

MIAMI BEACH

City Commission Meeting SUPPLEMENTAL MATERIAL 1

City Hall, Commission Chambers, 3rd Floor, 1700 Convention Center Drive
April 17, 2013

Mayor Matti Herrera Bower
Vice-Mayor Jonah Wolfson
Commissioner Jorge R. Exposito
Commissioner Michael Góngora
Commissioner Jerry Libbin
Commissioner Edward L. Tobin
Commissioner Deede Weithorn

City Manager Jimmy L. Morales
City Attorney Jose Smith
City Clerk Rafael E. Granado

Visit us at www.miamibeachfl.gov for agendas and video "streaming" of City Commission Meetings.

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

SUPPLEMENTAL AGENDA

C7 - Resolutions

- C7E A Resolution Authorizing The Donation Of Two (2) Freightliner FL60 Ambulances, In "As Is" Condition, To Our Sister City Of Ica, Peru; And Authorizing The Donation Of Fifteen (15) Incomplete Sets Of Firefighting Protective Clothing, Forty-Five (45) Sections Of Hose, And Ten (10) Self Contained Breathing Apparatus (SCBA), In "As Is" Condition, To Our Sister City Of Cozumel, Mexico.

(Requested by Mayor Matti Herrera Bower)
(Legislative Tracking: Fire Department)
(Resolution)

- C7L A Resolution Approving A Month-To-Month Extension Of The Agreement Between The City And Clear Channel Adshel Inc. (Adshel), To Construct, Operate And Maintain Directory Structures In The Lincoln Road Area; With Said Extension Commencing On April 18, 2013, And Terminable By The City, For Convenience And Without Cause, Upon Thirty (30) Days Prior Written Notice To Adshel.

(Public Works)
(Resolution)

C7 - Resolutions (Continued)

- C7M A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Amendment To The Professional Services Agreement With Industrial/Organizational Solutions, Inc., Approved By The City Commission On July 18, 2012; Said Amendment To Provide Additional Testing Services During The First Contract Year For Police And Fire Entry Level Positions; And Requesting Additional Funding, In An Amount Not To Exceed \$70,000.
(Human Resources)
(Resolution)

R7 - Resolutions

- R7B A Resolution Approving And Authorizing The Mayor And City Clerk To Execute An Employment Agreement Between The City Of Miami Beach And City Manager Jimmy Morales, With The City Manager's Term Of Employment Having Deemed To Commence Retroactively, As Of April 1, 2013.
(City Attorney's Office)
(Resolution & Agreement)

- R7G Bicycle Lane Along Prairie Avenue And Royal Palm Avenue
1. A Resolution Accepting The City Administration's Recommendation Following A Presentation To The Finance And Citywide Projects Committee On March 21, 2013, To Maintain The Current Width Of Prairie Avenue, As Well As Its Bicycle Lane, Pursuant To The Regulations Established By The Miami-Dade County Public Works Department; And Further Retaining Royal Palm Avenue's Design, As Proposed In The Construction Plans For Central Bayshore (Package A).
 2. A Resolution Directing The City Administration To Continue To Evaluate The Reduction Of Prairie Avenue To Eliminate The Current Bicycle Lane, And To Further Study The Possibility Of Including An "Advisory Bicycle Lane" Along Both Prairie Avenue And Royal Palm Avenue; And Further Authorizing The City Manager To De-Program Work Associated With The Construction Of The Valley Gutters, As Well As Proposed Re-Grading And Milling And Resurfacing Along Prairie Avenue, As Outlined In Amendment No 2 To The Construction Contract With Lanzo Construction Co. For The Central Bayshore (Package A) And Lake Pancoast (Package C) Projects (And As Previously Approved Under Resolution No. 2013-28163); Modifying Amendment No. 2 To The Contract With Lanzo To Add To The Contract Funds For A One Inch (1") Overlay Of Asphalt Over The Current Existing Roadway, And Re-Surface The Street To A Drivable Condition (During The Approval Process, For An Advisory Bicycle Lane) By Providing For All Respective Credits And Charges (To Be Further Defined And Amended Into The Contract At A Later Date); Further Authorizing The City Manager Or His Designee To Negotiate The Changes To Amendment No. 2, As Set Forth In This Resolution, And Authorizing The Mayor And City Clerk To Execute The Revised Amendment No. 2.
(Capital Improvement Projects Office)
(Resolutions)

R9 - New Business and Commission Requests

R9D Discussion Regarding A Resolution Urging The United States Congress To Support National Immigration Reform That Leads To A Pathway To United States Citizenship And That Maintains The United State's Competitiveness In The Global Economy, And Further Directing The City Clerk To Transmit A Copy Of This Resolution To The Miami-Dade County Congressional Delegation.

