



MIAMIBEACH

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

COMMITTEE MEMORANDUM

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

FROM: City Manager Jorge M. Gonzalez

DATE: July 21, 2009

This shall serve as written notice that a meeting of the Finance and Citywide Projects Committee has been scheduled for July 21, 2009, at 2:30 P.M. in the City Manager's Large Conference Room.

The agenda is as follows:

OLD BUSINESS

1. Status update on Business Tax Process Improvement.

Kathie Brooks – Budget & Performance Improvement Director
Patricia Walker – Chief Financial Officer

2. Discussion regarding the approval to issue a Request for Proposal (RFP) for Parking Enforcement Services for the City parking systems.

Tim Hemstreet – Assistant City Manager

NEW BUSINESS

3. Discussion of employee suggestions for budget cuts.

Jorge Gonzalez – City Manager

4. Discussion of union suggestions for budget cuts.

Jorge Gonzalez – City Manager

5. Discussion: Follow-up to July 6-10 Budget Briefings

Kathie Brooks – Budget & Performance Improvement Director

6. Discussion regarding classification and compensation plan

Jorge Gonzalez – City Manager

7. Discussion on Early Adoption of New Fund Balance Designations as part of the FY 2009/10 Budget

(Requested by Commissioner Deede Weithorn)

Patricia D Walker – Chief Financial Officer

8. Discussion regarding a concession agreement with One Washington Avenue, Corp. for a concession in South Pointe Park adjacent to the Smith & Wollensky Restaurant to be used as an auxiliary dining area.

Hilda Fernandez – Assistant City Manager

Finance and Citywide Projects Committee Meetings for 2009:

August 13, 2009

September 24, 2009

October 29, 2009

November 17, 2009

December 15, 2009

JMG/PDW/rs/th

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Cc. Mayor and Members of the City Commission
Management Team

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COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: July 21, 2009

SUBJECT: STATUS UPDATE ON BUSINESS TAX RECEIPT AND CERTIFICATE OF USE PROCESS IMPROVEMENT

OVERVIEW

On January 24, 2008, the City Manager established the Business Tax/Certificate of Use ("BTR/CU") Working Group (Working Group). The working group is made up of representative departments which are involved in the beginning-to-end application processes for the City's CU, Fire Inspection Fee, and BTR (previously known as Occupational License) as well as staff from the Office of Budget and Performance Improvement. The working group was tasked with reviewing the business tax process and identifying opportunities to improve efficiencies, as well as improve internal and external communication.

On February 7, 2008, the Finance and Citywide Projects Committee ("FCWP") requested that the Administration incorporate as part of the working group's activities a review and simplification of the Local BTR categories into general categories while maintaining a mechanism for regulating CU zoning issues. The purpose of this review was to create a streamlined application process.

The working group is chaired and supported by the Office of Performance Improvement and is comprised of staff members from the following listed departments:

- Finance
- Building
- Code Compliance
- Planning
- Fire
- Business Liaison
- Economic Development

BACKGROUND

The City of Miami Beach currently uses a joint process to issue and renew a BTR and a CU for a business desiring to operate in the City of Miami Beach. A local business tax is the tax charged by a local government for any/all business, profession, or occupation within its jurisdiction. The issuance of a BTR does not mean that the business entity or individual, has complied with our local zoning ordinances. A CU allows for the use and occupancy of the structure based on certifying that the use is permitted and that the structure is in compliance with applicable City Codes.

The current processes are coordinated by the Finance Department, which is responsible to review the BTR /CU application and route it to the appropriate departments for approval (and inspection, if necessary). The Finance Department is also responsible to compile all the final approvals and issue the BTR and the CU for businesses that operate in the City.

Although, it is legally possible for the City to issue a BTR when a business does not have a valid Certificate of Use, from a practical perspective, ensuring that a business has a valid CU prior to the issuance of the BTR ensures the following:

- The correct category (and thereby associated tax rate) is applied in calculating the amount required to be paid for the issuance of the BTR
- The proposed business use is permitted for that location and structure. Thereby eliminating any confusion and potential payment of a fee that would either need to be refunded or may be potentially forgone by the business

The legislation governing BTR, Certificate of Use, and the Annual Fire Inspections are as follows:

- Business Tax – Florida State Statute (FS), Chapter 205
- Certificate of Use – Miami Beach Code, Chapter 14-66 and 118-2
- Annual Fire Inspections (Required as a condition of Certificate of Use) – Miami Beach Code Chapter 50

In 2006, significant changes were made to FS Chapter 205 to the clarify intent. These changes included:

- Changing the name of the tax from an occupational license to a BTR .
- Limiting the ability of a County or municipality to make changes in rate structures or increasing the rate for any specific category, except as specifically exempted for counties or municipalities to adopt a new business ordinance after 1995.

205.0315 Ordinance adoption after October 1, 1995. -- Beginning October 1, 1995, a county or municipality that has not adopted a business tax ordinance or resolution may adopt a business tax ordinance. The business tax rate structure and classifications must be reasonable and must be based upon rate structure and classifications prescribed in ordinances adopted by adjacent local governments that have implemented s. 205.0535. If no adjacent local government has implemented s. 205-0535, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, the rate structure or classifications prescribed in its ordinance may be based upon those prescribed in ordinances adopted by local governments that have

implemented s. 205.0535 in counties or municipalities that have a comparable population.

Note: F.S. 205.0535 Reclassification and rate structure revisions specifically pertain to those counties or governments that have not implemented ordinances prior to 1995.

During FY2007/08 and part of FY2008/09, the working group met a number of times to review the current BTR /CU process. The early part of this process focused on the rate structure and a preliminary report was presented to the FCWP on May 29, 2008, recommending a reduction in the number of business tax categories from over 300 to 15 broad categories, which are universally used by federal and state governments for demographic, financial and statistical purposes. However, subsequent to the May 29, 2008 FCWP meeting, legal concerns were raised regarding the methods that could be used to accomplish this recommendation. Since that time, the group has been working with the City Attorney's Office to identify potential approaches that would accomplish this simplification of the BTR structure. The difficulty in making any changes within the existing legislation is a problem faced by many local jurisdictions.

As recently as the Florida Association of Business Tax Officials (FABTO) Conference held on April 21-24, 2009, this issue was discussed by representatives from multiple counties and municipalities. At that meeting, the following information was disseminated:

- A reclassification/revision to our business tax ordinance is permitted as long as the reclassification is revenue neutral individually across all occupational categories. The reclassification may have a reduction in tax, but no tax increase to any individual classification is permitted.
- Municipalities may eliminate and create a new business tax ordinance in its entirety, as long as no individual and/or business receive a tax increase.

Further, for several months, concurrent with the recent review of potential approaches to reduce the number of business tax categories within the limitations of the Statue, the working group discussed opportunities to improve efficiency and improve communication, externally and internally. Following is a summary of the main recommendations from the working group:

SUMMARY OF WORKING GROUP RECOMMENDATIONS

- Modify City Code to reflect current practices and to eliminate CU inspections where not necessary:
 - Modify code requirements to eliminate Building department annual CU renewal inspections
 - Modify code to eliminate the need for Building Department inspections when there is no change in use, only a change in owner; with the exception of restaurants and bars.
 - Modify requirement for Fire inspections pursuant to Section 50-5(c) and City Code Section 14-66 (3) for new applications related to change of ownership but no change in use – to clarify City's internal process that no new inspection is required as long as there is no change in use:
 - ✓ Limited to within six months from last valid CU.

- ✓ May require self-certification by business that there is no change in intended use from the use in the City's records. Need to develop mechanism that allows departments to confirm change of ownership/no change in use.
 - ✓ Applies to all businesses except for food, beverage or entertainment establishments - restaurants, bars, and nightclubs – use specific occupational license codes
 - ✓ Discrepancies in information identified by the departments may require a new CU to be issued
 - Evaluate code possible changes to authorize current practice of background checks for fortune tellers (not conducted by the State, but not required by City Code), gun dealers and pawn brokers
Note: Pedicab driver background check is already required by City Code
 - Clarify interpretation of City Code regulations to ensure that certificate of occupancy or completion will automatically result in a waiver of Building Department inspections for CU for a period of six months from the date of a certificate of occupancy/certificate of completion
 - Clarify interpretation of City Code Chapters 14-66 and 118-2 that City can hold CU for non-payment of City fees
- Improve relationship between CU and BTR Process
 - Short term – Use the existing Permits Plus software to monitor and track process for Certificate of Use, automatically schedule CU inspections, and inquiries to web site. The Building department will be responsible for interface between Eden and Permits Plus
 - Mid term- Finance and Building will coordinate for the call center to handle BTR /CU calls after call center pilot program is complete (anticipated for summer 2009)
 - Long term – pursue integrated system/automated interface with ability for customer to submit and track applications on-line
 - Create a Business Liaison function to be assumed in the Building Department using existing resources
 - Revise CU categories to more accurately reflect Planning/Zoning requirements
 - Increase CU Fees
 - Preliminary analysis reflects current revenues are significantly less than costs
 - Incorporate comprehensive review as part of Building Development Fees Study
 - Implement streamlining improvements including increased use of automation

CERTIFICATE OF USE FEES

Current Certificate of Use Categories vs. Proposed Certificate of Use Categories

The tables below show the current and proposed Certificate of Use for the City.

Existing Categories

CU Code	CU Categories
100	Residential Use
200	Hotel, Motel, Dormitories
300	Retail
400	Office
500	Wholesale
600	Storage
700	Manufacturing, Garages
800	Open Areas Lots/Prkg/Boat&Auto
900	Restaurants (Bars, Lounges)
905	Restaurants
910	Bars
1000	Adult Congreate Living, Nursing
1100	Schools/DayCare/Nursury
1200	Marinas
1400	Theaters
1500	Churches, Synagogues & Temples
1600	Municipal Government Bldg
8888	Certificate of Use Not required
9999	Sharing a Space

Proposed New Categories

CU Code	CU Categories
100	Apartment Buildings
200	Hotels, Motels, Dormitories
250	Bed and Breakfast Inns
300	Retail
310	Pawnbroker
320	Second Hand Dealer
330	Firearms Dealer
340	Automobile or Boat Sales/Rentals
390	Liquor Store
399	Adult Bookstore/Video
400	Office
410	Medical Office
420	Veterinary Office
430	Veterinary Office / Animal Boarding
440	Funeral Home
450	Property Management Office - in Apt. Bldg.
500	Wholesale
600	Storage / Warehouse
610	Storage Yard
700	Manufacturing, Garages
710	Service Station, Gasoline Sales
800	Open Areas Lots/Prkg/Boat&Auto
810	Temporary Parking Lot
820	Provisional Parking Lot
850	Valet Parking Storage Lot
900	Restaurants (no alcoholic beverages)
905	Restaurants (w/ alcoholic beverages)
910	Bars (no restaurant)
922	After Midnight Alcohol Beverage Est. - until 2 a.m.
925	After Midnight Alcohol Beverage Est. - until 5 a.m.
950	Entertainment Establishments w/ Dance Hall
960	Entertainment Establishments w/o Dance Hall
999	Entertainment Est./Dance Hall, w/o Alcoholic Bev.
1000	Adult Congreate Living, Nursing
1100	Schools/DayCare/Nursury
1200	Marinas
1400	Theaters
1450	Arcades
1499	Adult Entertainment
1500	Churches, Synagogues & Temples
1600	Municipal Government Bldg
8000	CU Not required-Zero Street Address
8888	CU Not required-Professional License
9000	Home Based Business Office
9999	Sharing a Space

The Planning Department has recommended that the current C.U. categories are too narrow to be able to capture all the business information necessary to implement and enforce the existing land use and zoning regulations of the City. The City's zoning review of newly proposed businesses has been previously accomplished through the use of the Occupational License

categories (now BTR categories). Planning has recommended that if the BTR categories are to be reduced and streamlined, then the CU categories would then need to be expanded to replace them as the mechanism necessary to determine land use and zoning compliance. The proposed CU categories will accomplish that by streamlining the number of business classifications in relation to the old occupational license categories without losing information needed to enforce zoning regulations.

