



## COMMITTEE MEMORANDUM

TO: Mayor David Dermer and Members of the City Commission

FROM: City Manager Jorge M. Gonzalez

DATE: January 17, 2007

SUBJECT: **REPORT OF THE FINANCE AND CITYWIDE PROJECTS COMMITTEE MEETING OF NOVEMBER 30, 2006.**

### **NEW BUSINESS:**

- 1. DISCUSSION REGARDING RENEWAL OF THE MANAGEMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND MIAMI BEACH GARDEN CONSERVANCY INC., FOR THE MANAGEMENT AND OPERATION OF THE BOTANICAL GARDEN.**

### **ACTION**

**Motion was made by Commissioner Matti H. Bower and seconded by Chairman Gross to renew the management agreement with the Conservancy as well as have the Conservancy oversee the implementation of the G.O. bond funding.**

Assistant City Manager, Tim Hemstreet presented the item requesting the renewal of the agreement between the City of Miami Beach and the Miami Beach Garden Conservancy Inc. . The current agreement will expire on June 30, 2007. The new agreement will commence on July 1, 2007 and will consist of an initial five (5) year term and one five (5) year renewal option at the discretion of the City. Mr. Hemstreet also requested that the Committee consider waiving by 5/7<sup>th</sup> vote the competitive bidding requirement and renew the management contract with the Conservancy. The Conservancy is also requesting that the new agreement allow them to guide the implementation of G.O. Bond funded capital improvements and to achieve full accreditation as a Botanical Garden. Commissioner Matti H. Bower noted the "5 plus 5" management agreement would create stability. Mr. Hemstreet also advised the City has been very pleased with the Conservancy's management of the Botanical Garden.

Mr. Richard Toledo, Chairman of the Conservancy Board, advised that the City's financial contribution to the Botanical Garden is based on the City's annual operating budget. Mr. Toledo noted that since the Conservancy has taken on management of the Botanical Garden, the City's annual contribution has decreased by 25%. Mr. Toledo also advised they are still working on estimates for current funding allocation and would provide this information at a later time.

City Manager Jorge M. Gonzalez noted that the City provides for certain expenditures based on the public private partnership with the Conservancy. Currently 50% of the funding received by the Botanical Gardens originates from the private sector.

Chairman Gross noted that he was anxious to see how the Conservancy would use the G.O. bond funding to enhance the Botanical Garden.

**2. DISCUSSION REGARDING PROPOSED FIRST ADDENDUM TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY (OWNER) AND THE NEW WORLD SYMPHONY (DEVELOPER), DATED JANUARY 5, 2004, FOR THE DEVELOPMENT OF THE 17TH STREET SURFACE PARKING LOTS; SAID ADDENDUM REQUIRING THE DEVELOPER TO PROCEED WITH THE DESIGN OF THE PARK AND CERTAIN ADDITIONAL IMPROVEMENTS TO BE FUNDED BY THE OWNER, GENERALLY LOCATED WITHIN THREE (3) GEOGRAPHICAL AREAS OR "ZONES" DEFINED HEREIN AS ZONE 1 – "THE PARKING GARAGE ZONE", ZONE 2 – "THE SYMPHONY CAMPUS ZONE" AND ZONE 3 – "THE PARK PROJECT ZONE."**

**ACTION**

**Motion was introduced by Chairman Gross to have the amendment presented at the December 6<sup>th</sup>, 2006 Commission meeting and include an affirmative agreement to proceed with building the Park, release of the BODR for the garage, and release of the associated design fees.**

Jorge Gonzalez, City Manager noted this item has been ongoing with the City for several years and the New World Symphony (NWS) is now requesting an amendment to the previous Development Agreement. The Manager advised that NWS is willing to make the City whole in the event the Symphony Campus Project does not proceed, by reimbursing the City for expenses incurred through the commencement of construction of the Garage. He also noted the issue as whether to reintroduce the entry way of TOPA back into the scope of the NWS Project.

Mr. Hemstreet, Assistant City Manager, advised that the amendment would address the new proposed zones: Zone 1 - which includes the parking garage, garage landscaping along Lincoln Lane and Pennsylvania Ave, and 17<sup>th</sup> and Lincoln Lane streetscape and landscaping improvements; Zone 2 – the Symphony Campus and the Park, Drexel Ave realignment and 17<sup>th</sup> and Lincoln Lane streetscape and landscaping improvements; Zone 3 - City Center Parks, Washington Avenue Streetscape Improvements, and 17<sup>th</sup> and Lincoln Lane streetscape and landscaping improvements. Mr. Hemstreet advised that NWS is requesting exemption from its obligation to reimburse the City under the following circumstances: 1) If regulatory requirements that make the Project infeasible; 2) If City Commission imposed requirements make the Project infeasible; and 3) If the City does not commit to a \$15 million grant-in-kind aid. Several members of the Committee expressed considerable concern regarding these conditions.