(Requested by Mayor Matti Herrera Bower)

(Memorandum & Resolution)

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE DONATION OF TWO (2) FREIGHTLINER FL60 AMBULANCES, IN "AS IS" CONDITION, TO OUR SISTER CITY OF ICA, PERU; AND AUTHORIZING THE DONATION OF FIFTEEN (15) INCOMPLETE SETS OF FIREFIGHTING PROTECTIVE CLOTHING, FORTY-FIVE (45) SECTIONS OF HOSE, AND TEN (10) SELF CONTAINED BREATHING APPARATUS (SCBA), IN "AS IS" CONDITION, TO OUR SISTER CITY OF COZUMEL, MEXICO.

WHEREAS, the City wishes to donate one (1) 2000 Freightliner FL60 ambulance (vehicle numbers 1008 mileage 107,640) and one (1) 2002 Freightliner FL60 ambulance (vehicle 1012 mileage 113,581) (estimated remaining value of less than \$25,000 each) to its Sister City of Ica, Peru; and

WHEREAS, the City wishes to donate fifteen (15) incomplete sets of firefighting protective clothing (no remaining value), thirty one (31) 50 foot sections of 1½ inch hose (no remaining value), fourteen (14) 50-foot sections of 2½ inch hose (no remaining value), and ten (10) self contained breathing apparatus with air-tank and mask (market value \$725 if refurbished estimated current condition value \$350 each) to the Sister City of Cozumel, Mexico; and

WHEREAS, these donations are expressly made in an "as is" condition and the City makes no representations as to the condition of the vehicles and equipment, and no warranties, either expressed or implied, and assumes no further responsibility on behalf of the City as to said vehicles and equipment.

NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and Commission herein authorize the donation of two (2) Freightliner FL60 ambulances to the Sister City of Ica, Peru; and authorize donation of fifteen (15) incomplete sets of firefighting protective clothing, forty five (45) sections of hose, and ten (10) self contained breathing apparatus to the Sister City of Cozumel, Mexico.

PASSED AND ADOPTED THIS 17th day of April, 2013.

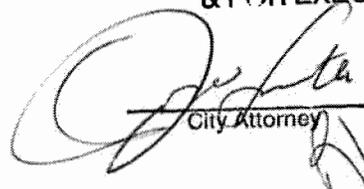
ATTEST:

MAYOR

CITY CLERK

T:\AGENDA\2013\April 17\vehicle donation reso2013.docx

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4/10/13
Date

Agenda Item C7E
Date 4-17-13

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RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH INDUSTRIAL/ORGANIZATIONAL SOLUTIONS, INC., APPROVED BY THE CITY COMMISSION ON JULY 18, 2012; SAID AMENDMENT TO PROVIDE ADDITIONAL TESTING SERVICES DURING THE FIRST CONTRACT YEAR FOR POLICE AND FIRE ENTRY LEVEL POSITIONS; AND REQUESTING ADDITIONAL FUNDING, IN AN AMOUNT NOT TO EXCEED \$70,000.

WHEREAS, the City has a need to establish an agreement with a qualified provider of services to develop, validate, administer, score, report and review testing programs to determine qualified applicants for Police and Fire entry level positions and classified promotional classifications; and/or to provide consultation services in order to develop job analysis, entry level and promotional tests, scoring, minimum requirements for jobs, and background tests requirements for sworn and non-sworn positions; and

WHEREAS, on July 18, 2012, the Mayor and City Commission adopted Resolution No. 2012-27941, approving and authorizing the City Manager to execute a Professional Services Agreement with Industrial/Organizational Solutions, Inc., for professional services for services related to testing services to determine qualified applicants for Police and Fire entry level positions, classified promotional classifications, and consultation services (the Agreement); and

WHEREAS, the City has entered into the Agreement with the Industrial/Organizational Solutions, Inc.; and

WHEREAS, the Agreement was executed for the services pertaining to the first contact year only and authorized Industrial/Organizational Solutions to provide testing services pertinent to the Police Promotional Process and general consultation services (i.e. development and recommendation for methods of selection for sworn and non-sworn positions); and

WHEREAS, the City now has a need to conduct entry level recruitments for the positions of Police Officer and Firefighter I; and

WHEREAS, in an effort to attract and maintain a workforce of excellence, the City has a need for the Industrial/Organizational Solutions to review, develop, validate, administer, score, and report selection mechanism, including testing programs, to determine qualified applicants for police and fire entry level positions; and

WHEREAS, the Administration recommends approving and authorizing Industrial/Organization Solutions, Inc., to provide additional testing services during the first contact year for Police and Fire entry level positions, and requests additional funding, in an amount not to exceed \$70,000; and

WHEREAS, the City Manager concurs with the recommendation.

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 the City Manager to approve and authorize the Mayor and the City Clerk to execute an Amendment to the Professional Services Agreement with Industrial/Organizational Solutions, Inc., approved by the City Commission on July 18, 2012, to provide additional testing services during the first contract year for Police and Fire entry level positions, and requests additional funding, in an amount not to exceed \$70,000.

PASSED AND ADOPTED this _____ day of _____, 2013.