Comparison of Certificate of Use Costs to Current Revenues - Preliminary

The City contracted the services of Maximus Consulting Services, Inc. (Maximus) in April 2009 in order to conduct a Building Development Process Fee Study that would provide findings on the actual development-related costs to the City. This study also included a review of the CU cost and revenue. The preliminary results of the study showed that actual revenues brought to the City for CU are significantly lower than the cost of performing the service. It is important to note that the level of effort reflected in the estimated cost assumes that the recommendations from the working group are implemented, for example elimination of the City Code requirement for annual inspections by the Building Department renewal inspections for CU. Below is the breakdown of CU revenues versus the estimated cost for CU:

	City Data, FY07/08 Annual Revenue	Computed Annual Cost	Surplus/ (Subsidy)	Current % Recovery
Certificate of Use Fees				
Building - New	\$ -	\$ 208,728	\$ (208,728)	0%
Building - Renewal	-	210,945	(210,945)	0%
Planning - New	-	391,413	(391,413)	0%
Planning - Renewal	-	2,270	(2,270)	0%
Public Works (Engineering) - New	-	46,094	(46,094)	0%
Fire Department - New	-	145,469	(145,469)	0%
Codes - New	-	36,552	(36,552)	0%
Codes - Renewal	-	76,726	(76,726)	0%
Parking - New	-	997	(997)	0%
Subtotal, certificate of use	\$ 369,840	\$ 1,119,194	\$ (749,354)	33%

Potential Certificate of Use Fees

Currently, the City of Miami Beach charges a flat rate based on a fee schedule by type of business and then based on square footage, capacity or number of units. The proposed scenario is based on a flat fee by type of business due to the finding by Maximus that level of effort for CU review and inspection did not vary significantly by size. There is still a significant amount of work that is required by Maximus to confirm and refine all of the findings to date and the preliminary fees may change. The following table shows potential CU Fees based on the preliminary findings at 100 percent cost recovery.

Under this scenario, there is a significant difference between the initial application fee and the renewal fee based on the level of effort involved. An alternative scenario is to allocate a portion of the application cost to the renewal fee based on the fact the most businesses will be in operation over some number of years.

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CU Code	Proposed New Categories - for Zoning Purposes	Equivalent Fees Based on Current Schedule		Fee With Cost Recovery @ 100%	
		Base	Additional	Application	Renewal
100	Apartment Buildings	\$ 69.88	\$2.00 per unit over 50	\$ 535	\$ 11
200	Hotels, Motels, Dormitories	\$ 69.88	\$2.00 per unit over 50	\$ 535	\$ 11
250	Bed and Breakfast Inns	\$ 69.88	\$2.00 per unit over 50	\$ 643	\$ 11
300	Retail	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
310	Pawnbroker	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 1,184	\$ 11
320	Second Hand Dealer	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 859	\$ 11
330	Firearms Dealer	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 859	\$ 11
340	Automobile or Boat Sales/Rentals	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 751	\$ 11
390	Liquor Store	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 859	\$ 11
399	Adult Bookstore/Video	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 1,184	\$ 11
400	Office	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
410	Medical Office	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
420	Veterinary Office	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
430	Veterinary Office / Animal Boarding	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 751	\$ 11
440	Funeral Home	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
450	Property Management Office - in Apt. Bldg.	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 751	\$ 11
500	Wholesale	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
600	Storage / Warehouse	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 535	\$ 11
610	Storage Yard	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 859	\$ 11
700	Manufacturing, Garages	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 751	\$ 11
710	Service Station, Gasoline Sales	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 859	\$ 11
800	Open Areas Lots/Prkg/Boat&Auto	\$ 69.88	None	\$ 859	\$ 11
810	Temporary Parking Lot	\$ 69.88	None	\$ 751	\$ 228
820	Provisional Parking Lot	\$ 69.88	None	\$ 643	\$ 228
850	Valet Parking Storage Lot	\$ 69.88	None	\$ 643	\$ 120
900	Restaurants (no alcoholic beverages)	\$ 69.88	\$19.97 per addtl 20 seats	\$ 643	\$ 108
905	Restaurants (w/ alcoholic beverages)	\$ 69.88	\$19.97 per addtl 20 seats	\$ 968	\$ 236
910	Bars (no restaurant)	\$ 69.88	\$19.97 per addtl 20 seats	\$ 968	\$ 44
922	After Midnight Alcohol Beverage Est. - until 2 a.	\$ 69.88	\$19.97 per addtl 20 seats	\$ 643	\$ 55
925	After Midnight Alcohol Beverage Est. - until 5 a.	\$ 69.88	\$19.97 per addtl 20 seats	\$ 643	\$ 703
950	Entertainment Establishments w/ Dance Hall	\$ 69.88	\$19.97 per addtl 20 seats	\$ 968	\$ 946
960	Entertainment Establishments w/o Dance Hall	\$ 69.88	\$19.97 per addtl 20 seats	\$ 968	\$ 703
999	Entertainment Est./Dance Hall, w/o Alcoholic Be	\$ 69.88	\$19.97 per addtl 20 seats	\$ 968	\$ 946
1000	Adult Congregate Living, Nursing	\$ 79.86	\$2.00 per unit over 50	\$ 968	\$ 11
1100	Schools/DayCare/Nursury	\$ 79.86	\$2.00 per unit over 50	\$ 968	\$ 11
1200	Marinas	\$ 69.88	\$99.83 for 16 - 50 splits \$2.00 per slip over 50	\$ 751	\$ 11
1400	Theaters	\$ 69.88	\$69.88 over 500 seats	\$ 751	\$ 11
1450	Arcades	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 968	\$ 11
1499	Adult Entertainment	\$ 69.88	\$2.00 per seat over 60	\$ 968	\$ 11
1500	Churches, Synagogues & Temples	\$ 69.88	None	\$ 751	\$ 11
1600	Municipal Government Bldg	Exempt		\$ 535	\$ 11
9000	Home-based Business	NA		\$ 108	\$ 11
9999	Sharing a Space	NA		\$ 481	\$ 11
	Miscellaneous reviews	NA		\$ 373	\$ 11

Potential Certificate Use Fee Comparisons

The City of Miami and the City of Coral Gables charge a flat CU fee annually pf \$78 and \$75, respectively. Miami-Dade County, on the other hand, charges a CU fee based on square footage and by inspection detailed below from their website:

Most CU are issued on a permanent basis (i.e. an initial application fee only with no renewal fees). If the business does not move, expand, change ownership, name or business activity, the certificate remains valid. Some CU are required by Code or zoning resolution to be renewed annually. In most cases, fees for the CU are based on the square footage of the area to be occupied in addition to charging a DERM fee [\$50], 6% concurrency fee and an 8% surcharge to cover imaging costs. The base fee is assessed at a rate of three cents per square foot. There is a minimum of \$303.59 including the DERM fee, except for home offices which are \$129.68. A \$84.44 + 8% surcharge fee is charged for each inspection required, except fire inspections.

Examples of differing square footage and assuming 1 inspection are provided below. The examples are net of the DERM fee and the 6% concurrency fee.

Miami-Dade County Fee Examples

Sq Ft	Cost/Ft	Total	Minimum	8% Surcharge	Subtotal	Inspection	Total
1,000	0.03	\$ 30.00	\$ 253.59	\$ 20.29	\$273.88	\$ 91.20	\$365.08
5,000	0.03	\$150.00	\$ 253.59	\$ 20.29	\$273.88	\$ 91.20	\$365.08
10,000	0.03	\$300.00	NA	\$ 24.00	\$324.00	\$ 91.20	\$415.20
15,000	0.03	\$450.00	NA	\$ 36.00	\$486.00	\$ 91.20	\$577.20

PROPOSED STRUCTURE FOR BUSINESS TAX RECEIPTS

At the FCWPC meeting on May 29, 2008, a proposed BTR list of categories was presented. The list was structured to be user friendly and capture the FCWPC Committee’s goal of simplifying the application process for City of Miami Beach business applicants. The list was composed of 15 business/occupational categories compared to the current 347 categories. The North American Industry Classification System (NAICS) as a guide for establishing the proposed BTR categories. The NAICS is a business industry classification developed by the Federal Office of Management and Budget, together with the governments of Canada and Mexico, as a system for the classification of business establishments.

The following is the list of proposed BTR s presented:

1. Transportation and Warehousing
2. Finance and Insurance
3. Real Estate
4. Rental and Leasing
5. Construction
6. Manufacturing

7. Wholesale Trade
8. Retail Trade
9. Information
10. Professional, Administrative and Support Services
11. Educational Services / Health Care and Social Assistance
12. Arts, Entertainment, and Recreation
13. Accommodation and Food Services
14. Utilities
15. Other Services

As previously mentioned, subsequent to the May 29, 2008 meeting, legal concerns were raised regarding the methods that could be used to accomplish the recommendation of simplifying the business tax structure while ensuring that no individual or business would experience an increase in their business tax as a result.

The challenge has been to create a business tax structure that meets several conflicting objectives:

- Implements the simplified structure
- Minimizes revenue losses to the City
- Ensures compliance with Florida Statute that no individual or business is subject to an increase in business tax as a result of the restructure

At the same time, based on the preliminary analysis performed by the working group, it was estimated that the City's CU fees were significantly below the actual cost of effort incurred. Accordingly, further analysis of the proposed Business Tax structure was deferred to be able to integrate it with recommendations from Maximus' study related to CU fees. On July 9, 2009, Maximus presented the preliminary findings described above, as presented above. The preliminary findings confirmed that CU fees were not covering the cost of service being delivered.

Recommendations

Implement the simplified business tax structure in which fees are reduced in certain existing categories concurrent with an increase in CU fees to achieve at least an overall revenue neutral change for both CU and business tax combined.

Why there is still some refinement that needs to be done, the table below shows the recommended simplified BTR categories and tax amount and the resulting revenue impact. The 15 categories presented on May 29, 2008 have been expanded to 53 categories to reflect some important differences in types within a category. The table shows the tax for each of these proposed categories. Certain establishments would continue to be subject to an additional tax as in the current BTR structure, e.g., additional taxes per employees for professional and service businesses, additional taxes based on inventory value for certain retail establishments, etc.

PRELIMINARY CATEGORY	PRELIMINARY BASE BUSINESS TAX
1. Transportation and Warehousing	\$ 201
2. Finance and Insurance	
a. Banks & Stock Brokers	\$ 687
b. Small Finance Businesses	\$ 201
3. Real Estate	
a. Apartment Rentals	\$ 105
b. Other Real Estate	\$ 232
5. Construction	
a. Commercial docks	\$ 122
6. Manufacturing/Light Industrial	\$ 201
7. Wholesale Trade	\$ 347
8. Retail Trade	\$ 201
9. Information	\$ 183
10. Professional, Administrative and Support Services	
a. Support Services	\$ 183
b. Other	\$ 201
11. Educational Services / Health Care and Social Assistance	
a. Nursing Homes, Hospital, Sanitorium	\$ 953
b. Schools, Tutoring, Day Care, Nusery School	\$ 286
c. All Other	\$ 201
12. Arts, Entertainment, and Recreation	\$ 201
13. Accommodation and Food Services	
a. Caterers, Food Sales, & Liquor Sales	\$ 237
b. Bakery less than 5 employees	\$ 110
c. Soda, Ice Cream & Yogurt	\$ 110
d. Other	\$ 183
14. Utilities	\$ 9,615
15. Other Services	
a. Garbage Services	\$ 572
b. Shoe Repair, Tailot, Alterations	\$ 176
c. Flower Stands	\$ 176
d. Dry Cleaners (remote)	\$ 110
e. Landscape Maintenance	\$ 54
b. Other	\$ 201
16. Special Services	
a. Adult Entertainment	\$ 5,789
b. Entertainment Establishment without Dance Hall	\$ 201
c. Dance Hall/Entertainment w/o Alcohol	\$ 1,142
d. Dance Hall/Entertainment w/ Alcohol	\$ 201
e. Theaters live shows (0-49 seats)	\$ 548
f. Theaters live shows (50 seats and over)	\$ 1,142
g. Movie Picture Shows (one screen)	\$ 1,142
h. Promotor (and add'l special taxes)	\$ 79
i. Artist	\$ 91
j. Auction Business	\$ 3,789
k. Fortune Tellers	\$ 1,902
j. Arms, Ammo, etc.	\$ 457
l. Cardroom	\$ 1,750
m. Pawnbroker	\$ 953
n. Land Development Company	\$ 1,234
o. Automobile/Truck - rental agency	\$ 1,429
p. Beachfront Concessions	\$ 666
q. Service Stations	\$ 509

It is important to note that all fees in the proposed categories reflect a fee that is equal or less than the current tax rate. The resulting revenue impact from reducing the tax paid from the existing category to the proposed new category is approximately \$300,000.

