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: June 23, 2011

This shall serve as written notice that a meeting of the Finance and Citywide Projects Committee has been scheduled for June 23, 2011, at 3:30 P.M. in the City Manager's Large Conference Room.

The agenda is as follows:

OLD BUSINESS

1. **Discussion regarding ordinances related to modifications to the Building, Fire, Planning and Public Works Department Fees and resident and business concerns that Building Department Fees are too high** ***(May 25, 2011 F&CWP Item 1)***

   Jorge Gomez – Assistant City Manager

2. **Discussion on resources assigned to address proliferation of homeless on Washington Avenue** ***(March 9, 2011 Commission Item C4E)***

   Hilda Fernandez – Assistant City Manager
   Katherine Martinez – Homeless Outreach

NEW BUSINESS

3. **Request for approval to purchase American Darling Fire Hydrants from American Flow Control, the manufacturer of the American Darling Fire Hydrants, in the estimated annual amount of $40,000** ***(December 8, 2010 Commission Item C2B)***

   Fred Beckmann – Public Works Director

4. **Discussion regarding a proposed ordinance which will require mandatory recycling, via the establishment of a City of Miami Beach Recycling Program, for multifamily residences and commercial establishments in the City** ***(January 19, 2011 Commission Item C6C)***

   Fred Beckmann – Public Works Director

5. **Discussion regarding extending the amount of time residents have to pay their utility bill** ***(February 9, 2011 Commission Item C4J)***

   Patricia Walker – Chief Financial Officer

6. **Discussion regarding Security Alliance** ***(April 13, 2011 Commission Item C4J)***

   Gus Lopez – Procurement Director

7. **Discussion regarding a new voluntary benefit**

   Ramiro Inguanzo – Human Resources Director

8. **Discussion regarding an amendment to the NSP1 agreement between the state of Florida DCA and the related agreement between the City and Miami Beach Community Development Corporation, to permit and outline the process for construction draw downs** ***(May 11, 2011 Commission Item C7H)***

   Anna Parekh – Director of Real Estate Housing and Community Development

9. **Discussion regarding advertising on Deco Bike stations, its economic impact to the City and the enhancement of the Deco Bike program (*June 01, 2011 Commission Item C4A)***

   Jorge Gomez – Assistant City Manager

10. **Discussion regarding Miami-Dade County ADA Parking Fines Program, for funding in the approximate amount of $90,000 for eligible ADA projects and the best usage for the grant dollars** ***(June 01, 2011 Commission Item C7A)***

    Fred Beckmann – Public Works Director

11. **Discussion regarding an extension of the lease agreement between the City of Miami Beach, as tenant, and Meridian Miami, LLC, as Landlord, for use of approximately 5,311 square feet of space from September 1, 2011, through April 30, 2012 at a monthly rent of $11,949.75**

    Anna Parekh – Director of Real Estate Housing and Community Development

<u>Finance and Citywide Projects Committee Meetings for 2011</u>:
June 29, 2011
July 28, 2011
August 17, 2011
September 28, 2011
October 25, 2011
December 28, 2011

JMG/PDW/rs/th

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Cc. Mayor and Members of the City Commission
Management Team

ITEM ONE

MIAMIBEACH

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

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager for JMG

DATE: June 23, 2011

SUBJECT: ORDINANCES RELATED TO MODIFICATIONS TO THE BUILDING, FIRE, PLANNING AND PUBLIC WORKS DEPARTMENT FEES RELATED TO THE BUILDING DEVELOPMENT PROCESS APPROVED ON FEBRUARY 1, 2010

ADMINISTRATION RECOMMENDATION

The Administration recommends that the Committee recommend that the City Commission adopt the four ordinances amending various fees related to the Building Development Process in the City of Miami Beach.

INTRODUCTION

On January 13, 2010, the City Commission approved four ordinances for the Building, Fire, Planning and Public Works departments related to the fees for the Building Development Process.

These ordinances went into effect on February 1, 2010 and provided a complete overhaul of the fee structure for the above mentioned departments. As staff has worked with the new fee structure since implementation, the various departments involved in the process have identified a series of refinements to the fee structure that help to clarify and bring equity to certain types of permit requests.

BACKGROUND

Building Development Process

The Building Development Process ("Process") in the City of Miami Beach includes the Building Department, the Fire Department's Prevention Services Division, the Planning Department and the Public Works' Engineering Division.

The Building Department provides process intake, routing, billing, and computer support for the entire "Process"; in addition to the issuance of all building and trade permits, enforcement of the Florida Building Code and enforcement of codes promulgated by regulatory agencies such as the Hotel and Restaurant Commission, Miami-Dade Environmental Resources Management, State Department of Health and Professional Regulation, Federal Emergency Management Agency (FEMA), Miami-Dade County, State Elevator Board, and the U.S. Army Corp of Engineers. The Building Department

staff conducts plans review and inspections for plumbing, structural, building, electrical, governmental compliance, elevator, accessibility and mechanical trades as required by the different permit types.

The Fire Department's Fire Prevention Division is involved in the majority of building permits issued by the City, with the exception of single-family homes. A Fire Department fee is collected for each building permit corresponding to the Fire Department's review and inspection.

The Planning Department serves as staff to the City's Planning Board, Board of Adjustment, Design Review Board, Historic Preservation Board, and Single Family Residential Review Panel. Depending on the scope of the project, a new development is required to receive approval from one or more of these Boards. The Planning Department processes the applications, reviews them and prepares recommendations to all of the above Boards. Fees are assessed for the various planning applications according to a fee schedule contained within the City Code. The Planning Department also reviews all building permits for compliance with the City's land development regulations, comprehensive plan and consistency with architectural review guidelines and preservation appropriateness criteria. This zoning review is required to ensure compliance with existing legislation, zoning requirements, and state growth management requirements.

The Public Works Department Engineering Division staff conducts plan reviews and inspections for all construction activities that occur within the public right-of-way (streets, roadways, waterways, alleys and sidewalks), public property and easements. The Public Works Department also performs plan review activities supporting a variety of Building Department permits in private property that will connect and/or will have potential impacts to City owned utilities, right-of-way and/or utility easements.

Further, the Building, Fire, and Planning Departments participate in the Certificate of Occupancy or Completion process that 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.

2009 Building Development Process Fees Study

In mid-2009, the City initiated a study of costs and fees related to the Process with the consulting firm, Maximus Consulting Services Inc. ("Maximus"). The primary focus of the study was to develop a simplified fee structure and associated fee levels for services performed by the Building Department in enforcing the Florida Building Code, as well as services performed by other Departments in enforcing other Federal, State and City Codes related to building permits. In addition, the study reviewed other development related costs and fees in the Fire, Planning, and Public Works Departments.

On January 13, 2010, the City Commission approved four ordinances for the Building, Fire, Planning and Public Works departments related to the fees for the Building Development Process, as outlined in the Maximus study. These ordinances went into effect on February 1, 2010 and provided a complete overhaul of the fee structure for the above mentioned departments.

At the time of implementation, there were increases in the fees related to the building development process for the Fire, Planning, and Public Works Departments. These were offset by short-term decreases (discounts) in the Building Department fees so that, in the aggregate, the total combined fees charged to the development community were to remain at current levels. Decreases in Building Department revenues are being replaced by previously set aside Building Department reserves so that costs related to enforcing the Florida Building Code continue to be offset by Building revenues.

Issues since Implementation and Steps Taken

As a result of concerns that were raised by certain segments of the development community, as well as some concerns raised by staff, regarding the fee amounts and administrative processes related to the fees, in September 2010, the Administration brought to the City Commission proposed ordinances which sought to refine certain permit types and create those that were still needed. The City Commission referred the proposed ordinances to the Finance and Citywide Projects Committee ("Committee") for further discussion and consideration. At the same time as the referral to Committee, the Administration and City Commission began hearing concerns from customers regarding permit fees being too high, and that it was less expensive in other jurisdictions to obtain a permit for the same type of work.

The Administration has taken steps to re-evaluate the fee structure since the referral of the proposed ordinances. With regard to the concerns that permit fees are too high, the Administration retained JRD and Associates to compare the City's fees to those in other jurisdictions. The Administration also brought Maximus back to review the status of the permit fee implementation to answer whether or not the City met its original objectives, if staff was applying the fee structure correctly, and to review the issues being encountered and identify appropriate solutions. Additionally, staff from all applicable departments have revisited the levels of effort on those permit types where concerns have been raised to see if any fee reductions could be recognized.

After reviewing the implemented permit fee structure, JRD and Associates (JRD) concurred with Maximus' approach and methodology in determining the building permit fees for Miami Beach. They also concurred, in general, with the times associated with building plan reviews and inspections, as determined by Maximus and the City.

JRD also conducted a comparative analysis of the 20 most common/revenue-producing permit types for the Building Department (comparing Building Department fees to Building Department fees in the respective jurisdictions) and six (6) Right of Way permit types for the Public Works Department. Further evaluation of fees for other departments in other jurisdictions is still ongoing. Once JRD concludes their evaluation, the feasibility and impact of any proposed fee changes will be analyzed further to determine if they should be implemented.

Maximus' re-evaluation of the City's implementation revealed that the City's new permit fee structure based on square feet is more simplified than the previous schedule, which was based on cost. Maximus spoke at length with Building Department staff to determine if the staff was feeing permit applications correctly and found that indeed they were. With regard to whether or not the Building Department was recovering more in fees than costs for operation, Maximus determined that the Building Department was under-recovering its actual costs. Fee collection was actually less than what Maximus originally projected, and not covering the Building Department costs.

Based on discussions Maximus had with staff, Maximus is proposing that plan review and permit inspection times for Alteration/Remodel permit types be reviewed and potentially revised downward. City staff has preliminarily reviewed the Alteration/Remodel levels of effort, and changes are being proposed, which should lower permit fees. These proposed levels of effort are currently being evaluated by Maximus. It should be noted that the levels of effort suggested for adjustment are not significant components of the overalls fees, so a drastic drop in fees is not anticipated. It is recommended that the City Commission move forward with the Administration proposed modifications at this time, even though the JRD and Maximus outcomes are still pending. This will provide permit fee relief to customers in the most expeditious timeframe, with potential further revisions in the future.

PROPOSED MODIFICATIONS TO THE FEE STRUCTURE

While JRD and Maximus are still analyzing data and developing proposed recommendations, staff from the four departments has reexamined the levels of effort for many permit types and proposed adjustments. The proposed adjustments to the fee schedules have been developed in a manner consistent with the Maximus methodology of allocating fees based on the required level of effort by staff.

The proposed fee modifications to the fee structure can be grouped into the following categories:

- Specialty Permits: Additional fee categories are recommended for frequently requested smaller permits that are interdisciplinary in nature.
- New Fee categories: New categories are proposed to account for less commonly used permit types.
- Revised Permit Fees for Certain Categories: Staff revisited times allocated to a process based on concerns raised by staff and/or customers.
- Multiple Fee Levels: Multiple levels are proposed for some categories based on the level of complexity of the work.

Many fee categories will result in permit fee decreases and no existing fees will be increased. Examples of proposed fee changes resulting in decreased fees include the following:

- Windows/Exterior Doors
- Fees for blocking Right-of Way
- Awnings
- Kitchen/Bath/Flooring Specialty Permit
- Watercraft Lifts/Pilings/Moorings
- Temporary Generators
- Temporary Power for Test/Construction
- Relocating Buildings/Structures over 1,500 square feet
- Gas Water Heater Replacement
- Water Drainage/Connections
- Commercial Air Conditioning Unit installation or replacement
- Elevator Permits (for new installation)
- Water and Drainage Risers and Mains
- Natural Gas and Liquified Petroleum

In addition to the permit fee changes outlined above, staff has reviewed the administrative language in the ordinances and is recommending revisions to simplify the language, streamline processes, and clean up language that should have been removed in earlier edits to the ordinances. Following is a description of the pertinent administrative language that is being recommended for revision.

- The Building Department ordinance already contains language providing the Building Official with discretion to fee a project without a clearly identified permit type. If there is no specific fee category directly matching a permit application request, the Building Official may find a like category and fee it under that, or determine that the work will be charged based on the time dedicated for intake, plans review and inspection. For those permit applications where the Building Department is not a part of the plan review or inspection process, no such discretion exists for the Fire Marshal, Planning Director or Public Works Director. The Administration is proposing adding such language to the respective ordinances to provide the Fire Marshal, Planning Director or Public Works Director such discretion.

- The Administration is also recommending that the fees to renew an expired permit also be revised to incentivize compliance with the Florida Building Code. Currently, the language allows for a credit of 50% of the original permit fee for a renewal permit (defined as a same project involving the same plans) for reapplications made within 180 days of the expiration date of the original permit. It is proposed that a fee of 25% of the original permit fee (effectively a 75% credit) plus a $57 processing fee be charged. For projects that have expired permits over 180 days, the existing regulations require a full payment of the original fee to reapply. Staff is recommending that for these projects, a fee 25% of the original permit fee (also a 75% credit) plus 20% of the new permit fee is charged.

- Currently, City projects are not paying permit fees until the project receives its certificate of occupancy or certificate of completion, as opposed to all other customers, who pay their permit fees at or prior to a permit being issued. Additionally, City projects are paying permit fees based on actual time for plans review and inspection processes, as opposed to the permit fee structure already created. This means that there is administrative staff time that has to be dedicated from both the Building Department and the builder department (i.e., CIP, Public Works, etc.) in order to reconcile the project at or after the time of completion, which is a tedious process. The Administration is recommending that City projects be treated like all other projects and pay at the time (or before) a permit being issued, and that the fees be calculated according to the adopted permit fee schedule.

- The language in the Building Department ordinance relative to refunding permit fees is not clear. The Administration is recommending slight changes to the ordinance to clarify how permit fees are to be refunded.

Finance and Citywide Projects Committee Presentation and Suggestions
At the May 25, 2011 Finance and Citywide Projects Committee meeting, the Administration presented many of the concepts and discussion points included in this memorandum. Individual Commissioner briefings were held in preparation of this meeting. During those discussions and as reviewed at the May 25th meeting, there are some additional language changes that were proposed as well. Those proposals are further discussed below. Some of these points require additional discussion and guidance from the Committee so that staff can finalize the respective ordinances.

- As discussed above, when the current fee structure was adopted, there were some short-term decreases (discounts) built into the fee structure that were set to expire on September 30, 2011. However, given that the economy still has not quite recovered, and the concerns regarding the new permit fee structure, the Administration recommended that these short-term decreases be extended past September 30, 2011. The Administration seeks guidance from the Committee as to when these decreases should now be set to expire.

- One suggestion was that language be added to the respective ordinances so that permit fees are re-evaluated every so often (for example, every 3 years) to determine if they are still in line with the surrounding jurisdictions and commonly accepted cost estimating practices. The draft ordinances include such language. However, the existing language also includes an annual adjustment of fees based on the Consumer Product Index (CPI). The Administration is recommending that the CIP adjustments for 2011 and 2012 be waived, given the current discussion. Guidance is needed from the Committee as to if the CPI language should be removed in its entirety if the language regarding periodic re-evaluation is to be included in the ordinances.

- Lastly, it was suggested that the draft ordinances include a "trigger" whereby if permit fees exceeded more than a certain dollar amount and/or a certain percentage of the value of construction, the Building Official would be required to review the permit fees being charged. The Administration has drafted language along these lines, which is included in the draft ordinances.

FISCAL IMPACTS OF PROPOSED REVISIONS
At this time, it is unknown what the fiscal impact of the proposed changes discussed herein will be. If the Committee accepts the recommendations outlined as proposed by the Administration, and depending on the guidance provided by the Committee on the outstanding items, an estimate will be developed in time for the first reading of the ordinances at the next City Commission meeting, scheduled for July 13, 2011.

CONCLUSION
The Administration recommends that the Committee recommend that the City Commission adopt the four ordinances amending various fees related to the Building Development Process in the City of Miami Beach.

JMG/JGG/KT
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ORDINANCES TO BE DISTRIBUTED

UNDER SEPARATE COVER

ITEM TWO

MIAMIBEACH

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

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: June 23, 2011

SUBJECT: **DISCUSSION REGARDING RESOURCES ASSIGNED TO ADDRESS PROLIFERATION OF HOMELESS ON WASHINGTON AVENUE**

At the March 9, 2011 City Commission meeting, Commissioner Wolfson referred to the Finance & Citywide Projects Committee (F&CWPC or Committee), a discussion on resources assigned to address the proliferation of homeless on Washington Avenue. On May 19, 2011, the matter was discussed at the F&CWPC Committee. The F&CWPC asked the Administration to bring the homeless proliferation discussion item back to Committee with additional information on resources currently used and available.

BACKGROUND

Based on the most recent bi-annual homeless census, Miami Beach has 22% of the entire population of homeless in Miami-Dade County. The homeless census is conducted countywide twice per year, coordinated through the County's Homeless Trust. The City has participated in the homeless counts since they first began, and has used volunteers to assist in these overnight efforts. The Census conducted in January 2011 reflected a count of 177 homeless people in Miami Beach at that time. This number demonstrated a reduction from the count held in September 2010 (196), but reflected an increase in the count held in January 2010 (149). This is a "point-in-time" count, and fluctuations are not uncommon and reflect seasonal impact. The Census captures basic demographic information based upon observations of homeless persons seen during the count period.

HOMELESS OUTREACH RESOURCES

The City has provided homeless outreach services for some time. The City's Homeless Outreach Team (HOT) is made up of one Homeless Program Coordinator and two teams consisting of two outreach workers each, and clerical support. The Homeless Services Program is funded by three grants from the Homeless Trust and resort taxes, and funding is also provided to engage homeless individuals into the homeless "Continuum of Care." This includes case management; placement into emergency shelter, substance abuse treatment services and permanent housing; identification assistance; relocation assistance; and food and bus tokens. The City funds beds for placement, as well as participates in the County's Homeless Continuum of Care program to access housing and services at no cost to the City. In addition to daily on-street outreach, walk-ins are assisted in the office. In 2010, a total of 11,896 homeless persons were contacted by HOT, of those 539 were placed in housing.

The two outreach teams' daily routes are broken down into two areas: one team is assigned to the area south of 41st Street; the second team is assigned to the area north of 41st Street. As part of their daily duties, teams contact individuals, build rapport, conduct assessments, and transport to shelter those that accept placement. As a safety precaution, individual team members are not permitted to transport clients to shelter alone. Therefore, when a transport has to be made, the

affected team is taken out of service and cannot patrol their assigned area. Because transports occur daily, and because the placement locations are generally outside of the City, the process takes approximately two hours, and transports usually are necessary more than once per day. While many options have been implemented in an effort to keep transports down to once daily (and thus keep our outreach teams on the beach), this has not been feasible because homeless persons preferred to return to the streets if they could not be immediately processed and transported.

In addition, oftentimes HOT schedules are flexed to accommodate the needs of the clients, to address the increasing demands of providing more outreach to a specific area(s), or to be able to target certain areas during the days/hours when homeless persons are most likely there. These staff adjustments result in occasional partial coverage.

The HOT teams work very closely with the City's Sanitation and Code Compliance divisions, as well as the Police Department (PD). In particular, the HOT teams and the City's Neighborhood Resource Officers and other PD staff coordinate joint "missions" that target homeless hot spots and encampments. These efforts are coordinated based on identified issues, and availability. A focus of HOT and PDs joint outreach details have been in response to particular citizen complaints, including Lummus Park; the Museum District; beach dunes (particularly North Beach); Flamingo Park; Altos Del Mar; Bandshell park; 72nd Street Parking Lot; and Open Space Park.

WASHINGTON AVENUE ISSUES

For years there have been recurring issues regarding the presence of homeless persons on Washington Avenue, including public and disorderly intoxication, persons sleeping in storefronts, and panhandling conducted by non-homeless as well as homeless persons. The City has met on several occasions with the Washington Avenue Neighborhood Association (WANA) and discussed some options to address the homeless issue. As a result of those discussions, the City revised the "No Trespassing" signs purchased by businesses that authorize the City's Police Department to remove and/or arrest any trespassers on their private property. Smaller, window cling signs were designed to provide businesses with a more attractive method for the notice to be provided. The intent of these particular signs is to have them placed on the storefronts where there are set-back entrances that are private property; this is the area where homeless persons are often found, especially after hours.

The Trespass Sign Program is managed by the Police Department. The program has been promoted by both HOT and Police citywide. Proven results have been noted at Five Guys Burgers, where prior to sign placement the homeless loitered and harassed customers. The signs led to several arrests at the location which has eliminated the homeless related issues. Despite an aggressive promotion of the trespass sign program, currently, there are only nine Washington Avenue businesses participating in the program:

1. 420 Lincoln Road Associates – 1618 Washington Ave.
2. Fritz's Skate Bike & Surf – 1620 Washington Ave.
3. Lemar Building – 861 Washington Ave.
4. So-Bee Foodmart – 1359 Washington Ave.
5. SRC Properties LLC – 421 Washington Ave.
6. Streamline Properties – 1125 Washington Ave.
7. Anglers Hotel – 660 Washington Ave.
8. Five Guys Burgers – 1500 Washington Ave.
9. Fillmore Theater – 1700 Washington Ave.

The program has been promoted at the Washington Avenue Neighborhood Association meeting, Memorial Day Weekend Symposium for businesses, Spring Break Symposium for business, and at the Retail Theft Seminar. It has also been promoted by HOT on business outreach missions.

More recently, approximately three months ago, Community Outreach Coordinator Lynn Bernstein arranged for a walk-around of the Washington Avenue business district with representatives from WANA, HOT, and PD. The purpose of the walk-around was to see, first hand, the issues on the avenue, including concerns with the homeless. At that time, only two homeless individuals were observed on the avenue; one was placed in shelter and the other was relocated. It was agreed that PD would try to work to have more buy-in to the trespass sign program from Washington Avenue businesses. Business owners commented that the homeless issue was much better than in previous years. In addition, it was agreed that Police and HOT would work with Oceanside Extended Care Center (located at 550 9th Street) to have residents comply with City ordinances, as it was noted that many of those loitering and panhandling on Washington Avenue were residents of the nearby assisted living facility.

HOT also found that many of the homeless remain on Washington Avenue because they are employed by business owners. They are often charged with doing menial tasks to include: cleaning storefronts, providing security and unloading commercial delivery trucks. Many of the homeless suffer from substance abuse issues, particularly alcohol dependence. Coupled with wages earned and proceeds from panhandling, the homeless are provided the means to purchase alcoholic beverages. Further exacerbating the problem is the availability of alcohol which is sold at several convenience and liquor stores located on Washington Avenue, including by the bottle.

POLICE DEPARTMENT RESOURCES

On average, the Police Department actively participates with HOT in outreach missions on Washington Avenue once weekly. Misdemeanor infractions, disorderly intoxication, panhandling and solicitation, that are often associated with homelessness, are addressed by directed patrol. On dayshift, bike patrol officers are assigned to the entertainment district which encompasses Washington Avenue. The bike officers are directly responsible for targeting such activities, particularly between 5th and 17th streets. On afternoon and midnight shifts, the responsibility to police such activities rests with all south zone officers and is incorporated into their routine patrol. Also, Washington Avenue is oftentimes targeted for enhanced patrol during the patrol division's overlap detail. This is done for one hour, three times daily, during the overlap of shifts. When contact is made with a homeless person during these details, shelter is offered. If accepted, HOT is contacted to transport the person(s) to a shelter. Likewise, for record keeping purposes, HOT is provided with a copy of the affidavit if a homeless person is arrested.

As previously noted, It has been determined that some people participating in the aforementioned disorderly intoxication, panhandling and solicitation are not homeless, but reside at the nearby Oceanside assisted living facility. The department is currently working with the new management of the facility to come up with a viable solution to address the delinquent behavior of some of its residents. Police personnel, in recent months, have met twice with the facility's management.