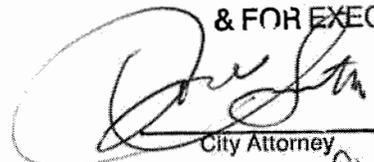
ATTEST:

Rafael E. Granado, City Clerk

Matti Herrera Bower, Mayor

T:\AGENDA\2013\April 17\IO Solutions Additional Testing Services Reso.docx

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4/10/13

Date



RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN EMPLOYMENT AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND CITY MANAGER JIMMY MORALES, WITH THE CITY MANAGER'S TERM OF EMPLOYMENT HAVING BEEN DEEMED TO COMMENCE RETROACTIVELY, AS OF APRIL 1, 2013.

WHEREAS, on March 13, 2013 the Mayor and Commission appointed Jimmy Morales as City Manager of the City of Miami Beach (City) to be effective on April 1, 2013; and

WHEREAS, it is the desire of the City to provide certain benefits and to establish certain conditions of employment for Jimmy Morales in his capacity as City Manager; and

WHEREAS, Jimmy Morales desires to accept the position of City Manager pursuant to the terms and conditions set forth in the attached Employment Agreement, the terms of which the parties agree will promote his continuous productivity and efficiency in the best interest of the City.

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 approve and authorize the Mayor and City Clerk to execute an Employment Agreement between the City of Miami Beach and City Manager Jimmy Morales, with the City Manager's term of employment having been deemed to commence retroactively, as of April 1, 2013.

PASSED and ADOPTED this ____ day of _____, 2013.

ATTEST:

Rafael E. Granado, City Clerk

Matti Herrera Bower
Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney
Date 4/1/13

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EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is entered into, by, and between JIMMY L. MORALES ("Morales") and the CITY OF MIAMI BEACH, FLORIDA (the "City") (collectively, the "Parties").

WHEREAS, the City, acting by and through its City Commission, desires to employ Morales as its City Manager on the terms and conditions set forth in this Agreement and Morales desires to accept employment as City Manager on those same terms and conditions;

NOW, THEREFORE, the Parties agree as follows:

1. Recitations. Parties agree that the recitations above are true and correct and are incorporated as if fully set forth here.

2. Employment. The City agrees to employ Morales as its City Manager and Morales agrees to be so employed. Morales will devote his full working time to his duties as City Manager and will not accept or perform any other employment, paid or unpaid, while he is employed as City Manager except as expressly set forth herein or expressly agreed to by the City Commission by resolution and modification of this Agreement according to its terms. However, nothing in this Agreement shall prohibit Morales from occasional other work, such as teaching, writing, community activities, pro bono work, or civic or charitable activities as is appropriate to this position of City Manager, provided, however, that such work shall not interfere with Morales' duties as City Manager and shall not in any way reflect unfavorably on the City. Morales shall at all times apply his best efforts to the performance of his duties as City Manager.

3. Employment At Will. Morales is employed at will and serves at the pleasure of the City Commission. This Agreement and his employment may be terminated by the City Commission at any time and for any reason or for no reason, subject only to the express Termination provisions of this Agreement.

4. Duties. Morales will perform the duties of the office of City Manager as set forth in the Charter of the City of Miami Beach, Florida, and in the Code of the City of Miami Beach, Florida, and all such duties customary and appropriate to this position of City Manager and such other appropriate duties as may be assigned by the City Commission or its designee from time to time.

5. Effective Date. This Agreement shall become effective April 1, 2013 (the "Effective Date").

6. Term. The term of this Agreement shall commence at 12:01 a.m., April 1, 2013, and shall expire at midnight, March 31, 2015, unless terminated earlier or renewed as set forth herein.

7. Compensation. Morales shall receive compensation for performing the duties of City Manager as set forth in this Section 7. Nothing other than those items set forth in this Section 7 shall be considered or treated as compensation, wages, salary, earnings, or

remuneration to Morales for any purpose whatsoever, including pension or for purposes of Section 448.08, Florida Statutes, or in arbitration.

a. Salary. The City shall pay Morales a salary of annualized at \$255,000.00 to be earned and to accrue bi-weekly. This salary shall likewise be paid bi-weekly according to the usual payroll practices of the City applicable to unclassified general employees. Morales may participate in the Section 457 deferred compensation plan offered by the City and may designate a portion of his salary to be contributed thereto according to the terms of the plan and applicable law. It is understood and agreed that any contributions to the plan shall be made by Morales and not the City. The City agrees to review the annual salary and/or other benefits of Morales at the time of evaluation of performance as provided in Section 7.d. and make adjustments as the City may determine. An annual salary review of Morales will be made every year within 30 days after April 1 of each year.

b. Insurance. The City will pay the full amount of premiums for the City-offered group medical and group dental plan selected by Morales, for himself and his eligible dependents. The City will pay the full amount of premiums for the City-offered life insurance policy on Morales. Morales may (or, if participation is mandatory, shall) participate in other City-offered insurance for which he is eligible on the terms applicable to unclassified general employees.

c. Leave. Morales will be eligible to accrue, use, and convert leave hours to the extent and on the terms applicable to unclassified general employees.

d. Performance Evaluation and Incentive.