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CU Code	Proposed New Categories - for Zoning Purposes	Current Fees		Revenue With Fee Fee For Cost Recovery @ 60%	
		Base	Additional	Application	Renewal
100	Apartment Buildings	\$ 69.88	\$2.00 per unit over 50	\$ 321	\$ 7
200	Hotels, Motels, Dormitories	\$ 69.88	\$2.00 per unit over 50	\$ 321	\$ 7
250	Bed and Breakfast Inns	\$ 69.88	\$2.00 per unit over 50	\$ 386	\$ 7
300	Retail	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
310	Pawnbroker	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 710	\$ 7
320	Second Hand Dealer	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 516	\$ 7
330	Firearms Dealer	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 516	\$ 7
340	Automobile or Boat Sales/Rentals	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 451	\$ 7
390	Liquor Store	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 516	\$ 7
399	Adult Bookstore/Video	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 710	\$ 7
400	Office	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
410	Medical Office	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
420	Veterinary Office	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
430	Veterinary Office / Animal Boarding	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 451	\$ 7
440	Funeral Home	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
450	Property Management Office - in Apt. Bldg.	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 451	\$ 7
500	Wholesale	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
600	Storage / Warehouse	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 321	\$ 7
610	Storage Yard	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 516	\$ 7
700	Manufacturing, Garages	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 451	\$ 7
710	Service Station, Gasoline Sales	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 516	\$ 7
800	Open Areas Lots/Prkg/Boat&Auto	\$ 69.88	None	\$ 516	\$ 7
810	Temporary Parking Lot	\$ 69.88	None	\$ 451	\$ 137
820	Provisional Parking Lot	\$ 69.88	None	\$ 386	\$ 137
850	Valet Parking Storage Lot	\$ 69.88	None	\$ 386	\$ 72
900	Restaurants (no alcoholic beverages)	\$ 69.88	\$19.97 per addtl 20 seats	\$ 386	\$ 65
905	Restaurants (w/ alcoholic beverages)	\$ 69.88	\$19.97 per addtl 20 seats	\$ 581	\$ 142
910	Bars (no restaurant)	\$ 69.88	\$19.97 per addtl 20 seats	\$ 581	\$ 26
922	After Midnight Alcohol Beverage Est. - until 2 a.m.	\$ 69.88	\$19.97 per addtl 20 seats	\$ 386	\$ 33
925	After Midnight Alcohol Beverage Est. - until 5 a.m.	\$ 69.88	\$19.97 per addtl 20 seats	\$ 386	\$ 422
950	Entertainment Establishments w/ Dance Hall	\$ 69.88	\$19.97 per addtl 20 seats	\$ 581	\$ 567
960	Entertainment Establishments w/o Dance Hall	\$ 69.88	\$19.97 per addtl 20 seats	\$ 581	\$ 422
999	Entertainment Est./Dance Hall, w/o Alcoholic Bev.	\$ 69.88	\$19.97 per addtl 20 seats	\$ 581	\$ 567
1000	Adult Congregate Living, Nursing	\$ 79.86	\$2.00 per unit over 50	\$ 581	\$ 7
1100	Schools/DayCare/Nursery	\$ 79.86	\$2.00 per unit over 50	\$ 581	\$ 7
1200	Marinas	\$ 69.88	\$99.83 for 16 - 50 splits \$2.00 per slip over 50	\$ 451	\$ 7
1400	Theaters	\$ 69.88	\$69.88 over 500 seats	\$ 451	\$ 7
1450	Arcades	\$ 69.88	\$69.88 over 5,000 sq ft	\$ 581	\$ 7
1499	Adult Entertainment	\$ 69.88	\$2.00 per seat over 60	\$ 581	\$ 7
1500	Churches, Synagogues & Temples	\$ 69.88	None	\$ 451	\$ 7
1600	Municipal Government Bldg	Exempt		\$ 321	\$ 7
8888	Home-based Business	NA		\$ 65	\$ 7
9999	Sharing a Space	NA		\$ 289	\$ 7
	Miscellaneous reviews	NA		\$ 224	\$ 7

IMPLEMENTATION

Once refined, we will update the recommended CU fees consistent with the policy direction received.

Renewal notices normally get mailed out at this time and there is still significant work by Maximus to be done to confirm and refine the findings from the Building Development Process Fees Study. It is therefore recommended that renewals be mailed based on current fees but the fees for new applications be implemented October 1, 2009.

JMG/KGB/IAS

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MIAMI BEACH

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

COMMITTEE MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: July 21, 2009

SUBJECT: Discussion Regarding Classification and Compensation Plan

At the July 8 and July 9, 2009 Finance and Citywide Projects Committee meetings, the members of the Committee discussed various implementation scenarios regarding the Classification and Compensation study conducted for the City by Dr. Steve Condrey & Associates.

The bulk of the discussion by the Committee members centered on the Condrey Pay Scale Plan B, which reflects salaries at 107.5% of the market. At this level, the entry-level rate for positions in the City would be greater than approximately 62% of competing organizations. Placing the salary scale at 107.5% of the labor market means that a position in the market with an average entry-level salary of \$40,000 would translate to a starting salary in the City of Miami Beach of \$43,000.

Attached are the following scenarios requested by the members of the Finance and Citywide Projects Committee for Pay Scale Plan B as proposed by Condrey & Associates:

- Scenario 1 - If all employees are brought within the range (i.e. those under the minimum are brought up to the minimum and those over the maximum are brought down to the maximum)
- Scenario 2a - If those under the minimum are brought up to the minimum and those more than 5% over the maximum are brought down to 5% over the maximum
- Scenario 2b - If those more than 5% under the minimum are brought up to 5% under the minimum and those more than 5% over the maximum are brought down to 5% over the maximum
- Scenario 3a - If those under the minimum are brought up to the minimum and those more than 7.5% over the maximum are brought down to 7.5% over the maximum
- Scenario 3b - If those more than 7.5% under the minimum are brought up to 7.5% under the minimum and those more than 7.5% over the maximum are brought down to 7.5% over the maximum
- Scenario 4a - If those under the minimum are brought up to the minimum and those more than 10% over the maximum are brought down to 10% over the maximum

- Scenario 4b - If those more than 10% under the minimum are brought up to 10% under the minimum and those more than 10% over the maximum are brought down to 10% over the maximum
- Scenario 5a - If those under the minimum are brought up to the minimum and those more than 12.5% over the maximum are brought down to 12.5% over the maximum
- Scenario 5b - If those more than 12.5% under the minimum are brought up to 12.5% under the minimum and those more than 12.5% over the maximum are brought down to 12.5% over the maximum
- Scenario 6a - If those under the minimum are brought up to the minimum and those more than 15% over the maximum are brought down to 15% over the maximum
- Scenario 6b - If those more than 15% under the minimum are brought up to 15% under the minimum and those more than 15% over the maximum are brought down to 15% over the maximum

At the Finance and Citywide Projects Committee meeting on July 9, one of the options discussed centered on a phased-in implementation of Scenario 3b. The proposal discussed included the following:

Employees Under the Minimum

For those employees whose salary is below the minimum of the proposed pay grades in Plan B, the salary for these employees would be adjusted on April 1 of each of the next three (3) years (2010, 2011, and 2012) in the following manner: In 2010, employees whose salary is more than 7.5% below the minimum would have their salary adjusted to 7.5% below the minimum. In 2011, employees whose salary is more than 5% below the minimum would have their salary adjusted to 5% below the minimum. In 2012, any employee whose salary is below the minimum would have their salary adjusted to the minimum of the pay grade.

Employees Over the Maximum

For those employees whose salary is more than 7.5% over the maximum of the proposed pay grades in Plan B, the salary would be adjusted on April 1 of each of the next three (3) years (2010, 2011, and 2012) in order to bring the salary to 7.5% over the maximum. For each year, the salary would be adjusted approximately one-third (1/3) of the difference between their current salary and 7.5% over the maximum of the employee's pay grade so that by year three (3) of these adjustments, the employee's salary would be at 7.5% above the maximum of the pay range.

In addition, the Committee also discussed other recommendations included in the Classification and Compensation Study, including the following:

(1) *Cost of Living Adjustments (COLA)* – Providing for periodic market increases (similar to the COLA the City has awarded in the past) limited to the Consumer Price Index (CPI) for the Miami – Fort Lauderdale area. Such increases should only be implemented when appropriate and deemed desirable by the City. At the July 9 Finance and Citywide Projects Committee meeting, the Committee recommended that no COLA adjustments be provided in FY 2009/10 and FY 2010/11.

(2) *Step Increases / Merit Increases* – Automatic step increases should be eliminated for all classifications where steps currently exist. In keeping with salary and compensation best practices, merit increases in the range of two percent (2%) to three percent (3%) should be

awarded to employees meeting performance standards and whose current salary is below the maximum of the salary range for the position they are in. At the July 9 Finance and Citywide Projects Committee meeting, the Committee recommended that no merit/step adjustments be provided in FY 2009/10 and FY 2010/11.

(3) *Overtime* – The City should strictly adhere to the overtime provisions in the Fair Labor Standards Act (FLSA) and eliminate policies that provide more than what the law requires. The City Manager referenced this recommendation at the July 9 meeting but the Finance and Citywide Projects Committee members did not discuss.

(4) *Salary Survey* – To make sure that the City's pay structure remains in a competitive position, the City should conduct a salary survey every four (4) to five (5) years. The City Manager also referenced this recommendation at the July 9 meeting but the Finance and Citywide Projects Committee members did not discuss.

As has been discussed, although the data and the results from the classification and compensation study are valuable and useful, for those classified positions represented by a union, any changes in salary scales (including actual salaries) or pay practices, will need to be negotiated with each of the respective unions.

Attachments

F:\cmgr\ALL\Ramiro\Classification and Compensation Study\Finance and Citywide Projects Committee July 9 meeting memo.doc

City of Miami Beach
 Finance and Citywide Projects Committee Meeting
 July 21, 2009
 Scenarios for Condrey and Associates Classification and Compensation Study Implementation

PAY SCALE B

Scenario 1 - If all employees are brought within the range (i.e. those under the minimum are brought up to the minimum and those over the maximum are brought down to the maximum)

	<u>Total Number of Employees per Salary Group</u>
AFSCME	418
CWA	460
FOP	359
GSA	52
IAFF	183
OTHERS and UNCLASSIFIED - CIVILIAN	240
UNCLASSIFIED - LEGAL	19
UNCLASSIFIED - MGT	110
UNCLASSIFIED - PUBLIC SAFETY	53
TOTALS	1,894

<u>Number over Max</u>	<u>% of Salary Group Over Max</u>	<u>% of Total Over Max</u>	<u>Savings if Return to Max</u>
6	1.44%	2.17%	\$ (20,144.43)
98	21.30%	35.51%	\$ (368,160.00)
0	0.00%	0.00%	\$ -
10	19.23%	3.62%	\$ (62,512.68)
37	20.22%	13.41%	\$ (114,922.74)
67	27.92%	24.28%	\$ (719,567.16)
7	36.84%	2.54%	\$ (64,244.17)
32	29.09%	11.59%	\$ (409,533.73)
19	35.85%	6.88%	\$ (134,023.61)
276	14.57%	100.00%	\$ (1,893,108.52)

<u>Number Under Min</u>	<u>% of Salary Group Under Min</u>	<u>% of Total Under Min</u>	<u>Cost to Bring to Min</u>
218	52.15%	84.82%	\$ 404,843.31
13	2.83%	5.06%	\$ 27,561.43
5	1.39%	1.95%	\$ 8,804.90
1	1.92%	0.39%	\$ 5,075.81
0	0.00%	0.00%	\$ -
16	6.67%	6.23%	\$ 37,097.15
0	0.00%	0.00%	\$ -
3	2.73%	1.17%	\$ 29,598.40
1	1.89%	0.39%	\$ 6,524.82
257	13.57%	100.00%	\$ 519,505.82

<u>Net (Savings)/Cost to City Budget</u>	<u>Estimated Enterprise Fund Impact</u>	<u>Estimated Gen. Fund Impact</u>
\$ 384,698.88	\$ 384,698.88	\$ -
\$ (340,598.57)	\$ (78,259.29)	\$ (262,339.29)
\$ 8,804.90	\$ -	\$ 8,804.90
\$ (57,436.87)	\$ (26,180.53)	\$ (31,256.34)
\$ (114,922.74)	\$ -	\$ (114,922.74)
\$ (682,470.01)	\$ -	\$ (682,470.01)
\$ (64,244.17)	\$ -	\$ (64,244.17)
\$ (379,935.33)	\$ -	\$ (379,935.33)
\$ (127,498.79)	\$ -	\$ (127,498.79)
\$ (1,373,602.70)	\$ 280,259.07	\$ (1,653,861.77)

City of Miami Beach
 Finance and Citywide Projects Committee Meeting
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 Scenarios for Condrey and Associates Classification and Compensation Study Implementation

