00	0.00	-
			0.00	597.39		
P85 - (71st Street & Byron) - Off Street	480-8000-344618	0	0.00	261.66		
P85 - (71st Street & Byron) - Attended	480-8000-344618	0	0.00	0.00		
Total		0	0.00	261.66	261.66	-
TOTAL		**8,332**	**$911,542.50**	**$854,746.79**	**($57,990.49)**	**-6.36%**

NOTE: ZONES WITH MULTI-SPACE PAYSTATIONS ARE ITALICIZED.

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
DEBIT CARD REVENUE
July 2005

VENDOR	# of CARDS $25	# of CARDS with 10% Discount $22.50	MACHINE SALES $ Amount	REFUNDS $ Amount	TOTAL
BAY SUPERMARKET	0	0			$0.00
BEACH BANK	0	0			$0.00
BRIGHAM GARDENS	0	0			$0.00
CHAMBER OF COMMERCE	0	10			$225.00
CLEAN MACHINE	0	0			$0.00
COMPASS MARKET	0	0			$0.00
D'VINE CYBER LOUNGE	0	0			$0.00
FINANCE DEPARTMENT	66	44			$2,640.00
KOSHER WORLD	0	0			$0.00
LEE ANN DRUGS	0	0			$0.00
NEWS CAFE	0	0			$0.00
PARKING DEPT. - Customer Service	122	48			$4,130.00
PARKING DEPT. - Garages	0	0			$0.00
PUBLIX SUPERMARKET	0	820			$18,450.00
SHEMTOV'S	0	0			$0.00
SUNSET CAFÉ	0	0			$0.00
PARKING MACHINE - Cash	0	0	$1,700.00		$1,700.00
PARKING MACHINE - Credit Cards	0	0	$1,295.00		$1,295.00
WOLFSONIAN	0	0			$0.00
ZELICK'S TOBACCO	0	0			$0.00
TOTAL # OF CARDS	**188**	**922**			**1,110**
TOTAL $ AMOUNT	**$4,700.00**	**$20,745.00**	**$2,995.00**	**$0.00**	**$28,440.00**

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10/14/2005

CITY OF MIAMI BEACH
PARKING DEPARTMENT
DEBIT CARD REVENUE - YEAR TO DATE
October 2004 -July 2005

VENDOR	# of CARDS $25	# of CARDS with 10% Discount $22.50	MACHINE SALES $ Amount	REFUNDS $ Amount	TOTAL
BAY SUPERMARKET	0	0			$0.00
BEACH BANK	0	0			$0.00
BRIGHAM GARDENS	0	0			$0.00
CHAMBER OF COMMERCE	0	90			$2,025.00
CLEAN MACHINE	0	0			$0.00
COMPASS MARKET	0	0			$0.00
D'VINE CYBER LOUNGE	0	0			$0.00
FINANCE DEPARTMENT	813	542			$32,520.00
KOSHER WORLD	0	0			$0.00
LEE ANN DRUGS	0	310			$6,975.00
NEWS CAFE	0	0			$0.00
PARKING DEPT. - Customer Service	1,252	1,020		$0.00	$54,250.00
PARKING DEPT. - Garages	110	101			$5,022.50
PUBLIX SUPERMARKET	0	18,885			$424,912.50
SHEMTOV'S	0	0			$0.00
SUNSET CAFÉ	0	0			$0.00
PARKING MACHINE - Cash	-	-	$23,215.00		$23,215.00
PARKING MACHINE - Credit Cards	-	-	$25,165.00		$25,165.00
WOLFSONIAN	0	25			$562.50
ZELICK'S TOBACCO	0	80			$1,800.00
TOTAL # OF CARDS	**2,175**	**21,053**			**23,228**
TOTAL $ AMOUNT	**$54,375.00**	**$473,692.50**	**$48,380.00**	**$0.00**	**$576,447.50**

