



MIAMI BEACH

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

COMMISSION MEMORANDUM

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

FROM: Jorge M. Gonzalez, City Manager

DATE: July 13, 2011

SUBJECT: **REFERRAL TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE TO DISCUSS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO TEMPORARY LICENSING-USE AGREEMENTS WITH CONTRACTORS REQUIRING THE USE OF CITY-OWNED PROPERTY FOR THE PURPOSE OF STAGING AND/OR STORAGE OF CONSTRUCTION EQUIPMENT IN CONNECTION WITH CITY OR PRIVATELY FUNDED CONSTRUCTION PROJECTS.**

ADMINISTRATION RECOMMENDATION

Refer the matter to the Finance and Citywide Projects Committee for discussion.

BACKGROUND

The City currently has no formal fee structure for Contractors requesting the use of City-owned land for construction staging and/or construction equipment storage. Current use agreements are developed on a case-by-case basis, interdepartmentally, depending on the proposed use of the land. Because the proposed use of City-owned fee simple land would not be governed by a conventional lease agreement or by the existing mechanism and fee structure identified for use of right-of-ways, a Temporary Licensing-Use Agreement could be the mechanism to govern the use of this type of City property for this purpose. An analysis of comparable market rates for the use of land for construction staging resulted in widely varying scenarios for the City's consideration in determining a fee structure. The Administration proposes discussion of options by the Finance and Citywide Projects Committee at its next available meeting because there is a present need to negotiate fees for three imminent projects.

For example, David Mancini & Sons (DMSI) is currently occupying City-owned vacant lots located between 85th and 86 Streets along Collins Avenue; the current area of the lots comprises approximately 52,500 square feet. DMSI is currently working on a watermain Installation Project as the City's horizontal right-of-way JOC Contractor, and has occupied this site since May 4, 2011, for construction staging, parking, and material storage purposes. Mancini has provided proof of liability insurance coverage which shows the City as Additional Named Insured; however, a fee structure for the use of the property for the project's approximately 120 days duration is yet to be determined.

In addition, in the near future, DMSI, as well as other City Contractors, will begin to pursue the availability of lands for staging and storage as the City begins to escalate its right-of-way (ROW) infrastructure Improvements Projects. A perfect opportunity for the City to implement a licensing

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agreement is the upcoming Biscayne Point Neighborhood project, which is scheduled to commence this summer and where DMSI will necessitate the continued use of the same site on Collins Avenue for approximately 15 months additional time. Other projects which may encounter similar conditions, depending on the Contractor's logistics, include the Bayshore and Sunset Islands programs, which are also scheduled to begin construction this year and for which other contractors will require lands for staging and storage.

The City has also been approached by the City of Bal Harbour in connection with its force main repair project, which will involve construction in the City's ROW. Bal Harbour has requested temporary use of one or more of the vacant City-owned lots on Collins Avenue between 86th and 87th Streets for its construction staging between July 9th and the end of September. Those vacant lots also comprise 52,500 square feet.

ANALYSIS

While there is no fee structure in place for construction staging on fee simple land, a mechanism and fee structure exists regarding obstruction of City right-of-way space during construction staging. Section 82-151 of the City Code cites the 2005 market rate for obstruction of ROW as \$10.53 per square foot, and requires that contractors also be required to provide commercial general liability insurance naming the City as an additional insured, as well as worker's compensation and employer's liability as approved by the City's Risk Manager.

Since the property currently occupied by DMSI and the site requested by the City of Bal Harbour are not right-of-way properties, the Administration is recommending the development of a Temporary Licensing-Use Agreement fee structure that will govern the use of the site(s) for the duration of the previously described construction projects.

In the future, terms for Temporary Licensing-Use Agreements for use of City-owned fee-simple property could be negotiated and entered into on a case-by-case basis by the City Manager or his designee, and would include fair market use fees, occupancy terms and use restrictions. The use of vacant City-owned property for construction-related staging, particularly by privately funded projects, provides an excellent opportunity to generate much-needed revenue for the City.

CONCLUSION

The Administration recommends that the Mayor and the City Commission refer the matter to the Finance and Citywide Projects Committee for discussion.

JMG/HMF/AP/KOB

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