JMG/HMF/AP/KM/WJ

ITEM THREE

MIAMIBEACH

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: June 23, 2011

SUBJECT: Annual Proprietary Purchase of Water Meters and Fire Hydrants

BACKGROUND

The City Commission referred items for the procurement of water meters, water meter parts and manifolds and fire hydrants to the Finance and Citywide Projects Committee at their December 8, 2010 meeting. The Commission also would like to better understand the Department's inventory and warehousing policies with respect to these items. The Committee is requested to evaluate the practices employed by the Public Works Department of standardizing product lines used for water meters and hydrants, which requires purchases of these items on a proprietary basis and for inventory and control.

ANALYSIS

Water meters and their associated parts (including manifolds, which are piping systems that allow the placement of several water meters in parallel on a single service line) are critical components of the City's water distribution system. Metering water consumption provides the primary means of generating revenue from customers of the water distribution system and allows for reconciliation of water volumes purchased wholesale from Miami Dade Water and Sewer Department (WASD). Customers are billed for both water and sewer services based on the water meter reading. Accurate metering is essential for a properly funded enterprise utility and is a requirement of the City's Water Use Permit issued by the South Florida Water Management District (SFWMD).

Fire hydrants are a critical component of the City's water distribution system that provides several essential functions. Primarily, their intended use is to provide pressurized potable water to fight structure, vehicle, boat and ground fires throughout the City. In addition, fire hydrants are used to refill the tanks of fire apparatus, street sweepers, vactor trucks and (through the use of hydrant water meters) various equipment used by contractors for construction purposes (i.e. water trucks for dust control and new landscape irrigation). Fire hydrants are also routinely used for flushing purposes by utility crews to insure the water throughout the distribution system meets or exceeds Federal drinking water standards. Properly functioning fire hydrants are essential. Failure of any fire hydrant could result in catastrophic damage to private or public property or even loss of life. Properly functioning fire hydrants and an associated maintenance program are two factors considered by insurance providers in setting property insurance rates for a region.

As a result of the critical nature of water meters and fire hydrants, the City's Public Works Department provides a comprehensive inspection and maintenance program designed to insure the proper operation of all meters and hydrants throughout the City. Water meters are "read" monthly and, depending on meter size, are replaced at intervals recommended by the American Water Works Association (which presently recommends an eight-year rotation of domestic water meters to insure accuracy). Every fire hydrant in the City's inventory is inspected, tested and maintained at least once per year. Historically, these two programs

have resulted in the need to replace approximately 1,200 water meters of various sizes (approximately 9% of the total 13,050 meters in the system), and 50 of the City's 1,050 hydrants each and every year (5%).

For more than 14 years the Public Works Department has been using Sensus water meters and American Darling fire hydrants exclusively. These brands are highly regarded in the industry, are priced competitively, and have proven reliability and lower maintenance costs than other product lines. Approximately 80% of the water meters presently in use in the City's water distribution system are Sensus. 70% of the fire hydrants in Miami Beach are the American Darling brand. Standardization on these brands allows the Public Works Department to maintain an efficient parts inventory, aids in the rapid repair or replacement of meters and hydrants when deemed necessary, and insures that water system mechanics are properly trained on all aspects of the products. A potential future benefit to standardizing on Sensus water meters is that they are designed to support electronic Automated Meter Reading programs (AMR). The City continues to explore options for Automated Reading Programs and will, in the near future, initiate an AMR pilot program. Existing meters can be retrofitted with an electronic meter register to support AMR in the field, without having to remove the meter or disrupt service to our customers.

The Mayor and City Commission approved Sensus Metering Systems, Inc., (Sensus) as a sole source vendor on October 11, 2006. Similarly, on October 19, 2005, the Mayor and City Commission adopted Resolution No. 2005-26026, waiving by 5/7ths vote, the formal competitive bidding requirements, and approving the purchase of the American Darling fire hydrants from American Flow Control. Each Fiscal Year thereafter, the Administration has requested approval from the Mayor and City Commission to purchase water meters (and associated appurtenances) and fire hydrants from these Manufacturers on a proprietary basis, when purchase amount exceeds $25,000 for each item group. In all prior years, purchases for meters, manifolds, meter parts and hydrants have been made only on an as needed basis. The number of meters and hydrants purchased varies significantly year to year as needs are determined. For example, in Fiscal Year 2009/2010, meter purchases totaled $144,703 (out of $145,000 requested budget) while in FY 2007/2008 purchases totaled $35,507 (out of $150,000 budgeted). Likewise for fire hydrants, FY2009/2010 purchases were $39,691 (out of $40,000 budgeted) while in FY2007/2008 purchases were $74,470 (out of $92,000 budgeted).

Inventories of water meters and fire hydrants are kept at relatively low levels. Average year-end inventory of water meter (all sizes) represent about 4% of installed operational meters (an average of 548 meters out of 13,050 in-service). The attached spread sheet provides inventory information for all meter sizes for the past five (5) years. Annual fire hydrant purchases average 50 per year. Current pricing is checked against state and local contracts to insure that the proprietary purchases compare favorably with current market conditions. Presently, the City is purchasing fire hydrants at $755 each. Miami-Dade's current contract for the same model fire hydrant is $764.75 each.

CONCLUSION

Based on the aforementioned, the Administration seeks concurrence from the Finance and Citywide Projects Committee (FCWP) that the Public Works programs for standardizing water meters and fire hydrants throughout the City's water distribution system is practical and in the best interest of our residents. The Administration requests the FCWP Committee recommend to the City Commission that procurements continue on a proprietary basis, with appropriate continuous checks for market conditions by Public Works and Procurement Departments. Further, the Administration requests the FCWP recommend to the City

Commission that authorizations above the $25,000 thresholds be routinely approved as part of each year's budget authorization process, based on historical usage and a policy of purchasing only up to an amount each year that is identified as needed by the inspection and maintenance programs employed by staff.

DRB/FHB/HDC

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ITEM FOUR

MIAMIBEACH

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COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: June 23, 2011

SUBJECT: Discussion of the Proposed Recycling Ordinance.

The Proposed Recycling Ordinance has been referred by the Land Use and Development Committee to the Finance and Citywide Projects Committee (FCWPC) for discussion of financial impacts.

BACKGROUND

Commissioner Jonah Wolfson worked with the City Attorney's Office and City Administration, as well as members of the City's Sustainability Committee, on a proposed ordinance that would require mandatory recycling for multifamily residences and commercial establishments in the City, via the establishment of a City of Miami Beach Mandatory Recycling Enforcement Program.

Currently, Miami-Dade County Code (Sections 15-2.2 to 15-2.4) requires multifamily and commercial establishments to have a recycling program. However, as a result of multiple issues, including fiscal constraints at the County level, the County Code requirement to demonstrate a recycling program is not adequately or comprehensively enforced. It is believed that approximately 1,558 multifamily residential buildings and commercial establishments within the City of Miami Beach are currently not participating in the County-required recycling program. This is approximately 30% of all known commercial and mult-family accounts.

The proposed ordinance (Attachment A), which is an amendment to Chapter 90 of the City Code, would establish more stringent requirements than the County and require multifamily residences and commercial establishments in the City to recycle pursuant to the requirements of a City of Miami Beach Recycling Program. This proposed program would require that multifamily and commercial establishments not only have a recyling program in place, but it would also mandate that recyclables be recycled. Multifamily and commercial establishments would receive fines if recyclables were found comingled with their solid waste or vice versa. The County Code (Section 15-2.5) gives the City the authority to establish and enforce its own ordinance, provided such ordinance is equivalent to or more stringent that the County's provisions.

Single-family homes and multifamily buildings of up to eight (8) units are already provided weekly recycling services via Miami-Dade County's Curbside Recycling Program, which was done through an Inter-Local Agreement (Agreement) entered into on June 14, 1990. The Agreement authorizes the County to act on the City's behalf in the administration of the contract for this recycling service in the areas of municipal jurisdiction. The current number of households served by Miami-Dade County within the City of Miami Beach is 6,498 units. The contractor that currently provides the service to Miami Beach through the Agreement is World Waste Services.

Commercial facilities and multifamily residences with eight (8) or more units are required by Miami-Dade County to hire, by means of a contract, a private hauler for their regular trash pick-up, recycling and bulk pick-up. Miami-Dade County Code Chapter 15 entitled "Solid Waste Management", Sections 15-2.2 through Sections 15-2.5 requires the following:

- Owners/Property owners of commercial establishments in Miami-Dade County must provide a recycling program for their employees and tenants, using the services of an authorized waste hauler or private recycling hauler.
- The program must recycle three (3) items from the following list of ten (10): high-grade office paper, mixed paper, corrugated cardboard, glass, aluminum, steel, other scrap production metals, plastics, textiles, and wood.
- Modified Recycling Programs - those that incorporate modifications, substitutions or reductions to the requirements stated above - may be submitted to the Department of Solid Waste Management for review and approval.

DEMOGRAPHICS

The City has approximately 85,536 residents, and 66,327 total households; of which approximately 6,498 households are on City solid waste and recycling service, which would be excluded from the requirements of this ordinance. The remaining 60,000 units are contained in approximately 1,500 multifamily residential buildings with eight units or more, which would be subject to the parameters of the multifamily residential component of the ordinance. The City has approximately 3,624 commercial units.

CURRENT ENFORCEMENT

On September 1, 2009, the Miami-Dade County Multifamily and Commercial Recycling Memorandum of Understanding (MOU) between the City of Miami Beach and Miami-Dade County - Department of Solid Waste Management (SWM) was approved. Under the MOU, the County agrees to enforce recycling under County Code Chapter 15, Sections 15-2.2 through 15-2.5 within the City of Miami Beach. When facilities are found to not have a recycling program, the County issues the offending party a warning notice followed by a notice of violation that may include fines as delineated in Miami-Dade Code Chapter 8CC - entitled "Code Enforcement". In 2007-08, the County collected a total of $11,550 in fines Countywide for non-compliance with their recycling ordinance.

On March 29, 2010, the City provided Miami-Dade County Solid Waste Management (SWM) with a list of 434 addresses from the waste haulers' multifamily and commercial accounts that were not recycling. In August 2010, the County initiated a proactive inspection approach to enforcement. Since August 2010, the County has inspected a total of 203 multi-family residences and 27 commercial establishments. If facilities were found to not have a recycling program, the facilities were issued a warning notice followed by a notice of violation that may includes fines delineated in Miami-Dade Code Chapter 8CC entitled "Code Enforcement". However, in October 2010 the County returned to a compliant-driven approach with an emphasis on education. In January 2011, the City franchise waste haulers provided the Public Works, Sanitation Division, with an updated list of Miami Beach commercial facilities and multifamily residences that do not have a recycling program in place. The list included the 1,558 establishments previously noted, which represents 30% of known commercial and multifamily accounts that are estimated not to have a recycling program. The percentage of non-compliant facilities that have received fines since January 2011 is unknown. Based on SWM complaint-driven approach that focuses more on education than issuance of fines, this number is anticipated to be low.

PROGRAM ANALYSIS

The proposed ordinance seeks to establish a comprehensive and aggressive Citywide Recyling Program for multifamily residences and commercial establishments. The proposed ordinance, is more stringent than the County's requirements because it expands the scope of required recylables. The City would develop a process by which all multifamily residences with eight (8) units or more would be required to use a single-stream recycling process that includes all five (5) of the following recyclable materials: newspaper, glass, metal food and beverage containers, other metal containers, and plastics. In addition, at least three (3) of the following recyclable materials must also be recycled: corrugated cardboard, magazines and catalogs, telephone books, office paper or organic material. Commercial establishments would be required to recycle at least three (3) materials from the following: mixed paper, glass, metal food and beverage containers, other metal containers, plastics, textiles, wood or organic materials.

The proposed ordinance stipulates that it is a violation for multifamily residences or commercial establishments to have recyclable materials in any place other than in a recycling container. In addition, the existence of recyclable materials inside a recycling container for seven (7) consecutive days constitutes evidence that a multifamily residence or commercial establishment is not providing regular recycling service that would be required by the provisions of this ordinance. In addition, the absence of recyclable materials in a recycling container for seven (7) consecutive days constitutes evidence that a multifamily residence or commercial establishment is not separating recyclables from their solid waste stream and is thus in violation of the provisions of the ordinance.

Enforcement of the proposed ordinance would require recycling inspectors to inspect the contents of both the solid waste and recycling containers in order to ascertain compliance. These enforcements efforts can be driven on a complaint basis, through a proactive inspection schedule, or through a combination approach. The Sustainability Committee recommended that a hybrid approach be utilized to achieve the greatest level of compliance.

The proposed ordinance also includes a "red tag" noticing system. Waste contractors and recycling contractors are required to notify their customers with a "red tag" identifying incorrect materials found in the either the solid waste or recycling container. After issuing two (2) tags, the contractor may refuse collection service and include on the subsequent tag a description of the action that must be taken for the materials to be collected. If the recycling contractor continues to find incorrect materials in a collection container, it is required to report the customer that has violated the separation requirements to the City. The proposed ordinance provides that the contractor would be subject to fines and penalities if it collects such commingled materials and waste.

According to the parameters of the proposed recycling ordinance, if commercial establishments, multifamily residences, or waste haulers are found to be in non-compliance with the proposed amendments, the following penalties would be prescibed:

a) For the first violation, a warning or a fine up to $350.00.
b) For the second violation, a fine of up to $500.00.
c) For the third violation, a fine of up to $1,000.00.
d) For the fourth and subsequent violations, a fine of up to $5,000.00.

The proposed ordinance does not include a fine accrual provision, which is found in many of the City's similar fine structures. The Administration recommends that the Committee explore the possibility of adding an accrual provision to encourage compliance.

The proposed ordinance calls for one (1) year of education and community outreach followed by a six (6) month warning period before penalties would be issued. During the education and outreach period, the City would implement an aggressive public education campaign to inform the public of the new requirements. This would entail comprehensive community outreach through the Chamber of Commerce, local schools, business associations, and homeowner and condominium associations. In addition, the City would disseminate information about the new program through TV, website, social media, and printed media. After the year of extensive education and outreach, the six (6) month warning period (or pre-full implementation period) would take place, where only warning notices without monetary fines would be issued.

In addition to the outreach and educational efforts associated with a program of this magnitude, the proposed ordinance also includes an educational "tag program." The City would require recycling contractors to place informational tags and/or stickers on the recycling dumpster to further educate the public regarding allowable recyclable materials and proper recycling procedures. Only after the education and warning period are complete (18 months from commencement of the program) would the City issue Notices of Violation with accompanying monetary fines to companies and/or individuals that fail to adhere to the provisions of this ordinance.

The proposed ordinance has been reviewed, analyzed, and commented upon by the Sustainability Committee (at its October 2010 and November 2010 meetings). Two (2) versions of the ordinance were presented for review and consideration by the Land Use and Development Commmittee (LUDC): Option "A" is the version developed by Administration and Option "B" is the version developed by the Sustainability Committee.

The only significant differences that emerged between the Administration's version (Option "A") and the Sustainability Committee's version (Option "B") were:

1. The dollar amount of the fines. The Sustainability Committee's recommendation for first and second offenses did not include a warning and the dollar amounts were higher; and
2. The duration of the overall warning period. The Sustainability Committee recommended a three (3) month warning period instead of a six (6) month warrning period during which only warning citations and not actual monetary or other penalties would be issued.

On December 12, 2010, the LUDC passed a motion recommending Option "A", the Administration's version of the ordinance, and moved it to the Finance and Citywide Projects Committee (FCWPC) for discussion.

PROGRAM COMPARISONS

Staff conducted research to identify and compare similar programs established in other municipalities across the US. Some of the cities contacted included the localities of Austin, Texas; Gainsville, Florida; Miami-Dade County; Montgomery County, Maryland; San Diego, California; San Fransisco, California; and Seattle, Washington.

Levels of community compliance and enforcement vary between municipalities. For example, when Seattle began its mandatory recycling program, there was a high level of compliance from the beginning; more than 90% of Seattle's 150,000 apartments and businesses complied with the requirements of the new ordinance within weeks of implementation without the issuance of fines. Similarly, San Francisco has seen an approximate 55% rate of compliance with its mandatory composting and recycling ordinance. San Francisco publicized that it would be strictly enforcing multifamily composting and recycling in order to increase the public dialogue; however, their focus is still mainly on compliance through outreach rather than issuance of fines.

Jurisdictions such as Gainesville, Austin, San Diego and Montgomery County have focused efforts on providing education and extensive technical assistance rather than issuing fines to achieve compliance. Gainesville has concentrated its efforts on a comprehensive educational campaign that includes onsite assessment and recycling guidance to its residents and businesses. However, Gainesville is planning to begin attaching fines to facilities' electric bills in order to increase recycling compliance.

Similarly, Austin's current ordinance includes a fine of $500 per day. To date, Austin has elected to focus on education rather than to issue fines for non-compliance. However, Austin is in the process of developing a more stringent ordinance with stricter enforcement and fines, which is scheduled to come into effect in October 2012.

Montgomery County has been focusing their efforts on providing education and technical assistance to multifamily residences and commercial facilities. These facilities are required to complete an Annual Waste Reduction Report that estimates the amount of recyclable material generated annually. This allows Montgomery County to conduct audit inspections to verify the Waste Reduction Report and determine if the facility requires further technical assistance. If outreach is found to be unsuccessful, Recycling Investigators respond with verbal warnings followed by citations; however, further fines and enforcement is uncommon.

The research also showed that the program staffing levels at a number of the locations varied in terms of the scope of work and goals. Programs varied from a staff of four (4) Waste Diversion Planners in Austin, Texas to more complex programs such as Montgomery County, which has a total of 18 employees (1 Section Chief, 2 Program Coordinators, 2 Compliance Managers, 1 Community Outreach Coordinator, 8 Educational Specialists, and 4 Recycling Investigators). San Fransisco's recycling and composting program relies heavily on community volunteers to conduct door-to-door neighborhood outreach. In addition, San Fransisco received funds from the Federal Stimulus Package Jobs Now program that allowed it to employ 50 Environmental Outreach Assistants, whose duties included various environmental initiatives including recycling outreach. From the Jobs Now program, 18 Outreach Assistants have remained as full-time employees and now supplement the Zero Waste Division's 11 employees (3 Residential Recycling Coordinators, 3 City Governement Recycling Coordinators, 3 Commerical Recycling Coordinators, 1 Construction & Demolition Recyclin Coordinator, and 1 Division Program Manager).

STAFFING REQUIREMENTS – CITY ORDINANCE (OPTION A)

Based on the requirements and parameters set forth in the proposed ordinance, Code Compliance Officers (CCO) would need to inspect and assess 3,624 commercial units and approximately 1,500 multifamily residential buildings with more than eight units in order to determine compliance.

Staff has had several discussions regarding the level of enforcement that would be required for this proposed ordinance and how to effectuate inspections to encourage compliance. In order to achieve the level of compliance expected to be achieved with this ordinance, the Administration would recommend quarterly pro-active inspections for the commercial establishments, and is assuming a 50% compliance rate, which would require additional inspections for non-compliance. For the multifamily residential buildings, the Administration would recommend two (2) proactive inspections per year, again with a 50% compliance rate assumption, and additional inspections for non-compliance. These assumptions do not include any inspections required as a result of complaints or as notices provided by the haulers based on their observations and issuance of "red tag" warnings. Variation from this implementation plan would impact the estimated staffing requirements, operational costs and potential revenue

from fines presented herein.

It should be noted that recycling ordinance enforcement staffing would be done with additional positions, not within the current staffing plan of the Code Compliance Divison of the Building Department, as current staff does not have the capacity to implement this program with current Code Compliance demands. An additional administrative support position would also be required in order to implement this program.

Using the assumptions outlined above, a total of eleven (11) additional full-time staff would be required in the Code Compliance Division to effectively address the parameters of the proposed recycling ordinance. This includes nine (9) CCOs, one (1) Recycling Manager, and one (1) Administrative Aide I. The CCOs would be deployed by zones (South, Middle, and North), reporting to a Recycling Administrator, who in turn would report to a Recycling Manager. Assignments would be adjusted based on workloads. The Recycling Manager would be responsible for supervising the program and coordinating continued community outreach and education efforts.

The ongoing annual operating costs are projected to be approximately $630,611. This includes salaries and fringe benefits associated with full-time employment in the amount of approximately $592,993 as well as minimal operating costs in the amount of $37,618. This estimate does not include one-time costs such as the purchase of computers, vehicles, and office furniture, which are estimated to be in the range of $123,600, for a total implementation cost of approximately $754,235. Attachments B and C outline the projections for staffing and operating costs.

It should be noted that the staffing and operating costs associated with this program can be phased in, as the educational program and initial warning period would be for a combined period of 18 months. Thus, the entirety of the costs would not need to be funded at the inception of the program.

POTENTIAL RECOVERY OF EXPENDITURES / ISSUANCE OF FINES

It is difficult to estimate the revenues generated from fines collected by implementing such a program, as there is no experience with a strictly enforced recycling program. The Administration projects a 50% compliance rate, based on data obtained from the County; the County reports a 47% compliance rate on their ordinance. Assuming a 33% collection rate on the fines issued to the 50% of the non-compliant commerical and multifamily units, the City would collect approximately $550,000 with this program. The 33% is the average/typical collection rate for code compliance violations. Attachment C also outlines these projections.

If fine collection turns out to be higher than anticipated, the revenue stream would increase. Of course, the reciprical is also true. Additionally, if compliance is greater than anticipated, which would be the ultimate goal of the program, the revenues would be less than anticipated.

FUNDING

A source of funding has yet to be identified, other than the revenues discussed herein associated with the fines.

CONCLUSION

This item has been referred by the Land Use and Development Committee to the Finance and Citywide Projects Committee for discussion.

Attachments:

A. Proposed Recycling Ordinance
B. Staffing Requirement Analysis
C. Recycling Ordinance Fiscal Analysis

DRB/HMF/KT/RSA/FHB/HDC/RWS

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OPTION A
ADMINISTRATION'S RECOMMENDED VERSION
Revised as of 2-3-11

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 90 OF THE MIAMI BEACH CITY CODE, ENTITLED "SOLID WASTE," BY AMENDING THE DEFINITIONS IN ARTICLE I, ENTITLED "IN GENERAL," BY AMENDING SECTION 90-2, ENTITLED "DEFINITIONS"; BY AMENDING ARTICLE II, ENTITLED "ADMINISTRATION" BY AMENDING THE PENALTIES FOR SOLID WASTE VIOLATIONS AND TO PROVIDE PROVISIONS AND PENALTIES RELATIVE TO RECYCLING FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS; BY CREATING ARTICLE V, TO BE ENTITLED "CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS," TO PROVIDE PROVISIONS FOR RECYCLING REQUIREMENTS AND ENFORCEMENT, A PUBLIC EDUCATION PROGRAM, A WARNING PERIOD, AN ENFORCEMENT DATE, AN EDUCATIONAL PROGRAM, COLLECTOR LIABILITY, A "RED TAG" NOTICING SYSTEM, PENALTIES, AND SPECIAL MASTER APPEAL PROCEDURES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, nearly everything we produce, use or consume leaves behind some kind of waste and the treatment and disposal of waste can be a source of water, land, and air pollution; and

WHEREAS, by managing solid waste and conserving material resources through reduction, reuse, and recycling, the City will help minimize impacts to the quality and safety of the local environment, reduce costs of waste disposal and decrease the carbon foot print associated with the production and the use and disposal of materials; and

WHEREAS, the recycling of recyclable materials is in the best interest of the environment, the residents, and the environmental footprint of the City of Miami Beach; and

WHEREAS, the City seeks to establish a Citywide Recycling Program for multifamily residences and commercial establishments that provides standards that are equivalent to or exceed the minimum recycling requirements of Miami-Dade County; and

WHEREAS, pursuant to Sections 15-2.5 and 15-2.7 of the Miami-Dade County Code, the City and Miami-Dade County have agreed that the following Citywide Recycling Program meets the minimum standards set forth in section 15-2.6 of the Miami-Dade County Code and have accordingly entered into a Memorandum of Understanding so that the City may implement said Program.