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10/14/2005

CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
17th Street Garage - 2G

LOCATION	ACCOUNTING CODE	2004 October	2004 November	2004 December	2005 January	2005 February	2005 March	2005 April	2005 May	2005 June	2005 July	2005 August	2005 September	FY 2004/2005 TOTAL
17th Street Garage - 2G														
Revenue-Ticket	480-8000-344583	147,297.18	172,645.81	160,111.23	180,829.02	213,845.81	180,743.49	161,564.57	148,141.13	119,202.78	131,541.92			1,615,922.94
Revenue - Space Rental	480-8000-344583	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00			63,000.00
Revenue-Monthly Permits	480-8000-344514	55,980.00	57,120.00	56,460.00	56,160.00	57,720.00	59,040.00	60,780.00	61,920.00	63,000.00	61,020.00			589,200.00
	17th St. - 2G REVENUE (Sales Tax Excluded)	209,577.18	236,065.81	222,871.23	243,289.02	277,865.81	246,083.49	228,644.57	216,361.13	188,502.78	198,861.92	0.00	0.00	2,268,122.94
Expenses														
Security Personnel		21,092.12	15,849.77	15,852.84	19,941.82	15,941.80	15,727.08	18,236.29	20,387.91	21,022.22	22,012.84			186,064.69
Attendant/Cashier Labor		41,006.44	51,214.30	44,920.57	80,488.29	85,524.18	58,522.20	73,433.44	60,528.58	60,155.94	49,383.58			605,177.52
FP&L		6,473.39	5,949.62	6,369.53	6,892.30	6,892.30	4,850.13	5,921.79	6,011.85	7,618.41	6,579.41			63,558.73
Revenue Control Equipment Maintanance		1,666.67	4,551.67	2,101.67	1,666.67	1,666.67	1,666.67	1,666.67	3,999.99	3,999.99	2,133.33			25,120.00
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	433.00			4,213.00
Elevator Maintenance		483.60	425.00	425.00	425.00	425.00	425.00	425.00	425.00	425.00	833.00			4,716.60
Landscape and Lot Maintenance		108.33	108.33	108.33	108.33	108.33	108.33	108.33	108.33	108.33	919.33			1,894.30
Garage Cleaning/Maintenance		10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00	10,820.00			108,200.00
	17th St. - 2G EXPENSES	82,070.55	89,338.69	81,017.94	120,762.41	121,798.28	92,539.41	111,031.52	102,701.66	104,569.89	93,114.49	0.00	0.00	998,944.84
	17th St. PROFIT/(LOSS)	127,506.63	146,727.12	141,853.29	122,526.61	156,067.53	153,544.08	117,613.05	113,659.47	83,932.89	105,747.43	0.00	0.00	1,269,178.10

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/2004 TOTAL
17th Street Garage - 2G														
Revenue-Ticket	480-8000-344583	126,299.54	162,005.37	140,671.96	158,906.54	210,057.03	154,691.53	127,139.34	153,750.35	114,394.40	108,808.42	106,967.29	75,012.15	1,638,703.92
Revenue - Space Rental	480-8000-344583	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	6,300.00	75,600.00
Revenue-Monthly Permits	480-8000-344514	53,760.00	56,760.00	54,960.00	54,000.00	53,760.00	57,360.00	57,780.00	57,660.00	57,780.00	58,020.00	57,060.00	57,900.00	676,800.00
	17th St. - 2G REVENUE (Sales Tax Excluded)	186,359.54	225,065.37	201,931.96	219,206.54	270,117.03	218,351.53	191,219.34	217,710.35	178,474.40	173,128.42	170,327.29	139,212.15	2,391,103.92
Expenses														
Security Personnel		15,896.40	16,574.30	16,802.34	15,494.05	17,601.32	16,653.45	15,804.17	19,951.32	15,922.37	16,095.17	19,972.49	14,711.73	201,479.11
Attendant/Cashier Labor		41,511.91	48,342.11	40,772.36	36,234.53	52,732.42	40,835.62	45,314.47	46,946.34	44,991.49	37,865.26	48,178.56	43,040.60	526,765.67
FP&L		6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	6,473.39	77,680.68
Revenue Control Equipment Maintanance		1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	2,516.67	9,060.56	1,936.67	28,513.93
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	5,040.00
Elevator Maintenance		738.00	613.00	613.00	800.50	613.00	613.00	425.00	425.00	30,453.50	425.00	425.00	425.00	36,569.00
Landscape and Lot Maintenance		108.33	108.33	108.33	108.33	108.33	108.33	108.33	312.33	108.33	108.33	108.33	108.33	1,503.96
Garage Cleaning/Maintenance		5,331.08	5,331.08	5,331.08	5,331.08	5,331.08	5,331.08	5,331.08	5,421.08	5,696.08	5,595.08	5,331.08	10,820.00	70,180.88
	17th St. - 2G EXPENSES	72,145.78	79,528.88	72,187.17	66,528.55	84,946.21	72,101.54	75,543.11	81,616.13	105,731.83	69,498.90	89,969.41	77,935.72	947,733.23
	17th St. PROFIT/(LOSS)	114,213.76	145,536.49	129,744.79	152,677.99	185,170.82	146,249.99	115,676.23	136,094.22	72,742.57	103,629.52	80,357.88	61,276.43	1,443,370.69

CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
7th Street Garage - 1G

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/200 TOTAL
7th Street Garage - 1G														
Revenue-Ticket	142-8000-344404	139,529.56	139,842.06	130,241.12	167,042.06	164,871.96	219,217.76	169,714.95	173,072.90	138,058.07	172,876.64	157,222.43	82,198.12	1,853,887.6
Revenue-Monthly Permits	142-8000-344404	13,050.00	13,237.50	13,462.50	13,500.00	13,800.00	13,725.00	13,725.00	13,350.00	13,725.00	13,800.00	13,800.00	13,800.00	162,975.0
	7th Street Garage - 1G REVENUE (Sales Tax Excluded)	152,579.56	153,079.56	143,703.62	180,542.06	178,671.96	232,942.76	183,439.95	186,422.90	151,783.07	186,676.64	171,022.43	95,998.12	2,016,862.6
Expenses														
Security		21,049.40	21,816.06	24,181.09	21,727.10	20,960.22	23,119.75	21,349.80	28,211.80	21,233.24	22,052.26	26,852.89	17,055.31	269,608.9
Attendant/Cashier Labor		17,797.52	17,668.48	17,422.60	17,959.47	17,642.05	18,282.80	17,863.50	17,748.27	17,815.82	17,998.44	22,276.54	19,097.97	219,573.4
Landscape Maintenance		918.67	1,114.00	918.67	918.67	848.00	918.67	918.67	918.67	918.67	14,404.67	918.67	16,581.67	40,297.7
FP&L		3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	36,808.4
Revenue Control Equipment Maintenance		700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	1,200.00	8,900.0
Garage Cleaning/Maintenance		4,864.00	4,699.00	4,765.00	4,864.00	4,864.00	4,864.00	4,864.00	4,864.00	4,864.00	5,111.50	4,864.00	9,242.00	62,729.5
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	5,040.0
Elevator Maintenance		1,729.00	1,202.00	2,271.50	985.00	1,460.42	985.00	1,202.00	2,817.42	2,592.67	2,360.17	2,360.17	2,050.17	22,015.5
Surveillance System Maintenance		534.60	534.60	744.60	534.60	534.60	534.60	534.60	534.60	2,457.18	534.60	534.60	534.60	8,547.7
	7th St. Garage - 1G EXPENSES	51,080.56	51,221.51	54,490.83	51,176.21	50,496.66	52,892.19	50,919.94	59,282.13	54,068.95	66,649.01	61,994.24	69,249.09	673,521.3
	7th St. - 1G Estimated Debt Service	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	714,000.0
	7th St. - 1G PROFIT/(LOSS)	41,999.00	42,358.05	29,712.79	69,865.85	68,675.30	120,550.57	73,020.01	67,640.77	38,214.12	60,527.63	49,528.19	(32,750.97)	629,341.3

LOCATION	ACCOUNTING CODE	2002 October	2002 November	2002 December	2003 January	2003 February	2003 March	2003 April	2003 May	2003 June	2003 July	2003 August	2003 September	FY 2002/200 TOTAL
7th Street Garage - 1G														
Revenue-Ticket	142-8000-344404	136,186.19	137,501.35	140,246.61	148,182.44	153,858.76	221,547.82	161,549.46	174,847.57	133,750.47	164,101.85	178,871.59	120,362.30	1,871,006.4
Revenue-Monthly Permits	142-8000-344404	13,125.00	13,125.00	13,125.00	13,125.00	13,125.00	13,050.00	13,050.00	13,050.00	12,975.00	13,050.00	13,200.00	13,200.00	157,200.0
	7th Street Garage - 1G REVENUE (Sales Tax Excluded)	149,311.19	150,626.35	153,371.61	161,307.44	166,983.76	234,597.82	174,599.46	187,897.57	146,725.47	177,151.85	192,071.59	133,562.30	2,028,206.4
Expenses														
Security		21,087.06	20,743.70	20,245.12	26,257.88	21,150.87	21,933.85	26,125.51	22,612.39	25,778.86	21,024.44	27,128.97	21,014.42	275,103.0
Attendant/Cashier Labor		16,755.52	25,273.02	16,806.12	17,276.43	16,664.70	17,694.64	16,755.04	16,893.83	25,407.34	16,835.01	17,385.71	17,618.06	221,365.4
Landscape Maintenance		984.00	984.00	984.00	984.00	984.00	984.00	918.67	1,067.67	918.67	10,438.67	7,363.67	918.67	27,530.0
FP&L		2,667.70	2,747.44	2,709.51	2,462.61	4,749.59	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	3,067.37	36,808.4
Revenue Control Equipment Maintenance		700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	700.00	8,400.0
Garage Cleaning/Maintenance		4,864.00	4,864.00	4,864.00	4,864.00	4,864.00	4,864.00	4,864.00	4,864.00	5,111.50	4,864.00	4,864.00	4,864.00	58,615.5
Armed Guard Revenue Pickup		517.18	517.18	517.18	517.18	517.18	517.18	517.18	517.18	517.18	455.00	525.00	420.00	6,054.6
Elevator Maintenance		985.00	985.00	985.00	985.00	985.00	985.00	1,180.88	1,264.84	1,936.44	1,180.88	1,180.88	1,295.00	13,948.9
Surveillance System Maintenance		437.00	437.00	437.00	437.00	437.00	437.00	495.00	495.00	495.00	1,855.00	580.00	2,810.60	9,352.6
	7th St. Garage - 1G EXPENSES	48,997.46	57,251.34	48,247.93	54,484.10	51,052.34	51,183.04	54,623.65	51,482.28	63,932.36	60,420.37	62,795.60	52,708.12	657,178.5
	7th St. - 1G Estimated Debt Service	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	59,500.00	714,000.0
	7th St. - 1G PROFIT/(LOSS)	40,813.73	33,875.01	45,623.68	47,323.34	56,431.42	123,914.78	60,475.81	76,915.29	23,293.11	57,231.48	69,775.99	21,354.18	657,027.8