i. An annual review and evaluation of Morales shall be in accordance with the specific criteria developed jointly by the City Commission and Morales as set forth in Section 7.d.ii. The Mayor shall provide Morales with a summary written statement of the findings of the City Commission and provide an adequate opportunity for Morales to discuss the review and evaluation with the City Commission.

ii. Within 90 days of the Effective Date of this Agreement and annually thereafter, the City Commission, in consultation with Morales, shall set quantitative measures and goals upon which to evaluate the performance of Morales. Such measures may include, but are not limited to, the City's financial performance, progress on capital projects, improvements in customer service, and successful implementation of agreed upon priority initiatives. Based on the measures and goals established and the performance achieved pursuant to the City Commission's review of those measures and goals as provided in Section 7.d.i., the City Commission may provide to Morales a onetime Performance Incentive of up to 10 percent of the annualized salary amount set forth in Section 7.a. The Performance Incentive shall not be deemed a part of "base pay" or other earnings for purposes of pension.

8. Non-Compensation Expenses and Reimbursements. The City will pay for, reimburse, or otherwise provide for the items set forth in this Section 8. These items are paid for, reimbursed, or otherwise provided because they inure to the benefit of the City and do not constitute compensation, wages, salary, earnings, or remuneration to Morales for any purpose whatsoever, including pension or for purposes of Section 448.08, Florida Statutes, or in arbitration.

a. Vehicle. The City will pay to Morales a vehicle allowance in the amount of \$6,000.00 annually, paid in proportionate bi-weekly installments to reimburse him for the use of his personal vehicle for the benefit of the City.

b. Moving Allowance. The City will pay to Morales a onetime allowance of up to \$3,500.00 to reimburse Morales for reasonable moving-related expenses should Morales, in his sole discretion, choose to move his primary residence into the City during the first 12 months of this Agreement. The moving allowance will be paid upon submission of satisfactory documentation of the moving-related expenses.

c. Information and Communications Technology Expenses. The City will provide to Morales adequate and reasonable information and communications hardware, software, and services to support him in the performance of his duties as City Manager.

d. Subscriptions, Memberships, and Fees. Morales may include as an expense item in the budget of the Office of the City Manager an amount to be used to pay for such reasonable subscriptions, memberships, and fees and other similar costs, such as travel and lodging, as may be incurred for development and advancement related to, in support of, and inuring to the benefit of the City. No payment authorized hereunder may be made to an entity that illegally discriminates on the basis of race, color, gender, religion, national origin, age, disability, marital status, or sexual orientation.

9. Renewal and Non-Renewal. The City Commission may renew or extend the original term of this Agreement by resolution for succeeding periods as specified by the City Commission on the same terms and conditions as then set forth in this Agreement or on such modified terms and conditions to which it may agree with Morales. Should the City Commission not renew or extend the original or any succeeding term, this Agreement shall expire at the end of such original or succeeding term. Morales' employment shall simultaneously end with the expiration of the original or succeeding term or period. Should the City not renew this Agreement, it will either give Morales 90 days' notice of intent not to renew or, if no notice is given, the City shall, commencing upon the end of his employment, pay Morales an amount equivalent to 12 weeks of the salary amount set forth in Section 7.a. (the "Separation Payments"), along with all payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever. The Separation Payments will be paid bi-weekly according to the City's usual payroll practices. Should Morales accept employment prior to the expiration of 12 weeks after the date of expiration of the original or succeeding term, the Separation Payments shall immediately cease and the City shall have no obligation to make Separation Payments then remaining unpaid.

10. Termination by Morales.

a. With Notice. Should Morales terminate this Agreement by giving notice not less than 90 days prior to termination, the City shall pay him in like manner as if the Agreement were not renewed.

b. Without Notice. Should Morales terminate this Agreement by giving notice less than 90 days prior to termination, the City shall pay him any payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever.

11. Termination by the City. The City Commission may terminate this Agreement and, thereby, Morales' employment at any time, without or without notice, and for any reason or for no reason.

a. Without Cause. Should the City terminate this Agreement without Cause, as defined in Section 11.b., it shall pay Morales an amount equivalent to 20 weeks of the salary amount set forth in Section 7.a. (the "Severance Payment"), along with all payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever. Should Florida law be changed to permit a Severance Payment greater than that permitted under law at the time of the execution of this Agreement, the City Commission will review the amount of the Severance Payment set forth in this Agreement. In the event the City at any time during the term of this Agreement reduces the salary or other financial benefits of Morales in a greater percentage than an applicable across the board reduction for all employees of the City or in the event the City refuses after written notice to comply with any other provision of this Agreement benefitting Morales or if a majority of the entire City Commission in a public meeting requests that Morales resign then Morales may, at his option, be deemed to be terminated at the date of such reduction or such refusal to comply within the meaning and context of this Section 11.a.

b. With Cause. Should the City terminate this Agreement with Cause, as herein defined, it shall pay Morales any payments due for work performed through the date of termination and other payments due, if any, upon termination on the same terms and conditions applicable to unclassified general employees and shall have no further liability to him whatsoever, including no obligation to pay the Severance Payment as defined in Section 11.a. Cause is defined as one or more of the following: material breach of this Agreement; conviction of any felony; admission of conduct that would constitute any felony; conduct that would constitute a violation of any applicable code of ethics or professional conduct; conduct that would constitute malfeasance or misfeasance in office as those terms are interpreted under Section 112.3187, Florida Statutes; or other similar conduct that the City Commission reasonably determines merits termination.