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

SECTION 1. That Article I, entitled "In General," of Chapter 90 of the Miami Beach City Code, entitled "Solid Waste," is hereby amended as follows:

CHAPTER 90

SOLID WASTE

* * *

ARTICLE I. IN GENERAL

Sec. 90-2. Definitions.

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

* * *

Commercial establishment means an establishment dealing in an exchange of goods or services for money or barter. For purposes of this chapter, the term shall include churches, synagogues and schools.

* * *

Multifamily residence means a building occupied or intended to be occupied by two (2) or more families living separately, with separate kitchens in each unit.

* * *

Offense means a notice of violation that has not been appealed timely or a finding of a violation by a special master following the appeal of a violation.

* * *

Premises means real property and includes any buildings or structures thereon.

* * *

Recyclable materials means those materials capable of being recycled and which would otherwise be processed or disposed of as solid waste. Any recyclable material mixed with solid waste shall be considered to be solid waste.

Recycling means any process by which recyclable materials are collected, separated, or processed to be reused or returned to use in the form of raw materials or products.

Recycling container means a container approved by the city manager for collection of recyclable material by a recycling contractor.

Recycling contractor means a private contractor licensed by the city who collects recyclable materials and transports same to a state or county-licensed recycling facility for processing. Recycling contractors must provide their customers with a separate recycling container for recyclable materials.

Single-stream recycling means a process by which certain recyclable materials are mixed together instead of being sorted into separate recycling containers in the collection process.

SECTION 2. That Article II, entitled "Administration," of Chapter 90 of the Miami Beach City Code entitled "Solid Waste," is hereby amended as follows:

CHAPTER 90

SOLID WASTE

* * *

ARTICLE II. ADMINISTRATION

Sec. 90-36. Enforcement of chapter; notice of violation.

(a) The city manager is hereby authorized and directed to enforce all the provisions of this chapter regulating and governing the accumulation, collection, and disposal of solid waste. The city manager shall have the power to delegate duties to employees working under his authority (including, without limitation, the city's public works director) in the enforcement of the provisions of this chapter.

(b) Upon presentation of proper credentials, an inspector designated by the city manager may enter any building, structure, lot or other premises for the purpose of inspection, or to prevent violations of this chapter.

(c) The existence of solid waste shall be prima facie evidence that the same was created or placed there by the occupant of the dwelling or commercial establishment; or the owner; or the operator or manager. The existence of the same garbage inside the same garbage containers for four (4) consecutive days upon premises serviced by a private waste contractor shall be prima facie evidence of a violation of this chapter by the contractor. For purposes of this section premises serviced by a private waste contractor shall not include accounts that have been discontinued by the contractor when notice of discontinued service has been mailed to the owner, occupant; or operator or manager, as well as to the city, prior to the accumulation of the garbage.

(d) Whenever a designated city inspector observes a violation (or violations) of this chapter regarding solid waste or an accumulation of solid waste that creates a health hazard, environmental hazard, or nuisance, the inspector shall order the violation(s) to be corrected within a specified period of time by serving a written notice of violation(s) upon the person

causing, or responsible for, such violation and/or health hazard, environmental hazard, or nuisance. Such person shall immediately cease or abate the violation(s).

(e) A ~~The~~ notice of violation shall be served personally or by certified mail upon the property owner or upon the person(s) in lawful possession of the premises, and/or upon the waste contractor servicing the premises. If the person addressed with such notice cannot be found by the city after making reasonable good faith effort, such notice shall be sent by certified mail to the last known address of such person, and a copy of the notice shall be posted in a conspicuous place on the premises. Such notice shall be deemed the equivalent of personal service.

(f) The notice shall specify any fine(s) that may be due in connection with the violation(s), the time specified by the inspector to correct the violations, and the procedure for timely payment or appeal of the fine(s).

(g) If the inspector determines that the conditions constitute an immediate threat to the health, safety or welfare of the public, he/she may order the immediate correction of the violation(s) at the expense of the occupant; owner; or operator or manager and the city shall have the right to recover such expenses as provided in section 90- ~~136~~ 37.

(h) The enforcement of the recycling requirements for the citywide recycling program for multifamily residences and commercial establishments provided for in Article V of this chapter, and the penalties for violations of Article V, are provided in sections 90-345 and 90-347 through 90-348 of this chapter.

Sec. 90-37. Removal of waste by city; penalties for violations.

If the person served with a notice of violation pursuant to section 90-36 does not correct the violation within the specified time, the city manager may do the following:

(1) For violations involving failure to remove solid waste, the city manager may cause the waste to be removed from the premises and charge the actual costs to the owner; occupant; or operator or manager, on a force account basis. Any fine due pursuant to section 90-39 or 90-40 shall also be charged to the owner; occupant; or operator or manager. Failure to pay such costs and fines or to appeal pursuant to section 90-38 within fifteen (15) days of receipt of the notice shall result in the imposition of a lien upon the property, in the amount of such costs and fines. Such liens shall be treated as special assessment liens against the subject real property and, until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such liens shall be enforced by any of the methods provided in Ch. 86, Florida Statutes; or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Ch. 173; Florida Statutes; or the collection and enforcement or payment thereof may be accomplished by any other method authorized by law. The owner; occupant; or operator or manager shall pay all costs of collection, including reasonable attorneys fees incurred in the collection of fines, and other charges, penalties, and liens imposed by virtue of this chapter.

(2) For violations of this chapter for which no fine is specified in sections 90-39 and 90-40, the city attorney may prosecute the violators pursuant to section 1-14. Fines for such offenses shall be as follows:

a. First offense, $350.00.

b. Second offense, $500.00.

c. Third offense, $1,000.00.

d. Fourth or subsequent offense, $5,000.00.

(3) For violations which present a serious threat to the health, safety or welfare of the public and/or violations that ~~are continually repeated~~ constitute a fourth or subsequent offense by the same violator, the city ~~attorney~~ may seek injunctive relief and/or, in the case of commercial establishments, revoke the business tax receipt and/or certificate of use of the establishment and/or premises.

Sec. 90-38. Appeal to special master.

(a) Any person receiving a notice of violation pursuant to section 90-36 and/or a notice of fine pursuant to sections 90-39 and/or 90-40 may request, within fifteen (15) days of receipt of the notice, an administrative hearing before a special master, appointed as provided in article II of chapter 30, to appeal the decision of the city inspector resulting in the issuance of the notice. Procedures and application fee for the scheduling and conduct of the hearing shall be as provided in sections 102-384 and 102-385. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, as noticed, and fines and penalties may be assessed accordingly.

(b) Timely filing of a notice of appeal pursuant to this section shall toll the imposition of a lien pursuant to section 90-37 or 90-136, or enforcement procedures pursuant to section 90-36, until thirty (30) days after the issuance of a written determination by the special master. Any amounts of money due the city pursuant to such determination must be received by the city within thirty (30) days after the issuance of the determination, or a lien shall be imposed upon the property in question, and any other enforcement or collection procedures commenced, as provided by this chapter or under state law.

SECTION 3. That Article V, to be entitled "Citywide Recycling Program for Multifamily Residences and Commercial Establishments," of Chapter 90 of the Miami Beach City Code, entitled "Solid Waste," is hereby created as follows:

CHAPTER 90

SOLID WASTE

* * *

ARTICLE V. CITYWIDE RECYCLING PROGRAM FOR MULTIFAMILY RESIDENCES AND COMMERCIAL ESTABLISHMENTS

Sec. 90-340. Recycling required for multifamily residences.

As of January 1, 2012 **[NOTE: OR SUCH OTHER DATE THAT IS ONE (1) YEAR FROM EFFECTIVE DATE OF ORDINANCE]**, every multifamily residence shall be required to use a single-stream recycling process to recycle recyclable materials and every multifamily residence shall be serviced by a city and state licensed recycling contractor.

***[NOTE TO ADMINISTRATION: FOR MULTI-FAMILY RESIDENCES, VERIFY THAT EVERYTHING LISTED BELOW UNDER RECYCLABLE MATERIALS IS SINGLE-STREAM RECYCLABLE]**

(a) At a minimum, multifamily residences must recycle at least five (5) of the recyclable materials listed below:

1) *Newspaper-* used or discarded newsprint, including any glossy inserts;
2) *Glass-* glass jars, bottles, and containers of clear, green or amber (brown) color of any size or shape used to store and/or package food and beverage products for human or animal consumption, and/or used to package other products, which must be empty and rinsed clean of residue. This term excludes ceramics, window or automobile glass, mirrors, and light bulbs;
3) *Metal food and beverage containers-* all ferrous and nonferrous (i.e. including, but not limited to, steel, tin-plated steel, aluminum and bimetal) food and beverage containers (i.e. including, but not limited to, cans, plates, and trays) of any size or shape used to store and/or package food and beverage products suitable for human or animal consumption, which must be empty and rinsed clean of residue;
4) *Other metal containers-* all other ferrous and non ferrous containers used to package household products including, but not limited to, paint cans and aerosol cans, which must be empty and rinsed clean of residue;
5) *Plastics-* all high density polyethylene (HDPE) and/or polyethylene terephthalate (PET) bottles, jugs, jars, cartons, tubs, and/or other containers, and lids, of any size or shape used to package food, beverages, and/or other household products, or crankcase oil, which must be empty and rinsed clean of residue. This term excludes all plastic film, plastic bags, vinyl, rigid plastic (i.e. toys), and plastic foam materials; and

(b) At least three (3) of the following recyclable materials:

1) *Cardboard* - clean, unwaxed corrugated cardboard boxboard and/or similar corrugated and kraft paper materials; food, beverage, and/or other household cardboard boxes, cartons and/or other containers (i.e. cereal boxes, paper egg cartons, rolls, and bags, milk, juice and other beverage cartons and/or boxes, spiral-wound containers such as orange juice, dough and potato chip containers, tissue boxes, and toilet tissue and paper towel rolls); and any other corrugated and/or non-corrugated materials made from cardboard, all of which must be empty and cleaned of excessive amounts of contaminant such as adhesives, metals and plastics;

2) *Magazines and catalogues*;
3) *Telephone books and/or directories*;
4) *Office paper* - used or discarded high-grade white paper and Manila paper including, but not limited to, paper used for file folders, tab cards, writing, typing, printing, computer printing, and photocopying (i.e. writing paper, stationary, letterhead, notebook paper, copier paper, typing paper, tablet sheets, computer print- out paper, and all paper of similar quality); regular mail and junk mail; envelopes without wax liners or adhesive labels; and paper gift wrap and cards. This term shall not include carbon paper, self carbonizing paper, coated or glossy paper, and envelopes with windows or adhesive labels.

Organic Materials - A multifamily residence that recycles organic materials in a separate bin that is serviced by a city licensed recycling contractor shall be deemed to satisfy one of the three(3) recyclable materials options in this subsection (b). The following items shall be deemed to be organic materials for purposes of this section: All food materials, including but not limited to fresh, frozen, dried, cooked and prepared foods and leftovers; fruit and vegetable scraps; pasta, bread, and cereal; meat and fish products; egg shells; coffee grinds and filters; and tea bags.

Sec. 90-341. Recycling required for commercial establishments.

As of January 1, 2012, every commercial establishment shall be required to recycle recyclable materials and shall be serviced by a city and state licensed recycling contractor, or the city. At a minimum, commercial establishments must recycle at least three (3) recyclable materials from the list below:

***[NOTE TO ADMINISTRATION: THE WAY THIS IS WRITTEN, COMMERCIAL RECYCLING DOESN'T NECESSARILY HAVE TO BE SINGLE-STREAM BECAUSE IT CONTEMPLATES OTHER RECYCLABLE MATERIALS THAT ARE NOT TRADITIONALLY SINGLE-STREAM. PLEASE VERIFY THAT THIS IS THE WAY YOU WANT IT TO READ]**

1) *Newspaper; Cardboard; Magazines and catalogues; Telephone books and/or directories; and Office paper* - (with said terms having the same definitions, and including the same type(s) of recyclable materials as provided in Sections 90-340(a) and (b) hereof);
2) *Glass* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in Section 90-340(a) hereof);
3) *Metal food and beverage containers* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in Section 90-340(a) hereof);
4) *Other metal containers* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in Section 90-340(a) hereof, but also, for purposes of this subsection(4), including scrap metal, which shall mean used or discarded items suitable for recycling, consisting predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel or alloys thereof including, but not limited to, bulk metals such as large metal fixtures and appliances (including white goods such as washing machines, refrigerators, etc.),

but excluding metal containers utilized to store flammable or volatile chemicals, such as fuel tanks.;

5) *Plastics* - (with said term having the same definition and including the same type(s) of recyclable materials as provided in section 90-340(a) hereof);
6) *Textiles*;
7) *Wood* – clean wood waste and/or pieces generated as byproducts from manufacturing of wood products and wood demolition waste (i.e. lumber, plywood, etc.) thrown away in the course of remodeling or construction. It excludes clean yard waste and clean waste (i.e. natural vegetation and minerals such as stumps, brush, blackberry vines, tree branches, and associated dirt, sand, tree bark, sand and rocks), treated lumber, wood pieces, or particles containing chemical preservatives, composition roofing, roofing paper, insulation, sheetrock, and glass,

Organic Materials - A commercial establishment that recycles organic materials (as defined in Section 90-340 hereof) in a separate bin that is serviced by a city licensed recycling contractor shall be deemed to satisfy one of the three(3) recyclable materials options in this subsection.

Sec. 90-342. Unauthorized collection of designated recyclable materials.

Only those recycling contractors that have been authorized by the city and the state to collect designated recyclables in the city shall be authorized to collect recyclable materials under this article.

Sec. 90-343. Public education program; warning period and enforcement date.

a) Beginning January 1, 2011, the city shall engage in public education efforts and the city shall not prosecute individuals who unknowingly fail to separate recyclable materials from all other solid waste materials required to be separated by this article until as provided in subsections (d) and (e) of this section.

b) All recycling contractors must appropriately designate the recycling collection containers they provide to customers. The containers must contain the appropriate signage and information, as shall be established and approved by the city pursuant to subsection (c) below, that allows users to clearly and easily identify the container for recycling.

c) The city shall establish an educational tag program whereby appropriate information, in the form of tags, stickers, or other signage approved by the city manager, shall be required to be placed on all recycling containers, informing the public of proper recyclable materials and procedures. The city shall also provide information on its website regarding what materials are acceptable as recyclables under this article.
d) Beginning January 1, 2012, the city shall provide for a six (6) month warning period, through and including June 30, 2012, in which warning tickets shall be issued to persons who fail to separate recyclable materials from solid waste, regardless of knowledge or intent.

e) Beginning July 1, 2012, this article shall be enforced and penalties shall be applied and imposed for violations of this article.

Sec. 90-344. Liability of contractors.

(a) All recycling contractors shall comply with all applicable state and city laws and regulations. Any recycling contractor who reasonably believes that a person from whom he/she/it collects has violated the separation requirements of article V of this chapter, shall not collect the same, and shall notify the director of public works to report the violation. If the contractor collects such waste, the fines and penalties set forth in sec. 90-347 shall be issued and imposed against him/her/it. Additionally, contractors shall assist and notify the director of public works in identifying persons that unlawfully mixed solid waste with recyclable materials, which were later delivered to a resources recovery facility, transfer station, landfill, or other solid waste facility.

(b) "Red Tag" Noticing System.

1) If a recycling contractor finds materials that are not the correct type as designated for that container (such as recyclables in a sold waste container, or solid waste in a recycling container), the contractor shall then leave a tag on the container identifying the incorrect materials.
2) If the contractor continues to find incorrect materials in a collection container after the contractor has left a previous tag for that customer and that type of container, the contractor must leave another tag on the container identifying the incorrect materials and send a written notice to (i) the person and/or entity who subscribes for that collection service, and (ii) the director of public works.
3) If the contractor continues to find incorrect materials in a collection container after the contractor has already left two (2) or more tags for that customer and that type of container, the contractor may refuse to empty the container. If the container is not emptied, the contractor must leave a tag and send a written notice to (i) the person and/or entity who subscribes for the collection service, identifying the incorrect materials and describing what action must be taken for the materials to be collected, and (ii) to the director of public works; provided, however, that a contractor may not refuse on this basis to empty containers from multifamily or commercial establishment properties with multiple tenants and joint account collection services.
4) The contractor shall, provide to the director of public works a list of the names and addresses of those persons and/or entities who have received tags or notices, or whose containers have not been emptied due to non-compliance with this article, or copies of the tags or notices issued by the contractor. The contractor shall also provide to the director, upon request, a list of the names, addresses, and service levels of the contractor's customers and any additional information required by the director.

Sec. 90-345. Enforcement.

(a) The city manager is hereby authorized and directed to enforce all the provisions of this article regulating and governing the accumulation, collection, recycling, and disposal of recyclable materials. The city manager shall have the power to delegate duties to employees working under his authority in the enforcement of the provisions of this article.

(b) Upon presentation of proper credentials, an inspector designated by the city manager may enter any building, structure, lot, or other premises for the purpose of inspection, or to prevent violations of this article.

(c) The existence of recyclable materials in any place other than in a recycling container, shall be prima facie evidence that the same was created or placed there by the occupant of the multifamily residence or commercial establishment, or the owner, operator, or manager of the premises. The existence of recyclable materials inside a recycling container for seven (7) consecutive days or more shall be prima facie evidence of a violation of this article by the recycling contractor. The absence of recyclable materials in a recycling container for seven (7) consecutive days or more upon the premises shall be prima facie evidence of a violation of this article by the multifamily residence or commercial establishment. For purposes of this section, premises serviced by a recycling contractor shall not include accounts that have been discontinued by the recycling contractor when notice of discontinued service has been mailed to the owner, occupant, operator, or manager of the premises, as well as to the city, prior to the accumulation of the recyclable materials.

(d) The director of the department of public works shall develop warning notices and notices of violation forms with which to impose penalties on violators that are in violation of this article. The city shall issue warning notices and notices of violations notices to property owners, ~~to~~ person(s) in lawful possession of the premises, or to the recycling contractor servicing the premises. In addition, contractors may issue warnings at the request of the director of the department of public works.

(e) Whenever a designated city inspector observes a violation (or violations) of this article, or an accumulation of recyclable materials that creates a health hazard, environmental hazard, or nuisance, the inspector shall order the violation(s) to be corrected within a specified period of time by serving a written notice of violation(s) upon the person causing, or responsible for, such violation and/or health hazard, environmental hazard, or nuisance. Such person shall immediately cease or abate the violation(s).

(f) A notice of violation shall be served personally or by certified mail upon the property owner or the person(s) in lawful possession of the premises, or upon the recycling contractor servicing the premises. If the person addressed with such notice cannot be found by the city after making a reasonable good faith effort, such notice shall be sent by certified mail to the last known address of such person, and a copy of the notice shall be posted in a conspicuous place on the premises. Such notice shall be deemed the equivalent of personal service.

(g) The notice shall specify any fine or penalty that may be due in connection with the violation(s), the time specified by the inspector to correct the violation(s), and the procedure for timely payment or appeal of the fine or penalty.

(h) If the inspector determines that the conditions constitute an immediate threat to the health, safety or welfare of the public, the inspector may order the immediate correction of the violation(s) at the expense of the property owner, occupant, operator, manager, or other person(s) in lawful possession of the premises, and the city shall have the right to recover such expenses as provided in section 90-37.

Sec. 90-346. Exception.

A property owner may seek a waiver from the director of public works of all or portions of this article, if the applicant submits documentation, using a form specified by the city that includes a signed affidavit under penalty of perjury, that shows that the property does not have adequate storage space for containers for recyclables or solid waste or other hardship. In cases where, after on-site verification, space or other limitations are determined to exist, the director shall evaluate the feasibility of sharing containers for recyclables or solid waste with contiguous properties, and, where feasible, may require container sharing in lieu of providing a waiver, or such other suitable solutions as deemed appropriate by the director.

Sec. 90-347. Removal of Recyclable Materials by City/Penalties.

(1) For violations involving failure to remove recyclable materials from a recycling container by a recycling contractor, the city manager may cause the recyclable materials to be removed from the premises and charge the actual costs of removal to the owner, occupant, operator, manager, or other person(s) in lawful possession of the premises.

(2) Penalties for violations of this article shall be as follows:

a. For the first violation, a warning or a fine up to $350.00.

b. For the second violation, a fine of up to $500.00.

c. For the third violation, a fine of up to $1,000.00.

d. For the fourth and subsequent violations, a fine of up to $5,000.00.

(3) Any penalty due pursuant to this article shall also be charged to the owner, occupant, operator, manager, or other person(s) in lawful possession of the premises. Failure to pay such costs and penalties, or to appeal pursuant to section 90-348 within fifteen (15) days of receipt of the notice of violation shall result in the imposition of a lien upon the premises, in the amount of such costs and penalties. Such liens shall be treated as special assessment liens against the subject real property and, until fully paid and discharged, shall remain liens equal in rank and dignity with the lien of ad valorem taxes, and shall be superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved. Such liens shall be enforced by any of the methods provided in Ch. 86, Florida Statutes; or, in the alternative, foreclosure proceedings may be instituted and prosecuted under the provisions of Ch. 173; Florida Statutes; or the collection and enforcement or payment thereof may be accomplished by any other method authorized by law. The owner, occupant, operator, or manager of the premises shall pay all costs of collection, including reasonable attorneys fees incurred in the collection of fines, and other charges, penalties, and liens imposed by virtue of this chapter.

(4) For violations which present a serious threat to the health, safety or welfare of the public, and/or violations that constitute a fourth or subsequent offense by the same violator, the city may seek injunctive relief and/or, in the case of commercial establishments, revoke the business tax receipt and/or certificate of use of the establishment and/or premises.

Sec. 90-348. Appeal to Special Master.

(a) Any person receiving a notice of violation pursuant to this chapter may request, within fifteen (15) days of receipt of the notice, an administrative hearing before a special master, appointed as provided in article II of chapter 30, to appeal the decision of the city inspector resulting in the issuance of the notice. The procedures and application fee for the scheduling and conduct of the hearing shall be as provided in sections 102-384 and 102-385. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation, as noticed, and fines and penalties may be assessed accordingly.

(b) Timely filing of a notice of appeal pursuant to this section shall toll the imposition of a lien or enforcement procedures pursuant to section 90-347, until thirty (30) days after the issuance of a written determination by the special master. Any costs or penalty amounts due the city pursuant to such determination must be received by the city within thirty (30) days after the issuance of the determination, or a lien shall be imposed upon the premises, and any other enforcement or collection procedures may be commenced, as provided by this chapter or under state law.

SECTION 4. REPEALER.

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

SECTION 5. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 6. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 7. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2011.

PASSED and **ADOPTED** this _____ day of _____, 2011.

ATTEST:

_____
MAYOR MATTI HERRERA BOWER

_____
ROBERT PARCHER, CITY CLERK

Underline denotes additions and ~~Strike through~~ denotes deletions.