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
17th Street Lots - 5A East and West

LOCATION	ACCOUNTING CODE	2004 October	2004 November	2004 December	2005 January	2005 February	2005 March	2005 April	2005 May	2005 June	2005 July	2005 August	2005 September	FY 2004/2005 TOTAL
17th Street Lots - 5A East and West														
Revenue-Ticket	480-8000-344515	147,540.55	134,285.03	144,999.03	157,629.02	132,532.73	164,732.73	157,110.23	156,538.30	135,651.39	154,960.57			1,485,979.58
Revenue-Valet	480-8000-344515	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00
Revenue-Monthly Permits	480-8000-344596	18,300.00	17,820.00	16,920.00	16,980.00	16,860.00	16,740.00	17,280.00	17,580.00	17,820.00	17,460.00			173,760.00
	17th Lots - 5A REVENUE (Sales Tax Excluded)	165,840.55	152,105.03	161,919.03	174,609.02	149,392.73	181,472.73	174,390.23	174,118.30	153,471.39	172,420.57	0.00	0.00	1,659,739.58
Expenses														
Security Personnel		1,079.76	975.47	751.54	1,116.57	868.11	880.37	766.87	861.84	861.84	1,077.30			9,239.67
Attendant/Cashier Labor		20,954.86	23,786.82	21,613.21	39,939.99	34,545.43	32,853.50	40,220.02	31,378.04	31,915.58	27,709.22			304,916.67
Revenue Control Equipment Maintenance		1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	3,999.99	3,999.99	2,133.33			21,800.00
Landscape and Lot Maintenance		502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67			5,026.70
FP&L		391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48			3,914.80
	17th Lots - 5A EXPENSES	24,595.44	27,323.11	24,925.57	43,617.38	37,974.36	36,294.69	43,547.71	37,134.02	37,671.56	31,814.00	0.00	0.00	344,897.84
	17th Lots PROFIT/(LOSS)	141,245.11	124,781.92	136,993.46	130,991.64	111,418.37	145,178.04	130,842.52	136,984.28	115,799.83	140,606.57	0.00	0.00	1,314,841.74

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/2004 TOTAL
17th Street Lots - 5A East and West														
Revenue-Ticket	480-8000-344515	123,301.93	135,390.66	142,474.77	153,204.65	157,831.80	163,559.82	141,769.18	149,018.68	120,878.55	126,481.32	123,772.91	83,556.53	1,621,240.80
Revenue-Valet	480-8000-344515	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Revenue-Monthly Permits	480-8000-344596	16,800.00	18,360.00	15,960.00	16,200.00	15,660.00	15,660.00	16,560.00	16,800.00	17,940.00	17,820.00	17,520.00	17,700.00	202,980.00
	17th Lots - 5A REVENUE (Sales Tax Excluded)	140,101.93	153,750.66	158,434.77	169,404.65	173,491.80	179,219.82	158,329.18	165,818.68	138,818.55	144,301.32	141,292.91	101,256.53	1,824,220.80
Expenses														
Security Personnel		1,404.71	738.66	880.37	662.58	1,319.03	883.44	953.99	1,128.84	883.44	828.23	1,174.86	539.89	11,398.04
Attendant/Cashier Labor		20,826.85	24,230.94	20,510.75	20,463.71	23,729.34	22,161.85	21,289.27	22,812.35	21,621.06	18,258.77	23,687.56	20,393.19	259,985.64
Revenue Control Equipment Maintenance		1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	1,666.67	3,722.78	1,666.67	22,056.15
Landscape and Lot Maintenance		502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	502.67	6,032.04
FP&L		391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	391.48	4,697.76
	17th Lots - 5A EXPENSES	24,792.38	27,530.42	23,951.94	23,687.11	27,609.19	25,606.11	24,804.08	26,502.01	25,065.32	21,647.82	29,479.35	23,493.90	304,169.63
	17th Lots PROFIT/(LOSS)	115,309.55	126,220.24	134,482.83	145,717.54	145,882.61	153,613.71	133,525.10	139,316.67	113,753.23	122,653.50	111,813.56	77,762.63	1,520,051.17