12. Pension. Morales shall become a member of the Miami Beach Employees Retirement Plan as a condition of his employment pursuant to the governing ordinance of the

plan (which plan, at the time of the execution of this Agreement, includes an accrual factor of 4 percent for the position of city manager).

13. Bonds. The City shall bear the full expense of any fidelity or other bond required of Morales in his capacity as City Manager under any statute, ordinance, or regulation.

14. Indemnification. The City shall indemnify and defend Morales or, at its option, provide a defense to Morales against claims arising out of and in the course and scope of his employment or function, consistent with and to the extent of Florida law under Chapter 111, Florida Statutes, and a public official's right to a defense against claims arising from their performance of their public duties performed while serving a public purpose under the common law of Florida.

15. Notice. Any notice hereunder shall be effective if made by delivery, postage paid, to the United States Postal Service or by a manner valid for personal service under the Florida Rules of Civil Procedure or by public statement on the record during a meeting of the City Commission in the presence of the party to whom notice is to be given. Notice, for purposes of this Agreement, is to be given to:

City: Mayor Matti Herrera Bower (or successor)
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

and

City Attorney Jose Smith (or successor)
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Morales: Jimmy L. Morales (or heirs)
6815 Corsica Street
Coral Gables, Florida 33146

16. No Assignment or Delegation; No Third-Party Beneficiaries. The services provided by Morales are considered unique and personal to him. Accordingly, Morales may not delegate or assign any duty, obligation, or benefit attaching or accruing hereunder. This Agreement is entered into and intended for the benefit solely of the City and of Morales and not for the benefit of any other person or entity.

17. Entire Agreement, Severability, Modification, Waiver. The provisions of this Agreement constitute the entire agreement between the Parties on its subject matter and this Agreement supersedes any other agreement, understanding, representation, or promise whatsoever. Morales agrees that he has relied solely upon the express language of this Agreement in determining whether to enter into this Agreement and not upon any other understanding or communication of any kind, whether written or oral. Should a court or arbitrator of competent jurisdiction determine that any provision or portion thereof of this Agreement is illegal, invalid, or unenforceable, the remaining provisions or portions thereof shall

remain in full force and effect. This Agreement may be modified only by a writing signed by both Parties and approved by the City Commission by resolution. Waiver of any right or of any breach of this Agreement by either party in any instance or instances shall not constitute or be construed as a waiver in any other instance.

18. Construction, Governing Law, Headings. This Agreement shall be construed according to its express language and not strictly for or against either Party, regardless of authorship. This Agreement shall be governed by and according to the laws of the State of Florida. Section headings are for convenience only and shall have no legal effect.

19. Arbitration. The Parties agree that any claim or dispute arising from this Agreement, its interpretation, its renewal, or its breach shall be settled in final and binding arbitration by a single arbitrator under the Arbitration Policies and Procedures of the Federal Mediation and Conciliation Service. A panel of arbitrators may be requested by either Party and the Parties will select an arbitrator by alternative strikes. The first Party to strike will be determined by agreement or coin flip. Each Party may one time reject a proposed panel of arbitrators and request another. The party requesting any panel shall bear the expense of the request. The Parties shall bear equally the expense of the arbitrator and the location of the arbitration hearing. The Parties shall each bear their own litigation costs, including attorney's fees, court reporter fees, and witness fees, if any. The arbitrator shall apply a preponderance of the evidence standard of proof. The party asserting a claim or affirmative defense shall have the burden of persuasion as to that claim or affirmative defense. The arbitrator shall not have authority to make any award of attorney's fees or the costs of the arbitration. The arbitrator shall confine himself or herself strictly to the language of this Agreement and shall have no authority to add to, subtract from, or modify any term or provision of this Agreement. The arbitrator shall have no authority to construe any law, regulation, rule, principle of law, decision, or provision or provisions of this Agreement or to make any award that would result in or obligate the City, directly or indirectly, to incur any debt, cost, expense, or liability in excess of the amount initially budgeted, approved, and appropriated for the funding of this Agreement. Any such purported construction or award will be null and void. The arbitrator's award shall be subject to enforcement or vacation by the Circuit Court according to law. Moreover, and without waiving the preceding limitation, in no case shall the City be liable for any punitive, consequential, indirect, or incidental damages whatsoever.

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20. Counterparts, Electronic Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute a single instrument. Execution and delivery of this Agreement by electronic exchange bearing the copies of a Party's signature shall constitute a valid and binding execution and delivery of this Agreement by such Party. Such electronic copies shall constitute enforceable original documents.

WHEREFORE, the Parties, after full consideration, including consultation with independent counsel, do knowingly, voluntarily, and intending to be legally bound, hereby enter into this Agreement duly executed on the dates written below.