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ATTACHMENT B

STAFFING REQUIREMENT ANALYSIS

Recycling Ordinance

Staffing Levels - Using Hauler's Non-Compliant Listing

Commercial

Units	3,624.00	(Commercial Establishments within MB)
Non-Compliant Units	1,812.00	Establishments identified to be Non-Compliant
Inspections per Year	12.00	(1 inspection per month)
# of total inspections	21,744.00	Total Number of Annual Inspections
Inspections per day	12.00	(Commercial Establishments are clustered)
Days per week	5.00	
Weeks per year	48.00	(1,024 productive hours)
inspections per inspector	2,880.00	
# of total inspections	21,744.00	(these reflect number of pro-active inspections)
inspections per CCO / year	2,880.00	
	7.55	Full Time Equivalents (CCOs - No Supervisory Staff)

Multi-Family Residential

Units	1,500.00	
Inspections	2.00	Bi-Annual Inspections
# of total inspections	3,000.00	
Inspections per day	8.00	
Days per week	5.00	
Weeks per year	48.00	
inspections per inspector	1,920.00	
# of total inpsections	3,000.00	
inspections per inspector	1,920.00	
	1.56	Full Time Equivalents (CCOs - No Supervisory Staff)

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ATTACHMENT C

Recycling Ordinance Fiscal Analysis

Utilizing Haulers - 9 CCOs / 11 FTEs

EXPENDITURES

Staffing	Hourly Rate	Hours	#	Salary	Pension	Medicare	Health	OT	Holiday Pay	Uniforms	Total
Recycling Manager	$ 28.77	2,080	1	$ 59,841.60	$ 1,210	$ 867.70	$3,561				$65,480
Code Compliance Officers	$ 20.09	2,080	9	$ 41,787.20	$ 845	$ 605.91	$2,487	6,257	$ 592.20	$ 921.32	$481,459
Administrative Aide I	$ 16.82	2,080	1	$ 34,985.60	$ 707	$ 507.29	$2,082	6,257	$ 592.20	$ 921.32	$46,053
TOTAL			**11**	**$136,614**	**$2,762**	**$1,981**	**$8,130**	**12,514**	**$1,184**	**$1,843**	**$592,993**

On-Going Operating Expenditures	Cost / unit	#		
Fuel, Maintenance & Insurance	$ 6,505	5	$ 32,525.00	$32,525
Office Supplies	$ 463	11	$ 5,093.00	$5,093
TOTAL			**$ 37,618.00**	**$37,618**

One-Time Expenditures	Cost / unit	#		
Vehicles - Ford Focus	$ 13,133	5	$ 65,665.00	
Furniture, Fixtures & Equipment	$ 1,000	11	$ 11,000.00	
Computers and Software	$ 4,269	11	$ 46,959.00 (Data provided by IT)	
TOTAL			**$ 123,624**	

TOTAL ANNUAL EXPENDITURES	$630,611
Plus 1st Year Start-Up Costs	$123,624
TOTAL - First Year	$754,235

REVENUES

		Number of Non-Compliant Comercial Establishments	*First Offense*	*Total*	*@ 33% Collection Rate*
1	3,624 Commercial Establishments @ 50% Compliance Rate =	1,812	$350	$634,200	$ 209,286
	1,500 Multi-Family Residential Units @ 50% Compliance Rate =	750	$350	$262,500	$ 86,625
2	1,812 Units - Non-Compliant - 2nd Offense @ 50% =	906	$500	$453,000	$ 149,490
	750 Residential Establishments - 2nd Offense @ 50% =	375	$500	$187,500	$ 61,875
3	90 Commercial Units - Non Compliant at 3rd Offense	90	$1,000	$ 90,000	$ 29,700
	38 Multi-Family - Non-Compliant 3rd Offense	38	$1,000	$ 38,000	$ 12,540
	TOTAL			Revenues @ 33% Collection Rate	$549,516

ITEM FIVE

Under Separate Cover

ITEM SIX

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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: June 23, 2011

SUBJECT: DISCCUSION ITEM ON THE NEWSPAPER ARTICLES REGARDING SECURITY ALLIANCE

At the request of Commissioner Wolfson, the Mayor and City Commission at its April 13, 2011 meeting referred Agenda Item C4J, as a discussion item relative to newspaper articles involving Security Alliance, to the Finance and Citywide Projects Committee (the "Committee").

In coordination with the City Attorney's Office, the Procurement Director has obtained the following are facts of the case that generated the newspapers articles regarding Security Alliance:

FACTS FROM CASE NO. 8:10-cr-00472-SDM-TBM --- USA v. James B. Loftus, Jr.

Beginning in or around at least the late 1990's and continuing until in or around March 2007, the defendant, JAMES B. LOFTUS, JR., and Brian W. Ouellette occupied high-level security positions at Rooms To Go ("RTG"), which was a Florida corporation with its principal place of business in the Middle District of Florida. In those positions, the defendant and Ouellette were given substantial discretion by RTG to handle security-related matters entrusted to them. Additionally, as employees of the company, the defendant and Ouellette owed a fiduciary duty to RTG not to engage in certain activities, including the solicitation and receipt of kickbacks from outside vendors which RTG would, from time to time, retain to perform security-related services for it.

Without RTG's knowledge and approval, however, the defendant and Ouellette created, among other entities, Lot 49 Inc. and Wiley Management Corp. ("Wiley Management"), respectively to enable themselves to secretly receive kickbacks from an outside security vendor named Security Alliance, LLC, a/k/a Security Alliance of Florida, LLC ("Security Alliance"), which RTG had retained to employ and manage its security guards. Unbeknownst to RTG, Security Alliance had created another company, Choice Management Solutions, LLC ("Choice Management"), to make these kickback payments to the defendants and Ouellette.

To conceal and cover-up these kickbacks from RTG, the defendant and Ouellette, among other things, secretly prepared sham invoices addressed to Security Alliance and Choice Management which fraudulently sought payment for "consulting" services, and which required that such payments be made indirectly to the defendant and Ouellette through Lot 49 Inc. and Wiley Management, respectively. The defendant and Ouellette e-mailed these fraudulent invoices to Security Alliance and Choice Management, and Security Alliance and Choice Management, in turn, used the United States mail ("Postal Service") to deliver checks to the defendant and Ouellette which were addressed and made payable to Lot 49 Inc. and Wiley Management, respectively. The defendant and Ouellette received these checks from the United States Postal Service at the place the defendant and Ouellette directed said checks to be delivered.

All total, the defendant and Ouellette solicited and received kickbacks from Security Alliance and Choice Management in the amounts of approximately $287,562 and $550,456, respectively. In exchange for these payments, the defendant and Ouellette provided favorable treatment to Security Alliance in their official positions with RTG, including the opportunity to employ and manage, and to continue employing and managing, RTG's security guards.

SECURITY ALLIANCE'S POSITION

Security Alliance, via e-mail dated April 25, 2011, prepared the following statement as their position on this subject matter:

> *"Security Alliance has never been the target of a criminal investigation. The language of the charges against Mr. Ouelette and Mr. Loftus should not be misinterpreted. Security Alliance was a victim, like Rooms To Go, of the defendants' greed and undue influence. In actual fact, Security Alliance cooperated fully in assisting both Rooms To Go, and the FBI to investigate and prosecute this case. Indeed, those individuals were named by Rooms To Go in a "pure bill of discovery" lawsuit, along with other known victimized vendors, including Security Alliance, in order to obtain further evidence. That lawsuit was promptly dismissed with prejudice as to Security Alliance based on our assistance and cooperation with the FBI. It should also be clearly understood that Choice Management Solutions was formed on advice of our accountant to segregate our managerial and office staff from our security staff, in terms of employee benefits, and for administrative efficiency in paying vendors. It continues to exist and operate for these purposes to this day."*

As of the writing of this memorandum, neither the Procurement Office nor City Attorney's Office has been able to confirm Security Alliance's position as stated above. Numerous requests have been made to Assistant U.S. Attorney Christopher P. Tuite (prosecuting attorney), but Mr. Tuite has not responded to requests for information.

Should the U.S. Attorney's Office provide additional information prior to the June 23rd meeting, an oral report will be presented to the Committee.

It is important to note that Security Alliance's contract with the City expires on April 30, 2012, and the City Commission has authorized the issuance of a Request for Proposals (RFP) by October 1, 2011.

As always, please feel free to contact me should you have any questions or require additional information on this item.

Attachment: Plea Agreement Case of U.S.A. v. James B. Loftus, Jr.

c: Jose Smith, City Attorney

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v. CASE NO. 8:10-cr-472-T-23TBM

JAMES B. LOFTUS, JR.

PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(c), the United States of America, by Robert E. O'Neill, United States Attorney for the Middle District of Florida, the defendant, JAMES B. LOFTUS, JR., and the attorney for the defendant, Seth D. Kirschenbaum, Esq., mutually agree as follows:

A. Particularized Terms

1. Count(s) Pleading To

The defendant shall enter a guilty plea to Count One of an Information, which charges the defendant with conspiracy to commit honest services mail fraud, in violation of 18 U.S.C. § 1349.

2. Maximum Penalties

Count One carries a maximum sentence of twenty (20) years imprisonment, a maximum fine of $250,000 or twice the gross gain caused by the offense or twice the gross loss caused by the offense, whichever is greater, a term of supervised release of not more than three (3) years, and a special assessment of $100, said special assessment to be due on the date of sentencing. With respect to certain

offenses, the Court shall order the defendant to make restitution to any victim of the offense, and with respect to other offenses, the Court may order the defendant to make restitution to any victim of the offense, or to the community, as set forth below.

3. Elements of the Offense(s)

The defendant acknowledges understanding the nature and elements of the offense with which the defendant has been charged and to which the defendant is pleading guilty. The elements of Count One are:

First: That two or more persons, in some way or manner, agreed to try and accomplish a common and unlawful plan, as charged in the Information; and

Second: That the defendant knew the unlawful purpose of the plan and willfully joined in it.

4. Indictment Waiver

The defendant will waive the right to be charged by way of indictment before a federal grand jury.

5. No Further Charges

If the Court accepts this plea agreement, the United States Attorney's Office for the Middle District of Florida agrees not to charge the defendant with committing any other federal criminal offenses known to the United States Attorney's Office at the time of the execution of this agreement which are related to the conduct giving rise to this plea agreement.

6. Guidelines Sentence

Pursuant to Fed. R. Crim. P. 11(c)(1)(B), the United States will recommend to the Court that the defendant be sentenced within the defendant's

applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines (USSG), as adjusted by any departure the United States has agreed to recommend in this plea agreement. The parties understand, however, that such a recommendation is not binding upon the Court, and that, if it is not accepted by the Court, neither the United States nor the defendant will be allowed to withdraw from the plea agreement, and the defendant will not be allowed to withdraw from the plea of guilty.

7. Acceptance of Responsibility - Three Levels

At the time of sentencing, and in the event that no adverse information is received suggesting such a recommendation to be unwarranted, the United States will not oppose the defendant's request to the Court that the defendant receive a two-level downward adjustment for acceptance of responsibility, pursuant to USSG §3E1.1(a). The defendant understands that this recommendation or request is not binding on the Court, however, and that, if it is not accepted by the Court, the defendant will not be allowed to withdraw from the plea of guilty.

Further, at the time of sentencing, if the defendant's offense level prior to the operation of subsection (a) is a level 16 or greater, and if the defendant complies with the provisions of USSG §3E1.1(b), the United States agrees to file a motion pursuant to USSG §3E1.1(b) for a downward adjustment of one (1) additional level. The defendant understands that the determination as to whether the defendant has qualified for a downward adjustment of a third level for acceptance of responsibility rests solely with the United States Attorney for the Middle District of Florida, and the

defendant agrees that the defendant cannot, and will not, challenge that determination, whether by appeal, collateral attack or otherwise.

8. Cooperation - Substantial Assistance to be Considered

The defendant agrees to cooperate fully with the United States in the investigation and prosecution of other persons, and to testify, subject to a prosecution for perjury or making a false statement, fully and truthfully before any federal court proceeding or federal grand jury in connection with the charge in this case and other matters, such cooperation to further include a full and complete disclosure of all relevant information, including production of any and all books, papers, documents and other objects in the defendant's possession or control, and to be reasonably available for interviews which the United States may require. If the defendant's cooperation is completed prior to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion at the time of sentencing recommending (1) a downward departure from the applicable guideline range pursuant to USSG §5K1.1, or (2) the imposition of a sentence below a statutory minimum, if any, pursuant to 18 U.S.C. § 3553(e), or (3) both. If the defendant's cooperation is completed subsequent to sentencing, the government agrees to consider whether such cooperation qualifies as "substantial assistance" in accordance with the policy of the United States Attorney for the Middle District of Florida, warranting the filing of a motion for a reduction of sentence within one (1) year of the imposition of sentence pursuant to Fed. R. Crim. P. 35(b). In any case, the defendant understands that the determination as to whether "substantial assistance"

has been provided or what type of motion related thereto will be filed, if any, rests solely with the United States Attorney for the Middle District of Florida, and the defendant agrees that the defendant cannot, and will not, challenge that determination, whether by appeal, collateral attack or otherwise.

9. Use of Information - Section 1B1.8

Pursuant to USSG §1B1.8(a), the United States agrees that no self-incriminating information which the defendant may provide during the course of the defendant's cooperation and pursuant to this agreement shall be used in determining the applicable sentencing guideline range, subject to the restrictions and limitations set forth in USSG §1B1.8(b).

10. Cooperation - Responsibilities of Parties

a. The government will make known to the Court and other relevant authorities the nature and extent of the defendant's cooperation and any other mitigating circumstances indicative of the defendant's rehabilitative intent by assuming the fundamental civic duty of reporting crime. The defendant understands, however, that the government cannot make any representation that the Court will impose a lesser sentence solely on account of, or in consideration of, such cooperation.

b. It is understood that should the defendant knowingly provide incomplete or untruthful testimony, statements, or information pursuant to this agreement, or should the defendant falsely implicate or incriminate any person, or should the defendant fail to voluntarily and unreservedly disclose and provide full, complete, truthful and honest knowledge, information and cooperation regarding any of the matters noted herein, the following conditions shall apply:

(1) The defendant may be prosecuted for any perjury or false declarations, if any, committed while testifying pursuant to this agreement, or for obstruction of justice.

(2) The United States may prosecute the defendant for the charges which are to be dismissed pursuant to this agreement, if any, and may either seek reinstatement of, or refile, such charges and prosecute the defendant thereon in the event such charges have been dismissed pursuant to this agreement. With regard to such charges, if any, which have been dismissed, the defendant, being fully aware of the nature of all such charges now pending in the instant case, and being further aware of the defendant's rights, as to all felony charges pending in such cases (those offenses punishable by imprisonment for a term of over one (1) year), not to be held to answer to said felony charges unless on a presentment or indictment of a grand jury, does hereby agree to reinstatement of such charges by recision of any order dismissing them or, alternatively, does hereby waive, in open court, prosecution by indictment and consents that the United States may proceed by information instead of by indictment with regard to any felony charges which may be dismissed in the instant case, pursuant to this plea agreement, and the defendant further agrees to waive the statute of limitations and any speedy trial claims on such charges.

(3) The United States may prosecute the defendant for any offenses set forth herein, if any, the prosecution of which in accordance with this agreement, the United States agrees to forego, and the defendant agrees to waive the statute of limitations and any speedy trial claims as to any such offenses.

(4) The government may use against the defendant the defendant's own admissions and statements and the information and books, papers, documents, and objects that the defendant has furnished in the course of the defendant's cooperation with the government.

(5) The defendant will not be permitted to withdraw the guilty plea to the count to which the defendant hereby agrees to plead in the instant case but, in that event, the defendant will be entitled to the sentencing limitations, if any, set forth in this plea agreement, with regard to that count to which the defendant has pled; or in the alternative, at the option of the United States, the United States may move the Court to declare this entire plea agreement null and void.

11. Forfeiture of Assets

The defendant agrees to forfeit to the United States immediately and voluntarily any and all assets and property, or portions thereof, subject to forfeiture, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), whether in the possession or control of the United States or in the possession or control of the defendant or the defendant's nominees. The assets to be forfeited specifically include, but are not limited to, a money judgment in the amount of $287,562, which sum represents the proceeds obtained as a result of Count One. The defendant also hereby agrees to waive all constitutional, statutory and procedural challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture described herein constitutes an excessive fine, was not properly noticed in the charging

instrument, addressed by the Court at the time of the guilty plea, announced at sentencing, or incorporated into the judgment.

The defendant admits and agrees that the conduct described in the Factual Basis below provides a sufficient factual and statutory basis for the forfeiture of the property sought by the government. Pursuant to the provisions of Rule 32.2(b)(1)(A), the United States and the defendant request that at the time of accepting this plea agreement, the Court make a determination that the government has established the amount of the proceeds of the offense to which the defendant is pleading guilty is $287,562 and enter an Order of forfeiture. Pursuant to Rule 32.2(b)(4), the defendant agrees that the preliminary order of forfeiture will satisfy the notice requirement and will be final as to the defendant at the time it is entered. In the event the forfeiture is omitted from the judgment, the defendant agrees that the forfeiture Order may be incorporated into the written judgment at any time pursuant to Rule 36.

The defendant agrees that the United States shall, at its option, be entitled to the forfeiture of any property ("substitute assets") of the defendant up to the value of the money judgment. The Court shall retain jurisdiction to settle any disputes arising from application of this clause. The defendant agrees that forfeiture of substitute assets as authorized herein shall not be deemed an alteration of the defendant's sentence.

The defendant agrees to take all steps necessary to identify and locate all substitute assets and to transfer custody of such assets to the United States before the defendant's sentencing. To that end, the defendant agrees to make a full and complete

disclosure of all assets over which the defendant exercises control, directly or indirectly, including all assets held by nominees, to execute any documents requested by the United States to obtain from any other parties by lawful means any records of assets owned by the defendant, and to consent tot he release of the defendant's tax returns for the previous five (5) years. The defendant agrees to be interviewed by the government, prior to and after sentencing, regarding such assets. The defendant further agrees to be polygraphed on the issue of assets, if it is deemed necessary by the United States. The defendant's cooperation in this regard is not protected by Federal Rule of Criminal Procedure 11 or USSG §1B1.8.

The defendant agrees to take all steps necessary to assist the government in obtaining clear title to any substitute assets before the defendant's sentencing. In addition to providing full and complete information about substitute assets, these steps include, but are not limited to, the surrender of title, the signing of a consent decree of forfeiture, and the signing of any other documents necessary to effectuate such transfers.

Forfeiture of the defendant's assets shall not be treated as satisfaction of any fine, restitution, cost of imprisonment, or any other penalty the Court may impose upon the defendant in addition to forfeiture.

The defendant agrees that the forfeiture provisions of this plea agreement are intended to, and will, survive the defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement. The forfeitability of any particular property pursuant to this agreement shall be determined as if the defendant had survived, and that determination shall be binding upon the defendant's

heirs, successors and assigns until the agreed forfeiture, including any agreed money judgment amount, is collected in full. To the extent that forfeiture pursuant to this agreement requires the defendant to disgorge wrongfully obtained criminal proceeds for the benefit of the defendant's victims, the defendant agrees that the forfeiture is primarily remedial in nature.

B. Standard Terms and Conditions

1. Restitution, Special Assessment and Fine

The defendant understands and agrees that the Court, in addition to or in lieu of any other penalty, shall order the defendant to make restitution to any victim of the offense, pursuant to 18 U.S.C. § 3663A, for the offenses described in 18 U.S.C. § 3663A(c)(1); and the Court may order the defendant to make restitution to any victim of the offense, pursuant to 18 U.S.C. §§ 3663 or 3579. On each count to which a plea of guilty is entered, the Court shall impose a special assessment, to be payable to the Clerk's Office, United States District Court, and due on the date of sentencing. The defendant understands that this agreement imposes no limitation as to a fine.

2. Supervised Release

The defendant understands that the offenses to which the defendant is pleading provide for imposition of a term of supervised release upon release from imprisonment, and that, if the defendant should violate any condition of release, the defendant would be subject to a further term of imprisonment.

3. Sentencing Information

The United States reserves its right and obligation to report to the Court and the United States Probation Office all information concerning the background, character, and conduct of the defendant, to provide relevant factual information, including the totality of the defendant's criminal activities, if any, not limited to the count to which the defendant pleads, to respond to comments made by the defendant or the defendant's counsel, and to correct any misstatements or inaccuracies. The United States further reserves its right to make any recommendations it deems appropriate regarding the disposition of this case, subject to any limitations set forth herein.

Pursuant to 18 U.S.C. § 3664(d)(3) and Fed. R. Crim. P. 32(d)(2)(A)(ii), the defendant agrees to complete and submit, upon execution of this plea agreement, an affidavit reflecting the defendant's financial condition. The defendant further agrees, and by the execution of this plea agreement, authorizes the United States Attorney's Office to provide to, and obtain from, the United States Probation Office, the financial affidavit, any of the defendant's federal, state and local tax returns, bank records and any other financial information concerning the defendant, for the purpose of making any recommendations to the Court and for collecting any assessments, fines, restitution or forfeiture ordered by the Court.

4. Sentencing Recommendations

It is understood by the parties that the Court is neither a party to nor bound by this agreement. The Court may accept or reject the agreement, or defer a decision until it has had an opportunity to consider the presentence report prepared by the United States Probation Office. The defendant understands and acknowledges

that, although the parties are permitted to make recommendations and present arguments to the Court, the defendant's sentence will be determined solely by the Court, with the assistance of the United States Probation Office. The defendant further understands and acknowledges that any discussions between the defendant or the defendant's attorney and the attorney or other agents for the government regarding any recommendations by the government are not binding on the Court and that, should any recommendations be rejected, the defendant will not be permitted to withdraw the defendant's plea pursuant to this plea agreement. The government expressly reserves the right to support and defend any decision that the Court may make with regard to the defendant's sentence, whether or not such decision is consistent with the government's recommendations contained herein.

5. Defendant's Waiver of Right to Appeal and Right to Collaterally Challenge the Sentence

The defendant agrees that this Court has jurisdiction and authority to impose any sentence up to the statutory maximum and expressly waives the right to appeal the defendant's sentence or to challenge it collaterally on any ground, including the ground that the Court erred in determining the applicable guidelines range pursuant to the United States Sentencing Guidelines, except (a) the ground that the sentence exceeds the defendant's applicable guidelines range as determined by the Court pursuant to the United States Sentencing Guidelines; (b) the ground that the sentence exceeds the statutory maximum penalty; or (c) the ground that the sentence violates the Eighth Amendment to the Constitution; provided, however, that if the government exercises its right to appeal the sentence imposed, as authorized by 18 U.S.C. §

3742(b), then the defendant is released from his waiver and may appeal the sentence as authorized by 18 U.S.C. § 3742(a).

6. Middle District of Florida Agreement

It is further understood that this agreement is limited to the Office of the United States Attorney for the Middle District of Florida and cannot bind other federal, state or local prosecuting authorities, although this office will bring the defendant's cooperation, if any, to the attention of other prosecuting officers or others, if requested.

7. Filing of Agreement

This agreement shall be presented to the Court, in open court or in camera, in whole or in part, upon a showing of good cause, and filed in this cause, at the time of the defendant's entry of a plea of guilty pursuant hereto.

8. Voluntariness

The defendant acknowledges that the defendant is entering into this agreement and is pleading guilty freely and voluntarily without reliance upon any discussions between the attorney for the government and the defendant and the defendant's attorney and without the promise of a benefit of any kind (other than the concessions contained herein), and without threats, force, intimidation or coercion of any kind. The defendant further acknowledges the defendant's understanding of the nature of the offense to which the defendant is pleading guilty and the elements thereof, including the penalties provided by law, and the defendant's complete satisfaction with the representation and advice received from the defendant's undersigned counsel. The defendant also understands that the defendant has the right to plead not guilty or to persist in that plea if it has already been made, and that the

defendant has the right to be tried by a jury with the assistance of counsel, the right to confront and cross-examine the witnesses against the defendant, the right against compulsory self-incrimination, and the right to compulsory process for the attendance of witnesses to testify in the defendant's defense; but, by pleading guilty, the defendant waives or gives up those rights and there will be no trial. The defendant further understands that if the defendant pleads guilty, the Court may ask the defendant questions about the offense to which the defendant pled, and if the defendant answers those questions under oath, on the record, and in the presence of counsel, the defendant's answers may later be used against the defendant in a prosecution for perjury or false statement. The defendant also understands that the defendant will be adjudicated guilty of the offense to which the defendant has pled and, if such offense is a felony, may thereby be deprived of certain rights, such as the right to vote, to hold public office, to serve on a jury, or to possess firearms.