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
12th Street Garage - 2A

LOCATION	ACCOUNTING CODE	2004 October	2004 November	2004 December	2005 January	2005 February	2005 March	2005 April	2005 May	2005 June	2005 July	2005 August	2005 September	FY 2004/200 TOTAL
12th Street Garage - 2A														
Revenue-Ticket	480-8000-344504	30,426.16	28,304.67	28,033.65	33,959.80	30,588.77	41,540.19	38,421.76	33,882.20	30,041.58	37,902.81			333,101.5
Revenue-Monthly Permits	480-8000-344593	4,860.00	4,800.00	4,860.00	3,960.00	3,840.00	3,840.00	3,900.00	3,660.00	3,720.00	3,780.00			41,220.0
	12th St. - 2A REVENUE (Sales Tax Excluded)	35,286.16	33,104.67	32,893.65	37,919.80	34,428.77	45,380.19	42,321.76	37,542.20	33,761.58	41,682.81	0.00	0.00	374,321.5
Expenses														
Security Personnel		9,368.15	7,496.96	7,426.42	9,748.51	12,668.78	7,509.24	8,199.43	7,574.02	7,469.33	9,139.10			86,599.9
Attendant/Cashier Labor		7,077.27	7,064.21	7,132.13	11,884.49	9,852.08	10,122.65	12,987.00	10,371.56	10,382.40	10,418.46			97,292.2
FP&L		108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54			1,085.4
Elevator Maintenance		487.50	125.00	125.00	125.00	125.00	125.00	125.00	125.00	125.00	866.00			2,353.5
Garage Cleaning/Maintenance		1,521.00	1,285.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00			14,974.0
	12th St. - 2A EXPENSES	18,562.46	16,079.71	16,313.09	23,387.54	24,275.40	19,386.43	22,940.97	19,700.12	19,606.27	22,053.10	0.00	0.00	202,305.0
	12th St. - 2A PROFIT/(LOSS)	16,723.70	17,024.96	16,580.56	14,532.26	10,153.37	25,993.76	19,380.79	17,842.08	14,155.31	19,629.71	0.00	0.00	172,016.5

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/200 TOTAL
12th Street Garage - 2A														
Revenue-Ticket	480-8000-344504	26,360.74	25,345.79	24,450.45	29,463.54	29,428.03	38,480.37	31,798.13	32,760.77	25,388.79	29,747.65	30,476.60	18,809.37	342,510.2
Revenue-Monthly Permits	480-8000-344593	5,220.00	5,100.00	5,040.00	4,740.00	4,740.00	4,800.00	4,920.00	4,860.00	4,860.00	4,980.00	5,100.00	4,860.00	59,220.0
	12th St. - 2A REVENUE (Sales Tax Excluded)	31,580.74	30,445.79	29,490.45	34,203.54	34,168.03	43,280.37	36,718.13	37,620.77	30,248.79	34,727.65	35,576.60	23,669.37	401,730.2
Expenses														
Security Personnel		8,219.46	8,844.80	9,107.41	8,233.17	10,306.80	8,013.11	8,245.44	10,395.76	8,230.11	7,938.69	9,365.08	6,408.01	103,307.8
Attendant/Cashier Labor		7,247.08	7,241.85	7,200.05	7,215.73	7,184.37	7,226.18	7,210.50	7,602.38	7,354.19	7,113.84	8,960.87	8,015.15	89,572.1
FP&L		108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	108.54	1,302.4
Elevator Maintenance		125.00	125.00	125.00	125.00	125.00	125.00	125.00	125.00	125.00	125.00	4,087.00	125.00	5,462.0
Garage Cleaning/Maintenance		1,540.75	1,532.50	1,540.75	1,540.75	1,524.25	1,540.75	1,532.50	1,532.50	1,540.75	1,590.25	1,540.75	1,521.00	18,477.5
	12th St. - 2A EXPENSES	17,240.83	17,852.69	18,081.75	17,223.19	19,248.96	17,013.58	17,221.98	19,764.18	17,358.59	16,876.32	24,062.24	16,177.70	218,122.0
	12th St. - 2A PROFIT/(LOSS)	14,339.91	12,593.10	11,408.70	16,980.35	14,919.07	26,266.79	19,496.15	17,856.59	12,890.20	17,851.33	11,514.36	7,491.67	183,608.2