Commissioner Bower expressed her concern regarding the construction on the 420 Lincoln Road Parking Garage Project and its impact on the NWS Garage Project. She requested clarification as to what would take place in the event of delays on the 420 Lincoln Road Parking Garage Project. She went on to advise that the risk would be mitigated if the City held ownership of the Garage. Commissioner Steinberg noted the original intent of the 420 Lincoln Road Parking Garage Project was to provide required parking for the building. The Manager added that there is a practical, and zoning need for parking along with the issue of ownership. He went on to state the initial design called for incorporating the loss of the 17<sup>th</sup> street parking spaces into the City Hall Parking

structure in order to replace the 524 spaces. The 600 spaces created will fully replace the two surface lots. An additional 175 spaces need to be created to satisfy the City Code required parking spaces for the NWS Project. The Manager advised that the City has been working in good faith with NWS. He advised that an additional \$7 to \$8 million was required for the parking structure including the retail component. Chairman Gross stated that the City has previously worked on re-negotiating the cost of parking spaces. He gave the 5<sup>th</sup> Street Project as an example. He also questioned if the City wants to spend additional funds. Commissioner Steinberg added the City has always wanted to maximize the parking spaces. Raul Aguila, First Assistant City Attorney, advised that approximately \$15 million was budgeted for the Garage including the design, development, and construction of the project. Mr. Hemstreet stated there are plans to have the number of parking spaces for the Garage maximized to approximately 640 spaces. This number will be adjusted contingent upon the space on the ground floor that will be used for retail purpose.

Commissioner Steinberg also expressed his concern with re-negotiating parking space rates after the Development Agreement and Lease were approved. He requested that the Administration and legal review the agreement and determine if a referendum is needed to amend the Lease. City Attorney, Jose Smith, concurred that a referendum is required to modify any lease agreement if there are significant changes that are considered material and effective to the lease agreement. Chairman Saul Gross advised that the Committee wished to have some certainty if the project did not continue that any soft dollars spent would be returned to the City.

The Manager advised the cost of the additional improvements for the Park have increased. Initially, a cost of \$13 million was estimated but now it is estimated to cost about \$20 million. Chairman Gross suggested the design of the Park be coordinated with Chen and Associates, the designer of the Washington Avenue project involving the opening of Lincoln Lane to Washington Avenue. Mr. Hemstreet stated the NWS was reluctant to take on the Lincoln Lane project due to the underground utilities. This project includes a ten (10) foot sidewalk, the realigning of Drexel Avenue and the streetscape and landscaping alongside the west side of the Garage. The Manager advised design costs for the park would have to be covered by the City as the park is a City facility.

Chairman Gross expressed that he favored building the Park at Lincoln Road regardless if the NWS Project was built or not. Commissioner Bower requested to have the item further discussed at the Commission Meeting on December 6<sup>th</sup>. She also requested a representative of the project visit her office for further discussions prior to the Commission meeting. The City Manager and the Commission will have to approve a preliminary budget after the design report is completed and then approve a final budget after the maximum price has been guaranteed.

The Manager advised that the NWS had previously requested a \$30 million grant-in-aid for the Sound Space project. The request was reduced to \$15 million after the City suggested the sale of the Lincoln Theater. The Manager suggested that the \$15 million grant-in-aid be broken up and distributed in annual installments of \$1 million each year over the next 15 years once the project is complete. Commissioner Libbin requested that the NWS share their current fundraising status. Mr. Howard Frank, of the NWS, thanked the City for its support and advised the project would have a lasting value to the City and County. He went on to advise that the current fundraising goal is \$135 million with a contingency of \$15 million for a total goal of \$150 million. In addition to the \$15 million grant-in-aid requested from the City, NWS is also requesting an additional \$30 million from the County. The first grant from the County in the amount of \$3 million was received this past October. NWS has received verbal assurance from the County that

additional aid will follow. Mr. Frank went on to advise the present endowment is \$72 million of which 5% is used annually for operating expenses. Mr. Frank advised that the Design Review Board approval for the project should be secured in February or March of 2007, construction documents available by late spring of 2007, and ground breaking by September 2007. He noted that in order to begin the process NWS would require the net-present value of the \$15 million dollars being requested.

