



COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: April 13, 2011

SUBJECT: **A REFERRAL TO THE NEIGHBORHOODS COMMITTEE OF A DISCUSSION REGARDING ALTOS DEL MAR SCULPTURE PARK'S (ADMSP) REQUEST FOR AN EXTENSION OF TIME OF ADMSP'S DEADLINE TO OBTAIN A BUILDING PERMIT FOR CONSTRUCTION OF THE SCULPTURE PARK IMPROVEMENTS, SAID EXTENSION FROM MAY 13, 2011, TO FEBRUARY 13, 2012.**

ADMINISTRATION RECOMMENDATION

Refer Altos Del Mar Sculpture Park's request to the Neighborhoods and Community Affairs Committee for consideration.

BACKGROUND

On October 17, 2007, the Mayor and City Commission approved the issuance of Request for Proposals No. 02-07/08 to establish a Cultural Arts Themed and/or Other Passive Recreational Activities Program in Altos Del Mar Park, located on Collins Avenue, between 76th and 77th Streets (the RFP). On July 16, 2008, the Mayor and City Commission accepted the recommendation of the City Manager and authorized the Administration to enter into negotiations with the successful proposer, Altos Del Mar Sculpture Park, Inc, a not-for-profit Florida corporation (ADMSP). The Administration negotiated a Management Agreement with ADMSP whereby they would design, develop, operate and maintain a sculpture park within a portion of Altos Del Mar Park (to be known as the Altos Del Mar Sculpture Park), in accordance with its response to the RFP. On June 3, 2009, the City Commission adopted Resolution No. 2009-27100 which approved and authorized the Mayor and City Clerk to execute the Management Agreement with ADMSP.

The Agreement has an initial term of ten (10) years, with two (2) additional five (5) year renewal options, at the City's sole and absolute discretion. The initial term of the Agreement commenced on June 3, 2009, and expires on June 3, 2019.

ADMSP's proposal includes the design, development, construction and, thereafter, operation and maintenance, of a public sculpture park (hereinafter referred to as the Sculpture Park). The Sculpture Park would display, in changing exhibitions, major works of sculpture from internationally established sculptors of the 19th, 20th, and 21st centuries. The artwork would be displayed in three (3) distinct landscaped areas--referred to, respectively, in ADMSP's proposal as the 1) "Dunefields;" 2) Maritime Garden; and, 3) "Tree Allees." These are intended to serve as natural "outdoor galleries," and would enable visitors to navigate freely through exhibits, enjoying the natural beauty created by the landscaped areas, as well as the beauty of the works of art themselves.

ADMSP would be responsible for all costs associated with design, development, construction, operation, and maintenance of the Sculpture Park--including, without limitation, construction of all Proposed

Improvements. ADMSP retained the services of ArquitectonicaGEO to create the proposed Sculpture Park Design. ADMSP confirmed that a capital investment of \$2.5 million is needed upfront and \$1.7 million is needed for operating costs yearly. They are currently still meeting with potential sponsors/donors to fund these expenses. Under the terms of the Agreement, ADMSP would be responsible for all ongoing maintenance of the Sculpture Park, including the Proposed Improvements. It would also be responsible for operation and management of the Park for its intended purposes.

On April 14, 2010, the City Commission approved Amendment No. 1 of the Management Agreement by adopted Resolution No. 2010-27371. The Amendment defined the "Possession Date" and further provided that ADMSP's obligations under the agreement with respect to maintenance and general liability coverage shall not commence until the possession date.

On March 5, 2011, the City received a letter from ADMPS (see attached) advising the City that it would not be able to obtain a Full Building Permit for the Proposed Improvements by May 13, 2011, as stipulated in the Agreement. The letter requests that the deadline within which to pull a Full Building Permit be extended to February 13, 2012, and provides an explanation for the request.

CONCLUSION

The Administration recommends that the Mayor and Commission refer this request to the Neighborhoods and Community Affairs Committee for consideration.

Attachments

JMG/HMF/mas

PETER SAILE

Chairman of the Board of Directors

ALTOS DEL MAR SCULPTURE PARK, INC.

a Florida not-for-profit Public Charity

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City Manager of Miami Beach
Mr. Jorge M. Gonzalez
City Hall
1700 Convention Center
Miami Beach, FL 33139

March 05, 2011

Altos Del Mar Sculpture Park - management agreement

Dear City Manager,

Reference is made to the management agreement between the City of Miami Beach and Altos del Mar Sculpture Park ("ADMSP") dated June 18, 2009. We are pleased that ADMSP has observed all benchmarks in a timely manner to date. However, we are now forced to request a first extension of time (from May 13, 2011 to February 13, 2012) to meet the upcoming building-permit benchmark. We are expecting a construction period of nine months, so we would expect that, even with this revised schedule, we should be able to open the Altos Del Mar Sculpture Park to the public on December 9, 2012.

Reasons for the Extension

ADMSP has not yet applied for our building permit because the engineering has not been completed and parts of the architectural planning needs to be finalized. ADMSP has been faced with delays by previously-committed and, therefore, expected pro bono planning services which, due to the economic slow-down, are no longer available. Our architect and coordinator of all technical planning jobs, Les Beilinson, has informed us that an amount of \$115,779.52 needs to be made available, so that the engineering plans for the building-permit application can be completed (see attached e-mail from Les Beilinson). Therefore, ADMSP needs the additional time to now raise this amount, since the engineers cannot do the service pro bono at this time. ADMSP expects to come up

with this previously-unexpected capital requirement latest by May 15, 2011. The raising of this capital is being handled by the professional public charity developer, Ms. Karen Kintner. Once the capital is in place, it will take a maximum of three months to finalize the building-permit application and approximately another six months to obtain the permits. We trust that our engineers may be a little faster than three months to finalize the otherwise-well-advanced plans.

Construction Funding

In the past month, ADMSP has explored the possibility of obtaining the unexpected required funding for the engineering from our expected donors for the construction funding. However, the facilitators for the construction funding of \$5 million, Lennox Securities, Inc., and American Trust (Switzerland), Inc., have advised us not to request engineering costs from our potential construction funding sponsors, since this would mean changing our ongoing application process for construction funding, which calls for construction funding within four weeks from the date of obtaining the building permit. Among our intended corporate sponsors for construction funding are companies such as Verizon, Coca Cola, Adidas, Artrust Invest, Wilmington Trust, CMI, BMW and Mercedes.

We would appreciate your decision in favor of this first request by ADMSP for an extension of time .Should you have any question, I am always available to you. I thank you for your cooperation, and can assure you that we will realize ADMSP as planned.

I am sorry that our development is currently slower than expected, but we, as many others, were not immune to the economic slow-down and the taxation benefit changes in regards to donations, both of which we have experienced since we signed the management agreement.

We are well on our way and are excited to develop ADMSP as planned.

Best regards,

Peter Saile

Peter Saile