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
13th Street Garage - 17A

LOCATION	ACCOUNTING CODE	2004 October	2004 November	2004 December	2005 January	2005 February	2005 March	2005 April	2005 May	2005 June	2005 July	2005 August	2005 September	FY 2004/2005 TOTAL
13th Street Garage - 17A														
Revenue-Ticket	480-8000-344566	40,924.28	49,370.08	49,987.85	61,116.83	59,138.34	71,978.42	65,391.58	60,814.97	54,936.46	69,607.42			583,266.23
Revenue-Monthly Permits	480-8000-344527	8,400.00	8,340.00	8,640.00	8,520.00	8,520.00	8,460.00	8,160.00	7,800.00	8,040.00	7,620.00			82,500.00
	13th St. - 17A REVENUE (Sales Tax Excluded)	49,324.28	57,710.08	58,627.85	69,636.83	67,658.34	80,438.42	73,551.58	68,614.97	62,976.46	77,227.42	0.00	0.00	665,766.23
Expenses														
Security Personnel		12,276.14	9,837.48	9,843.61	12,865.09	9,914.16	9,886.55	10,960.18	9,623.90	10,024.88	12,155.54			107,387.53
Attendant/Cashier Labor		15,477.93	15,299.85	15,169.47	24,685.51	20,272.64	16,504.59	13,862.76	11,970.10	11,178.06	11,195.64			155,616.55
Landscape Maintenance		420.67	519.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67			2,673.70
FP&L		1,404.98	1,372.89	1,419.60	1,694.00	1,531.15	1,627.45	1,474.46	1,362.55	1,602.03	1,607.35			15,096.46
Revenue Control Equipment Maintenance		750.00	750.00	750.00	750.00	750.00	750.00	750.00	3,516.66	3,516.66	1,650.00			13,933.32
Elevator Maintenance		680.13	170.00	170.00	170.00	170.00	170.00	374.00	170.00	170.00	170.00			2,414.13
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	433.00			4,213.00
Garage Cleaning/Maintenance		1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00	1,521.00			15,210.00
	13th St. - 17A EXPENSES	32,950.85	29,890.89	29,510.35	42,322.27	34,795.62	31,096.26	29,579.07	28,800.88	28,649.30	28,949.20	0.00	0.00	316,544.69
	13th St. -17A PROFIT/(LOSS)	16,373.43	27,819.19	29,117.50	27,314.56	32,862.72	49,342.16	43,972.51	39,814.09	34,327.16	48,278.22	0.00	0.00	349,221.54

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/2004 TOTAL
13th Street Garage - 17A														
Revenue-Ticket	480-8000-344566	48,388.34	47,130.86	40,100.44	50,649.52	53,792.55	66,648.56	57,641.13	54,078.51	46,663.54	54,472.86	31,909.35	14,673.84	566,149.50
Revenue-Monthly Permits	480-8000-344527	7,740.00	7,680.00	8,520.00	8,100.00	8,580.00	8,280.00	7,500.00	8,460.00	9,120.00	9,120.00	8,340.00	8,400.00	99,840.00
	13th St. - 17A REVENUE (Sales Tax Excluded)	56,128.34	54,810.86	48,620.44	58,749.52	62,372.55	74,928.56	65,141.13	62,538.51	55,783.54	63,592.86	40,249.35	23,073.84	665,989.50
Expenses														
Security Personnel		9,865.08	10,533.80	10,736.25	8,648.94	9,770.00	9,855.68	9,779.19	12,638.10	9,865.08	9,993.91	12,346.69	8,122.74	122,155.46
Attendant/Cashier Labor		15,303.89	15,397.71	15,269.80	15,170.25	15,470.86	15,516.07	15,327.27	15,273.85	15,144.77	15,186.57	18,836.90	16,921.34	188,819.28
Landscape Maintenance		216.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67	216.67	935.67	216.67	3,319.04
FP&L		1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	1,404.98	16,859.76
Revenue Control Equipment Maintenance		0.00	750.00	750.00	750.00	750.00	750.00	750.00	750.00	750.00	750.00	750.00	750.00	8,250.00
Elevator Maintenance		737.00	312.00	312.00	312.00	312.00	312.00	170.00	467.18	170.00	279.60	170.00	170.00	3,723.78
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	5,040.00
Garage Cleaning/Maintenance		1,450.00	1,450.00	1,483.00	1,450.00	1,450.00	1,483.00	1,318.00	1,318.00	1,483.00	1,318.00	1,450.00	1,521.00	17,174.00
	13th St. - 17A EXPENSES	29,397.62	30,485.16	30,592.70	28,372.84	29,794.51	29,958.40	29,386.11	32,488.78	29,454.50	29,569.73	36,314.24	29,526.73	365,341.32
	13th St. -17A PROFIT/(LOSS)	26,730.72	24,325.70	18,027.74	30,376.68	32,578.04	44,970.16	35,755.02	30,049.73	26,329.04	34,023.13	3,935.11	(6,452.89)	300,648.18

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
16th Street - Anchor Garage