9. Factual Basis

The defendant is pleading guilty because the defendant is in fact guilty. The defendant certifies that the defendant does hereby admit that the facts set forth below are true, and that, were this case to go to trial, the United States would be able to prove those specific facts and others beyond a reasonable doubt. The parties further acknowledge and state, however, that these facts are set forth for the limited purpose of complying with Rule 11(b)(3) of the Federal Rules of Criminal Procedure, and are not intended to serve as a complete statement of the defendant's involvement in the offenses to which the defendant is pleading is guilty.

FACTS

Beginning in or around at least the late 1990's and continuing until in or around March 2007, the defendant, JAMES B. LOFTUS, JR., and Brian W. Ouellette occupied high-level security positions at Rooms To Go ("RTG"), which was a Florida corporation with its principal place of business in the Middle District of Florida. In those positions, the defendant and Ouellette were given substantial discretion by RTG to handle the security-related matters entrusted to them. Additionally, as employees of the company, the defendant and Ouellette owed a fiduciary duty to RTG not to engage in certain activities, including the solicitation and receipt of kickbacks from outside vendors which RTG would, from time to time, retain to perform security-related services for it.

Without RTG's knowledge and approval, however, the defendant and Ouellette created, among other entities, Lot 49 Inc. and Wiley Management Corp. ("Wiley Management"), respectively, to enable themselves to secretly receive kickbacks from an outside security vendor named Security Alliance, LLC, a/k/a Security Alliance of Florida, LLC ("Security Alliance"), which RTG had retained to employ and manage its security guards. Unbeknownst to RTG, Security Alliance had created another company, Choice Management Solutions, LLC ("Choice Management"), to make these kickback payments to the defendant and Ouellette.

To conceal and cover-up these kickbacks from RTG, the defendant and Ouellette, among other things, secretly prepared sham invoices addressed to Security Alliance and Choice Management which fraudulently sought payment for "consulting" services, and which required that such payments be made indirectly to the defendant

and Ouellette through Lot 49 Inc. and Wiley Management, respectively. The defendant and Ouellette e-mailed these fraudulent invoices to Security Alliance and Choice Management, and Security Alliance and Choice Management, in turn, used the United States mail ("Postal Service") to deliver checks to the defendant and Ouellette which were addressed and made payable to Lot 49 Inc. and Wiley Management, respectively. The defendant and Ouellette received these checks from the United States Postal Service at the place the defendant and Ouellette directed said checks to be delivered.

All total, the defendant and Ouellette solicited and received kickbacks from Security Alliance and Choice Management in the amounts of approximately $287,562 and $550,456, respectively. In exchange for these payments, the defendant and Ouellette provided favorable treatment to Security Alliance in their official positions with RTG, including the opportunity to employ and manage, and to continue employing and managing, RTG's security guards.

10. Entire Agreement

This plea agreement constitutes the entire agreement between the government and the defendant with respect to the aforementioned guilty plea and no other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys with regard to such guilty plea.

11. Certification

The defendant and the defendant's counsel certify that this plea agreement has been read in its entirety by (or has been read to) the defendant and that the defendant fully understands its terms.

DATED this 4th day of ~~October~~ November, 2010.

ROBERT E. O'NEILL
United States Attorney

By: Christopher P. Tuite

JAMES B. LOETUS, JR.
Defendant

CHRISTOPHER P. TUITE
Assistant United States Attorney

SETH D. KIRSCHENBAUM, ESQ.
Attorney for Defendant

ROBERT T. MONK
Assistant United States Attorney
Deputy Chief, Economic Crimes Section

ITEM SEVEN

MIAMIBEACH

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: June 23, 2011

SUBJECT: **DISCUSSION REGARDING NEW VOLUNTARY BENEFITS AND PROGRAMS**

BACKGROUND

At the April 13, 2011 City Commission meeting, the City Commission passed Resolution No. 2011-27632 providing for new employee funded voluntary benefit plans that included Universal Life, Critical Illness, Accident, and Hospital Indemnity Plans, as well a choice of two legal services plans. In addition, the resolution authorized the Administration to work directly with the individual voluntary benefit plan carriers to select an enrollment firm to provide annual enrollment support and benefit communication materials for all of the City's benefit programs (at no cost to the City).

The Resolution also referred the discussion to the Finance and Citywide Projects Committee of a program that is currently not being provided to City employees, which provides a loan program to employees repaid through payroll deductions (also at no cost to the City).

A copy of the April 13, 2011 Commission Memorandum and Resolution is attached (Attachment A).

Accident Insurance Plan

Accident Insurance provides benefits in the event of covered injuries that occur either at work or outside the work place. Benefits are paid directly to the participant to help offset their unexpected medical costs and lost wages. The plan also includes a daily benefit for hospitalization because of illness. The plan is portable, meaning the employee may continue coverage after leaving the City by paying their premiums directly to the carrier.

At the direction of the City Administration, the City's consultant of record, Gallagher Benefit Services (Gallagher) issued their RFP for the City's voluntary benefit program (discussed at the April 13, 2011 City Commission Meeting). As a result of this RFP, Gallagher recommended that the City Administration offer the Trustmark Accident Plan to its employees. Disagreeing with this recommendation, Colonial Life (one of the insurance carriers responding to Gallagher's RFP) requested the Administration re-examine their proposed plan coverage and cost, as Colonial Life believed their plan was more competitive than the plan proposed by Trustmark. In response, the Administration requested that Gallagher complete a thorough comparison of the two plans (Attachment B), listing all plan benefit and monthly premium cost based on the proposals submitted in response to the RFP, thus highlighting the advantages under each plan.

After a thorough re-examination, Gallagher again deemed that the Trustmark Accident Plan provided the best benefit for the cost the employee would pay. Some of the benefits include:

- A higher hospital confinement payment;
- No benefit reduction at age 65;
- Shorter waiting period before benefits can be paid; and
- Two (2) annual wellness visits.

Based on this updated, comprehensive comparison, and Gallagher's recommendation, the Administration requests to include the Trustmark Accident Plan as a part of the City's voluntary benefit program, as it seems to be the plan that is in the best interest of City employees. This voluntary accident plan benefit, along with the universal life, critical illness and hospital indemnity plans will be made available when the new insurance/benefit plan year begins for City employees on January 1, 2012.

Payroll Deduction Loan Program

As indicated in Resolution No. 2011-27632, the Administration was made aware of a voluntary employee emergency loan program through BMG Money, which offers all active full-time and part-time employees loans through a program called Loans at Work. This program provides employees the opportunity to obtain the credit they may need to cover unexpected or emergency expenses.

The City currently has an option for City employees who may need an emergency loan that can then be paid off through payroll deductions. This option however is only available for those employees who may have a voluntary deferred compensation account through either ICMA-RC or Nationwide (the City's vendors who provide voluntary supplemental retirement accounts to our employees). In addition, City employees who are members of the Dade County Federal Credit Union are able to apply for loans which are then paid off through payroll deductions (although these loans tend not to be emergency loans but rather auto loans, home equity loans, mortgages, etc.).

The Loan at Work program is a direct to consumer loan, designed for employees who do not have access to traditional credit options, such as banks, credit unions, credit cards, deferred compensation and/or retirement accounts. These loans are unsecured and based on the following: (1) employee's employment, (2) employee's bi-weekly net take-home pay, and (3) the ability for the employee to repay the loan. Although the program does not verify the employee's credit, it does however provide the opportunity to build good credit as the loans are reported to the credit reporting agencies when paid off. If the employee separates from City employment, that employee is fully responsible for the full repayment of the loan with the City bearing no responsibility or liability at all for the repayment of the loan.

A copy of the BMG Money Loans at Work program description is attached (Attachment C).

Through the BMG Money Loans at Work program, an employee:

- May borrow up to 20% of their net take-home pay (minimum of $500 to a maximum of $5,000) with interest computed daily and based on the amount of the loan (from 23.75% to 29.75);
- Pays a $25 loan application fee (per loan);
- Selects their repayment period, at either 6, 12, 18 or 24 months; and
- Can pre-pay the outstanding loan amount at any time without penalty.

The program is at no cost to the City. Human Resources would need to provide BMG a data file, set-up the appropriate payroll deduction for any approved loans, and wire the bi-weekly payroll loan payments to BMG Money. The program can be made available to employees at any point with at least a 30 day set-up period.

Currently two (2) other municipalities in Miami-Dade County (City of Sweetwater and City of Hialeah Gardens) offer their employees the BMG Loans at Work program. The Administration is not aware of any other company that currently provides this type of program.

CONCLUSION

The Administration recommends accepting Gallagher's recommendation to offer the Trustmark Accident Plan to City employees and asks for direction in making available the BMG Money Loans at Work program as a voluntary offering for City employees.

Attachment A

Resolution No. 2011-27632

RESOLUTION NO. 2011-27632

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF GALLAGHER BENEFIT SERVICES, INC., THE CITY'S CONSULTANT OF RECORD, PURSUANT TO THAT CERTAIN REQUEST FOR PROPOSALS ISSUED BY GALLAGHER ON BEHALF OF THE CITY FOR A VOLUNTARY BENEFITS PROGRAM FOR FULL-TIME AND PART-TIME EMPLOYEEES, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND, IF SUCCESSFUL, EXECUTE AGREEMENTS FOR THE CITY'S VOLUNTARY BENEFITS PROGRAM WITH THE FOLLOWING COMPANIES; 1.) PREFERRED LEGAL AND U.S. LEGAL, FOR DISCOUNT LEGAL SERVICE PROGRAMS; 2.) TRUSTMARK, FOR ACCIDENT, CRITICAL ILLNESS AND UNIVERSAL LIFE PLANS; AND 3.) COLONIAL LIFE & ACCIDENT INSURANCE COMPANY, FOR A HOSPITAL INDEMNITY PLAN; FURTHER AUTHORIZING THE ADMINISTRATION TO WORK DIRECTLY WITH THE SELECTED INDIVIDUAL PLAN CARRIERS TO SELECT ONE (1) ENROLLMENT FIRM TO PROVIDE ANNUAL ENROLLMENT SUPPORT AND BENEFIT MATERIALS FOR ALL OF THE CITY'S BENEFIT PROGRAMS, AT NO COST TO THE CITY; AND FURTHER REFERRING THE DISCUSSION OF A POTENTIAL NEW VOLUNTARY BENEFIT OFFERING FOR ACTIVE CITY EMPLOYEES, PROVIDING FOR AN UNSECURED LOAN PROGRAM REPAID THROUGH PAYROLL DEDUCTIONS, TO THE CITY'S FINANCE AND CITYWIDE PROJECTS COMMITTEE.

WHEREAS, the City currently provides its full-time employees access to a voluntary benefits program administered by a broker, Comprehensive Companies, which has been providing these benefits since 1991; and

WHEREAS, these options are provided at no cost to the City and are fully- funded by employee contributions; and

WHEREAS, the employees are provided voluntary benefit options which include universal life, disability, critical life insurance, a cancer policy, and discount legal services; and

WHEREAS, at the direction of the City Administration, the City's Consultant, Gallagher Benefits Services, Inc. (Gallagher), issued a Request for Proposals (RFP) for a voluntary benefits program for both the City's full-time and part-time employees, including a request for enrollment support to be provided by one (1) independent enrollment firm selected among the carrier(s), at no cost to the City; and

WHEREAS, as a result of the RFP, the City received responses from eight (8) individual voluntary benefit plan carriers, and two (2) brokers (the brokers submitted a joint response); and

WHEREAS, the proposed voluntary benefits plans included discount legal services, accident and critical illness plans, a hospital indemnity plan, and universal life plans; and

WHEREAS, as the proposals submitted for critical illness coverage include coverage for cancer, Gallagher recommended the City not provide duplicate coverage for just one (1) condition, resulting in the elimination of an offering of an individual cancer policy; and

WHEREAS, based on the proposals received pursuant to the RFP, Gallagher recommends that the City enter into agreements for a voluntary benefits program, fully-funded by employee contributions with the following firms: 1.) Preferred Legal Plan and U.S. Legal (the

incumbent), for a choice of discount legal plans; 2.) Trustmark, for Accident, Critical Illness and Universal Life Plans; and 3.) Colonial Life & Accident Insurance Company (through brokers Citrin Financial and Pearl Benefit Group), for a Hospital Indemnity Plan; and

WHEREAS, the Administration has reviewed the recommendations made by Gallagher and recommends accepting its recommendations; and

WHEREAS, the Administration will also work directly with the selected individual plan carriers to select one (1) enrollment firm to provide annual enrollment support and customized, printed benefit communication materials for all of the City's benefit programs, at no cost to the City; and

WHEREAS, the Administration has also been made aware of a new additional voluntary benefit, providing for an unsecured loan program for active employees repaid through payroll deductions and would recommend that this be referred to the City's Finance and Citywide Projects Committee for further discussion.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby accept the recommendation of Gallagher Benefit Services, Inc., the City's Consultant of Record, pursuant to that certain request for proposals issued by Gallagher on behalf of the City for a voluntary benefits program for full-time and part-time employees, and authorizes the City Manager to negotiate and, if successful, execute agreements for the City's voluntary benefits program with the following companies; 1.) Preferred Legal and U.S. Legal, for discount legal service programs; 2.) Trustmark, for Accident, Critical Illness and Universal Life Plans; and 3.) Colonial Life & Accident Insurance Company for a Hospital Indemnity Plan; further authorizing the Administration to work directly with the selected individual plan carriers to select one (1) enrollment firm to provide annual enrollment support and benefit materials for all of the City's benefit programs, at no cost to the City; and further referring the discussion of a potential new voluntary benefit offering for active City employees, providing for an unsecured loan program repaid through payroll deductions, to the City's Finance and Citywide Projects Committee.

PASSED and ADOPTED this 13th day of April, 2011.

Mattie H. Bower

MAYOR
Mattie Herrera Bower

ATTEST:

Robert Parcher

CITY CLERK
Robert Parcher

APPROVED AS TO FORM & LANGUAGE & FOR EXECUTION

4-8-11

City Attorney **Date**
for Jose Smith

Condensed Title:

A Resolution authorizing the City to enter into agreements for the City's voluntary benefits program pursuant to the RFP issued by Gallagher Benefit Services, the City's consultant of record, and referring the discussion of a possible new voluntary benefit to be offered to employees to the Finance and Citywide Projects Committee.

Key Intended Outcome Supported:

Control costs of payroll including salary and fringe benefits

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

I. 2007 Internal Support Functions Survey
- Overall satisfaction of benefits administration was rated 75.6% as excellent or good combined

II. 2008 Environmental Scan
- Motivated and Skilled Workforce turnover rates = 13.86% for 2007 vs. 10.7% for 2006

Issue:

Should the City enter into individual agreements to provide employee fully funded voluntary benefit programs with Preferred Legal Plan and U.S. Legal, Trustmark and Colonia Life & Accident (through brokers Citrin Financial and Pearl Benefit Group) and work with voluntary benefit carriers to select one (1) independent enrollment firm to provide annual enrollment support and customized printed enrollment communication materials, all at no cost to the City as all the voluntary benefit programs are fully funded by employees. In addition, referring the discussion of a possible new voluntary benefit to be offered to employees to the Finance and Citywide Projects Committee.

Item Summary/Recommendation:

The City currently provides employees access to a voluntary benefit program administered by a broker (Comprehensive Companies), who has been providing these benefits since 1991. At the City's direction, Gallagher Benefits Services issued RFP No. 11-003 which included a request for enrollment support to be provided by an independent enrollment firm at no cost to the City. The RFP was sent to individual voluntary benefit carriers and benefit brokers as the Administration wanted to consider all options available. The City received responses from eight (8) individual voluntary plan providers and two (2) brokers, (the brokers submitted a joint response).

As a result of this RFP, Gallagher Benefits Services recommended the City enter into agreements for a voluntary benefit program, fully funded by employee contributions, with Preferred Legal Plan and U.S. Legal for a discount legal plan; Trustmark for accident, critical illness and universal life plans; and Colonial Life & Accident Insurance Company (through Citrin Financial and Pearl Benefit Group) for a hospital indemnity plan; with the Administration working directly with the selected vendors to provide annual enrollment support and customized, printed benefit communication materials for all of the City's benefit programs at no cost to the City.

In addition, referring the discussion of a possible new voluntary benefit to be offered to employees to the Finance and Citywide Projects Committee for review and discussion.

Advisory Board Recommendation:

N/A

Financial Information:

Source of Funds:		Amount	Account
	1	N/A	
	2		
	3		
OBPI	Total		

Financial Impact Summary:

No Fiscal Impact. The voluntary benefit programs are fully funded through employee contributions.

City Clerk's Office Legislative Tracking:

Sue Radig, Human Resources Benefits Administrator I

Sign-Offs:

Department Director	Assistant City Manager	City Manager

MIAMIBEACH

AGENDA ITEM C7G

DATE 4-13-11

MIAMIBEACH

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

COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: April 13, 2011

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY ADMINISTRATION TO ENTER INTO AGREEMENTS FOR THE CITY'S VOLUNTARY BENEFITS PROGRAM PURSUANT TO THE REQUEST FOR PROPOSALS ISSUED BY GALLAGHER BENEFIT SERVICES, INC., THE CITY'S CONSULTANT OF RECORD, AND REFERRING THE DISCUSSION OF A NEW VOLUNTARY BENEFIT TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE.**

ADMINISTRATION RECOMMENDATION

Adopt the Resolution and refer the discussion of a new voluntary benefit to the Finance and Citywide Projects Committee.

BACKGROUND

The City currently provides employees access to a voluntary benefit program. These voluntary benefits include: universal life insurance, disability income insurance, critical life insurance, lump sum cancer insurance and a legal services plan. As these voluntary benefits are fully-funded by employee contributions, the City does not incur any costs related to these plans.

The voluntary benefit plan is administered by a broker, Comprehensive Companies, who has been providing these services to the City since 1991. The City provides the broker with the pertinent employee information to facilitate the enrollment, processes the employee deductions, provides monthly premium payment and billing audits for the carrier, processes the employee's requests to terminate coverage and facilitates problem resolution between the employee and the plan through the broker. These voluntary benefits are currently only available to all full-time employees working at least thirty (30) hours a week.

In order to provide employees with the most current voluntary benefit programs and to review all options available, the Administration worked with Gallagher Benefits Services (Gallagher), the City's consultant of record, to issue their Request for Proposals (RFP) No. 10-2591 on May 8, 2009. In addition, since the City changed from fully-insured to self-insured medical and dental plans on January 1, 2009, and the agreements for both the medical and dental plans were to expire on December 31, 2009, Gallagher also issued their Group Employee Benefits RFP No.10-2589 at the same time for the City's self-funded medical and dental plans and its fully-insured life insurance plan. These Voluntary Benefits and the Group Employee Benefits RFPs provided the Administration the opportunity to review all of the benefit options available for all the plan offerings and determine the plans that provided the best coverage at the lowest or most competitive premium rates.

The Administration presented certain recommendations on voluntary benefits in the past. Given the questions raised and the fact that the City was converting its carriers and plan options for the City's medical, dental and life insurance plans, it was necessary to require all benefit eligible employees and retirees to complete the appropriate enrollment forms for the plan year that would begin on January 1, 2010 during the annual open enrollment that began in early November 2009. In order to prepare for the annual open enrollment and include all relevant information, it was impractical and untimely to make similar changes to the voluntary benefits program at that time. As such, the City remained with the current voluntary benefits program given that there would not be sufficient time to select the possible new providers before the open enrollment period for the 2010 plan year. Given that the voluntary benefits RFP responses were outdated after the 2010 plan year began, Gallagher reissued a new RFP (No. 11-003) on June 23, 2010 for the City's voluntary benefit program. This RFP was issued due to the possibility that premiums or the plan benefits had changed.

Regardless of any changes that may occur with the current voluntary benefits, employees with coverage in one or more of the voluntary benefit plans options currently provided by Comprehensive Companies may continue their coverage under that plan. In addition, these employees will be provided the opportunity to elect additional voluntary benefit programs from the new carriers and/or brokers. Their coverage under the current voluntary benefit plans provided by Comprehensive Companies will continue until such time the employee notifies the Human Resources Department of their intent to cancel their coverage.

ANALYSIS

As referenced before, the Administration's decision to request an RFP for its voluntary benefits program was facilitated by the changes in the City's core group health benefit plans that include health, dental, vision, life and the new short-term disability, long-term disability, employee supplemental and dependent life insurance plans, all of which became effective with the plan year that began January 1, 2010. In addition, the Administration was looking at ways to provide its part-time work affordable healthcare options.

The current process with Comprehensive Companies does not provide the City with the ability to enroll an employee, determine plan costs, or explain the coverage with the employee as this information is not provided to the City. The City provides a monthly file to the broker indicating eligibility information of all newly hired employees, those newly eligible and those employees requesting coverage information or changes to their current coverage. Enrollment is conducted on a time schedule determined by the broker. Plan offerings are determined by the broker and presented to the City for approval. Information regarding new plan offerings or enhancements to current plan offers from the voluntary benefits carriers utilized by the broker is not shared with the City. Should the City discover a discrepancy in the billing or plan coverage, the broker must be contacted to resolve the issue with the plan. This requires the City to explain the issue to the broker, or the broker's representative, who in turn will contact the plan representative to relay the issue to the plan for resolution. This resolution is then shared with the broker, or broker representative, who then shares the information with the City. In some cases, the City has had issues that take weeks to resolve and may impact an employee's pay, should a contribution amount be incorrect. In addition, should the City receive numerous employee complaints that remain unresolved, the City has no recourse with the plan. The extra "layer" of plan management by a broker provides no real value to the employees or the City.

Additionally, the broker is provided a commission by the individual voluntary benefit plan carriers to sell their plans to the City employees. The City does not have any input as to the voluntary benefit plan carrier, the benefit provided by the plan or the cost of the plan. In addition the City receives no remuneration for providing access to City employees during business hours, or the City's collection of the premium contributions from the employee's payroll check and the monthly payment to the voluntary benefit plan carriers for the employee premiums collected.

An option in lieu of having a broker provide these voluntary benefit plans is to have direct agreements with the voluntary benefit carriers themselves, which, when possible, is the recommendation being made by Gallagher. Direct agreements with the various voluntary benefit carriers would provide City employees with the opportunity to consider all the benefits available to them during their initial enrollment period, during the plan year should a lifestyle change occur and at annual enrollment. As an added benefit in having direct agreements with the various voluntary benefit carriers, the City will no longer need to share the employee's personal information, such as social security numbers, salary, and birthdates with a third party, as information will be sent through secure processes directly to the carrier.

In addition, direct agreements afford the City a notice by the carriers of any plan enhancements or new plans complementing its existing offerings, direct contact with the plan's billing representative should there be an issue with the billing process, and contact with plan representatives addressing discrepancies in coverage or issues with employee claims. This direct contact eliminates an additional layer of plan management through a broker, providing timely, accurate resolutions of discrepancies and employee issues. Also, should the plan not provide the services indicated in their agreement with the City, the City can terminate the agreement at anytime, which is not the case if a broker is involved.

Included in the RFP was a request indicating that the proposed premiums should exclude all commission fees as the City nor Gallagher can accept commission payments from the carrier for any employee enrollment.

Gallagher received eight (8) responses to the voluntary benefits RFP. These responses included eight (8) individual carriers and two (2) insurance brokers, Citrin Financial and Pearl Benefit Group, who collaborated and submitted one joint proposal. The incumbent broker, Comprehensive Companies, did not submit a response. Attachment A includes a copy of the letter submitted by Gallagher listing their recommendations.