PAY SCALE B

Scenario 2a - If those under the minimum are brought up to the minimum and those more than 5% over the maximum are brought down to 5% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 5% Over Max	Number	% of Salary	% of Total	Cost to Bring to Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		5% over Max	Group 5% Over Max	5% Over Max		Under Min	Group 5% Under Min	5% Under Min				
AFSCME	418	2	0.48%	1.26%	\$ (2,990.66)	218	52.15%	84.82%	\$ 404,843.31	\$ 401,852.65	\$ 401,852.65	\$ -
CWA	460	62	13.48%	38.99%	\$ (154,880.20)	13	2.83%	5.06%	\$ 27,561.43	\$ (127,318.77)	\$ (24,939.34)	\$ (102,379.44)
FOP	359	0	0.00%	0.00%	\$ -	5	1.39%	1.95%	\$ 8,804.90	\$ 8,804.90	\$ -	\$ 8,804.90
GSA	52	6	11.54%	3.77%	\$ (31,417.36)	1	1.92%	0.39%	\$ 5,075.81	\$ (26,341.55)	\$ (10,632.87)	\$ (15,708.68)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	54	22.50%	33.96%	\$ (483,134.30)	16	6.67%	6.23%	\$ 37,097.15	\$ (446,037.15)	\$ -	\$ (446,037.15)
UNCLASSIFIED - LEGAL	19	4	21.05%	2.52%	\$ (27,186.45)	0	0.00%	0.00%	\$ -	\$ (27,186.45)	\$ -	\$ (27,186.45)
UNCLASSIFIED - MGT	110	25	22.73%	15.72%	\$ (261,155.42)	3	2.73%	1.17%	\$ 29,598.40	\$ (231,557.02)	\$ -	\$ (231,557.02)
UNCLASSIFIED - PUBLIC SAFETY	53	6	11.32%	3.77%	\$ (64,493.88)	1	1.89%	0.39%	\$ 6,524.82	\$ (57,969.06)	\$ -	\$ (57,969.06)
TOTALS	1,894	159	8.39%	100.00%	\$ (1,025,258.27)	257	13.57%	100.00%	\$ 519,505.82	\$ (505,752.45)	\$ 366,280.45	\$ (872,032.90)

Scenario 2b - If those more than 5% under the minimum are brought up to 5% under the minimum and those more than 5% over the maximum are brought down to 5% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 5% Over Max	Number	% of Salary	% of Total	Cost to Bring to 5% Under Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		5% over Max	Group 5% Over Max	5% Over Max		5% Under Min	Group 5% Under Min	5% Under Min				
AFSCME	418	2	0.48%	1.26%	\$ (2,990.66)	118	28.23%	85.51%	\$ 105,495.46	\$ 102,504.80	\$ 102,504.80	\$ -
CWA	460	62	13.48%	38.99%	\$ (154,880.20)	6	1.30%	4.35%	\$ 9,090.43	\$ (145,789.77)	\$ (34,174.84)	\$ (111,614.94)
FOP	359	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
GSA	52	6	11.54%	3.77%	\$ (31,417.36)	1	1.92%	0.72%	\$ 2,417.65	\$ (28,999.71)	\$ (13,291.03)	\$ (15,708.68)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	54	22.50%	33.96%	\$ (483,134.30)	10	4.17%	7.25%	\$ 12,930.17	\$ (470,204.13)	\$ -	\$ (470,204.13)
UNCLASSIFIED - LEGAL	19	4	21.05%	2.52%	\$ (27,186.45)	0	0.00%	0.00%	\$ -	\$ (27,186.45)	\$ -	\$ (27,186.45)
UNCLASSIFIED - MGT	110	25	22.73%	15.72%	\$ (261,155.42)	2	1.82%	1.45%	\$ 19,592.81	\$ (241,562.61)	\$ -	\$ (241,562.61)
UNCLASSIFIED - PUBLIC SAFETY	53	6	11.32%	3.77%	\$ (64,493.88)	1	1.89%	0.72%	\$ 3,866.66	\$ (60,627.22)	\$ -	\$ (60,627.22)
TOTALS	1,894	159	8.39%	100.00%	\$ (1,025,258.27)	138	7.29%	100.00%	\$ 153,393.18	\$ (871,865.09)	\$ 55,038.94	\$ (926,904.03)

City of Miami Beach
 Finance and Citywide Projects Committee Meeting
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 Scenarios for Condrey and Associates Classification and Compensation Study Implementation

PAY SCALE B

Scenario 3a - If those under the minimum are brought up to the minimum and those more than 7.5% over the maximum are brought down to 7.5% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 7.5% Over Max	Number	% of Salary	% of Total	Cost to Bring to Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		7.5% over Max	Group 7.5% Over Max	7.5% Over Max		Under Min	Group Under Min	Under Min				
AFSCME	418	2	0.48%	1.75%	\$ (266.05)	218	52.15%	84.82%	\$ 404,843.31	\$ 404,577.26	\$ 404,577.26	\$ -
CWA	460	32	6.96%	28.07%	\$ (91,876.43)	13	2.83%	5.06%	\$ 27,561.43	\$ (64,315.00)	\$ (9,188.39)	\$ (55,126.61)
FOP	359	0	0.00%	0.00%	\$ -	5	1.39%	1.95%	\$ 8,804.90	\$ 8,804.90	\$ -	\$ 8,804.90
GSA	52	3	5.77%	2.63%	\$ (22,441.56)	1	1.92%	0.39%	\$ 5,075.81	\$ (17,365.75)	\$ (6,144.97)	\$ (11,220.78)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	49	20.42%	42.98%	\$ (382,657.23)	16	6.67%	6.23%	\$ 37,097.15	\$ (345,560.08)	\$ -	\$ (345,560.08)
UNCLASSIFIED - LEGAL	19	2	10.53%	1.75%	\$ (21,249.64)	0	0.00%	0.00%	\$ -	\$ (21,249.64)	\$ -	\$ (21,249.64)
UNCLASSIFIED - MGT	110	22	20.00%	19.30%	\$ (201,645.65)	3	2.73%	1.17%	\$ 29,598.40	\$ (172,047.25)	\$ -	\$ (172,047.25)
UNCLASSIFIED - PUBLIC SAFETY	53	4	7.55%	3.51%	\$ (56,744.61)	1	1.89%	0.39%	\$ 6,524.82	\$ (50,219.79)	\$ -	\$ (50,219.79)
TOTALS	1,894	114	6.02%	100.00%	\$ (776,881.17)	257	13.57%	100.00%	\$ 519,505.82	\$ (257,375.35)	\$ 389,243.90	\$ (646,619.25)

Scenario 3b - If those more than 7.5% under the minimum are brought up to 7.5% under the minimum and those more than 7.5% over the maximum are brought down to 7.5% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 7.5% Over Max	Number	% of Salary	% of Total	Cost to Bring to 7.5% Under Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		7.5% over Max	Group 7.5% Over Max	7.5% Over Max		7.5% Under Min	Group 7.5% Under Min	Under Min				
AFSCME	418	2	0.48%	1.75%	\$ (266.05)	72	17.22%	84.71%	\$ 40,125.26	\$ 39,859.21	\$ 39,859.21	\$ -
CWA	460	32	6.96%	28.07%	\$ (91,876.43)	2	0.43%	2.35%	\$ 4,696.79	\$ (87,179.64)	\$ (20,620.71)	\$ (66,558.93)
FOP	359	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
GSA	52	3	5.77%	2.63%	\$ (22,441.56)	1	1.92%	1.18%	\$ 1,088.57	\$ (21,352.99)	\$ (10,132.21)	\$ (11,220.78)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	49	20.42%	42.98%	\$ (382,657.23)	7	2.92%	8.24%	\$ 7,551.41	\$ (375,105.82)	\$ -	\$ (375,105.82)
UNCLASSIFIED - LEGAL	19	2	10.53%	1.75%	\$ (21,249.64)	0	0.00%	0.00%	\$ -	\$ (21,249.64)	\$ -	\$ (21,249.64)
UNCLASSIFIED - MGT	110	22	20.00%	19.30%	\$ (201,645.65)	2	1.82%	2.35%	\$ 16,000.43	\$ (185,645.22)	\$ -	\$ (185,645.22)
UNCLASSIFIED - PUBLIC SAFETY	53	4	7.55%	3.51%	\$ (56,744.61)	1	1.89%	1.18%	\$ 2,537.58	\$ (54,207.03)	\$ -	\$ (54,207.03)
TOTALS	1,894	114	6.02%	100.00%	\$ (776,881.17)	85	4.49%	100.00%	\$ 72,000.04	\$ (704,881.13)	\$ 9,106.29	\$ (713,987.42)

City of Miami Beach
 Finance and Citywide Projects Committee Meeting
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 Scenarios for Condrey and Associates Classification and Compensation Study Implementation

PAY SCALE B

Scenario 4a - If those under the minimum are brought up to the minimum and those more than 10% over the maximum are brought down to 10% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 10% Over Max	Number	% of Salary	% of Total	Cost to Bring to Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		10% over Max	Group 10% Over Max	10% Over Max		Under Min	Group Under Min	Under Min				
AFSCME	418	0	0.00%	0.00%	\$ -	218	52.15%	84.82%	\$ 404,843.31	\$ 404,843.31	\$ 404,843.31	\$ -
CWA	460	23	5.00%	25.27%	\$ (56,907.84)	13	2.83%	5.06%	\$ 27,561.43	\$ (29,346.41)	\$ (446.24)	\$ (28,900.17)
FOP	359	0	0.00%	0.00%	\$ -	5	1.39%	1.95%	\$ 8,804.90	\$ 8,804.90	\$ -	\$ 8,804.90
GSA	52	3	5.77%	3.30%	\$ (16,653.00)	1	1.92%	0.39%	\$ 5,075.81	\$ (11,577.19)	\$ (3,250.69)	\$ (8,326.50)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	40	16.67%	43.96%	\$ (294,462.85)	16	6.67%	6.23%	\$ 37,097.15	\$ (257,365.70)	\$ -	\$ (257,365.70)
UNCLASSIFIED - LEGAL	19	2	10.53%	2.20%	\$ (12,915.04)	0	0.00%	0.00%	\$ -	\$ (12,915.04)	\$ -	\$ (12,915.04)
UNCLASSIFIED - MGT	110	19	17.27%	20.88%	\$ (150,226.30)	3	2.73%	1.17%	\$ 29,598.40	\$ (120,627.90)	\$ -	\$ (120,627.90)
UNCLASSIFIED - PUBLIC SAFETY	53	4	7.55%	4.40%	\$ (49,520.85)	1	1.89%	0.39%	\$ 6,524.82	\$ (42,996.03)	\$ -	\$ (42,996.03)
TOTALS	1,894	91	4.80%	100.00%	\$ (580,685.88)	257	13.57%	100.00%	\$ 519,505.82	\$ (61,180.06)	\$ 401,146.38	\$ (462,326.44)

Scenario 4b - If those more than 10% under the minimum are brought up to 10% under the minimum and those more than 10% over the maximum are brought down to 10% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 10% Over Max	Number	% of Salary	% of Total	Cost to Bring to 10% Under	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		10% over Max	Group 10% Over Max	10% Over Max		Under Min	Group Under Min	Under Min				
AFSCME	418	0	0.00%	0.00%	\$ -	14	3.35%	60.87%	\$ 12,785.67	\$ 12,785.67	\$ 12,785.67	\$ -
CWA	460	23	5.00%	25.27%	\$ (56,907.84)	1	0.22%	4.35%	\$ 2,391.41	\$ (54,516.43)	\$ (13,031.26)	\$ (41,485.18)
FOP	359	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
GSA	52	3	5.77%	3.30%	\$ (16,653.00)	0	0.00%	0.00%	\$ -	\$ (16,653.00)	\$ (8,326.50)	\$ (8,326.50)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	40	16.67%	43.96%	\$ (294,462.85)	5	2.08%	21.74%	\$ 4,658.72	\$ (289,804.13)	\$ -	\$ (289,804.13)
UNCLASSIFIED - LEGAL	19	2	10.53%	2.20%	\$ (12,915.04)	0	0.00%	0.00%	\$ -	\$ (12,915.04)	\$ -	\$ (12,915.04)
UNCLASSIFIED - MGT	110	19	17.27%	20.88%	\$ (150,226.30)	2	1.82%	8.70%	\$ 12,408.05	\$ (137,818.25)	\$ -	\$ (137,818.25)
UNCLASSIFIED - PUBLIC SAFETY	53	4	7.55%	4.40%	\$ (49,520.85)	1	1.89%	4.35%	\$ 1,208.51	\$ (48,312.34)	\$ -	\$ (48,312.34)
TOTALS	1,894	91	4.80%	100.00%	\$ (580,685.88)	23	1.21%	100.00%	\$ 33,452.36	\$ (547,233.52)	\$ (8,572.09)	\$ (538,661.44)