LOCATION	ACCOUNTING CODE	2004 October	2004 November	2004 December	2005 January	2005 February	2005 March	2005 April	2005 May	2005 June	2005 July	2005 August	2005 September	FY 2004/2005 TOTAL
16th Street - Anchor Garage														
Revenue-Ticket	463-8000-344911	88,600.95	82,514.96	86,304.68	112,249.71	122,302.81	184,856.92	119,298.55	106,561.67	71,170.03	106,953.01			1,080,813.29
Revenue - Valet	463-8000-344587	20,704.68	21,289.74	22,289.72	15,603.28	29,600.94	14,369.16	21,817.28	25,678.51	19,607.94	34,423.36			225,384.61
Revenue-Monthly Permits	463-8000-344903	28,760.00	30,060.00	30,450.00	30,650.00	30,800.00	30,200.00	30,150.00	30,200.00	30,100.00	30,100.00			301,470.00
	16th St. Anchor - REVENUE (Sales Tax Excluded)	138,065.63	133,864.70	139,044.40	158,502.99	182,703.75	229,426.08	171,265.83	162,440.18	120,877.97	171,476.37	0.00	0.00	1,607,667.90
Expenses														
Security Personnel		15,377.39	12,631.97	12,484.73	15,631.96	12,668.78	12,530.75	13,631.98	11,987.96	12,248.30	15,061.26			134,255.08
Attendant/Cashier Labor		16,056.04	16,109.36	16,350.94	26,132.55	23,955.70	22,606.20	27,423.35	22,696.42	21,660.15	21,584.66			214,575.37
FP&L		4,138.44	4,138.44	3,384.80	3,942.83	4,252.58	2,711.52	3,239.29	3,610.07	4,015.70	3,844.35			37,278.02
Revenue Control Equipment Maintanance		775.00	775.00	775.00	775.00	775.00	775.00	775.00	1,025.00	825.00	825.00			8,100.00
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	433.00			4,213.00
Elevator Maintenance		1,675.97	1,097.97	2,457.97	1,097.97	1,442.97	1,097.97	1,097.97	1,097.97	1,097.97	1,180.64			13,345.37
Landscape and Lot Maintenance		152.00	190.00	190.00	152.00	152.00	152.00	152.00	152.00	152.00	153.00			1,597.00
Garage Cleaning/Maintenance		9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00	9,242.00			92,420.00
Sanitation (Waste Removal)		179.01	179.01	179.01	179.01	179.01	179.01	179.01	179.01	179.01	179.01			1,790.10
Fire Alarm Service		250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00			2,500.00
	16th St. - Anchor EXPENSES	48,265.85	45,033.75	45,734.45	57,823.32	53,338.04	49,964.45	56,410.60	50,660.43	50,090.13	52,752.92	0.00	0.00	510,073.94
	16th St. PROFIT/(LOSS)	89,799.78	88,830.95	93,309.95	100,679.67	129,365.71	179,461.63	114,855.23	111,779.75	70,787.84	118,723.45	0.00	0.00	1,097,593.96

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/2004 TOTAL
16th Street - Anchor Garage														
Revenue-Ticket	463-8000-344911	76,425.24	85,206.68	86,298.69	94,582.18	118,038.51	164,273.90	101,423.32	99,099.99	74,747.67	100,624.29	100,280.84	42,528.02	1,143,529.33
Revenue - Valet	463-8000-344587	20,015.89	20,326.63	26,858.41	14,436.45	37,707.01	20,244.86	13,807.94	20,236.91	21,732.25	28,007.48	37,609.35	3,287.38	264,270.56
Revenue-Monthly Permits	463-8000-344903	26,750.00	28,200.00	23,050.00	23,550.00	28,100.00	29,494.86	28,300.00	28,200.00	29,100.00	28,250.00	27,800.00	27,550.00	328,344.86
	16th St. Anchor - REVENUE (Sales Tax Excluded)	123,191.13	133,733.31	136,207.10	132,568.63	183,845.52	214,013.62	143,531.26	147,536.90	125,579.92	156,881.77	165,690.19	73,365.40	1,736,144.75
Expenses														
Security Personnel		12,428.89	10,171.83	13,395.77	13,665.72	9,837.47	13,607.43	13,622.77	17,009.29	15,641.13	13,312.95	16,536.88	10,164.07	159,394.20
Attendant/Cashier Labor		15,887.24	16,050.82	15,831.23	16,378.83	16,584.62	17,423.33	16,028.61	16,430.45	16,116.40	16,122.14	15,889.24	17,947.67	196,690.58
FP&L		3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	3,800.00	45,600.00
Revenue Control Equipment Maintanance		775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	775.00	1,450.00	775.00	775.00	9,975.00
Armed Guard Revenue Pickup		420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	420.00	5,040.00
Elevator Maintenance		1,278.82	1,743.82	155.00	1,015.32	1,015.32	1,015.32	1,015.32	1,097.97	1,206.47	1,097.97	4,787.13	1,097.97	16,526.43
Landscape and Lot Maintenance		164.67	152.00	164.67	164.67	164.67	164.67	164.67	152.00	152.00	152.00	190.00	152.00	1,938.02
Garage Cleaning/Maintenance		2,924.40	2,924.00	2,924.00	2,924.00	2,924.00	2,924.00	22,325.40	4,869.00	4,864.00	4,864.00	4,864.00	4,864.00	64,194.80
Sanitation (Waste Removal)		171.64	171.64	171.43	181.96	181.96	174.34	171.64	179.01	179.01	179.04	179.01	179.01	2,119.69
Fire Alarm Service		250.00	250.00	250.00	250.00	250.00	250.00	250.00	250.00	346.30	250.00	250.00	250.00	3,096.30
	16th St. - Anchor EXPENSES	38,100.66	36,459.11	37,887.10	39,575.50	35,953.04	40,554.09	58,573.41	44,982.72	43,500.31	41,648.10	47,691.26	39,649.72	504,575.02
	16th St. PROFIT/(LOSS)	85,090.47	97,274.20	98,320.00	92,993.13	147,892.48	173,459.53	84,957.85	102,554.18	82,079.61	115,233.67	117,998.93	33,715.68	1,231,569.73