The voluntary benefit plans being considered are all fully-insured and, as required by the state, are filed with the Florida Insurance Commission. When a benefit plan is filed for approval by the Florida Insurance Commission by an insurance carrier, the filing must include detailed information regarding the benefit coverage the plan will provide, cost of providing the indicated coverage, any commission fees to be paid to a broker or consultant and the premium cost. Once a plan is approved by the Insurance Commission, the carrier cannot make any changes to the coverage, commission fees or premiums without filing the change with the Insurance Commission for their review and subsequent approval or denial. All of the voluntary benefit carriers responding to Gallagher's RFP are for fully-insured plans filed in the state of Florida and therefore, the premiums associated with each plan include commission fees. These commission fees which are included in the premium costs proposed cannot be removed. Given that the City nor Gallagher can accept these commission payments, Gallagher has recommended that the City consider utilizing these commission payments to help offset the cost of the City's management of the plan, including their enrollment, communication to employees, payroll processing, premium billing and the payment of the premiums collected from the employees payroll check to the individual plans.

The chart below provides a summary of the types of voluntary benefit plans and the carriers or brokers who responded to Gallagher's voluntary benefit RFP:

Plan	Individual Carrier	Broker (Citrin Financial and Pearl Benefit Group)
Discount Legal	• ARAG • Fringe Benefit Management (FBMC) • Hyatt Legal Plan • Preferred Legal Plan • U.S. Legal Services (incumbent)	No proposal submitted
Accident Plan	• Fringe Benefit Management (FBMC) • Humana • Trustmark • Unum	• Colonial Life & Accident Insurance Company
Critical Illness	• Fringe Benefit Management (FBMC) • Humana • Trustmark • Unum	• Colonial Life & Accident Insurance Company
Hospital Indemnity	No proposal submitted	• Colonial Life & Accident Insurance Company
Universal Life	• Fringe Benefit Management (FBMC) • Humana • Trustmark • Unum	• Colonial Life & Accident Insurance Company

The respondents were asked to provide proposals for the City's voluntary benefits plan, available to full-time and part-time employees, that would include accident insurance, critical illness insurance, cancer insurance, universal life and discount legal services. In addition, a new offering of a hospital indemnity plan was included. As the proposals for critical illness coverage include coverage for cancer, Gallagher recommended the City not provide duplicate coverage for just one (1) condition, eliminating a current offering of a cancer policy to the City's employees. However, the employees currently enrolled in the current cancer policy may continue their coverage until such time as they notify the Human Resources Department, in writing, of their intent to terminate the coverage.

The following are summaries of each of the voluntary benefits along with Gallagher's recommendation:

Legal Services

Group legal plans provide employees with access to discounted personal legal services, including, but not limited to, divorce, traffic tickets, real estate, wills, bankruptcy, unlimited free legal advice by telephone, free review of legal documents and free face-to-face initial consultations with attorneys, who will answer both general and specific questions regarding all legal issues. The plan comparison below identifies the legal service proposals received and Gallagher's recommendation:

Legal Plan Coverage Comparison

Highlighted plans are those recommended by Gallagher

	ARAG and FBMC*	Hyatt Legal Plans	U.S. Legal Services (incumbent)	Preferred Legal Plan
Customer Service	• 24 hours a day • 7 days a week • 365 days a year	• 24 hours a day • 7 days a week • 365 days a year	• Monday-Friday • 9:00am to 5:00pm	• 24 hours a day • 7 days a week • 365 days a year
Pre-existing Matters	• Covered at reduced rates	• Covered unless an attorney has been retained	• Not Covered	• Covered unless an attorney has been retained
	•	•	•	•
Waiting Period	• None	• None	• for some services, i.e. Divorce,	• None
Credit Report Analysis	• Included	• Links to reports plan attorneys can review and advise	• Not covered	• Full credit review and repair at no cost
Identity Theft Services	• Covered	• Covered	• Not covered	• Covered
Coverage Limits	• None	• None	• Plan limits and exclusions apply, i.e. Family Law limited to 12 hours per year	• None
Use of Services	• Attorney-operated home office administers unlimited advice, document review, correspondences, legal forms, consultation and guidance through entire legal process	• Attorney-operated home office administers unlimited advice, document review, correspondences, legal forms, consultation and guidance through entire legal process	• Member must contact assigned provider (attorney) for all services. Assigned provider (attorney) provides all services under the plan	• Attorney-operated home office administers unlimited advice, document review, correspondences, legal forms, consultation and guidance through entire legal process
Employee Cancellation	• Any time through employer	• Any time through employer	• Any time through employer	• Any time through employer
Enrollment Assistance Provided	• ARAG – No • FBMC – Yes	• Not indicated	• No	• No
Monthly Premium	• Employee $17.95 • Family $17.95	• Employee $18.00 • Family $18.00	• Employee $17.60 • Family $19.76	• Employee $9.95 • Family $9.95
Gallagher's Recommendation and Justification:			• No disruption to currently enrolled employees	• Cost savings to employees • Enhanced services

*The ARAG plan was proposed both individually and through FBMC. As both proposals provided identical benefits and premium costs, they are represented in the same column in this comparison.

Accident Insurance

Accident Insurance provides benefits in the event of covered injuries that occur either at work or outside the work place. Benefits are paid directly to the participant to help offset their unexpected medical costs and lost wages. The plan also includes a daily benefit for hospitalization because of illness. The plan is portable, meaning the employee may continue coverage after leaving the City by paying their premiums directly to the carrier. The following identifies the proposals for an accident insurance policy that were received and Gallagher's recommendation:

Accident Insurance Coverage Comparison
Highlighted plan is that recommended by Gallagher

	Colonial Life (Citrin Financial and Pearl Group)	**FBMC** (Benefit through Allstate)	**Humana** (Benefit through Unum)	**Unum**	**Trustmark**
Hospital Confinement	• $150 per day, max 365 days each accident	• $200 per day, max 90 days each accident	• $200 per day, max 90 days each accident	• $200 per day, max 90 days each accident	• $400 per day, max 365 days each accident
Intensive Care Confinement	• $300 per day max 15 days	• $400 per day, max 90 days each accident	• $800 per day, max 15 days each accident	• $800 per day, max 15 days each accident	• $800 per day, max 15 days each accident
Emergency Room	• $200 each accident	• Not indicated	• $150 each accident	• $150 each accident	• $150 each accident
Physical Therapy	• $50 per visit max 6 visits	• Not indicated	$50 per visit max 6 visits	• $50 per visit max 6 visits	• $50 per visit max 6 visits
Ambulance	$500 per trip	• $200 per trip	$200 per trip	$200 per trip	$300 per trip
Wellness	• None	• None	None	None	• $50 per visit max 2 visits per year
Accidental Dismemberment Loss of finger, toe, hand, foot sight	• $750 to $15,000 dependent on loss	• $120 to $60,000 dependent on loss	• Up to $40,000 dependent on loss	• Up to $40,000 dependent on loss	• $1,500 to $30,000 dependent on loss
Accidental Death Employee Spouse Child(ren)	 • $75,000 • $75,000 • $15,000	 • $40,000 • $20,000 • $10,000	 • $75,000 • $40,000 $10,000	 • $75,000 • $40,000 $10,000	 • $75,000 • $40,000 $20,000
Participation Requirement	None	• 51 enrolled employees	• 10 enrolled employees	• 10 enrolled employees	• 20 enrolled employees
Enrollment Assistance	• Yes	• Yes, through FBMC	• Yes	• Yes	• Yes
Monthly Premium Employee Family	 • $18.00 • $36.00	 • $14.52 • $36.96	 • $16.38 • $38.22	 • $16.38 • $38.22	 • $16.38 • $52.87
Gallagher's Recommendation and Justification:				• Comprehensive benefit schedule • Provides a wellness benefit	

Critical Illness

Critical Illness coverage offers financial assistance in the event of a serious illness, such as a heart attack or stroke. The plan also includes coverage for cancer. Benefits are paid directly to the participant to help offset the unexpected medical costs and lost wages. The plan is portable, meaning the employee may continue coverage after leaving the City by paying their premiums directly to the carrier. The following identifies the proposals for a critical illness policy that were received and Gallagher's recommendation:

Critical Illness Coverage Comparison

Highlighted plan is that recommended by Gallagher

	Colonial Life Citrin Financial and Pearl Group)	**FBMC** (Benefit through Allstate)	**Humana** (Benefit through Unum)	**Unum**	**Trustmark**
Pre-existing Exclusion	• 12 months	• 12 months	• 12 months	• None • Proof of insurability required	• None • Proof of insurability required
Waiting Period	• 30 days	• 30 days	• 30 days	• 30 days	• 30 days
Maximum Benefit	• $10,000	• $10,000	• $100,000	• $50,000	• $50,000
Covered Conditions	• Heart Attack • Bypass • Stroke • Coma • Renal Failure • Major Organ Transplant	• Heart Attack • Stroke • Renal Failure • Major Organ Transplant • Paralysis • Alzheimer's	• Cancer • Heart Attack • Stroke • Renal Failure • Major Organ Transplant • Paralysis (2 or more limbs) • Blindness • ALS • HIV	• Cancer • Heart Attack • Stroke • Coma • Renal Failure Major Organ Transplant, • Paralysis (2 or more limbs)	• Cancer • Heart Attack • Stroke • Renal Failure • Major Organ Transplant • Paralysis (2 or more limbs) • Blindness • ALS • HIV
Premium age banded tobacco/non-tobacco user	• Employee (age 49, rates from $18.50 to $34.90)	• Employee (age 49, rates from $18.70 to $49.92)	• Employee(age 49, rates from $12.92 to $14.22)	• Employee (age 49, rates from $12.92 to $14.22)	• Employee (age 49, rates from $7.41 to $26.00)
Participation Requirement	• 50 employees	• 51 employees	• 10 employees	• 25 employees	• 10 employees
Enrollment Assistance	• Yes	• Yes	• Yes	• Yes	• Yes
Gallagher's Recommendation and Justification:				• Comprehensive coverage • Lowest premium	

Universal Life

Universal Life coverage offers flexible premiums and the ability to increase or decrease the benefit as needs change. The level of coverage is selected by the employee. In addition, the policy earns cash value that may be withdrawn at a future date. The premium cost is based on the amount of coverage elected. The plan is portable, meaning the employee may continue coverage after leaving the City by paying their premiums directly to the carrier. The following identifies the proposals for a universal life policy that were received and Gallagher's recommendation:

Universal Life Comparison

Highlighted plan is that recommended by Gallagher

	Colonial Life (Citrin Financial and Pearl Group)	**Humana** (Benefit through Unum)	**FBMC** (Benefit through Allstate)	**Unum**	**Trustmark**
Guaranteed Issue Amount (Maximum benefit available without proof of good health)	• Up to $100,000	• Up to $200,000	• Up to $100,000	• Up to $200,000	• Up to $200,000
Future Benefit Increases	• At ages 18, 21, and 24	• Allowed	• Not indicated	• Allowed	• Allowed
Infant coverage	• Yes	• No	• After 24 hours	• No	• Yes
Long-term Care Included	• No	• Not Available	• Not Available	• Not available	• Yes
Accelerated Death Benefit	• 75% of benefit • Life expectancy less than 24 months	• 100% of benefit • Life expectancy less than 12 months	• 75% of benefit • Life expectancy less than 24 months	• 100% of benefit • Life expectancy less than 12 months	• 75% of benefit • Life expectancy less than 24 months
Participation Requirement	• Not indicated	• 10 employees	• Not indicated	• 10 employees	• None
Premium	• Based on the amount of coverage elected • Tobacco and non-tobacco user • Employee age				
Enrollment Assistance Provided	• Yes	Yes	• Yes	• Yes	• Yes
Gallagher's Recommendation and Justification				• Affordable Long-Term Care Rider available • Competitive premium	

Hospital Indemnity

Hospital Indemnity coverage offers financial assistance in the event of a hospitalization to help pay for plan deductibles, co-payment and co-insurance, as well as everyday living expenses. Benefits are paid directly to the participant to help offset the unexpected medical costs and lost wages. The plan is portable, meaning the employee may continue coverage after leaving the City by paying their premiums directly to the carrier. The only proposal received was from Colonial Life & Accident (submitted on behalf of Citrin Financial and Pearl Benefit Group jointly). Gallagher has recommended the City provide this benefit due to the availability of customized plans, premiums that do not increase with the employee's age and the financial assistance provided in the event of a hospitalization. Therefore, Colonial Life & Accident Insurance Company is the recommended carrier.

Enrollment Services

As was previously stated, the voluntary benefit plans being considered are all fully-insured and are filed with the Florida Insurance Commission. These filings have broker commissions included in the premium costs. As Gallagher cannot accept these commission payments, it was suggested that the City consider utilizing these payments, which would otherwise remain with the carrier if not paid to Gallagher, to offset the cost of benefit enrollment through an independent enrollment service.

The individual insurance carriers and brokers all responded positively to providing independent enrollment services though an independent enrollment firm. These enrollment firms have working relationships with all voluntary plans as well as with the City's core group health plans (medical, dental, vision, disability and life plans).

The use of an independent enrollment firm reduces the financial impact to the City of the open enrollment for employees and retirees, deferring the cost of all printed enrollment materials from the City to the enrollment firm, as well as alleviating City staff time, thus saving the City additional dollars and staff resources that would have had to be allocated for this effort. The enrollment firm could provide the City employees and retirees a comprehensive, customized, multi-page plan brochure explaining all the benefit plans available to them. In addition, employees would have an opportunity for either face-to-face or telephone enrollments with a non-City employee enrollment representative who would be knowledgeable in the City's health, dental, life, disability and voluntary benefit plans. The Administration considers this to be beneficial to the City as it provides an additional resource in addition to the City's Human Resources staff for employees and retirees regarding the core and voluntary benefit plans provided to them by the City.

During the City's annual enrollment process, the enrollment firm would do the following:

- Provide written enrollment communication;
- Make available benefit enrollers who are fluent in Spanish and Creole;
- Gather missing dependent information, including social security numbers, for all dependents, a federal requirement for all group health plans; and
- Verify dependent eligibility based on criteria required by the City to guarantee that coverage is being provided to the employees' true dependents as defined by the City's eligibility guidelines.

City staff will continue to provide day-to-day enrollment support to employees and retirees, with the enrollment firm providing complimentary support during the annual enrollment period.

Given that the voluntary benefit carriers can make these enrollment services available, the Administration would work directly with the selected voluntary benefit plan carriers to select one (1) enrollment firm to provide enrollment support for the core group health plans and the voluntary options available to employees and retirees. The services of this one (1) enrollment firm would be contracted by the voluntary benefit plan carrier(s) at no cost to the City.

CONCLUSION

The Administration has reviewed the recommendations of Gallagher Benefits Services and recommends awarding the administration of the City's employee funded voluntary benefit programs as follows:

- Legal Plan(s) – (1) Preferred Legal Plans and (2) U.S. Legal Plan (provides employees with a choice between these two (2) legal plans)
- Universal Life, Critical Illness and Accident Plans - Trustmark
- Hospital Indemnity Plan - Colonial Life & Accident Company (Citrin Financial and Pearl Benefits Group as joint brokers)

The City's Human Resources Department continuously explores other voluntary benefits to offer employees and retirees (fully funded by those who chose to participate). One voluntary benefit that the City has recently been made aware of (after the voluntary benefits RFP was issued) is a voluntary loan program which offers active employees an unsecured micro financed loan ranging anywhere from $500 to $5,000 with fixed payments capped at twenty percent (20%) of the employees net take home pay, repaid through payroll deductions with repayment terms up to two (2) years. As this voluntary benefit is one that some active employees may be interested in, it is recommended that this item be referred to the City Commission Finance and Citywide Projects Committee for discussion. As other options become available, the possible inclusion of those other offerings in the City's voluntary benefit program will also be referred to the City Commission for discussion.

Attachment

Gallagher Benefit Services, Inc.

A Subsidiary of Arthur J. Gallagher & Co.

April 1, 2011

Mr. Ramiro Inguanzo, Director of Human Resources
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Worksite Benefits Request for Proposals and Analysis

Dear Ramiro,

On behalf of the City of Miami Beach, Arthur J. Gallagher & Co. prepared a request for proposal for worksite benefits (voluntary) insurance programs. The objective was to seek out payroll deduction benefits providing the employees and their dependents with comprehensive, low cost, affordable plans fully paid by the employees through payroll deduction. In addition, this request for proposal specified any commission payments made available through these products would be utilized to offset all costs associated with providing the employees with one-on-one meetings to explain the benefits and features of all programs offered by the City including the core benefits such as medical, dental, disability and life benefits in addition to the voluntary benefit programs; Universal life, Critical Illness insurance, Accident Insurance and legal services.

After reviewing the financial analysis and benefit comparisons, we recommend the following vendors by product line, the Cancer Benefit has been eliminated because it is included in the Critical Illness Benefit:

- **Universal Life – Trustmark**
  - Competitive Rate Structure
  - Coverage is portable
  - Value Added, Affordable Long Term Care Rider
  - Lowest cost
- **Critical Illness – Trustmark**
  - No benefit reduction due to age
  - Increase coverage regardless of health in first 5 years
  - Cancer benefit included
  - Lowest cost
- **Accident Insurance – Trustmark**
  - Comprehensive Benefits Schedule
  - 24 hour coverage
  - Competitive rates

One Boca Place
2255 Glades Road, Suite 400 E
Boca Raton, FL 33431
561.995.6706
Fax 561.995.6708
www.ajg.com

- **Hospital Indemnity – Colonial**
  - Customized Plans
  - Rates do not increase with age.
  - Competitive Rates

- **Pre-Paid Legal - U.S. Legal Services and Preferred Legal Plan**
  - Provide employees with plan choice
  - Allows for current professional relationships to be maintained while allowing employee benefit and premium choice

In addition to the above, we recommend the City work directly with the selected vendors to administer the enrollment of the City's Worksite (voluntary) Benefits. This will allow the City to maximize funds available via commissions available through these products to offset any and all costs associated with one-on-one employee meetings and the electronic data enrollment necessary to track employee elections for payroll deduction purposes. This applies to the 2011 plan year and subsequent open enrollments.

Should you have any questions, please feel free to contact me at 561-998-6733. Again, we appreciate the opportunity to work with you and the City of Miami Beach.

Regards,

Richard G. Schell
Area Vice President

Attachment B

Comparison

Trustmark Accident Plan vs Colonial Life Accident Plan

Benefit Plan Comparison
Trustmark Accident Plan vs Colonial Life Accident Plan

	Trustmark	Colonial
Coverage Type	24-hour	24 hour / off-job coverage
Hospital Plan	Plan 3	Plan 1 & 2
Hospital Admission Benefit	$2000 per admission	$2000 per admission per accident
Hospital Confinement	$400 (per day up to 365 days)	$300 (per day up to 365 days)
Hospital ICU	$800 (per day up to 15 days)	$600 (per day up to 15 days)
Wellness Benefit	$50 per vist	Available as an optional rider
Waiting Period (Before Wellness Benefit can be accessed)	60 days	
Maximum Visits (Wellness Benefit)	up to 2 visits per person per year, no cap on number of family members.	
Catastrophic Accident Benefit	Benefit is not reduced	Benefit reduced by 50% at age 65
Employee	$100,000	$100,000
Spouse	$50,000	$100,000
Children	$50,000	$50,000
Elimination Period (waiting peroid before benefits begin)	90 days	365 days
Accidental Death Benefit		
Employee	$75,000	$75,000
Spouse	$40,000	$75,000
Children	$20,000	$15,000
Accidental Death Common Carrier Benefit		
Employee	$150,000	$100,000
Spouse	$80,000	$100,000
Children	$40,000	$20,000
Accident Follow-Up Treatment	$100	$120 (up to 3 visits)
Ambulance		
Ground	$300	$500
Air	$1,000	$1,500
Appliance	$200	$150
Blood, Plasma and Platelets	$600	$300

Benefit Plan Comparison
Trustmark Accident Plan vs Colonial Life Accident Plan

Burns		
Flat Amount for:		
3rd degree 35 or more sq. in.	$20,000	$10,000
3rd degree 9-34 sq. in.	$3,000	$1,500
2nd degree for 36% or more of body	$1,500	$750
Concussion	$200	$100
Dislocations		
open reduction	up to $8,000	up to $6,000
closed reduction	up to $4,000	up to $3,000
Doctor's Office Visit	$100	$120
Emergency Dental Benefit		
extraction	$100	$100
crown	$300	$200
Emergency Room Treatment	$150	$200
Eye Injury	$400	$500
Fractures		
open reduction	up to $10,000	up to $7,500
closed reduction	up to $5,000	up to $3,750
chip	25% of closed reduction benefit	25% of closed reduction benefit
Herniated/Ruptured Disc	$800	$400
Lacerations (coverage is based on size)	$50-$800	$25 - $400
Lodging (per night up to 30 days/per person/per accident)	$200	$100 for family member or companion
Loss of Finger, Toe, Hand, Foot or Sight of an Eye		
Loss of both hands, feet, sight of both eye or any combination of 2 or more losses	$30,000	$15,000
Loss of 1 hand, foot or sight of one eye	$15,000	$7,500
Loss of 2 or more fingers, toes or any combination of 2 or more losses	$3,000	$1,500
Loss of 1 finger or 1 toe	$1,500	$750
Physical Therapy	$50(up to 6 visits per person per accident	$50 (up to 6 treatments)

Benefit Plan Comparison

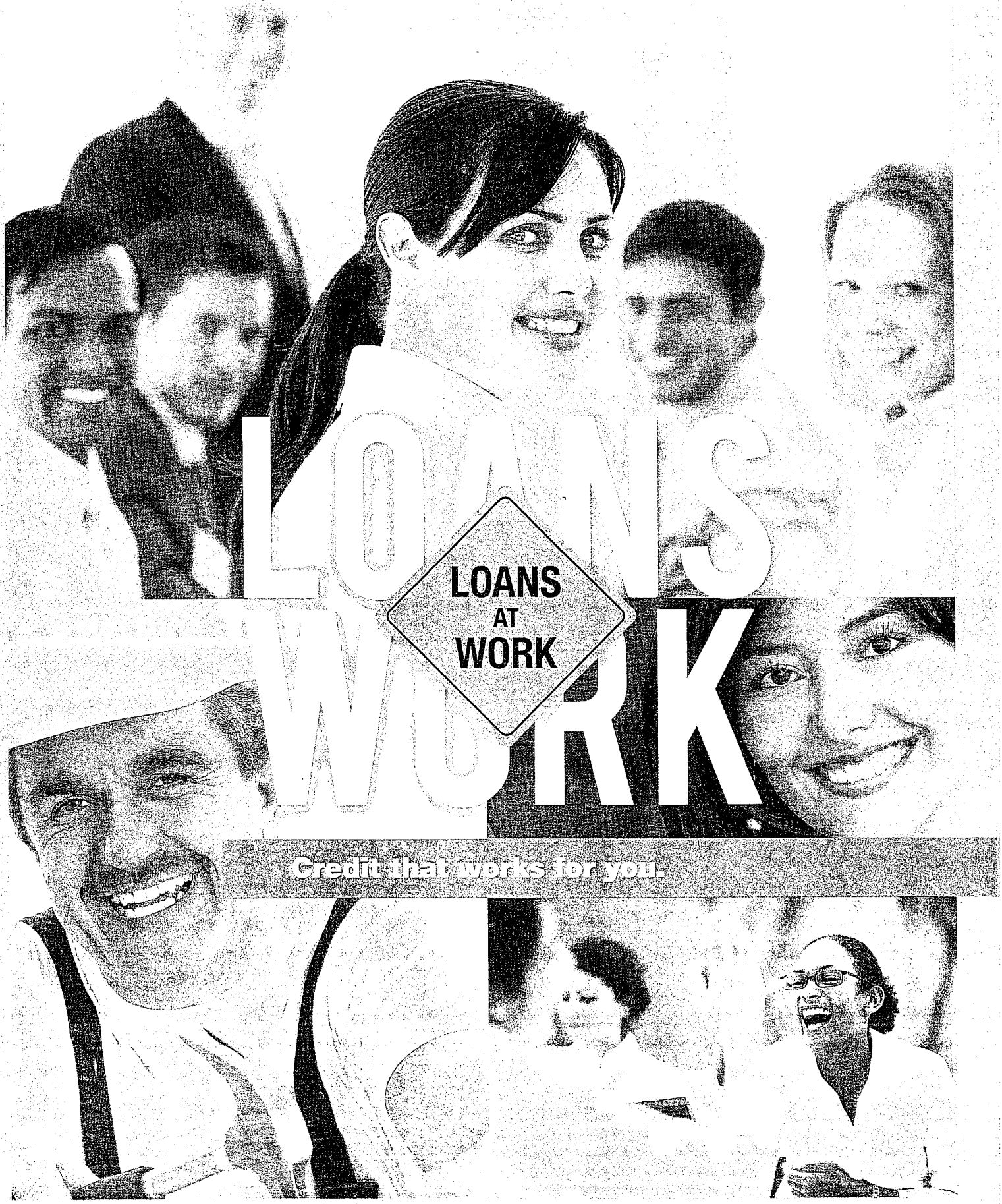
Trustmark Accident Plan vs Colonial Life Accident Plan