City of Miami Beach
 Finance and Citywide Projects Committee Meeting
 July 21, 2009
 Scenarios for Condrey and Associates Classification and Compensation Study Implementation

PAY SCALE B

Scenario 5a - If those under the minimum are brought up to the minimum and those more than 12.5% over the maximum are brought down to 12.5% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return	Number	% of Salary	% of Total	Cost to Bring	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		12.5% over	Group	12.5%	to 12.5% Over	Under	Group	Under Min	to 12.5%			
		Max	12.5% Over	Over Max	Max	Min	Under Min	Under Min	to Min			
AFSCME	418	0	0.00%	0.00%	\$ -	218	52.15%	84.82%	\$ 404,843.31	\$ 404,843.31	\$ 404,843.31	\$ -
CWA	460	19	4.13%	26.76%	\$ (30,179.53)	13	2.83%	5.06%	\$ 27,561.43	\$ (2,618.10)	\$ 6,235.83	\$ (8,853.93)
FOP	359	0	0.00%	0.00%	\$ -	5	1.39%	1.95%	\$ 8,804.90	\$ 8,804.90	\$ -	\$ 8,804.90
GSA	52	2	3.85%	2.82%	\$ (12,482.01)	1	1.92%	0.39%	\$ 5,075.81	\$ (7,406.20)	\$ (1,165.20)	\$ (6,241.01)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and												
UNCLASSIFIED - CIVILIAN	240	34	14.17%	47.89%	\$ (219,203.81)	16	6.67%	6.23%	\$ 37,097.15	\$ (182,106.66)	\$ -	\$ (182,106.66)
UNCLASSIFIED - LEGAL	19	2	10.53%	2.82%	\$ (4,580.43)	0	0.00%	0.00%	\$ -	\$ (4,580.43)	\$ -	\$ (4,580.43)
UNCLASSIFIED - MGT	110	11	10.00%	15.49%	\$ (110,905.83)	3	2.73%	1.17%	\$ 29,598.40	\$ (81,307.43)	\$ -	\$ (81,307.43)
UNCLASSIFIED - PUBLIC SAFETY	53	3	5.66%	4.23%	\$ (42,986.93)	1	1.89%	0.39%	\$ 6,524.82	\$ (36,462.11)	\$ -	\$ (36,462.11)
TOTALS	1,894	71	3.75%	100.00%	\$ (420,338.54)	257	13.57%	100.00%	\$ 519,505.82	\$ 99,167.28	\$ 409,913.95	\$ (310,746.67)

Scenario 5b - If those more than 12.5% under the minimum are brought up to 12.5% under the minimum and those more than 12.5% over the maximum are brought down to 12.5% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return	Number	% of Salary	% of Total	Cost to Bring	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		12.5% over	Group	12.5%	to 12.5% Over	Under	Group	Under Min	to 12.5%			
		Max	12.5% Over	Over Max	Max	Min	Under Min	Under Min	to Min			
AFSCME	418	0	0.00%	0.00%	\$ -	7	1.67%	63.64%	\$ 3,953.17	\$ 3,953.17	\$ 3,953.17	\$ -
CWA	460	19	4.13%	26.76%	\$ (30,179.53)	1	0.22%	9.09%	\$ 1,187.33	\$ (28,992.20)	\$ (6,951.22)	\$ (22,040.98)
FOP	359	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
GSA	52	2	3.85%	2.82%	\$ (12,482.01)	0	0.00%	0.00%	\$ -	\$ (12,482.01)	\$ (6,241.01)	\$ (6,241.01)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and												
UNCLASSIFIED - CIVILIAN	240	34	14.17%	47.89%	\$ (219,203.81)	1	0.42%	9.09%	\$ 2,858.20	\$ (216,345.61)	\$ -	\$ (216,345.61)
UNCLASSIFIED - LEGAL	19	2	10.53%	2.82%	\$ (4,580.43)	0	0.00%	0.00%	\$ -	\$ (4,580.43)	\$ -	\$ (4,580.43)
UNCLASSIFIED - MGT	110	11	10.00%	15.49%	\$ (110,905.83)	2	1.82%	18.18%	\$ 8,815.67	\$ (102,090.16)	\$ -	\$ (102,090.16)
UNCLASSIFIED - PUBLIC SAFETY	53	3	5.66%	4.23%	\$ (42,986.93)	0	0.00%	0.00%	\$ -	\$ (42,986.93)	\$ -	\$ (42,986.93)
TOTALS	1,894	71	3.75%	100.00%	\$ (420,338.54)	11	0.58%	100.00%	\$ 16,814.37	\$ (403,524.17)	\$ (9,239.05)	\$ (394,285.12)

City of Miami Beach
 Finance and Citywide Projects Committee Meeting
 July 21, 2009
 Scenarios for Condrey and Associates Classification and Compensation Study Implementation

PAY SCALE B

Scenario 6a - If those under the minimum are brought up to the minimum and those more than 15% over the maximum are brought down to 15% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 15% Over Max	Number	% of Salary	% of Total	Cost to Bring to Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		15% over Max	Group 15% Over Max	15% Over Max		Under Min	Group Under Min	Under Min				
AFSCME	418	0	0.00%	0.00%	\$ -	218	52.15%	84.82%	\$ 404,843.31	\$ 404,843.31	\$ 404,843.31	\$ -
CWA	460	10	2.17%	20.83%	\$ (11,084.71)	13	2.83%	5.06%	\$ 27,561.43	\$ 16,476.72	\$ 11,009.54	\$ 5,467.18
FOP	359	0	0.00%	0.00%	\$ -	5	1.39%	1.95%	\$ 8,804.90	\$ 8,804.90	\$ -	\$ 8,804.90
GSA	52	2	3.85%	4.17%	\$ (8,715.79)	1	1.92%	0.39%	\$ 5,075.81	\$ (3,639.98)	\$ 717.92	\$ (4,357.90)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	24	10.00%	50.00%	\$ (163,027.99)	16	6.67%	6.23%	\$ 37,097.15	\$ (125,930.84)	\$ -	\$ (125,930.84)
UNCLASSIFIED - LEGAL	19	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
UNCLASSIFIED - MGT	110	9	8.18%	18.75%	\$ (85,484.90)	3	2.73%	1.17%	\$ 29,598.40	\$ (55,886.50)	\$ -	\$ (55,886.50)
UNCLASSIFIED - PUBLIC SAFETY	53	3	5.66%	6.25%	\$ (37,507.03)	1	1.89%	0.39%	\$ 6,524.82	\$ (30,982.21)	\$ -	\$ (30,982.21)
TOTALS	1,894	48	2.53%	100.00%	\$ (305,820.42)	257	13.57%	100.00%	\$ 519,505.82	\$ 213,685.40	\$ 416,570.76	\$ (202,885.36)

Scenario 6b - If those more than 15% under the minimum are brought up to 15% under the minimum and those more than 15% over the maximum are brought down to 15% over the maximum

	Total Number of Employees per Salary Group	Number	% of Salary	% of Total	Savings if Return to 15% Over Max	Number	% of Salary	% of Total	Cost to Bring to 15% Under Min	Net (Savings)/Cost to City Budget	Estimated Enterprise Fund Impact	Estimated Gen. Fund Impact
		15% over Max	Group 15% Over Max	15% Over Max		Under Min	Group Under Min	Under Min				
AFSCME	418	0	0.00%	0.00%	\$ -	2	0.48%	40.00%	\$ 718.86	\$ 718.86	\$ 718.86	\$ -
CWA	460	10	2.17%	20.83%	\$ (11,084.71)	0	0.00%	0.00%	\$ -	\$ (11,084.71)	\$ (2,771.18)	\$ (8,313.53)
FOP	359	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
GSA	52	2	3.85%	4.17%	\$ (8,715.79)	0	0.00%	0.00%	\$ -	\$ (8,715.79)	\$ (4,357.90)	\$ (4,357.90)
IAFF	183	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
OTHERS and UNCLASSIFIED - CIVILIAN	240	24	10.00%	50.00%	\$ (163,027.99)	1	0.42%	20.00%	\$ 1,917.57	\$ (161,110.42)	\$ -	\$ (161,110.42)
UNCLASSIFIED - LEGAL	19	0	0.00%	0.00%	\$ -	0	0.00%	0.00%	\$ -	\$ -	\$ -	\$ -
UNCLASSIFIED - MGT	110	9	8.18%	18.75%	\$ (85,484.90)	2	1.82%	40.00%	\$ 5,223.30	\$ (80,261.60)	\$ -	\$ (80,261.60)
UNCLASSIFIED - PUBLIC SAFETY	53	3	5.66%	6.25%	\$ (37,507.03)	0	0.00%	0.00%	\$ -	\$ (37,507.03)	\$ -	\$ (37,507.03)
TOTALS	1,894	48	2.53%	100.00%	\$ (305,820.42)	5	0.26%	100.00%	\$ 7,859.73	\$ (297,960.69)	\$ (6,410.21)	\$ (291,550.48)

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MIAMI BEACH

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

COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: July 21, 2009

SUBJECT: Discussion on Early Adoption of New Fund Balance Designations as part of the FY 2009/10 Budget

Commissioner Weithorn referred this item to the Committee and requested that we consider the impact of GASB 54 and implement it concurrent with the FY 2009/2010 Budget.

The objective of Governmental Accounting Standards Board (GASB) Statement No. 54 Fund Balance Reporting and Governmental Fund Type Definitions is to enhance the usefulness of fund balance information by providing clearer fund balance classifications that can be more consistently applied and by clarifying the existing governmental fund type definitions.

This Statement establishes fund balance classifications that comprise a hierarchy based primarily on the extent to which a government is bound to observe constraints imposed upon the use of the resources reported in governmental funds

The Statement is effective for periods ending after June 30, 2011 which would require compliance by the City for its fiscal year beginning October 1, 2010 and ending September 30, 2011 and will affect the general, special revenue, capital project and debt service funds. The GASB encourages early adoption.

The term "Fund Balance" is basically the difference between fund assets and liabilities. Under current reporting there is a traditional focus that unreserved fund balance means the resources are available for appropriation and reserved fund balance means the resources are not available for appropriation. The City's current fund balance is divided into 2 categories:

1. Reserved fund balance, which means that the funds are not available for spending. The City at September 30, 2008 had reserved fund balance for:

- Encumbrances (\$49.9m)
- Debt services – GO and SO bonds (\$7.8m)
- Prepaid items (\$5,000)
- Building department operations (\$4.5m)

2. Unreserved fund balance, which means that the funds are available for spending. Within the Unreserved fund balance, there are designations which represent funds that

the Commission has stated an intended use for the resources. The City at September 30, 2008 had unreserved fund balance:

- Designated for emergencies (\$38.1m)
- Designated for unrealized gains on investments (\$2.1m)
- Undesignated for resort tax (\$10.1m)
- Undesignated for RDA (\$10.9m)
- Undesignated for capital projects (\$170.6m)
- Undesignated for special revenue (\$40.4m)

The GASB has proposed a change in this way of reporting because the terms that were used to describe fund balance components were often misunderstood or used inconsistently.

The new components of the fund balance based on GASB 54 will be:

1. Nonspendable fund balance

This category will include items that are not in spendable form. This includes items that can never be spent for example: supplies inventories, prepaid items and, items that can not currently be spent such as the long term portion of loans receivable and items that are legally or contractually required to be maintained intact. In this category the City will record:

- Prepaid items
- Inventory
- Unrealized gains

2. Restricted fund balance

This category will include amounts subject to externally enforceable legal restrictions such as restrictions by creditors, grantors, contributors, laws or regulations of other governments or law through constitutional provisions or enabling legislation. In this category the City will record:

- Resort taxes
- Building department operating balance
- Debt service reserves for GO and SO bonds
- RDA
- CDGB
- SHIP
- Parking Impact
- Federal, state or local grants for capital projects would be restricted within the capital projects fund.
- GO and SO bonds proceeds
- Federal, state or local grants for other projects
- Can include stabilization arrangements – circumstances must be specific and non-routine
- Excludes stabilization fund (neither specific nor non-routine)

3. Committed fund balance

This category will include amounts which the government (City of Miami Beach Commission) has imposed on itself. The item cannot be removed unless the Commission removes it in the same manner it was implemented. Although the action to

impose the limitation has to be established prior to September 30 of the applicable year, the exact amount that should be classified can be determined after the year-end closing. In this category the City will record:

- Designated for emergencies (11% and 6% goal)
- Capital renewal and replacement
- Pay as you go capital
- Any capital projects fund that are not bond proceeds or grants.
- Excludes actions taken after 9/30/xxxx, other than clarification
- Excludes stabilization fund (neither specific nor non-routine)
- Can include stabilization arrangements – circumstances must be specific and non-routine
- Excludes appropriated fund balance

4. Assigned fund balance

This category will include amounts which are assigned for intended use of the governing body (City Commission) or an official delegated by the governing body (City Manager). This amount can never be more than the total fund balance (cannot be negative). The difference between committed fund balance and assigned balance is the level at which the action was taken and the type of action necessary. The highest level of authority and formal action is needed to commit fund balance while an assignment can be done informally and at a lower level.