Attest:

FOR CITY OF MIAMI BEACH, FLORIDA:

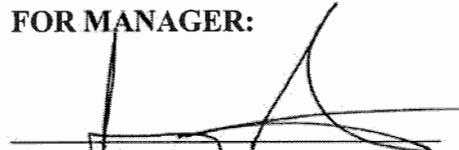
Rafael E. Granado, City Clerk

Matti Herrera Bower, Mayor

_____ day of _____, 2012.



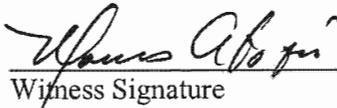
Witness Signature

FOR MANAGER:


Jimmy Morales,

Humberto Crespo
Print Name

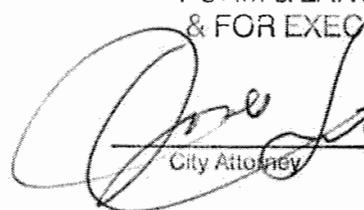
29th day of March, 2013.



Witness Signature

MARCO S R BOGEN
Print Name

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney Date 3/29/13

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE CITY ADMINISTRATION'S RECOMMENDATION FOLLOWING A PRESENTATION TO THE FINANCE AND CITYWIDE PROJECTS COMMITTEE ON MARCH 21, 2013, TO MAINTAIN THE CURRENT WIDTH OF PRAIRIE AVENUE, AS WELL AS ITS BICYCLE LANE, PURSUANT TO THE REGULATIONS ESTABLISHED BY THE MIAMI-DADE COUNTY PUBLIC WORKS DEPARTMENT; AND FURTHER RETAINING ROYAL PALM AVENUE'S DESIGN, AS PROPOSED IN THE CONSTRUCTION PLANS FOR CENTRAL BAYSHORE (PACKAGE A).

WHEREAS, on March 13, 2013, the City Commission adopted Resolution No. 2013-28163, which approved Amendment No. 2 to the construction contract with Lanzo Construction Co. for Central Bayshore (Package A) and Lake Pancoast (Package C); said Amendment, in the amount of \$3,723,986, to implement the proposed design change pursuant to the adopted Basis of Design Report (BODR) Amendment, dated July 18th, 2012; and

WHEREAS, during the City Commission meeting, concerns were raised by residents requesting that Amendment No. 2 also include (i) the reduction of Prairie Avenue to twenty (20) feet, plus two foot valley gutters (24 feet total), via the elimination of the current bicycle lane; and (ii) evaluation of the feasibility of including a bicycle facility along the BODR amended roadway width of Royal Palm Avenue; and

WHEREAS, the City Commission directed the City Manager to proceed with Amendment No. 2, as presented and approved, concurrent with City staff further evaluating the possibility of incorporating the residents' aforesated requests, but without affecting the timelines and cost to the Central Bayshore (Package A) project; the City Commission also referred this matter to the Finance and Citywide Projects Committee (FCWCP) for further discussion; and

WHEREAS, in preparation for the FCWCP, City staff retained Atkins North America and Street Plans Inc., experts in the motor vehicle and bicycle traffic fields, in order to determine the feasibility of removing the existing bicycle lane along Prairie Avenue, and instead providing a bicycle boulevard along Royal Palm Avenue; and

WHEREAS, based on the preliminary review of the current conditions, as well as data previously obtained, the team determined that it is not feasible to remove a bicycle facility on Prairie Avenue and replace it with another bicycle facility on Royal Palm Avenue, as the Prairie Avenue lane provides for connectivity advantages within neighborhoods and to adjacent collectors; and

WHEREAS, the Miami-Dade Public Works Traffic Engineering Division has opined that the removal of the bicycle lane along Prairie Avenue would not be considered because bicyclists have a legal right to travel on all streets in the State of Florida, except where specifically prohibited (e.g. interstate highways and other limited access facilities); and

WHEREAS, the conversion of one street (Royal Palm Avenue) into a more bicycle-friendly facility is not a justification to reduce safety for bicyclists on another street (Prairie

Avenue); and

WHEREAS, the County Public Works' position is that, apart from being a violation of Federal, State and County regulations, bicyclists would continue to use Prairie Avenue, due to its connectivity advantages, and without the proper protection granted by a separate assigned bike lane; and

WHEREAS, on March 21, 2013, staff made its presentation to the FCWPC; in an effort to accommodate the desire to narrow Prairie Avenue and still provide a bicycle facility, staff proposed (as an experimental feature) an "advisory bicycle lane," and a second alternative to provide a bicycle boulevard on Royal Palm Avenue; and

WHEREAS, given the current advanced stage of construction on the Central Bayshore (Package A) Project, City staff anticipates that proceeding to implement any alternatives at this time, would significantly affect the progress and cost of the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission hereby accept the City Administration's recommendation, following a presentation to the Finance and Citywide Projects Committee on March 21, 2013, to maintain the current width of Prairie Avenue, as well as its bicycle lane, pursuant to the regulations established by the Miami-Dade County Public Works Department; and to retain Royal Palm Avenue's design, as proposed in the construction plans for Central Bayshore (Package A).