Commissioner Libbin requested a timeline for the project drawings. Chairman Gross requested input from the Manager, on how the City could provide information about the NWS Project to the public. The Manager suggested scheduling workshops in January that would be televised. He also noted that the Committee was in general agreement regarding the building of the park and suggested the reintroduction of the TOPA component be forwarded to the Commission in January 2007 in order to avoid stalling the DRB process for the Project. The Manager advised that the issues of the Garage and the \$15 million grant-in-aid were not critical items and could be re-introduced at the January meeting.

The floor was opened for public comment.

Resident, Minette Benson requested printed materials be made available to the community prior to any Commission/Committee Meetings. Former City of Miami Beach Mayor, Neisen Kasdin, expressed his support for the NWS Project. He advised the NWS Project is a catalyst to the City's adopted Master Plan. He noted that the NWS has currently invested \$9 million of its own funding and requested that additional investments need to be reciprocated by the City. Bruce Clinton, Trustee of the NWS, noted that the project is a joint venture to create a facility of worldwide significance.

### **3. INTERNAL AUDIT DIVISION'S AUDITED AREAS UPDATED THROUGH FISCAL YEAR 2005/06.**

#### **ACTION**

**Item was unanimously approved and passed.**

Kathie Brooks, Office of Budget and Performance Improvement Director, presented the audited areas for Fiscal Year 2005/06. James Sutter, Internal Auditor for the City, advised the resort tax audits were based on the type of business, resort tax receipts received, and the frequency of the last audit. Three fulltime employees and two outside consultants were involved in the resort tax audits. Further, the Audit Division completed six Departmental and Not-For-Profit internal audits during the 2005/06 Fiscal Year. Ms. Brooks noted that a new part-time sanitation auditor was able to recoup \$106,000.00 in funds. The part-time sanitation position will be implemented as a full-time position next year.

The Division also assisted in the recovery of FEMA reimbursement claims totaling approximately \$10 million. Ms. Brooks stated that any audits from last year that were not completed will be carried over and added to this year's audit schedule.

### **4. PROPOSED CLOSURE OF LINCOLN ROAD TO VEHICULAR TRAFFIC BETWEEN ALTON ROAD AND LENOX AVENUE.**

## **ACTION**

**Jorge Gonzalez, City Manager requested the Committee move forward with the item and make a favorable recommendation to the Commission to approve the project subject to the question of the drop off issue and the possibility of including the east side of the 400 block in the project.**

Mr. Hemstreet, Assistant City Manager, introduced the item. He advised the project involved the extension of the pedestrian mall at Lincoln Road from Lenox Avenue to Alton Road. Lincoln Road would be closed to all vehicular traffic and the pedestrian mall would be extended through to Alton Road.

The floor was then opened for public comment.

The following Miami Beach residents and property owners expressed their support for the project: Nancy Freeman, Ernesto Arguello (the Lincoln Group LLC.), Chris Hass, Arthur Marcus, Peter Wallace (Acting President – Lincoln Road Market Association), Glenn Boyer (Representative of 400 Block Property Owners and PLC Investments Inc.), Brian Antoni and Mr. Kasdin. Carter McDowell, representative of the project designer, advised the project is an excellent opportunity for the City.

Mr. Boyer also advised the 400 Block Project is in the construction documents phase, but at this time he was unable to give a timeframe as to groundbreaking.

Sherna Brody expressed her concerns regarding the project. She listed various stores and property owners in support of a petition against the closing of the road. She requested the project be modified to include a smart lane drop off areas. She was also concerned about the dangers of an open water pond and the planting of mangrove trees. Alejandro Lopez, submitted an alternate project proposal to the Committee that allowed for a smart lane, a small pavilion, a pedestrian path, and 75 foot reflective pool.

Fred H. Beckmann, Director of Public Works, advised that a traffic impact analysis for the project had been completed. The analysis showed no significant traffic impact to Lincoln Road and adjacent streets including Alton Road, Lenox Avenue from 16<sup>th</sup> to 17<sup>th</sup> Street. Mr. Beckmann went on to state that the City is working with Florida Department of Transportation to ensure the size of the drop off areas will be in compliance with current regulation. He suggested keeping the drop off areas as small as possible in order to allow traffic to continue to flow smoothly. Traffic engineer consultant, Susan Anderson, advised the current service level for the Alton Road and 17<sup>th</sup> Street is a level "F" and that closure of the road will allow for more green time from traffic signals.

The Manager advised the item was referred to the Finance and Citywide Projects Committee in order to set a dollar amount. The Manager requested that the Committee provide conceptual procedure assistance with negotiations concerning price from the builder which would be reviewed at a later date. The project will be funded by the \$5 million allocated in the capital budget.

Chairman Saul Gross added that the project will be funded by RDA dollars and not from any other special assessment funds.

JMG/PDW/rs/nsI