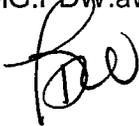
- Can include committed items where action was taken after 9/30/xxxx.
- A portion of existing fund balance used to balance the budget

5. Unassigned fund balance

This category will have the excess of total fund balance over nonspendable + restricted + committed + assigned components. You may only report an unassigned fund balance in the general fund. In the other funds all items should be in one of the other categories and may even result in a deficit unassigned balance, which is permitted.

The attached schedules reflect the current fund balance reporting and possible fund balance reporting under GASB 54.

JMG:PDW:aw

A handwritten signature in black ink, appearing to be 'PDW', is written below the typed name 'JMG:PDW:aw'.

City of Miami Beach
 Governmental Fund Balance at 9/30/2008
 Currently - Pre GASB 54

Fund Balance	General Fund	Resort Tax Fund	RDA Fund	Other Special Revenue Fund	Capital Projects Fund	Debt Service Fund	Total
Reserved:							
Encumbrances	\$ 1,845,391	\$ 9,730	\$ 79,074	\$ 6,442,980	\$ 41,595,740	\$	\$ 49,972,915
Debt service						7,790,835	7,790,835
Bldg. dept. operations	4,500,000						4,500,000
Prepays			4,490				4,490
Unreserved:							
Des. For emergencies - 11%	25,477,586						25,477,586
Des. For emergencies - 6% goal	12,599,608						12,599,608
Des. For unrealized gains	2,068,530						2,068,530
Undesignated special revenue		10,102,020	10,924,834	40,396,428			61,423,282
Undesignated capital projects					170,639,551		170,639,551
	<u>\$ 46,491,115</u>	<u>\$ 10,111,750</u>	<u>\$ 11,008,398</u>	<u>\$ 46,839,408</u>	<u>\$ 212,235,291</u>	<u>\$ 7,790,835</u>	<u>\$ 334,476,797</u>

City of Miami Beach
Governmental Fund Balance at 9/30/2008
Future - Post GASB 54

Fund Balance	General Fund	Resort Tax Fund	RDA Fund	Other Special Revenue Fund	Capital Projects Fund	Debt Service Fund	Total
Non-spendable							
Des. For unrealized gains	2,068,530						2,068,530
Prepays			4,490				4,490
Total Non-spendable	<u>2,068,530</u>	<u>-</u>	<u>4,490</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,073,020</u>
Restricted							
Debt service						7,790,835	7,790,835
Bldg. dept. operations	4,500,000						4,500,000
SR - grants		10,102,020	10,924,834	25,146,790			46,173,644
CP - interlocal agreements					115,008,428	²	115,008,428
CP - grants					109,922	²	109,922
CP - bonds					60,776,909	²	60,776,909
Encumbrances	1,845,391	9,730	79,074	6,105,886			8,040,081
Total Restricted	<u>6,345,391</u>	<u>10,111,750</u>	<u>11,003,908</u>	<u>31,252,676</u>	<u>175,895,259</u>	<u>7,790,835</u>	<u>242,399,819</u>
Committed							
Des. For emergencies - 11%	25,477,586						25,477,586
Des. For emergencies - 6% goal	12,599,608						12,599,608
CP not financed by bond or grants					1,659,570		1,659,570
CP pay as you go					12,806,539	¹	12,806,539
CP reserves					17,280,605	¹	17,280,605
Committed encum. for CP					4,593,318	¹	4,593,318
SR - non grants				15,249,638			15,249,638
Committed encum. for SR				337,094			337,094
Total Committed	<u>38,077,194</u>	<u>-</u>	<u>-</u>	<u>15,586,732</u>	<u>36,340,032</u>	<u>-</u>	<u>90,003,958</u>
Assigned Unassigned							
Total Fund balance	<u>46,491,115</u>	<u>10,111,750</u>	<u>11,008,398</u>	<u>46,839,408</u>	<u>212,235,291</u>	<u>7,790,835</u>	<u>334,476,797</u>

¹ Includes some assigned and unassigned fund balances. Information for separation not readily available

² Includes reserves for encumbrances

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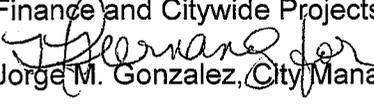


MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee Members

FROM: 
Jorge M. Gonzalez, City Manager

DATE: July 21, 2009

SUBJECT: **DISCUSSION REGARDING A CONCESSION AGREEMENT WITH ONE WASHINGTON AVENUE, CORP. FOR A CONCESSION IN SOUTH POINTE PARK ADJACENT TO THE SMITH & WOLLENSKY RESTAURANT TO BE USED AS AN OUTDOOR DINING AREA.**

BACKGROUND:

During the design of the South Pointe Park improvements, provisions were included for design of an area south and adjacent to the cutwalk which could become a concession area for auxiliary dining in conjunction with the operations of One Washington Avenue Corporation, also known as the Smith and Wollensky restaurant ("S&W").

As outlined in the Finance and Citywide Projects (F&CW) Committee Memorandum dated April 14, 2009, attached hereto as Attachment A, S&W has engaged in numerous conversations with the City regarding the cutwalk improvements adjacent to its restaurant operation and how its outdoor café operation may continue to operate on the as-built site. On April 14th, F&CW recommended that staff re-review the proposed Concession Agreement and modify the terms, specifically the minimum guarantee. Staff and S&W were not able to come to terms. However, at the May 13, 2009 City Commission meeting, staff was directed to reopen discussions with S&W based on imposing certain operational conditions and to attempt to negotiate a minimum guarantee that was both fair to S&W and to the City.

On June 3, 2009, the City Commission approved a Letter Agreement for S&W's temporary use of the outdoor concession area, commencing on June 4, 2009 and automatically terminating on September 30, 2009. A Concession Agreement is now being proposed to govern the site after September 30th.

PROJECTIONS FOR CONCESSION AGREEMENT:

While considering the use and the payment structure for the outdoor dining area, the Administration proposed several options to the owner/operator of S&W, including a proposal to increase the percentage rent for the indoor area of the restaurant, which is governed by a 1985 Lease Agreement in effect through 2025. The payment structure under that Lease Agreement is a minimum guaranteed rent of \$30,000 per year, with percentage of gross payments that range from 2.5% to 3.5% depending on gross sales. S&W did not consider an amendment of that rent structure to be a feasible option. S&W's gross sales for 2008 were \$13,312,023. The City received a total of \$438,420 in percentage rent for the interior space.

As discussed during the April 14th F&CW meeting, following numerous meetings between staff and S&W regarding the outdoor seating area, S & W agreed to a concession fee of ten percent (10%) of gross revenues in addition to a minimum guarantee. This proposal included additional seating in a portion of the depressed five-foot cutwalk which is otherwise not usable by pedestrians; this option requires Design Review Board approval, which S&W will not be pursuing at this time. Please see Attachment B for the current proposed site plan.

The Administration initially requested a \$100,000 minimum guaranteed rent based upon a projection that this would amount to ten percent of the projected gross revenues for the outdoor café area. City staff projected gross receipts to be approximately \$1,000,000 per year, based upon 50 chairs producing an average of \$50 per meal, for two seatings per day, during 200 good weather days. (Note: The current site plan is only for 28 chairs. However, as the projections were based on very conservative use (e.g. chair turnover of only 2X a day and only

and only 200 days a year), we believe the projections are still reasonable). S&W neither confirmed nor rejected staff's projections for gross receipts, but requested, however, that due to general economic uncertainties, the minimum guaranteed rent be conservatively based below staff's projection of ten percent of \$1,000,000. Therefore, a recommendation was made on April 14 that the minimum guaranteed rent commence at \$80,000 for the first four years, and that it would increase thereafter, capping at \$100,000 until expiration of the Concession Agreement, which would be coterminous with the lease.

Subsequent to the June 3, 2009 Commission meeting, discussions continued regarding alternative minimum guarantee options. S&W has agreed to pay ten (10%) of gross receipts, with an initial minimum guaranteed concession fee of \$80,000 annually, which will increase by \$20,000 every five years. S&W is requesting that the term of the concession agreement be coterminous with the Lease Agreement for the restaurant, which expires on November 6, 2025. Therefore, the minimum guaranteed concession agreement for the outdoor café area would be paid as follows:

October 1, 2009 through September 30, 2014:	\$80,000
October 1, 2014 through September 30, 2019:	\$100,000
October 1, 2019 through September 30, 2024	\$120,000
October 1, 2024 through November 6, 2025	\$140,000

The minimum concession fee collected on this Concession Agreement for the term requested based on this escalator is \$1,640,000 (if only the minimum guarantee is paid). The fee to the City can be higher based on whether the percentage of gross exceeds the annual minimum guarantee in any given year.

Additionally, as requested by F&CW, the following provisions have been discussed with S&W and are included in the term sheet attached hereto as Attachment C (terms to be incorporated into the final concession agreement):

OPERATIONAL ISSUES:

The proposed concession agreement is intended to provide for the manner in which the proposed outdoor seating area can operate. The following issues were discussed and are presented for consideration.

1) *Maintenance schedule to keep the cutwalk area clean.* The Department of Capital Improvements Projects and the contractor responsible for the construction of the keystone/tabby shell cutwalk has been consulted on the best practice to ensure the best method for regular maintenance of the cutwalk. This schedule will be incorporated into the Concession Agreement. The Concessionaire will be responsible for day-to-day maintenance and repairs of the Concession Area. The Concessionaire will also supply and maintain, at its own cost and expense, all facilities (including, without limitation, its Concession Area), equipment and furnishings required to operate the concession. The Concessionaire will also maintain its facilities, equipment, and furnishings during the term of the Agreement at its sole cost and expense. Additionally, the Concessionaire will maintain the area within a 25' radius of its concession area, including the cutwalk.

2) *Application of the sidewalk café ordinance penalties and fines.* The Administration will review certain maintenance and site plan provisions from the City's Sidewalk Café Ordinance and will incorporate them as additional conditions in the Concession Agreement. Failure to comply with any additional conditions will result in a default condition.

3) *Elimination of guaranteed special events permit.* The Concessionaire was notified of the removal of any reference to a guaranteed number of Special Events in relation to the Concession Agreement. Should Special Events be permitted at South Pointe Park, S & W may apply according to the Special Event Permit guidelines, and consistent with the operational plan for South Pointe Park, which may limit the frequency of Special Event Permits in the park, if approved.

4) *Create a queuing area for waiting customers.* S&W will use reasonable measures to contain patrons from congregating on the public cutwalk and will provide queuing areas on the Restaurant's Demised Premises, signage stating the limitation of the Demised Premises, the use of planters or stanchions to delineate a buffer between the Demised Premise and use of an off-duty Police Officer during high traffic times.

5) *The City is to have the flexibility to move the seating plan at its discretion.* This language will be incorporated into the Concession Agreement.

Furthermore, as part of the operating restrictions, the Concessionaire cannot place any speakers, or any other device used to amplify sound, in or around the concession area. Additionally, the concessionaire cannot use the concession area as an outdoor entertainment or open air entertainment establishment. The hours of operation are consistent with the hours of the restaurant.

CONCLUSION:

The Administration recommends that a Concession Agreement be approved with S&W for an outdoor café area with terms as outlined in Attachment C, while ensuring that the public access through the space remains unimpeded as intended. A Concession Agreement will be brought before the City Commission at the September 9th Commission meeting, and a waiver of competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, will be requested.

JMG\HMF\AP\ACV
Attachments (3)

ATTACHMENT A



MIAMI BEACH

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

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee Members

FROM: Jorge M. Gonzalez, City Manager

DATE: April 14, 2009

SUBJECT: **DISCUSSION REGARDING A CONCESSION AGREEMENT WITH ONE WASHINGTON AVENUE, CORP. FOR A CONCESSION IN SOUTH POINTE PARK ADJACENT TO THE SMITH & WOLLENSKY RESTAURANT TO BE USED AS AN AUXILIARY DINING AREA.**

ANALYSIS

On February 8, 1985, the City Commission passed Resolution No. 85-18000 authorizing the execution of a lease agreement between the City of Miami Beach and Specialty Restaurant Corporation for the development, construction and operation of a South Pointe Park Restaurant Facility more commonly known at that time as "Crawdaddy's Restaurant" pursuant to Request for Proposal (RFP) No.134-84.