PASSED AND ADOPTED this ____ day of _____, 2012.

ATTEST:

RAFAEL GRANADO, CITY CLERK

MATTI HERRERA BOWER, MAYOR

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APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

4/11/13

Date

RESOLUTION NO. 2013-_____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, DIRECTING THE CITY ADMINISTRATION TO CONTINUE TO EVALUATE THE REDUCTION OF PRAIRIE AVENUE TO ELIMINATE THE CURRENT BICYCLE LANE, AND TO FURTHER STUDY THE POSSIBILITY OF INCLUDING AN “ADVISORY BICYCLE LANE” ALONG BOTH PRAIRIE AVENUE AND ROYAL PALM AVENUE; AND FURTHER AUTHORIZING THE CITY MANAGER TO DE-PROGRAM WORK ASSOCIATED WITH THE CONSTRUCTION OF THE VALLEY GUTTERS, AS WELL AS PROPOSED RE-GRADING AND MILLING AND RESURFACING ALONG PRAIRIE AVENUE, AS OUTLINED IN AMENDMENT NO 2 TO THE CONSTRUCTION CONTRACT WITH LANZO CONSTRUCTION CO. FOR THE CENTRAL BAYSHORE (PACKAGE A) AND LAKE PANCOAST (PACKAGE C) PROJECTS (AND AS PREVIOUSLY APPROVED UNDER RESOLUTION NO. 2013-28163); MODIFYING AMENDMENT NO. 2 TO THE CONTRACT WITH LANZO TO ADD TO THE CONTRACT FUNDS FOR A ONE INCH (1”) OVERLAY OF ASPHALT OVER THE CURRENT EXISTING ROADWAY, AND RE-SURFACE THE STREET TO A DRIVABLE CONDITION (DURING THE APPROVAL PROCESS, FOR AN ADVISORY BICYCLE LANE) BY PROVIDING FOR ALL RESPECTIVE CREDITS AND CHARGES (TO BE FURTHER DEFINED AND AMENDED INTO THE CONTRACT AT A LATER DATE); FURTHER AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO NEGOTIATE THE CHANGES TO AMENDMENT NO. 2, AS SET FORTH IN THIS RESOLUTION, AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE REVISED AMENDMENT NO. 2.

WHEREAS, on March 13, 2013, the City Commission adopted Resolution No. 2013-28163, which approved Amendment No. 2 to the construction contract with Lanzo Construction Co. for Central Bayshore (Package A) and Lake Pancoast (Package C); said Amendment, in the amount of \$3,723,986, to implement the proposed design change pursuant to the adopted Basis of Design Report (BODR) Amendment, dated July 18th, 2012; and

WHEREAS, during the City Commission meeting, concerns were raised by residents requesting that Amendment No. 2 also include (i) the reduction of Prairie Avenue to twenty (20) feet, plus two foot valley gutters (24 feet total), via the elimination of the current bicycle lane; and (ii) evaluation of the feasibility of including a bicycle facility along the BODR amended roadway width of Royal Palm Avenue; and

WHEREAS, the City Commission directed the City Manager to proceed with Amendment No. 2, as presented and approved, concurrent with City staff further evaluating the possibility of incorporating the residents’ aforesated requests, but without affecting the timelines and cost to the Central Bayshore (Package A) project; the City Commission also referred this matter to the Finance and Citywide Projects Committee (FCWCP) for further discussion; and

WHEREAS, in preparation for the FCWCP, City staff retained Atkins North America and Street Plans Inc., experts in the motor vehicle and bicycle traffic fields, in order to determine the feasibility of removing the existing bicycle lane along Prairie Avenue, and instead providing a bicycle boulevard along Royal Palm Avenue; and

WHEREAS, on March 21, 2013, a presentation was made to the FCWPC on two (2) alternatives that could be explored to accommodate the residents' requests; and

WHEREAS, the first alternative is to further study the possibility of including an Advisory Bicycle Lane along both Prairie Avenue and Royal Palm Avenue; and

WHEREAS, the second alternative is a concept of a bicycle boulevard on Royal Palm Avenue; and

WHEREAS, given the current advanced stage of construction, City staff anticipates that the pursuit of these alternatives at this time, as well as any implementation of these two proposals, could not be recommended as part of the Project without significantly affecting the progress and cost of the Project; and

WHEREAS, further exploring the possibility of an alternative bicycle facility on Prairie Avenue requires carving out portions of the currently approved and funded scope of work, and the respective credits and charges associated to these modifications would have to be negotiated further with the engineer of record and with the contractor.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Commission hereby directs the City Administration to continue to evaluate the reduction of Prairie Avenue to eliminate the current bicycle lane, and to further study the possibility of including an "advisory bicycle lane" along both Prairie Avenue and Royal Palm Avenue; further authorizing the City Manager to de-program work associated with the construction of the valley gutters, as well as proposed re-grading and milling and re-surfacing along Prairie Avenue, as outlined in Amendment No. 2 to the Construction Contract with Lanzo Construction Co. for the Central Bayshore (Package A) and Lake Pancoast (Package C) Project ; modifying Amendment No. 2 to the Lanzo Contract to add to the contract funds for a one inch (1") overlay of asphalt over the current existing roadway and re-surface the street to a drivable condition (during the approval process, for an advisory bicycle lane) by providing for all respective credits and charges (to be further defined and amended into the contract at a later date); and further authorizing the City Manager or his designee to negotiate the changes to Amendment No. 2, as set forth in this Resolution, and authorizing the Mayor and City Clerk to execute the revised Amendment No.2.