Prosthetic Device or Artifical Limb		
More than 1	$2,000	$1,000
One	$1,000	$500
Skin Grafts	25% of burn benefit	25% of burn benefit
Surgery Benefit		
open, abdominal, thoracic	$2,000	$1,500
exploratory	$200	$150
Tendon/Ligament/Rotator Cuff		
repair of more than 1	$1,200	$600
repair of 1	$800	$400
exploratory without repair	$200	$100
Torn Knee Cartilage	$1,000	$500
exploratory	$200	$100
Transportation		
(100 miles up to 3 trips per person per accident)	$600	$300
B-Weekly Premium		
Employee	$8.19	$8.19
Family	$26.44	$19.11
Monthly Premium		
Employee	$16.38	$16.38
Family	$52.87	$38.22
Annual Premium		
Employee	$196.56	$196.56
Family	$634.44	$458.64

Attachment C

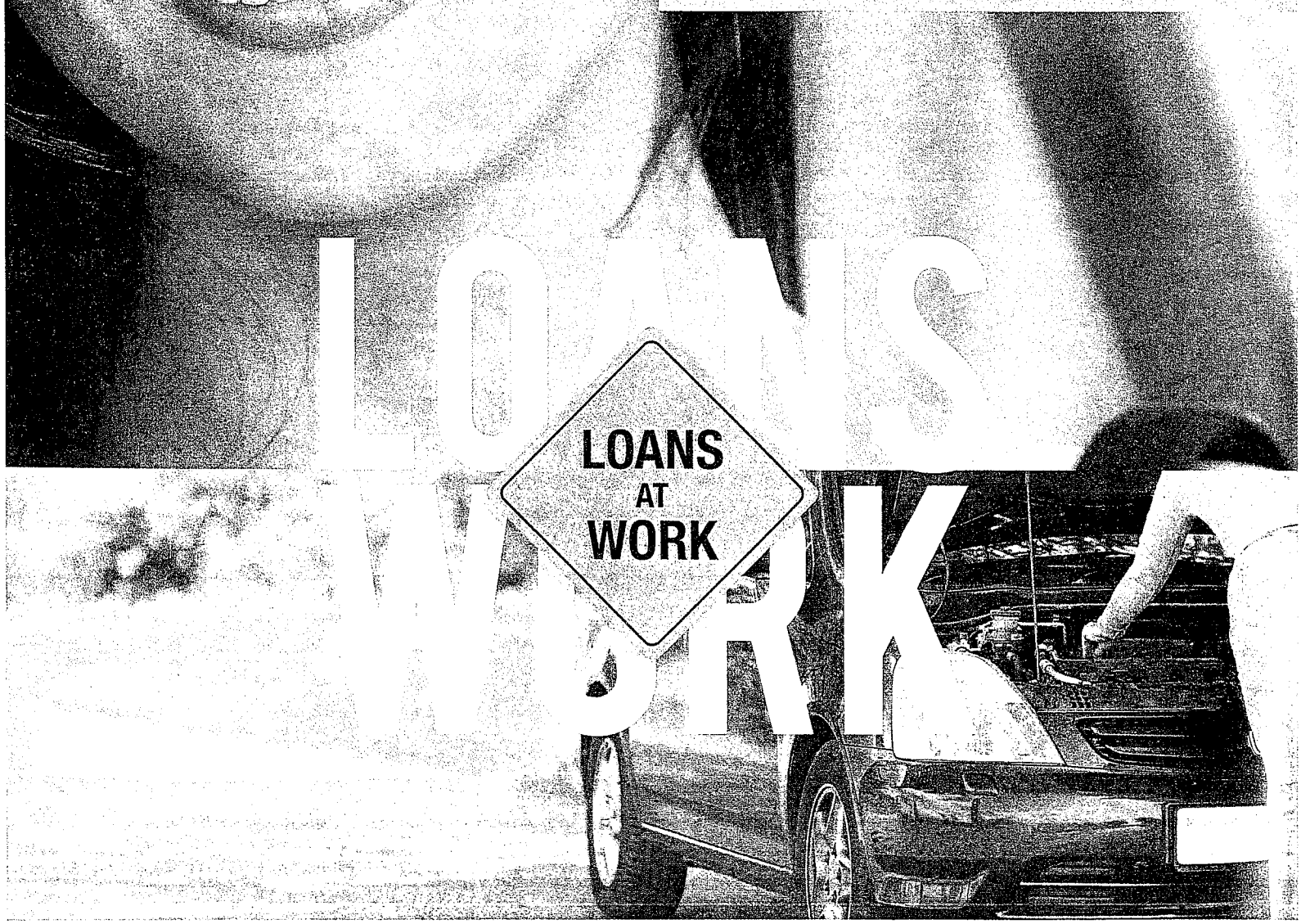
BMG Money

Loans at Work Program


LOANS
WORK
LOANS
AT
WORK
Credit that works for you.

Introducing **LoansAtWork**, an innovative evolution in micro-financing. In recent years, the advent of micro-finance has empowered many around the world by affording them the credit they need, but could not obtain otherwise. **LoansAtWork** brings micro-financing home, and tailors its loan product to the needs of today's workforce.

This new approach to micro-financing provides loans directly to consumers, through an employee benefit program designed for employees who do not have access to traditional credit options. Now, with a **LoansAtWork** micro-loan, you can provide your employees with the opportunity to get the credit they need and deserve. A **LoansAtWork** micro-loan is an unsecured, fully amortizing installment loan.



How it works: How

LoansAtWork is a simple and responsible way for you as an employer to provide your workforce with access to unsecured micro-loans, at no cost.

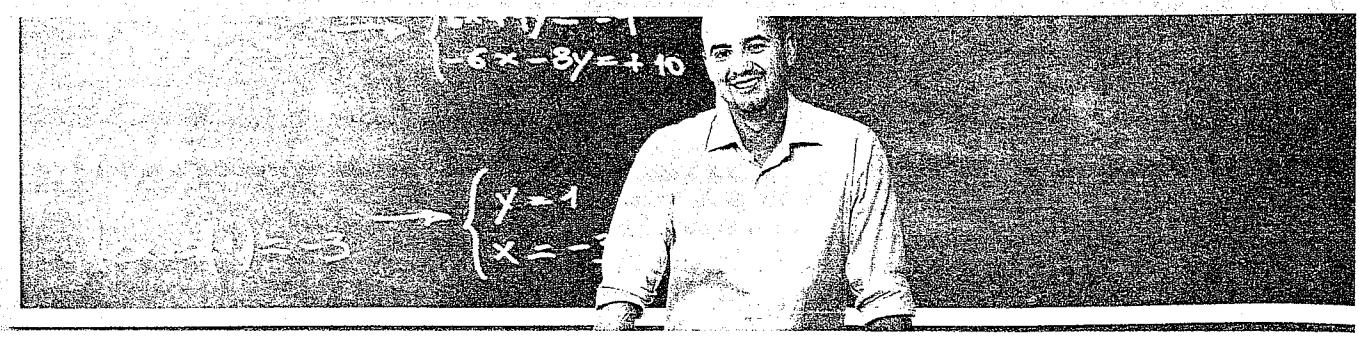
Now, with **LoansAtWork**, you can give your employees the option to apply online for loans of up to $5,000.

- After a loan amount is approved, installment payments will then be deducted from each paycheck, until the loan is paid off.
- For added flexibility, repayment schedules are available from 6 to 24 months.
- Payment amounts will be based on the actual loan amount, the applicable APR and the term of the loan. Also, loan payments cannot exceed 20% of the paycheck, which helps further safeguard your employee's financial health.

A **LoansAtWork** loan means a competitive FIXED rate, with FIXED payments; and that means no surprises. Best of all, since credit score is not driving the approval of the loan, employees with at least a year of employment may qualify for a loan.*

*Other terms and conditions may apply. Not all applicants will qualify for a loan.

Employee's net monthly salary: **$3,000** → **Employee is approved for a loan:** **$5,000** → **Loan to be paid in 24 installments of $265 every month (APR of 24.29%).** → **Employer deducts $265 every month from employee's paycheck until loan is settled.** → **Employee's net salary will be $2,735 (including the deduction) for 24 months.**



Why LoansAtWork works for you?

Increase Employee Productivity

LoansAtWork will help your employees enjoy greater peace of mind regarding their financial situation, which could translate into increased productivity at the work place. It also shows your employees that you care about them and want to support them in their time of need.

Simple to Administer

Once the benefit becomes part of your employee package structure, you will simply need to set up the loan for automatic payroll deduction. **LoansAtWork** has a web-based automated system in place, which makes it simple for the employer to administer the benefit. Plus, **LoansAtWork** will cover any cost you may incur to provide these services.

Provide Financial Education

LoansAtWork provides employees with tools on how to manage their debt and borrow responsibly. Employees will have access to valuable information in order to help them make smart financial decisions, at no cost to you.

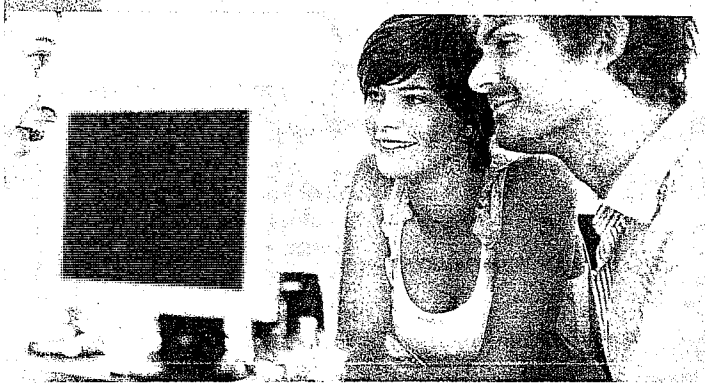
LOANS AT WORK

3 Why LoansAtWork works for your employees:

Why

- Fast and convenient approval process
- Financial education
- No credit check
- No bank account needed
- Loans up to $5,000
- Up to 2-year terms
- FIXED payments**
- Payments help build credit

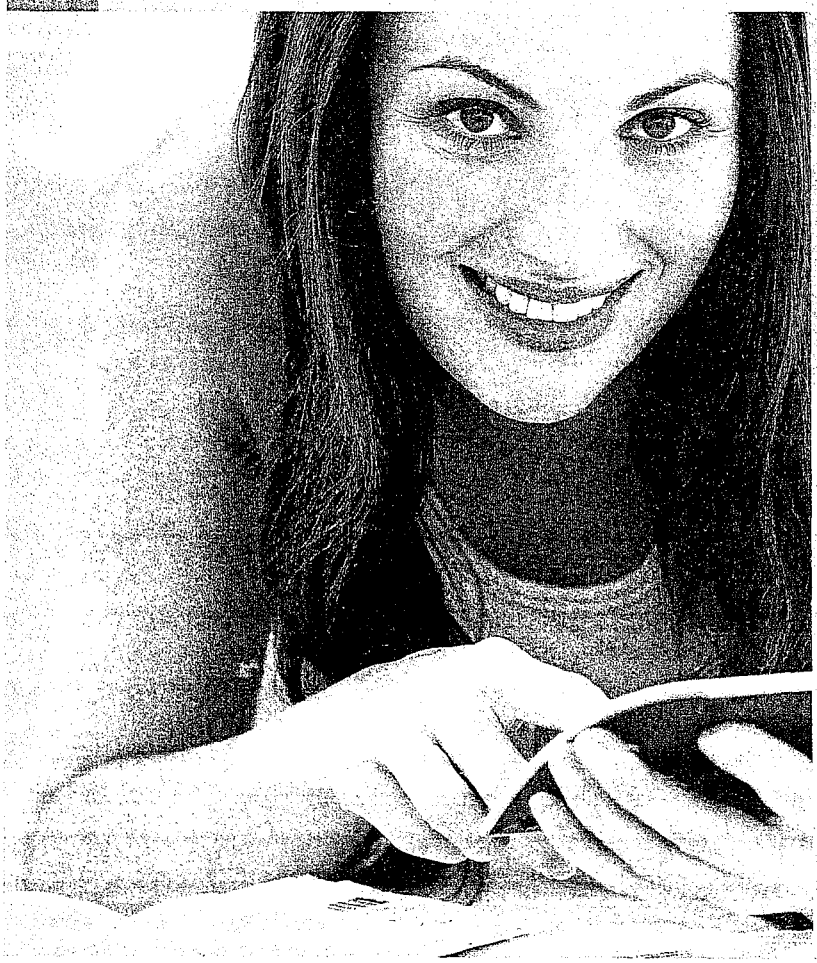
(**With APRs from 23.75% to 29.75%).



How does it work?

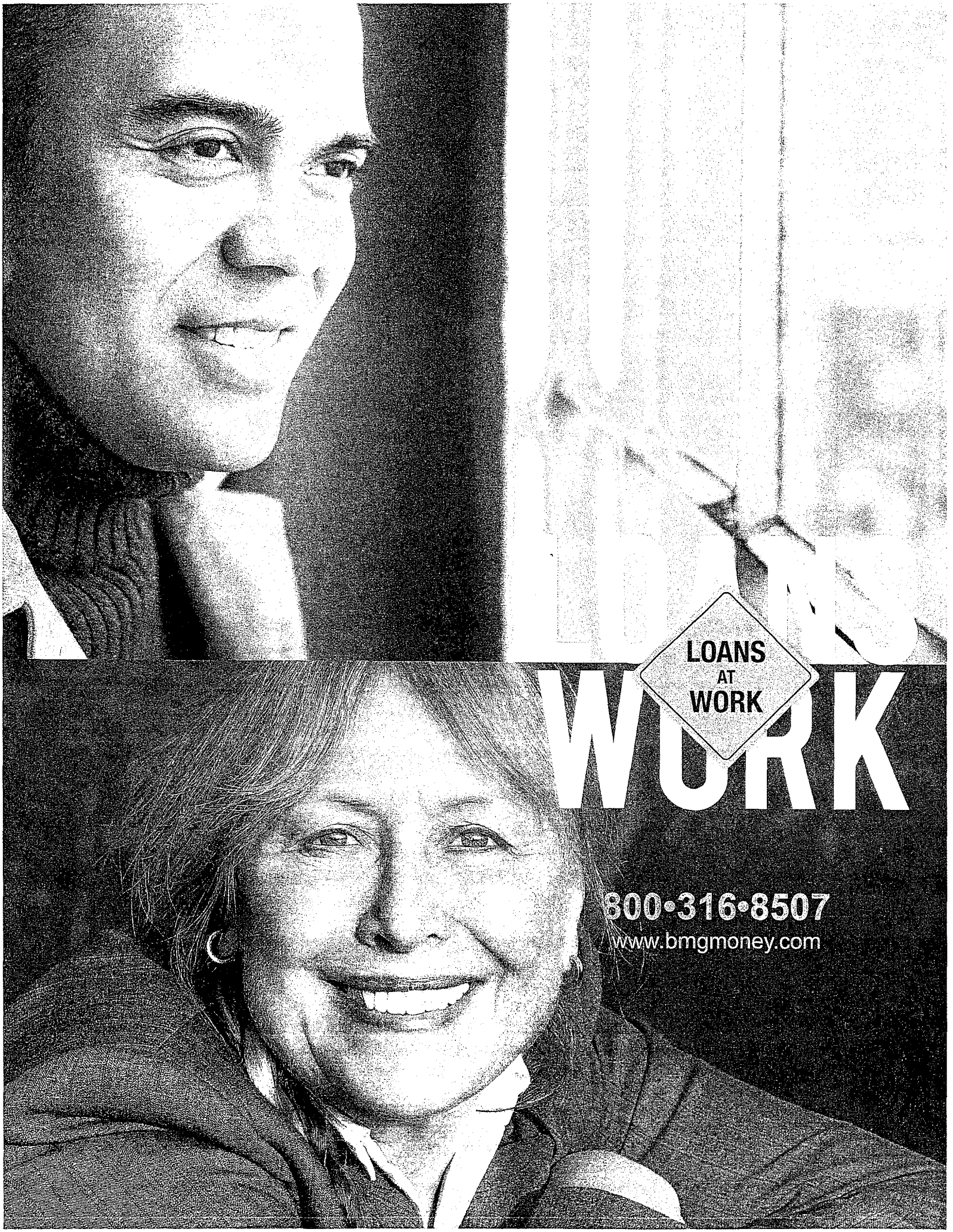
4 How

1. Employee applies online
2. Employee creates a budget to ensure they can afford loan
3. Employee agrees to the terms
4. Employee views his/her status
5. Employee receives the money
6. Installment payments will be deducted from employee's paycheck



LoansAtWork's new approach to micro-lending can help your employees during times of need and improve their performance at no cost to you. Not to mention, affording you the satisfaction of making a meaningful difference in the life of the people who, on a day-to-day basis, make a difference for you. Find out more about how **LoansAtWork** can benefit both your business and workforce.

Your employees will thank you for it!


LOANS
AT
WORK
WORK
800•316•8507
www.bmgmoney.com

ITEM EIGHT

MIAMIBEACH

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

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: June 23, 2011

SUBJECT: **DISCUSSION REGARDING AN AMENDMENT TO THE NSP1 AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS AND THE CITY, AND THE RELATED AGREEMENT BETWEEN THE CITY AND MIAMI BEACH COMMUNITY DEVELOPMENT CORPORATION, TO PERMIT AND OUTLINE THE PROCESS FOR CONSTRUCTION DRAW DOWN OF FUNDS VERSUS A REIMBURSEMENT BASIS.**

This item was referred for discussion at the May 11, 2011 Commission meeting.

BACKGROUND

Resolution No. 2009-27039 was adopted by the City Commission on March 18, 2009, approving the City's application for and planned use of funds available through the United States Department Of Housing and Urban Development's (HUD) Neighborhood Stabilization Program 1 (NSP1). The funds are to be used for the purchase and rehabilitation of one or more multi-family buildings to be kept as rental properties to benefit income-qualified households in accordance with the NSP1 regulations, with an end goal of stabilizing neighborhoods impacted by foreclosures. On September 9, 2009, the City approved Resolution No. 2009-27175 authorizing the execution of the Federally-funded Subgrant Agreement with the State's Department of Community Affairs (DCA), the pass-through entity handling HUD's NSP1 allocation to the City of Miami Beach. That Agreement was subsequently amended to include two additional allocations recaptured from other jurisdictions. A total of $9,305,268 in NSP1 funds was awarded.

After conducting a duly-noticed procurement process, the City Commission awarded $2,376,181.53 of the initial NSP1 allocation to Miami Beach Community Development Corporation (MBCDC) for the acquisition of a 16-unit building. That Agreement was subsequently amended (with Commission approval) to allow for the allocation of the additional NSP1 funds received by the City to MBCDC ($4,432,328 and $1,864,000 respectively), which was used to acquire two more buildings, providing for a total of 60 units being rehabilitated to assist income eligible persons, stabilize neighborhoods affected by foreclosure, and create jobs.

While 82% of the NSP1 funds allocated to MBCDC have been expended - one of the highest expenditure rates for this program in the State - current economic and banking conditions have impacted MBCDC's ability to obtain construction lines of credit and, as a result, this has delayed completion of the contractually required rehabilitation activities. After conferring with DCA/NSP1 representatives, City staff was informed that the majority of its NSP1 sub-recipients are likewise experiencing similar delays and financing hardships. Also as a result, many other communities have requested and have been granted permission to "draw down" funds for rehabilitation activities.

This alternative payment methodology means that instead of having the non-profit developer secure construction loans or otherwise pay the reimbursement packages submitted by their general contractors (GC) and then submit a reimbursement request to their funders, the general contractor's reimbursement request is submitted to the funding agency (in this case the City) for review and

payment. The reimbursement payment still passes through the non-profit developer back to the GC. The payment requests continue to be evaluated at both the non-profit developer and funder level to ensure that the expenses submitted are correct and eligible expenses. More specifically, draw requests would require standard A1A forms and documentation.

In short, a "draw down" reimbursement does not mean advancing funds prior to expenses occurring but, rather, allowing for the intermediary process – payment by the non-profit developer of the reimbursement request submitted by the GC and then reimbursement to the non-profit developer of their payment to the GC – to be eliminated. It remains a reimbursement process. This, in turn, eliminates the need for the non-profit developer to secure private construction financing. This "draw down" process is permitted by USHUD regulations.

MBCDC has requested that a "draw down" reimbursement methodology as described above, be approved for disbursement of NSP1 funds.

ANALYSIS

While at this time it is expected that the remaining NSP1 funds will be expended and the rehabilitation of the three buildings will be completed by March 31, 2012, well within the NSP program deadline of March 1, 2013, compliance with this deadline is contingent upon available financing.

Following the instructions of the DCA staff, City staff prepared a proposed amendment for the contract between DCA and the City, as well as the corresponding contract between the City and MBCDC, to incorporate a draw down process as allowed by US HUD. The attached "Policies and Procedures for Affordable Housing Draw Downs" were developed per guidance from the HOME Training Materials for Certified Specialists, Chapter 7, Effective Construction Management, dated August 2008. As noted and previously stated, the draw requests require specific documentation. The proposed amendment to both agreements (DCA/City and City/MBCDC) would include the option of a "draw down" reimbursement of funds versus a reimbursement process to cover the costs of rehabilitation of the projects.

The Administration has researched draw-down policies already in place for other HUD-funded NSP1 recipients, as well as those in place for standard construction industry projects, and for our own Capital Improvements Program office and proposes the process outlined in the attached Policies and Procedures for Affordable Housing Construction Draw Downs to be followed each time a request for payment is requested by the Developer for the NSP1 projects.

LOAN REVIEW COMMITTEE

On June 20, 2012, the City's Loan Review Committee unanimously passed a motion to accept REHCD's Draft Policy and Procedure for Affordable Housing Construction Draw Downs, subject to the inclusion of language requiring the Developer/Sub-recipient to provide a copy of a cashed check within 10 business days as evidence that payment to the contractor was received, and inclusion of language that Developer/Sub-recipient must be current in its quarterly reporting to the City prior to receiving any pending draw downs.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission authorize an amendment to both NSP1 agreements with DCA and with MBCDC, to facilitate a draw down reimbursement basis instead of a reimbursement basis for disbursement of NSP1 funds.