On September 22, 1993, the City Commission passed Resolution No. 93-20899 approving the assignment of the Lease Agreement between the City of Miami Beach and Specialty Restaurants Corporation to One Washington Avenue Corporation. In December of 1997, One Washington Avenue Corporation reopened the restaurant as Smith & Wollensky (S & W). The restaurant additionally operated a sidewalk café in conjunction with the restaurant operations prior to the South Pointe Park improvements project. The sidewalk café operations occurred on the then-existing ten-foot wide cutwalk.

CONCESSION AREA:

On July 27, 2005, the City Commission adopted Resolution No. 2005-25978 approving the design and construction of the South Pointe Park improvements. The improvements included a change to the cutwalk. As an onsite tenant S&W had numerous discussions with the City regarding the proposed cutwalk improvements adjacent to their demised premises and how their outdoor café operation could continue to operate. As a result, there were provisions in the design and construction of an area south and adjacent to the cutwalk which could become a concession area for auxiliary dining in conjunction with the restaurant operations of Smith & Wollensky (S&W). The area identified for S&W's use was designed as rectangular in shape and capable of accommodating approximately 16 tables/32 chairs. This area did not include the approximate five-foot section of the cutwalk which was depressed to accommodate ADA access to the paved area. The community planning workshops, as well as the DRB hearing at which S&W was represented and participated, identified that there should not be tables within the 20-foot wide public cutwalk zone, even on the five-foot lower level area that was designed for the stairs and ADA ramp. However, during construction, site conditions prevented the site to be built as planned and, instead, the paved area is irregular in size. While this area can still accommodate tables and chairs, the space is further restricted. Additionally, the five-foot compressed portion of the cutwalk at this location (from the

stairs to the bottom of the ADA ramp) provides no practical use for pedestrians using the cutwalk. S&W has requested, and staff recommends, that they be allowed to use the portions of the compressed five-foot area for tables and chairs, while providing sufficient access and clearance to meet ADA compliance requirements. Based on the negotiated terms of the Concession Agreement, and assuming that S&W has the ability to place from 20-24 chairs in that area, potential additional revenue to the City is approximately \$40,000-\$45,000. *Attachment A* reflects the current site configuration, including the five-foot area and the paved area. At all times, the remaining 15' upper area of the cutwalk would remain available for park users and, as previously mentioned, this area of the cutwalk is now 5' wider than the original 10' width of the cutwalk, which also previously included the sidewalk café.

CONCESSION AGREEMENT PROVISIONS:

Attached, please find the Summary of Key Terms for the proposed concession agreement (*Attachment B*). As noted, it is proposed that the concession agreement term become coterminous with the existing term of the lease for the restaurant. The agreement calls for the concessionaire to use the concession area solely and exclusively as auxiliary dining to serve patrons and guests of the adjoining restaurant.

As part of the operating restrictions, the concessionaire cannot place any speakers, or any other device used to amplify sound, in or around the concession area. Additionally, the concessionaire cannot use the concession area as an outdoor entertainment or open air entertainment establishment. The hours of operation are consistent with the hours of the restaurant.

The concessionaire is responsible for day-to-day maintenance and repairs of the concession area. The concessionaire must also supply and maintain, at its own cost and expense, all facilities (including, without limitation, their concession area), equipment and furnishings required to operate the concession. The concessionaire must also maintain their facilities, equipment, and furnishings during the term of this Agreement at its sole cost and expense. Additionally, the concessionaire must maintain the area within a 25' radius of their concession area, including the cutwalk.

It is proposed that the concessionaire be granted the right to provide five (5) special events in the areas adjacent to their main building. At this time, staff is completing the proposed policy for special events at the park. However, it is recommended that five of the total number of special events that are finally approved for the park be set aside for S&W.

CONCESSION AGREEMENT FINANCIAL TERMS:

The determination was made that terms would be negotiated as a concession agreement, instead of as a sidewalk café. For the use of this space as a concession, the City has negotiated an annual Minimum Guarantee (MG) of \$80,000 in years one through four of the initial term. In year five of the initial term the MG will be increased to \$90,000 and in year eight of the initial term of the agreement and for the remainder of the agreement term, the MG will increase to \$100,000. Additionally, the City has negotiated a percentage of gross (PG) of 10% of the Annual Gross Receipts. For each agreement year that the amount equal to ten (10%) of the Concessionaire's gross receipts for Food and Beverage Sales (FBS) exceeds the MG, the Concessionaire will pay the City the difference between the MG amount and the PG.

CONCLUSION:

The concession area for this concession agreement can only be used by the adjacent restaurant, as the food service kitchen/bar belongs to the restaurant. As such, staff has negotiated terms that provide a maximum return to the City for the use of the area, while ensuring that the public access through the space remains unimpeded as intended.

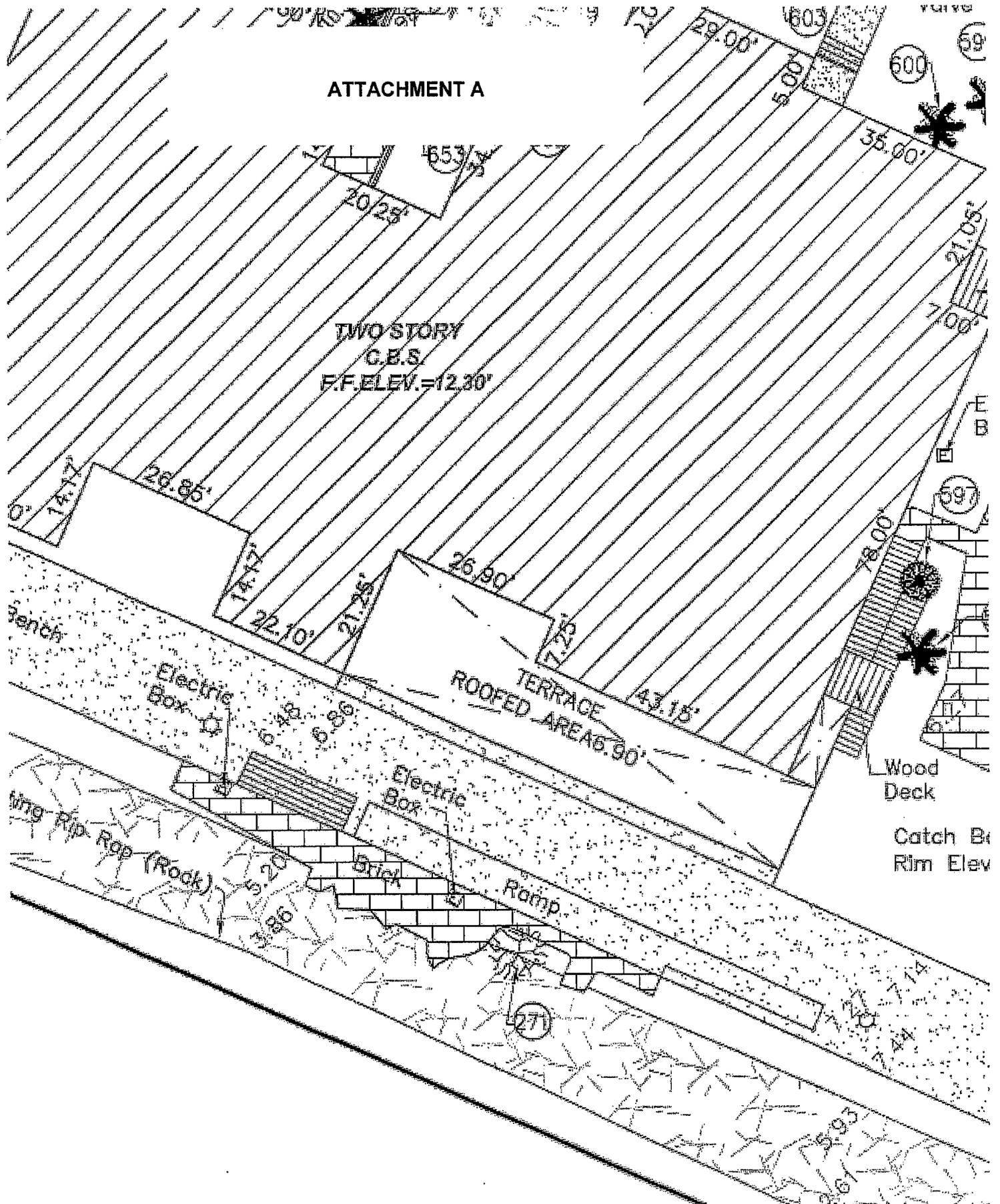
Section 82-39 further provides for the waiver of the competitive bidding and appraisal requirements, by 5/7ths vote of the Mayor and City Commission, upon a finding by the Mayor and City Commission that the public interest would be served by waiving such conditions.

The Administration recommends moving forward to the City Commission the proposed concession agreement with Smith & Wollensky for a concession area for auxiliary dining.

JMG\HMF\AP\ACV\mis
Attachments (1)

ATTACHMENT A

TWO STORY
C.E.S.
F.F. ELEV. = 12.30'



**CONCESSION AGREEMENT BETWEEN
THE CITY OF MIAMI BEACH AND
ONE WASHINGTON AVE. CORP.**

SUMMARY OF KEY TERMS

Landlord:	City of Miami Beach ("City")
Concessionaire:	One Washington Ave. Corp.
Concession Area:	One Washington Ave., Miami Beach, immediately south of the cutwalk area as specifically delineated in Exhibit A (Concession Area or Outdoor Café). Concessionaire must adhere to any and all governmental regulations, not limited to ADA maneuverability requirements. The area does not include any portion of the 15' upper level cutwalk.
Term:	Coterminous with that certain Lease Agreement, dated February 8, 1985, between the City of Miami Beach and One Washington Ave. Corp., for the adjacent restaurant, in effect through November 6, 2024. The Concession Agreement will commence the first day of the month following approval of the Concession Agreement by the City Commission.
Renewal Option(s):	N/A
Hours of Operation:	Sun - Thurs: 11:30am - 12:00am & Friday – Sat: 12:00pm - 2:00am
Minimum Guarantee (MG):	In years one through four of the initial term the annual MG will be Eighty Thousand (\$80,000.00) Dollars, payable on the first day of each month in the amount of Six Thousand, Six Hundred and Sixty Seven (\$6,667.00) Dollars. In year five of the initial term MG will be increased to Ninety Thousand (\$90,000,000) Dollars, payable on the first day of each month in the amount of the amount of Seven Thousand, Five Hundred (\$7,500.00) Dollars. In year eight of the initial term MG will be increased to One Hundred Thousand (\$100,000,000) Dollars, payable on the first day of each month in the amount of Eight Thousand, Three Hundred Thirty Three (\$8,333.00) Dollars.
Percentage of Gross (PG):	For each contract year, in the event that the amount equal to ten (10%) PG of Concessionaire's gross receipts for Food and Beverage Sales (FBS) exceeds MG then the Concessionaire shall also pay to the City the difference between the PG amount and the MG no later than 30 days after the end each contract year during the term of this Agreement.
Special Events:	Concessionaire shall be guaranteed five special events in South Pointe Park, subject to date and location availability.
Taxes; Impositions:	Concessionaire shall be responsible for all Property Taxes and other impositions in connection with the Concession Area, to the extent that such Property Taxes and other impositions become due.
Operating Expenses:	Concessionaire shall be responsible for all operating costs and expenses related to ownership, maintenance and operation of the Concession Area.
Sales Tax:	Concessionaire shall pay any and all applicable sales and use tax.

Permitted Uses: Concessionaire shall use the Concession Area solely and exclusively as auxiliary dining to serve patrons and guests of the adjoining restaurant at 1 Washington Avenue.

Concessionaire agrees not to place any speakers, or any other device used to amplify sound, in or around the Concession Area. Furthermore, Concessionaire shall in no manner use the Concession Area as an outdoor entertainment or open air entertainment establishment, and hereby acknowledges that such uses are prohibited (whether as main or accessory uses).

It is understood and agreed that the Concession Area shall be used by the Concessionaire during the term of this Agreement only for the uses contemplated herein, and for no other purpose or use whatsoever.

Improvements – Required Approvals/Procedures:

Capital improvements contemplated for the Concession Area require and are subject to the City's prior written consent. Plans for such improvements are also subject to the City's review and approval in writing.

Concessionaire's Insurance: Comprehensive General Liability in the minimum amount of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury and property damage. This policy must also contain coverage for premises operations, products and contractual liability.

Workers Compensation Insurance shall be required in accordance with the laws of the State of Florida.