PASSED AND ADOPTED this ____ day of _____, 2012.

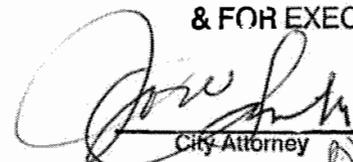
ATTEST:

RAFAEL GRANADO, CITY CLERK

MATTI HERRERA BOWER, MAYOR

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**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**



City Attorney 4/11/13
Date



MIAMI BEACH

OFFICE OF THE MAYOR AND COMMISSION

MEMORANDUM

To: Jimmy Morales, City Manager

From: Matti Herrera Bower, Mayor

Date: April 17, 2013

Re: Resolution Urging the United States Congress to support National Immigration Reform that leads to a Pathway to Citizenship

Since the renaissance of Miami Beach in the 1970's, our City has been proud of the diversity of our visitors and residents. Our sparkling shores have acted as beacons of hope, drawing individuals and families fleeing from oppressive regimes abroad in search of a better life in a community that is accepting of their background. Today, we stand stronger as a community where, according to the 210 United States Census, over 60% of our permanent residents identify themselves as a race other than white or Caucasian, and 53% of that number identify as Latino or Hispanic.

The United States has struggled with assimilation of immigrants since the days of Columbus. Florida's own struggles are 500 years old this year, as we mark the Quincentennial of Juan Ponce de Leon's discovery of La Florida in 1513. In all that time, the correct balance of openness and restricted access to America has never been reached. However, due to the bipartisan efforts of United States Senators Marco Rubio (R-Fla.), Orrin Hatch (R-Utah), Amy Klobuchar (D-Minn.), and Chris Coons (D-Del.) we have the opportunity for real reform with the Immigration Innovation Act (1²) of 2013.

I am urging my fellow Commissioners to support this resolution to encourage the adoption of 1² or any other national immigration reform that leads to a pathway to citizenship. I would also request that if adopted, this Resolution be sent to the Miami Dade Congressional Delegation.

Thank you.

MHB/fg

Agenda Item R9D
Date 4-17-13

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, URGING THE UNITED STATES CONGRESS TO SUPPORT NATIONAL IMMIGRATION REFORM THAT LEADS TO A PATHWAY TO UNITED STATES CITIZENSHIP AND THAT MAINTAINS THE UNITED STATE'S COMPETITIVENESS IN THE GLOBAL ECONOMY, AND FURTHER DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE MIAMI-DADE COUNTY CONGRESSIONAL DELEGATION.

WHEREAS, an overwhelming majority of Americans support a rational immigration system, whereby hardworking immigrants currently living in this country can obtain a pathway to U.S. citizenship; and

WHEREAS, the opportunity for citizenship for its many and diverse immigrants has been one of America's historic strengths; and

WHEREAS, the United States should also maintain its competitiveness in the global economy by meeting the demand for high skilled workers in the U.S. so that jobs are not out-sourced to other countries and, instead, remain in the United States; and

WHEREAS, in order to attract and retain the world's best and brightest workers, many of whom study in our nation's top colleges and universities, and to benefit our society and the U.S. economy, comprehensive immigration reforms are needed; and

WHEREAS, among other things, national immigration reform should include: a reasonable timetable for a path to citizenship for America's undocumented immigrant residents; an increase in the cap on employment-based non-immigrant H-1B visas from 65,000.00 to 115,000.00 with a market based escalator so that the cap can adjust based upon the demands of the economy; the lifting of a cap on the existing U.S. advanced degree exemption, currently limited to 20,000 per year; dual intent for foreign students at U.S. colleges and universities; the recapture of green card numbers that were approved by Congress in previous years, but have not been used and to exempt certain categories of persons from employment-based green card caps such as U.S. STEM (Science, Technology, Engineering and Mathematics) advance degree holders, persons with extraordinary abilities, and outstanding professors and researchers; and the reform of fees on H-1B visas and employment-based green cards so that fees can be used to fund programs that promote STEM education and worker retraining; and

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 urge the United States Congress to enact national immigration reform legislation that leads to a pathway to United States citizenship for our nation's hardworking undocumented immigrant residents and which maintains the United States competitiveness in the global economy, and further directs the City Clerk to transmit a copy of this Resolution to the Miami-Dade County Congressional Delegation.

PASSED and ADOPTED this _____ day of _____, 2013.

ATTEST:

Rafael E. Granado, City Clerk

Matti Herrera Bower, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

CITY ATTORNEY *Dr* DATE 4/15/13