JMG/HMF/AP/rs
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ITEM NINE

MIAMIBEACH

OFFICE OF THE CITY MANAGER

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager for JMG

DATE: June 23, 2011

SUBJECT: **DISCUSSION REGARDING ADVERTISING ON DECO BIKE STATIONS, ITS ECONOMIC IMPACT TO THE CITY AND THE ENHANCEMENT OF THE DECO BIKE PROGRAM**

On June 1, 2011, The Mayor and Commission, via Agenda Item No. C4A, sponsored by Commissioner Exposito, referred a discussion item to the Finance and Citywide Projects Committee regarding advertising on Deco Bike stations and its economic impact to the City and the enhancement of the Deco Bike program.

As you know, Phase One of the Deco Bike sharing program launched on March 14, 2011, with 60 stations and 500 bicycles in South Beach and portions of Middle Beach. Phase Two will launch shortly and will provide the full complement of bike stations citywide (100+ stations and 900 bicycles). In the program's initial 90 days of operation, it has been extremely successful with high ridership and increasing membership.

The concession agreement with Deco Bike provides for revenue sharing for bicycle rentals and advertising as follows:

- 12% of gross revenues after the first $1,000,000.
- 15% of gross revenues after $3,000,000.
- 25% of the bicycle basket (advertising) sponsorship program.

The concession agreement specifically identifies the bicycle basket sponsorship program as the only advertising that is permissible. Permissible advertising shall not include firearms, alcohol, or tobacco products, or be of a sexually explicit nature. Any advertisement beyond that which is contemplated in the concession agreement would require an amendment to the concession agreement.

Additionally, the only way to permit this type of proposed advertising on the kiosk would be to amend our City Code. It should be noted that the Commission, when it considered allowing the advertising on the bicycles, was made aware of our ban on general advertising. Much discussion took place on how any exemption made could lead to further requests for more advertising form other vendors or private property owners.

The Commission may recall that several years ago we faced a similar issue with pay phones when a proposal to install ads on the phones was brought up by the industry. At that time, the Commission concluded that the companies where just looking to generate revenue from advertising under the guise of a public purpose. The Commission rejected the proposal citing visual pollution, the threat to our existing ordinances and the negative impact to our historic City.

Recently, the Commission also rejected the idea to allow general advertising on window wraps placed on vacant store fronts. As part of that discussion, the City Attorney's Office submitted an analysis that demonstrated that these types of proposed amendments to our general advertising ban would serve to weaken our existing ordinances and may lead to

challenges that could result in the City's inability to prohibit general advertising by the private sector.

In light of the above expressed concerns, the Administration is seeking guidance from the Finance Committee regarding the potential expansion of the advertisement component of the bike sharing program.

JMG/JGG/RL/SF

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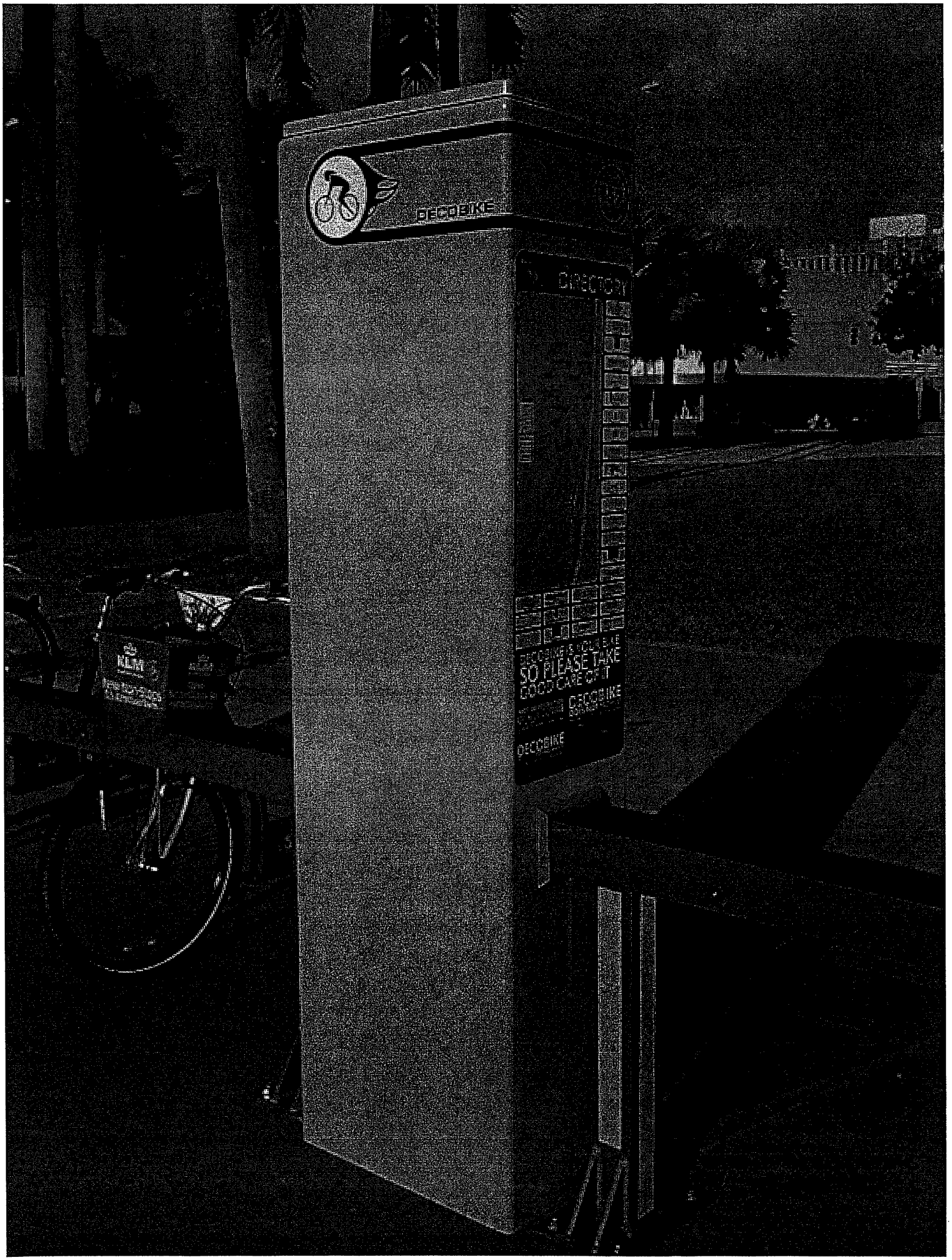
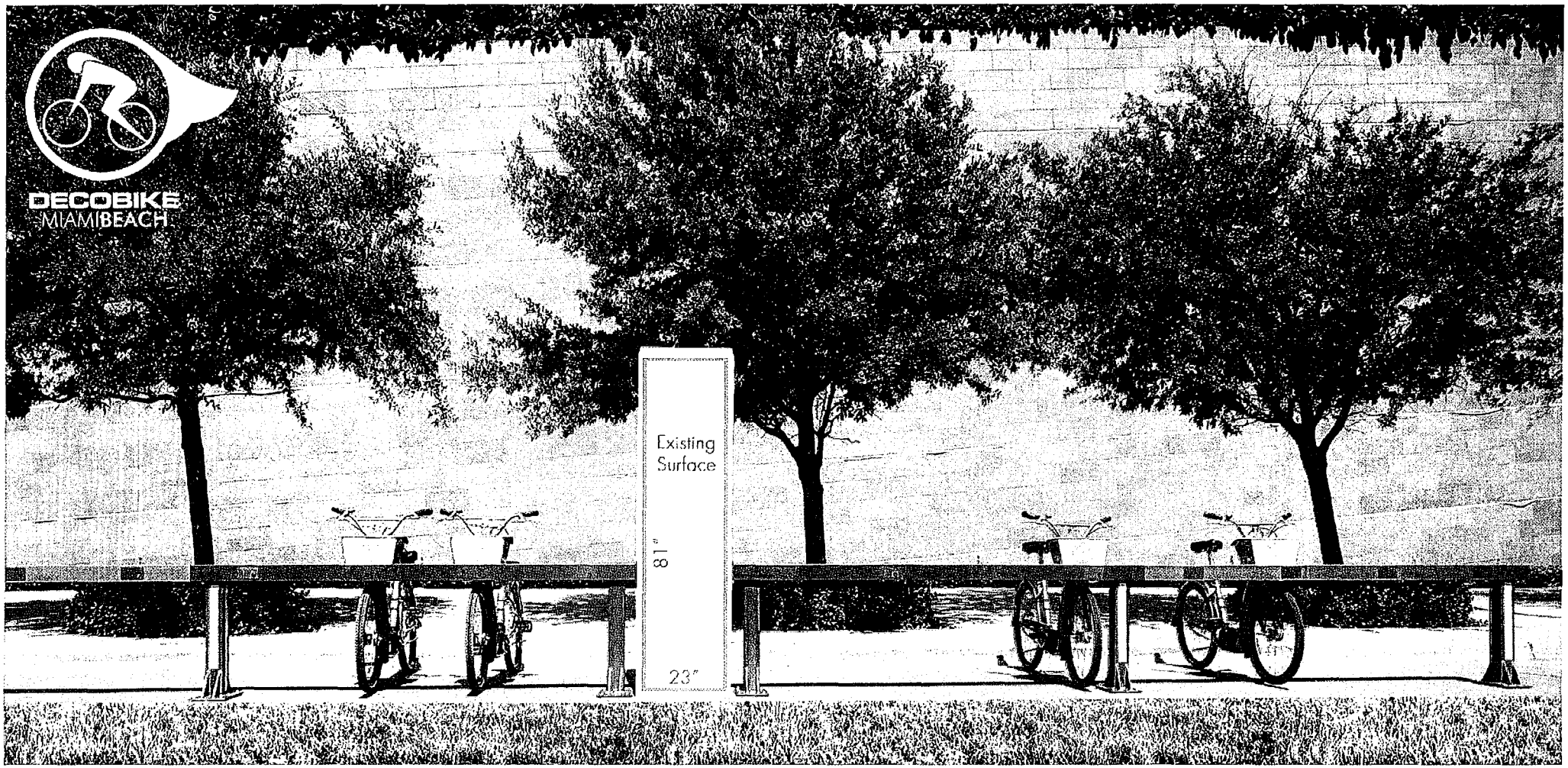

DECOBIKE
DIRECTORY
DECOBIKE IS COOL BUT
SO PLEASE TAKE
GOOD CARE OF IT
DECOBIKE
DECOBIKE


DECOBIKE
MIAMIBEACH
Existing
Surface
81"
23"

ITEM TEN

MIAMIBEACH

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: June 23, 2011

SUBJECT: DISCUSSION ON THE BEST USE OF MIAMI-DADE COUNTY ADA PARKING FINES PROGRAM

This item was referred at the June 1, 2011 Commission Meeting, Item C7A, #4, requested by Commissioner Libbin who spoke about the multiple complaints of the 1100 block of Lincoln Road. He suggested using this money to make a narrow path for wheelchairs.

BACKGROUND

Over the past four years, the City has received $361,715 from the Miami-Dade County ADA Parking Fines Program. These funds are generated as the result of parking fines levied against those who illegally park in Handicap parking spaces. The County distributes the revenue generated from the collected fines to cities throughout the County. The City receives its portion of the funds in the form of a Grant and the funds are designated to be used to enhance accessibility, maintain existing points of ADA accessibility and promote ADA awareness Citywide.

Significant improvements have been made along the beach by installing Mobi Mats at high traffic areas. The Mobi Mats allow wheelchair access to the beach across dune entrances at various locations along the beach. Just over $82,000 has been spent over the years to install beach accessible points for those who could otherwise not reach the beach due to physical challenges related to mobility. A new motorized wheelchair designed for operating on the beach has been ordered and will be delivered in about 30 days. This chair will be housed at the 10th Street Ocean Rescue facility and usage schedules will be managed by their staff. In addition to a number of manually pushed beach wheelchairs we have for use, this motorized chair will be the second such chair we will have in operation on the beach.

Numerous ADA curb cuts have been installed at the request of those who are physically challenged. In addition, ADA doors and openers have also been installed in numerous City buildings to insure adequate accessibility. ADA ramps and handrails have been either added or repaired in order to maintain a high level of both safety and accessibility across the City. The City also allocated $7,700 to the Ability Explosion project. The allocated funds were used to promote ADA awareness at special events held within the City. In addition to awareness, funds are also used to cover the cost of the Closed Caption

service provided at all Commission meetings throughout the year.

For more than a year, both the Disability Access Committee (DAC) and various City Officials have addressed concerns from both ADA Advocate Groups and from those who are physically challenged in regards to the difficulty and challenges they encounter while attempting to traverse the Pedra Portuguesa Stone surface on the mall. This surface spans the entire 1100 block of Lincoln Road Mall between Alton Road and Lenox Avenue.

In response to these concerns, the City Administration has submitted a FY2012 capital budget project to install an ADA pedestrian pathway on the 1100 block of Lincoln Road; the ADA pathway will be made of a smooth top face Pedra Portuguesa stone. The capital budget estimate is $87,000. Funding for this project could be provided from the Miami-Dade ADA Parking Fines Grant as shown in Attachment A; however, by funding it through the ADA Grant the available balance would be reduced to about $6,345.00.

Attachment A is a summary of County ADA Parking Fines received since FY2006 and how these funds were expended or proposed to be expended to support ADA projects over the years.

CONCLUSION

The above information is provided for discussion by members of the Finance and Citywide Projects Committee.

Attachment:
A. Summary of Miami-Dade County ADA Parking Fines Program Funds since FY2006 and ADA Project Expenses.

DRB / FHB / DK

Attachment A

MIAMIBEACH

PUBLIC WORKS DEPT / PROPERTY MANAGEMENT DIVISION

ADA Compliance Grant Projects

FY 06 ADA Compliance Grant	$ 61,310.93	Expense Amount		Balance
Alko Printing – Banners & Labels – DAC Event		620.00		
AAA Flag & Banner – DAC Event		1,940.00		
Engraving – Ribbons & Bow – DAC Event		87.00		
PK Graphics – DAC Event		100.00		
Permit for Bldg Dept – DP Ann Thomas		46.00		
The Paper Miami Beach – Advertising DAC Event		150.00		
TD Medical- Repair Wheel Chair		174.00		
F & L Construction – Curb & Gutter Construction		5,463.07		
Fixed Asset Adj		5,471.30		
PK Graphics		270.00		
Accommodating Ideas, Inc. (sign-langue for the event)		195.73		
National Captioning – Closed Captioning		27,062.00		
Miami Herald – Advertising		2,774.00		
Hot Shots Products – Beach Cruzer		7,295.00		
Spokes N Motion – Hippocamp all Terrain		3,299.00		
TD Medical - Tire Repair Wheel Chair		112.70		
Mobi Mats for Beach Access		6,028.00		
Total		61,087.80		
FY 06 ADA Compliance Grant – Balance			$	223.13
FY 07 ADA Compliance Grant	$ 77,926.00			
Canales Doors - Police Station - ADA Door Repair		2,495.00		
Center for Independent Living – Sign Interpreters		3,515.00		
Corchado Rinker – Curb & Gutter Construction		4,224.00		
Fixed Asset Adj.		1,419.00		
Guaranteed Fence - ADA Gate Repairs		1,155.00		
Guaranteed Fence - ADA Pedestrian Walkway - Tatum Park		6,900.00		
Master Door – ADA Door Repairs – Ballet Bldg.		7,900.00		
ADA Training		83.41		
National Captioning – Closed Captioning		2,987.00		
AAA Door Repair – ADA Door Repairs Historic City Hall		3,426.40		
AAA Door Repair –ADA Door Repairs - Police Station Bldg		6,675.00		
Master Door – ADA Door Repairs – City Hall		6,260.60		
Mobi Mats for Beach Access		26,873.00		
Total		73,913.41		
FY 07 ADA Compliance Grant – Balance			$	4,012.59
FY 08 ADA Compliance Grant	$ 82,087.00			
Colony Theatre – Ability Explosion Deposit		700.00		
National Captioning - Closed Captioning for Commission		13,386.72		
Master Door - City Hall ADA Door Repairs		2,139.40		
Mobi Mat Purchase for Beach Access		49,586.00		
Property Management Work Repairs on Mobi Mats		11,992.40		
Saftron Safety ADA Railings Repairs - City Hall		1,800.00		
Saftron Safety ADA Railings Repairs - Lummis Park		2,482.48		
Total		82,087.00		
FY 08 ADA Compliance Grant – Balance			$	-
FY 09 ADA Compliance Grant	$79,204.00			
Ability Explosion Event – Oct 2010		7,000.00		
National Captioning - Closed Captioning for Commission		6,870.50		
Homestead Concrete-ADA Ramp Water Feature-Lincoln Road		4,915.00		
Saftron Safety ADA Railings Repairs - Lummis Park		2,472.93		
TD Medical - Beach Cruzer for Disabled Access		9,974.00		
ADA Pedestrian Walkway-1100 Block Lincoln Road-FY 12		35,000.00		
Property Management Work Repairs on Mobi Mats		12,548.45		
Total Expense		78,780.88		
FY 09 ADA Compliance Grant – Balance				$423.12
FY 10 ADA Compliance Grant	$ 61,187.00			
ADA Pedestrian Walkway-1100 Block Lincoln Road-FY 12		52,500.00		
Ability Explosion - promoting awareness		7,000.00		
Total Expense		59,500.00		
FY 09 ADA Compliance Grant – Balance			$	1,687.00
Total ADA Compliance Grants - FY 06-FY10	**$ 361,714.93**	**$ 355,369.09**	**$**	**6,345.84**

ITEM ELEVEN

MIAMIBEACH

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

COMMITTEE MEMORANDUM

TO: Finance and Citywide Projects Committee

FROM: Jorge M. Gonzalez, City Manager

DATE: June 23, 2011

SUBJECT: **A DISCUSSION OF AN EIGHT MONTH EXTENSION OF THE LEASE BETWEEN THE CITY OF MIAMI BEACH, AS TENANT, AND MERIDIAN MIAMI, LLC, AS LANDLORD, FOR APPROXIMATELY 5,311 RENTABLE SQUARE FEET OF PROPERTY, LOCATED AT 1680 MERIDIAN AVENUE, SUITES 201 AND 203, MIAMI BEACH, FLORIDA, TO BE USED AS ADMINISTRATIVE OFFICES FOR THE CITY'S FIRE DEPARTMENT; SAID EXTENSION COMMENCING ON SEPTEMBER 1, 2011 AND EXPIRING ON APRIL 30, 2012, SUCH EXTENSION WILL ALLOW THE FIRE DEPARTMENT TO CONTINUE TO PROVIDE SERVICE TO THE PUBLIC WITHOUT THE DISRUPTION OF MOVING ITS OFFICES TWICE IN AN EIGHT MONTH PERIOD**

BACKGROUND

The planned construction of a new Fire Station No. 2, and the renovation of the existing historic building into administrative offices for the City's Fire Department, required the relocation of the Fire Department's Administration and Fire Prevention offices. At that time, there was no vacant City-owned property available that could accommodate the Fire Department's needs, and comparable market rent was approved to be paid in order to house the Fire Department's offices in a privately-owned building at 1680 Meridian Avenue. Therefore, on October 11, 2006, the Mayor and City Commission adopted Resolution No. 2006-26344, approving a Lease Agreement between the City and Meridian Center, LLC, for the Fire Department's use of a portion of the property located at 1680 Meridian Avenue, for a three year term which commenced on February 1, 2007, and expired on January 31, 2010 (the "Lease").

Prior to the January 2010 expiration of the Lease and following a comprehensive review of the City's office space use and the projected timeline (at that time) of the completion of construction of Fire Station 2, staff determined that it would be necessary to extend the private Lease until such time that the Fire Administration and Fire Prevention offices could be relocated to the second (2nd) floor and a portion of the fourth (4th) floor of the City-owned property located at 1701 Meridian Avenue (a.k.a 777 Building). The 2nd floor space had previously been occupied by the City's Capital Improvements Office. The 4th floor space consisted of an area which had recently been vacated by a private tenant, plus an area which was occupied by staff from the City's Police Department. The Police Department staff has since moved to another location. The improvements to these two floors of the 777 Building were planned to accommodate the Fire Department staff and then be functional for private tenants after the Fire Department moved to its permanent home.

On December 9, 2009, a month before the January 2010 expiration of the private Lease at 1680 Meridian Avenue, the Mayor and City Commission adopted Resolution No. 2009-27280, extending the Lease for an additional eight (8) month term, commencing on February 1, 2010, and expiring September 30, 2010. In Fall 2010, all of the improvements to the space in the 777 building to

accommodate Fire Administration and Fire Prevention had not been completed, but the 2nd floor space that would accommodate Fire Prevention was expected to be completed by November, 2010. Consequently, on September 15, 2010, the City Commission approved: 1) a two month extension of the lease for all of the leased space (8,300 sf) for Fire Administration and Fire Prevention staff; and, 2) a new lease agreement for a reduction of space at 1680 Meridian Avenue to accommodate only the Fire Administration staff (5,311 sf) for nine months (12/1/10 – 8/31/11) with a corresponding reduction in rent from $18,675/mo to $11,949.75/mo.

Due to unforeseen regulatory requirements which affected the scope and associated timelines for the 4th floor renovations, the new projected substantial completion of the 4th floor renovations is now December 2011. Concurrently, we have been advised by CIP that the renovations to Fire Station 2 will be completed by March 31, 2012 – nine months sooner than was originally expected.

Extending the Lease for an additional eight months allows the Fire Department's Administration offices to remain in their current location instead of relocating twice in an eight month period – something that would be costly and cause disruption to their operation. Funding for the lease extension will be included in the Fire Department's budget.

The new eight (8) month extension will commence on September 1, 2011 and terminate on April 30, 2012. All other terms and provisions of the Lease remain in full force and effect, including the rental rate. A search of Loopnet commercial real estate database on June 20, 2011 confirms that this rental rate of $27/SF for office space in Miami Beach is a market rent for office space on Miami Beach.

Once the renovations are complete to the 4th floor space at the 777 building, the City will proceed to look at options, including private tenants, for the space.

ANALYSIS

On January 13, 2010, the Mayor and City Commission adopted Resolution 2010-27298, approving funding for the renovation of the 2nd floor and a portion of the 4th floor of the 777 Building. Renovation was completed on the 2nd Floor and staff has relocated, but renovations to the 4th Floor are not anticipated to be completed prior to the August 31, 2011 expiration of the current, extended lease term. Additionally, in light of the anticipated earlier date for completion of the FS2 renovations, the Fire Department wishes to prevent two moves.

The proposed extension terms for the Lease commencing on September 1, 2011 are as follows; all other terms of the Lease shall remain in full force and effect:

TENANT: City of Miami Beach, a Florida municipal corporation.

LANDLORD: Meridian Miami, LLC, a Florida limited liability company.

DEMISED PREMISES: 5,311 rentable SF located at 1680 Meridian Avenue, Suites 201 and 203.

TERM: Eight Months, Commencing September 1, 2011 expiring April 30, 2012

RENT: $27.00 PSF; $11,949.75 monthly. Rent includes Additional Rent (i.e. operating expenses, property taxes and insurance costs) and electric.

SECURITY DEPOSIT: None required.

USES: The Demised Premises shall be used by the Tenant as an office location for the City of Miami Beach Fire Department. The Demised Premises shall be generally open for Tenant's use Monday-Friday, from 6:00AM to 7:00PM.

CONCLUSION

The Administration recommends that the Mayor and City Commission adopt the Resolution approving the proposed eight month lease extension between the City and Meridian Miami, LLC, for office space located at 1680 Meridian Avenue to accommodate our Fire Department Administration staff until such time as FS2 renovations are completed.

JMG/HMF/AP/SH