Automobile Insurance 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

Concessionaire's Maintenance Obligations:

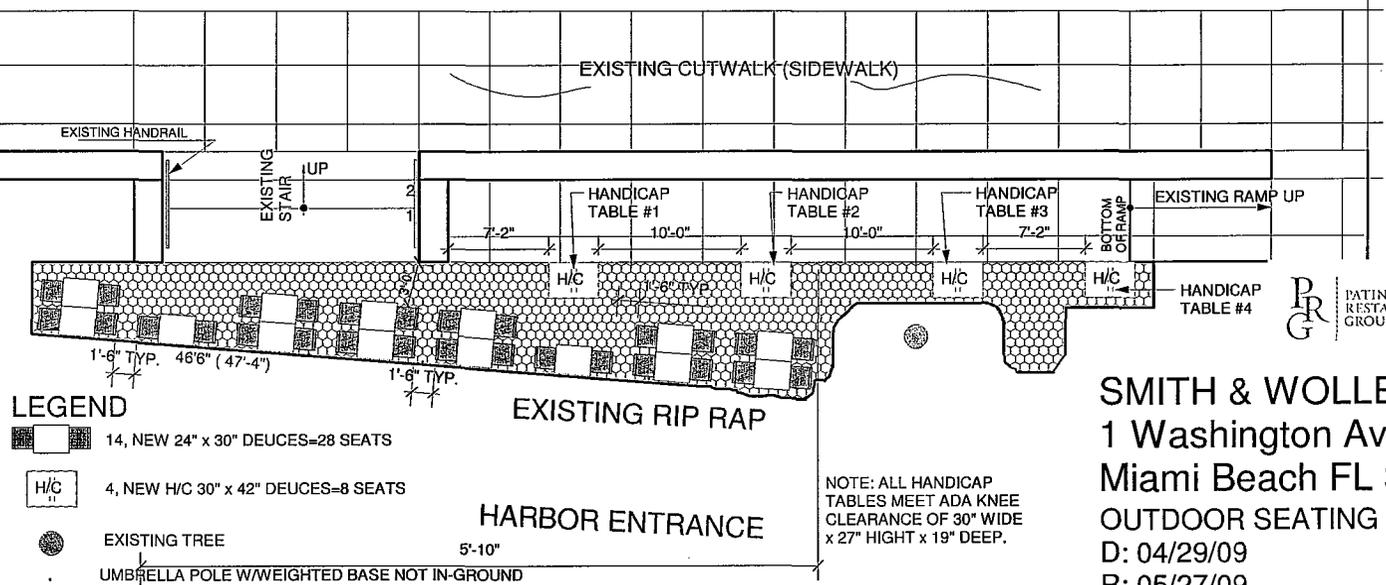
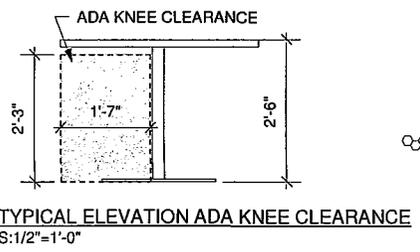
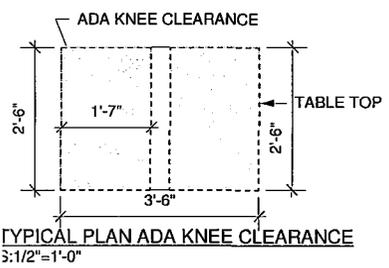
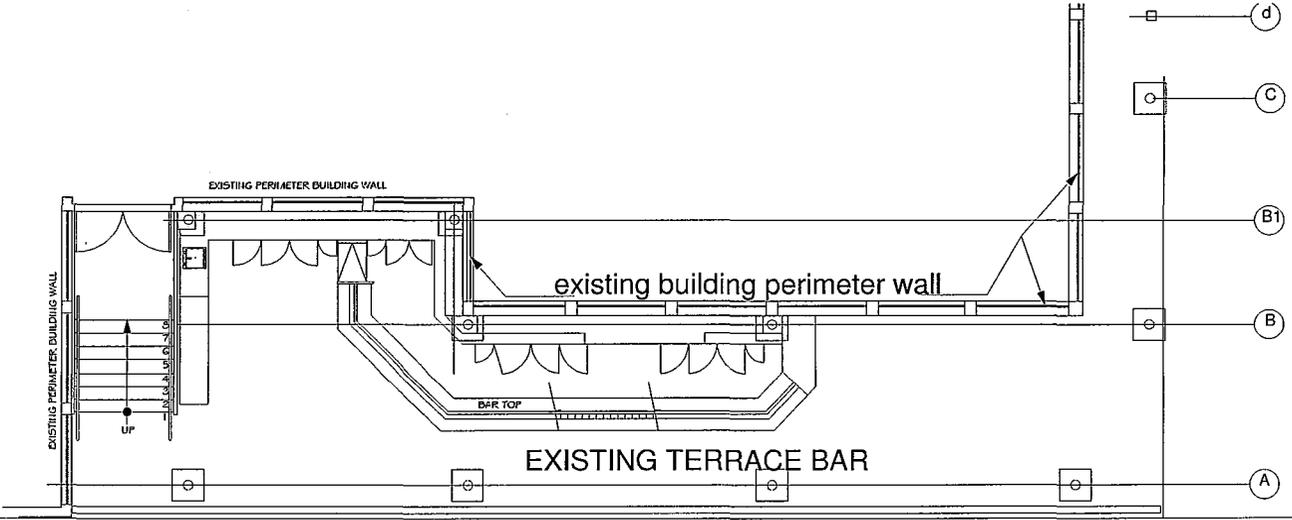
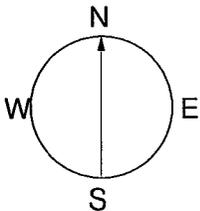
Concessionaire shall be responsible for day-to-day maintenance and repairs of the Concession Area. The Concessionaire must supply and maintain, at its own cost and expense, all facilities (including, without limitation, the Concession Area), equipment and furnishings required to operate the concession. The Concessionaire shall maintain said facilities, equipment, and furnishings during the term of this Agreement at its sole cost and expense.

In addition to Concessionaire's general maintenance obligations for the Concession Area, the Concession Area and the immediately surrounding twenty five (25) foot adjacent areas, shall at all times be maintained in a clean and sanitary manner, and in a manner to be consistent with the maintenance standards used for the cutwalk and other adjacent park areas.

Force Majeure.

Whenever a period of time is herein prescribed for the taking of any action by Landlord or Tenant, as applicable, Landlord or Tenant, as applicable, shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, or governmental laws, regulations, or restrictions in the nature of a prohibition or moratorium, or any bona fide delay beyond the reasonable control of Landlord or Tenant, as applicable. The foregoing shall not apply to any payments of money due under this Lease.

ATTACHMENT B



- LEGEND**
- 14, NEW 24" x 30" DEUCES=28 SEATS
 - 4, NEW H/C 30" x 42" DEUCES=8 SEATS
 - EXISTING TREE
 - UMBRELLA POLE W/WEIGHTED BASE NOT IN-GROUND
 - PAVER AREA
 - CUT WALK STONE AREA

NOTE: ALL HANDICAP TABLES MEET ADA KNEE CLEARANCE OF 30" WIDE x 27" HIGH x 19" DEEP.



SMITH & WOLLENSKY
 1 Washington Ave.
 Miami Beach FL 33139
OUTDOOR SEATING PLAN
 D: 04/29/09
 R: 05/27/09
 S: 1/8"=1'-0"
 RICHARD BLOCH ARCHITECT
 T: 212 680 1060
 C: 917 312 6669

Richard Bloch

SCHEME 6

ATTACHMENT C

CONCESSION AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND ONE WASHINGTON AVE. CORP.

SUMMARY OF KEY TERMS

- Property Owner:** City of Miami Beach ("City")
- Concessionaire:** One Washington Ave. Corp.
- Concession Area:** One Washington Ave., Miami Beach, immediately south of the cutwalk area as specifically delineated in Exhibit A (Concession Area or Outdoor Café). Concessionaire must adhere to any and all governmental regulations, not limited to ADA maneuverability requirements. The area does not include any portion of the 15' upper level cutwalk or the 5' depressed cutwalk area, unless use of any portion of the 5' depressed cutwalk is otherwise approved by the Design Review Board (DRB).
- Term:** Coterminal with that certain Lease Agreement between the City and Specialty Restaurant Corporation dated February 8, 1985, as amended and assigned, which expires on November 6, 2025. The Concession Agreement will commence October 1, 2009.
- Hours of Operation:** Sun - Thurs: 11:30am - 12:00am & Friday – Sat: 12:00pm - 2:00am. Outdoor dining may only be operational if the Smith & Wollensky kitchen is operational.
- Minimum Guarantee (MG):** The annual MG will be as follows:
- | | |
|---------------------------------------------|-----------|
| October 1, 2009 through September 30, 2014: | \$80,000 |
| October 1, 2014 through September 30, 2019: | \$100,000 |
| October 1, 2019 through September 30, 2024 | \$120,000 |
| October 1, 2024 through November 6, 2025 | \$140,000 |
- MG will be payable in 12 equal monthly installments on the first day of each month. Should the Concessionaire seek DRB approval for additional space beyond the approved Concession Area, the MG will remain the same.
- Percentage of Gross (PG):** For each contract year, in the event that the amount equal to ten (10%) PG of Concessionaire's gross receipts for Food and Beverage Sales (FBS) exceeds MG, then the Concessionaire shall also pay to the City the difference between the PG amount and the MG no later than 30 days after the end of each contract year during the term of this Agreement.
- Taxes; Impositions:** Concessionaire shall be responsible for all Property Taxes and other impositions in connection with the Concession Area, to the extent that such Property Taxes and other impositions become due.
- Operating Expenses:** Concessionaire shall be responsible for all operating costs and expenses related to ownership, maintenance and operation of the Concession Area.
- Sales Tax:** Concessionaire shall pay any and all applicable sales and use tax.
- Permitted Uses:** Concessionaire shall use the Concession Area solely and exclusively as outdoor dining to serve patrons and guests of the adjoining restaurant at 1 Washington Avenue. Any change to the seating chart or site plan requires City approval.
- Concessionaire agrees not to place any speakers, or any other device used to amplify sound, in or around the Concession Area. Furthermore, Concessionaire shall in no manner use the Concession Area as an outdoor entertainment or open air entertainment establishment, and hereby acknowledges that such uses are prohibited (whether as main or accessory uses).

It is understood and agreed that the Concession Area shall be used by the Concessionaire during the term of this Agreement only for the uses contemplated herein, and for no other purpose or use whatsoever.

Concessionaire shall use reasonable measures to contain patrons from congregating on the public cutwalk and shall provide queuing areas on the Restaurant's Demised Premises, signage stating the limitation of the Demised Premises, the use of planters or stanchions to delineate a buffer between the Demised Premise and use of an off-duty Police Officer during high traffic times. Concessionaire shall provide alternate queuing areas within the Demised Premises for patrons waiting to be seated in the Concession Area.

Improvements – Required Approvals/Procedures:

Capital improvements contemplated for the Concession Area require and are subject to the City's prior written consent. Plans for such improvements are also subject to the City's review and approval in writing.

Concessionaire's Insurance: Comprehensive General Liability in the minimum amount of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury and property damage. This policy must also contain coverage for premises operations, products and contractual liability.

Workers Compensation Insurance shall be required in accordance with the laws of the State of Florida.

Automobile Insurance 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

Concessionaire's Maintenance Obligations:

Concessionaire shall be responsible for day-to-day maintenance and repairs of the Concession Area. The Concessionaire must supply and maintain, at its own cost and expense, all facilities (including, without limitation, the Concession Area), equipment and furnishings required to operate the concession. The Concessionaire shall maintain said facilities, equipment, and furnishings during the term of this Agreement at its sole cost and expense.

In addition to Concessionaire's general maintenance obligations for the Concession Area, the Concession Area and the immediately surrounding twenty five (25) foot adjacent areas, shall at all times be maintained in a clean and sanitary manner, and in a manner to be consistent with the maintenance standards used for the cutwalk and other adjacent park areas.

The City Administration will review certain maintenance and site plan provisions from the Sidewalk Café Ordinance and will incorporate them as additional conditions in the Concession Agreement. Failure to comply with any additional conditions will result in a default condition.

Force Majeure:

Whenever a period of time is herein prescribed for the taking of any action by Landlord or Tenant, as applicable, Landlord or Tenant, as applicable, shall not be liable or responsible for, and there shall be excluded from the computation of such period of time, any delays due to strikes, riots, acts of God, shortages of labor or materials, war, or governmental laws, regulations, or restrictions in the nature of a prohibition or moratorium, or any bona fide delay beyond the reasonable control of Landlord or Tenant, as applicable. The foregoing shall not apply to any payments of money due under this Concession Agreement.