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CITY OF MIAMI BEACH
PARKING DEPARTMENT
PROFIT & LOSS STATEMENT
42nd Street Garage - 8A

LOCATION	ACCOUNTING CODE	2004 October	2004 November	2004 December	2005 January	2005 February	2005 March	2005 April	2005 May	2005 June	2005 July	2005 August	2005 September	FY 2004/2005 TOTAL
42nd Street Garage - 8A														
Revenue-Ticket	480-8000-344531	2,996.27	3,087.87	2,986.91	3,523.36	5,580.37	3,684.11	3,179.44	3,264.48	2,909.35	3,046.75			34,258.91
Revenue-Monthly Permits	480-8000-344595	34,020.00	33,360.00	33,720.00	33,720.00	33,720.00	24,720.00	25,020.00	25,680.00	25,860.00	25,740.00			295,560.00
	42nd St. - 8A REVENUE (Sales Tax Excluded)	37,016.27	36,447.87	36,706.91	37,243.36	39,300.37	28,404.11	28,199.44	28,944.48	28,769.35	28,786.75	0.00	0.00	329,818.91
Expenses														
Security Personnel		10,306.80	8,245.44	8,214.77	10,306.80	8,217.83	8,245.44	8,156.48	7,960.05	8,043.84	10,054.80			87,752.25
Attendant/Cashier Labor		3,215.99	3,061.85	3,176.80	5,232.69	5,826.12	4,422.79	5,523.08	5,202.01	4,404.76	4,188.31			44,254.40
FP&L		1,805.96	1,982.13	1,927.13	1,725.18	1,964.05	1,820.02	1,856.45	1,527.52	1,861.10	1,967.00			18,436.54
Revenue Control Equipment Maintenance		0.00	110.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			110.00
Elevator Maintenance		1,819.16	430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00	430.00			5,689.16
Landscape Maintenance		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00			0.00
Garage Cleaning/Maintenance		3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00	3,392.00			33,920.00
	42nd St. - 8A EXPENSES	20,539.91	17,221.42	17,140.70	21,086.67	19,830.00	18,310.25	19,358.01	18,511.58	18,131.70	20,032.11	0.00	0.00	190,162.35
	42nd St. PROFIT/(LOSS)	16,476.36	19,226.45	19,566.21	16,156.69	19,470.37	10,093.86	8,841.43	10,432.90	10,637.65	8,754.64	0.00	0.00	139,656.56

LOCATION	ACCOUNTING CODE	2003 October	2003 November	2003 December	2004 January	2004 February	2004 March	2004 April	2004 May	2004 June	2004 July	2004 August	2004 September	FY 2003/2004 TOTAL
42nd Street Garage - 8A														
Revenue-Ticket	480-8000-344531	3,350.48	2,763.56	3,415.88	3,842.04	10,966.37	3,644.84	3,200.92	4,165.41	3,907.46	3,619.65	3,802.80	2,752.32	49,431.73
Revenue-Monthly Permits	480-8000-344595	34,620.00	34,980.00	35,760.00	33,780.00	35,040.00	35,100.00	35,100.00	34,440.00	34,200.00	34,500.00	24,480.00	34,620.00	406,620.00
	42nd St. - 8A REVENUE (Sales Tax Excluded)	37,970.48	37,743.56	39,175.88	37,622.04	46,006.37	38,744.84	38,300.92	38,605.41	38,107.46	38,119.65	28,282.80	37,372.32	456,051.73
Expenses														
Security Personnel		8,206.59	8,797.59	9,113.55	8,728.04	9,214.77	8,245.44	8,245.44	10,306.80	8,245.44	8,245.44	10,294.53	7,251.57	104,895.20
Attendant/Cashier Labor		3,255.18	3,257.79	3,077.53	2,837.18	4,731.24	3,317.88	3,210.77	3,537.33	3,195.09	3,027.89	4,255.76	3,848.22	41,551.86
FP&L		1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	1,805.96	21,671.52
Revenue Control Equipment Maintenance		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Elevator Maintenance		536.00	536.00	536.00	536.00	536.00	536.00	430.00	1,190.80	430.00	430.00	430.00	430.00	6,556.80
Landscape Maintenance		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	136.00	0.00	0.00	0.00	136.00
Garage Cleaning/Maintenance		1,796.50	1,780.00	1,796.50	1,796.50	1,763.50	1,796.50	1,780.00	1,780.00	1,796.50	1,837.75	1,796.50	3,392.00	23,112.25
	42nd St. - 8A EXPENSES	15,600.23	16,177.34	16,329.54	15,703.68	18,051.47	15,701.78	15,472.17	18,620.89	15,608.99	15,347.04	18,582.75	16,727.75	197,923.63
	42nd St. PROFIT/(LOSS)	22,370.25	21,566.22	22,846.34	21,918.36	27,954.90	23,043.06	22,828.75	19,984.52	22,498.47	22,772.61	9,700.05	20,644.57	258,128.10

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